



# Washtenaw Equity Partnership

Findings & Recommendations on  
Washtenaw County's Criminal Legal System

Spring 2023



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## Executive Summary

The [Washtenaw Equity Partnership](#) (WEP) formed in 2021 to address racial inequity in the criminal legal system in Washtenaw County, Michigan. The WEP is a coalition of over 100 people in the county, including people who work for government and nonprofit organizations, people with direct experience with the criminal legal system, and other members of the public. The WEP's goal is "to develop a successful, transparent, coordinated community plan for identifying and addressing racial disparities across all components of Washtenaw County's juvenile/adult criminal legal systems and assure a framework for its implementation, oversight, and evaluation." It builds on previous efforts in the state and county on these issues, including the Washtenaw County Board of Commissioners' general [racial equity](#) policy, the statewide Joint Task Force on Jail and Pretrial Incarceration and Task Force on Juvenile Justice Reform, the 2020 Citizens for Racial Equity in Washtenaw (CREW) report revealing patterns of racial disparities in charging and sentencing in Washtenaw County, and other Washtenaw-specific reports on mapping behavioral health and youth services.<sup>1</sup> The WEP, through six thematic subcommittees and with technical and research support from the Vera Institute of Justice (Vera), identified key questions and issues, conducted quantitative and qualitative research with local county data and residents, and reviewed existing research and best practices to generate the recommendations for action contained in this report.<sup>2</sup>

The WEP members adopted a broad view of what it meant to identify and address racial disparities "across all components" of Washtenaw's criminal legal system, including looking upstream to community health issues and unmet needs that might exacerbate inequities across the legal system. The WEP's [Guiding Principles](#) (equitable outcomes, evidence-based action, accountability, collaboration, innovation, and resources) and research themes reflected a focus on shifting Washtenaw's approach and resources, where possible, to emphasize safe and healthy communities, minimize legal system contact, and reduce the burden on the legal system to be the social safety net for unmet needs. This report describes these findings and presents 65 recommendations to improve Washtenaw County's criminal legal system, organized into five strategies:

1. Invest in community, prevention, and infrastructure.
2. Reduce initial system contact and restructure custody and court process.
3. Restructure in-custody programming, release, reentry, and community support.
4. Support youth development.
5. Use data to ensure equity, measure outcomes, and achieve accountability.

To develop this report, the WEP used several sources of information. The central quantitative analysis in the report is of outcomes and disparities in sentencing from Washtenaw Trial Court data (2014-2022). The report also includes data on the demographics and number of people involved in various stages of the criminal legal system and/or in alternatives to incarceration programs, sourced from public records and from reports provided by some program officials. It is, however, important to note that the WEP was unable to access detailed data from several key agencies—the county jail, the district courts, and the Michigan Department of Corrections (MDOC, which covers state prisons, parole, and probation)—due to constraints in the design of their databases and, in the case of MDOC, a lack of response to a request for data.

The qualitative research involved interviews and focus groups with Washtenaw County residents who have faced charges and/or who were parents of juveniles facing charges; some of these people have experience with substance use and mental health challenges. The research also includes findings from an online survey of staff who work in behavioral health service provider organizations about access to and quality of services.

Every section of the report draws on publicly available information from government and nonprofit agencies, policy reports, and news media. This report highlights key resources, challenges, and approaches across a range of topics; it does not provide an in-depth analysis of any single component of the system. More information on the WEP process and research methods are available in Appendices 1 and 2. Additional background information is in the supplemental report and on the [WEP website](#).

As this report details, Washtenaw County offers its justice-involved residents an array of services and supports—but racial disparities throughout the system persist, especially at the initial stages of system contact with police and prosecution. These disparities can lead to arrests, charges, and convictions that have compounding consequences for people’s trajectories inside and outside the criminal legal system, including restrictions on access to social services and alternatives to incarceration and risk assessment scores as well as sentencing decisions that give weight to criminal history.

The overarching message in this report’s findings and recommendations is that, to tackle racial disparities, Washtenaw County must reduce the scope and punitiveness of the formal criminal legal system and strengthen support services in local government and communities. The recommendations are organized into five overarching strategies, outlined above. It is important to note that these include some short-term actions, some that require no funding, and some that should cut costs, while others name important social supports and services that need long-term investment in programs and staff capacity.

- Recommendations that call for changes in local policy or practice—such as to expand eligibility criteria for housing, jobs, and treatment programs; end using police as the default response to drug use, mental health crises, and traffic violations; end or limit wealth-based detention and fines and fees; change responses to probation violations; and end most formal charges against minors—can have quick impacts without requiring funding or new programs.
- Recommendations that call for reduced use of certain agencies should lead to reduced expenditures. These include limiting the use of police, court-supervised programs, and jail for many situations that do not pose an imminent or serious danger—especially those related to traffic, behavioral health, and minors.
- Recommendations that call for increased investment in a public health approach and support services—like civilian crisis response teams, affordable housing, and services for mental health and substance use needs—will help prevent and reduce initial or repeat contact with law enforcement for people affected by poverty and structural racism.
- Recommendations that call for improved data collection, analysis, and transparency practices—like a countywide data warehouse—will enable tracking and evaluation of outcomes, including racial disparities, to guide allocation of future resources.

**Strategy 1** focuses on ways **to prevent and reduce contact with the criminal legal system** through **early interventions and services that improve people’s stability** in terms of housing, employment, health (especially related to mental health and substance use), and managing situations of conflict or crisis without police contact. Washtenaw County has a strong network of services, provided by government and community organizations. While many of these services seem to be more available, welcoming, and evidence-based than in other areas of Michigan, there are clear opportunities to improve the scope and quality of services as well as ensure equitable access. Research with service providers and clients for this report shows that the impact of social services is hampered by residents’ struggle to understand what services are available and how to access them, as well as by restrictions on eligibility for programs. On top of this, behavioral health organizations in the county are facing staffing constraints that are hindering their ability to meet needs for substance use and mental health services. Finally, policing of public housing complexes and communities of color are contributing to increased system contact and other harms for residents of color. There is a broad desire to expand unarmed, civilian-led responses to mental health and other crises, as well as for violence prevention generally.

The recommendations in this section aim to expand access to housing, employment, and mental health and substance use treatment for people with justice system involvement, to minimize unnecessary contact with law enforcement, and to strengthen community involvement and oversight in these efforts, including by:

- reducing restrictions and exclusions for public housing and employment based on people’s arrest or conviction history or conditions related to substance use;
- expanding harm reduction work—which means reducing the harms of both drug use and of policies that criminalize drug use, in non-stigmatizing, non-punitive, non-coercive ways—generally and in the jail as well as establishing an overdose prevention center;
- strengthening the behavioral health workforce, including by recruiting and retaining service provider staff who have direct lived experience with the criminal legal system and/or with substance use and/or with mental health conditions; and
- creating unarmed, non-police response teams for situations in which people call 911 and there is no imminent threat or danger to others, such as during mental health or substance use crises, as well as for minor traffic violations.

**Strategy 2** focuses on ways to **reduce pretrial contact with the court system**, including through **limiting the use of money bail and wealth-based detention**, and **expanding the use of alternatives to incarceration**, especially for more serious cases. It also looks at trial court data to analyze disparate sentencing outcomes and examines access to programs and services in jail and prison.

The data that the WEP and Vera were able to access and analyze, which comes from the Washtenaw Trial Court (2014–2022), shows racial disparities in charging and case dispositions. On sentencing outcomes, there were not significant disparities overall, but there were racial disparities in the length of jail/prison sentences for certain charges, notably resisting an officer and carrying a concealed weapon (for which Black defendants had longer mean jail/prison sentences) and drug possession (for which white defendants had longer mean jail/prison sentences). Although gaps in the data—especially on criminal history for each



case—mean that this analysis cannot attribute these differences in outcomes solely to implicit or explicit racial bias, the disproportionalities are cause for concern.

Washtenaw County has made important investments in specialty courts (drug court, mental health court, veterans court) that aim to provide treatment in lieu of punishment for people whose charges relate to substance use or mental health challenges. However, it appears that there are racial disproportionalities in both participation in and completion of these specialty court programs. Though very few cases make it into these courts to begin with, white defendants are overrepresented in drug court, compared to all eligible defendants. Disparities in referrals, admissions, and completion may be due in part to eligibility criteria that limit people with more serious charges and/or past “failures” on supervision programs. Best practice indicates that more minor cases that may be eligible for specialty courts should instead be diverted entirely away from the criminal legal system to voluntary treatment services and that specialty courts should focus on more serious cases.<sup>3</sup> Qualitative research with Washtenaw residents, in line with national findings, suggests that overly onerous rules in some “alternatives to incarceration,” such as sobriety court and probation, make success in these programs very difficult—to the point that some opt for jail time instead.<sup>4</sup>

At the point of sentencing, the pre-sentence investigation (PSI) reports are a crucial influence on decisions, but the WEP did not have detailed local data on these reports. Research from elsewhere shows that PSI reports can increase sentences and can rely too much on extralegal factors shaped by racial inequity—like education, socioeconomic status, and perceptions of demeanor—and on risk scores that give weight to past arrests.<sup>5</sup> The WEP and Vera were unable to access case-level data from local and state agencies on some issues, including bail/bond conditions (especially after the establishment of the 2021 local county prosecutor’s policy that limited the use of money bail), charge types that drive jail bookings, defendants’ prior criminal case histories, and probation and parole violations and penalties.<sup>6</sup> Therefore, more research is needed on how these factors may shape racial disparities.

The recommendations in this section include actions to expand the use of restorative justice initiatives and specialty courts for serious cases, improve transparency and context of PSI report content, and change court processes to reduce disparities in charging, sentencing, and probation violation responses, including:

- expanding and improving the eligibility criteria for restorative justice initiatives and specialty courts, enabling people with assaultive convictions history, those facing more serious charges, and those who did not complete prior supervision or recovery programs to participate;
- increasing community input for specialty courts and addressing barriers to participation and completion, especially for people of color;
- encouraging prosecutors and judges not to use past convictions for charges that often reflect disparate enforcement (such as drug possession and resisting arrest) as major factors in diversion, charging, and sentencing decisions; and
- developing a county-specific guide to respond to probation violations with the goal of reducing the use of detention as a penalty.

**Strategy 3** focuses on **mitigating the harms of incarceration and ensuring that people can achieve stability after their release**, both by improving conditions of confinement and strengthening reentry supports. Although this report was not able to analyze reasons for

Washtenaw County charges or convictions that lead to detention in county jail and/or a state prison sentence, it finds that Black people are disproportionately represented among both types of incarceration. While people are incarcerated, programs and connections to family outside are crucial, as these reduce the harm of detention and improve prospects for reentry success.<sup>7</sup> But these supports are limited due to risk score-based eligibility criteria and costs charged to detained people and their families, as well as pandemic-related operational constraints. When people are released from the local jail or state prison back to Washtenaw County, they have very few resources and struggle to meet community supervision conditions. Residents identified housing as the most difficult challenge upon release, due to lack of money and housing program restrictions. As with Strategy 2, a lack of data hindered our full understanding of pathways into and out of local jail and state prison, including probation and parole, as well as details on programs and services during confinement and reentry.

The recommendations in this section focus on increasing access to programs and supports inside jail and prison and in the community during reentry. They include:

- ensuring voluntary referrals to jail and reentry services, including through MDOC's Offender Success program, to anyone who wants them, not just those who qualify based on a risk assessment;
- reducing barriers to communication with loved ones while in jail or prison;
- providing economic subsidies for Washtenaw residents returning from incarceration, including for housing and transportation needs; and
- increasing the number of lawyers available to help with criminal record expungement and sealing applications, so that people with records can more easily access housing and employment.

**Strategy 4** focuses on ways to **reduce juveniles' contact with the justice system** as much as possible, because system contact leads to worse outcomes. It encourages **early interventions based in community organizations** rather than in detention settings to **support youth in ways that are developmentally appropriate** (because youth's cognitive and social needs are different than adults').<sup>8</sup> It also addresses ways to reduce the use of disciplinary actions in schools that can lead to system contact and to provide coherent, comprehensive supports for dual ward youth. Though Michigan has already made progress in some juvenile justice reforms, statewide data suggests stark racial disparities among Washtenaw youth at every stage of the juvenile justice system.<sup>9</sup> Compared to white youth, Black youth in Washtenaw are more likely to face charges, especially felony charges, than to have a dismissal or diversion option. When looking more closely at case trajectories in Washtenaw, there is a notable disparity among girls: according to forthcoming analysis of juvenile justice cases (2018–2021) by the University of Michigan Child and Adolescent Data Lab, Black girls are 55 percent more likely to have petitions authorized (that is, charges filed) on their cases than white girls are, even when controlling for charge class, age, and past contact with the justice system and the child welfare system. Further, according to the same analysis, among young people with juvenile justice case referrals, over 72 percent of Black youth and 63 percent of white youth had prior contact with Children's Protective Services.

In qualitative interviews, young Black men in Washtenaw said that, as teenagers and as young adults, they felt targeted by and fearful of police. People with juvenile justice system experience in the county (as minors or as parents) reported feeling confused about their

options for diversion and that some “alternatives” involved menial tasks rather than meaningful program content. The WEP was unable to access detailed data on disciplinary tactics in schools, but best practice indicates that schools should invest in behavioral health specialists rather than relying on suspensions/expulsions or school resource officers (police).<sup>10</sup>

The recommendations in this section include actions to reduce or eliminate youth contact with the formal justice system; reduce the use of probation and detention; and expand meaningful, developmentally appropriate programs and services in the community, in schools, and in diversion and probation settings. For example:

- implementing diversion (with no formal charge) as much as possible, including through the Michigan Task Force on Juvenile Justice recommendations, expanded partnerships, and an oversight mechanism;
- replacing “community service” work with meaningful, evidence-informed programs for system-involved youth;
- strengthening community- and school-based substance use, harm reduction, and mental health treatment programs tailored for youth;
- eliminating or reducing school suspensions and expulsions (which can lead to police contact) and improving due process for long term removals; and
- conducting further analysis on the needs of youth with prior child welfare contact and the situation of girls facing felony charges.

**Strategy 5** focuses on ways to **improve the consistency, comprehensiveness, use, and transparency of data across the criminal legal system**, notably through the establishment of a **county data warehouse**. This will enable better planning and evaluation of current and new policies and programs. The overarching theme of this report is the substantial lack of publicly available, usable data at nearly every point in the criminal justice system. Some agencies were willing to provide non-public access but were unable to generate data in a format usable for analysis. The WEP is recommending a data warehouse, similar to those built by Allegheny County, Pennsylvania, and Multnomah County, Oregon (see section 5.5). These warehouses serve as a repository for criminal legal system information and allow queries, tracking of cases, and analysis of trends and outcomes. Key elements of success include buy-in across agencies, an external oversight entity, linking juvenile and adult systems, having specialized technical and data analysis staff for the warehouse, and using thoughtful approaches to maximize data transparency while respecting confidentiality. This report identifies key data fields needed to enable analysis across a range of topics.

The recommendations include actions to establish an integrated, countywide data warehouse, with internal and external functions, to improve data collection and analysis processes, as well as to conduct research and analysis on specific issues for which the WEP was unable to obtain data, specifically:

- developing a cross-system criminal legal data warehouse and public dashboard for the county, following the WEP’s adaptation of the federal BJA checklist, setting up a public dashboard, and ensuring staff capacity for technical and evaluation work;
- updating the 2017 Sequential Intercept Model (SIM) Mapping Report and the 2019 Critical Intervention Map (focused on youth);<sup>11</sup> and

- obtaining data and/or improving data collection and conducting further analysis of trends and racial disparities on numerous topics, including community services; community violence intervention (CVI) programs; police arrests and traffic stops; 911 calls; bail issuance and conditions; specialty courts and restorative justice initiatives; criminal history and probation violations; jail population trends; drug possession charges; MDOC custody, parole, and probation data; PSI reports; jail/prison conditions; reentry services; juvenile justice and diversion; dual ward youth (those with child welfare and juvenile justice involvement); and school disciplinary incidents and responses.

## Authorship and Acknowledgements

The Washtenaw Equity Partnership (WEP) led the development of this report with support from the Vera Institute of Justice (Vera). Vera's primary role was to facilitate WEP meetings, provide technical research and data analysis, and draft the initial findings, under the guidance of the WEP Working Group (the steering and oversight body).

The WEP would like to acknowledge the working group and subcommittee co-chairs for their leadership as well as the 100 people from justice institutions and the community who served on subcommittees. Without the dedication, time, and expertise of these WEP members, this report and its recommendations would not have been possible. The WEP thanks the Vera team for their work in leading the research included in this report and facilitating the process for the WEP to generate recommendations. The WEP and Vera thank the Washtenaw County residents who shared their experiences and insights in qualitative interviews and focus groups and through informal stakeholder conversations. The WEP and the Vera team also thank the Michigan Justice Fund for awarding a grant to support this process and for their commitment to community and other efforts to improve equity.

Washtenaw County is lucky to have many people and organizations deeply committed to improving its criminal legal systems. The WEP included members who are involved with other current projects, such as the Washtenaw County Prosecutor's Office's [Prosecutor Transparency Project](#), the [Washtenaw Justice Project](#), and the [Coalition for Re-Envisioning Our Safety](#), as well as nonprofit leaders and justice-impacted families, among others. The WEP benefited from the work of these other projects, and we hope that our work will support their efforts.

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Working group member affiliations do not imply organizational endorsement of this report.  
WEP subcommittee members are listed in Appendix 1.

## Introduction

Racial inequity underpins and permeates all stages of the criminal legal system in the United States, generating worse outcomes for Black, Latinx, and Native American people.<sup>12</sup> Ongoing institutional structures, policies, and practices that sustain disparities and exclusions make it more difficult to improve public safety and fairness for all.

The [Washtenaw Equity Partnership](#) (WEP) formed to address racial inequity in the criminal legal system in Washtenaw County, Michigan. The WEP is a project that has involved over 100 people, including juvenile and adult criminal legal system stakeholders; representatives from local service providers, advocacy groups, and nonprofit organizations; people with lived experience; and other members of the public. The WEP's goal is to develop a successful, transparent, coordinated community plan for identifying and addressing racial disparities across all components of Washtenaw County's juvenile/adult criminal legal systems and assure a framework for its implementation, oversight, and evaluation. The WEP developed a community planning process to generate action steps that would not only allow Washtenaw County to design and evaluate a roadmap for a more equitable, coordinated approach to justice now and into the future, but also enhance public confidence in the justice system and serve as a model for other communities.

A project like the WEP was possible because of seeds that were sown in Washtenaw County and across Michigan in recent years. For example, in 2018, the Washtenaw County Board of Commissioners launched the [One Community: Advancing Racial Equity](#) initiative in an effort to reframe the county's work through an equity lens.<sup>13</sup> This initiative explicitly recognized the existence of historical, systemic, and structural inequities that continue to affect Washtenaw County and created a Racial Equity Office as part of an effort to address inequity on a countywide level.<sup>14</sup> Around the same time, the Washtenaw County Board of Commissioners adopted a set of budget principles that stressed that the allocation of resources in the county budget should be outcome-oriented, be based on data and measurement of needs and outcomes, involve comprehensive countywide planning, require and support improved coordination across county government units, and, to the extent possible, address the economic and social inequities that exist in the county.<sup>15</sup>

This report builds on numerous activities addressing racial equity in the criminal legal system in the state and the county. In 2019 Governor Gretchen Whitmer established the Joint Task Force on Jail and Pretrial Incarceration, led by Lieutenant Governor Garlin Gilchrist II and Chief Justice Bridget McCormack, which studied issues related to local incarceration and recommended ways to reduce its use.<sup>16</sup> Also in that year, Washtenaw County Community Mental Health (CMH) completed a critical intervention mapping report for improving the community response to justice-involved youth with behavioral health and trauma conditions; this complements the work by CMH and others for a Sequential Intercept Mapping (SIM) process in 2017, which identified resources and gaps in social services and behavioral health supports in the broader system.<sup>17</sup> In 2020, local advocacy group [Liberate! Don't Incarcerate](#) created a scorecard to educate voters on the positions of candidates for Washtenaw County Prosecutor related to issues of mass incarceration and racial/economic inequities in the criminal legal system. That same year, the local group [Citizens for Racial Equity in Washtenaw](#) (CREW) released a study of Washtenaw Trial Court data that looked at potential patterns of racial disparities in charging and sentencing.<sup>18</sup> Also, the Washtenaw County Board of Health passed a [resolution](#) naming racism as a public health emergency.<sup>19</sup>

Starting in 2021, the Washtenaw County Board of Commissioners led a series of conversations with the county's criminal legal institutions and CREW, resulting in an agreement by numerous organizations and individuals to launch the WEP as an inclusive project to develop a plan to identify and address racial disparities across Washtenaw County's juvenile and adult criminal legal systems. Through a generous grant from the Michigan Justice Fund, the founding partners hired the Vera Institute of Justice (Vera) in 2021 to assist with the WEP's planning process and facilitate its research work. The WEP is different from many initiatives in that it is a partnership among the county's criminal legal institutions, justice-impacted people, and community organizations, and each member has an equal voice regardless of their institutional affiliation.

With the goal of having a balanced set of experiences and perspectives at the table, the WEP and Vera designed a framework to collect information and research a range of topics, then generate recommendations. The WEP developed ground rules for managing a complex group process that gave people with different experiences and varying levels of perceived power opportunities to contribute. It identified people to provide input in reimagining Washtenaw's criminal legal system through an equity lens and invited them to join the Working Group, the WEP's steering committee. The Working Group decided early on to approach its work from a holistic perspective. This includes studying both the juvenile and adult criminal legal systems and departing from the common assumption that the criminal legal system should be the default mechanism to address certain behaviors (like drug use). Also, the approach emphasizes upstream factors, which refers to the fact that when people have unmet needs or lack stability in housing, mental or physical health, or economic resources, they are more vulnerable to coming into contact with the criminal legal system and to ongoing involvement after initial contact. Strategies 1 and 4 give particular attention to these issues. The research priorities identified (see Appendix 1 and the supplemental report) demonstrate this broad lens.

The WEP Working Group then adopted six guiding principles for the project: equitable outcomes, evidence-based action, accountability, collaboration, innovation, and resources. These principles are ideals that the WEP wants to achieve in Washtenaw County. The WEP Working Group and all subcommittees consider how their work and recommendations contribute to meaningful change and outcomes that reflect these principles. (See Appendix 1 for details.)

The Working Group also developed a subcommittee structure to undertake research and develop potential recommendations, drafted subcommittee charges, identified subcommittee members, and nominated subcommittee co-chairs with a goal of having each subcommittee co-chaired by an institutional representative and a community representative. The six subcommittees and issues covered are:

- Prevention and Front End of the Criminal Legal System: covers community-based supports and services, housing, pre-charge diversion, arrest decisions, and assignment of counsel.
- Court Process: covers processing of cases by the court system from arraignment through sentencing, including topics such as bail/pretrial release, post-charge diversion, specialty courts, court hearings, pre-sentence investigative reports, and sentencing.



- Post-Sentencing and Reentry: covers probation/parole supervision, post-sentencing incarceration, and reentry; probation or parole; fines and fees, reentry planning and services; post-release housing; and collateral consequences.
- Youth Justice and Schools: covers the juvenile justice and education systems, including arrests and detention, case processing, dispositions, post-disposition supervision and detention, and the ways in which school systems can feed into the juvenile or adult criminal systems.
- Behavioral Health: covers the intersections between the behavioral health and criminal legal systems, particularly how people with mental health or substance use issues interact with services and institutions, and the access to, quality of, and cultural competence of community-based services and treatment.
- Data: covers data collection, analysis, integration, and transparency across agencies and systems; uses of data; communication about data; and improving data systems.

Over the course of 2022, the subcommittees met to identify priority issues and questions, review research related to those questions, and develop draft recommendations to improve equity and address disparities. Vera conducted primary research, including a quantitative analysis of Washtenaw Trial Court data and qualitative research with Washtenaw County residents who have lived experience of the criminal legal system. (See Appendix 2 for details on research methods and analytical approach.) Vera also compiled available data and insights from existing national, state, and county studies and reports. The subcommittees considered these research findings, as well as their own professional and personal experiences, and generated recommendations collaboratively over several months in late 2022. The six subcommittees sent recommendations to the Working Group for revision and consolidation and then, in December 2022, voted on which to adopt.

This report organizes research findings and recommendations into five broad strategy areas that reflect subcommittee focus, with more specific topics within each strategy:

1. Invest in community, prevention, and infrastructure.
2. Reduce initial system contact and restructure court and custody processes.
3. Restructure in-custody programming, release, reentry, and community support.
4. Support youth development.
5. Use data to ensure equity, measure outcomes, and achieve accountability.

It is important to underscore that the WEP faced significant obstacles in accessing certain data sources, and thus cannot analyze racial disparities in some components of the criminal legal system. Therefore, while some of the analysis and recommendations identify problems in specific facets of the county's criminal legal system, neither the analysis nor the reform recommendations always explicitly address racial equity. However, the racially disparate impact of the criminal legal system and unequal access to social support services are well documented, with people of color disproportionately arrested, charged, and sentenced and facing more barriers to accessing supports. The WEP believes that these recommendations, including those that do not specifically address race, should be implemented with an emphasis on tracking and improving racial equity. Of course, it is important to do more analysis to document the details; some next steps and recommendations for obtaining and analyzing more data are set out in Strategy 5. For the sake of brevity, background material that is helpful but not essential to the recommendations is included in a supplemental report, including descriptions of organizations referred to in the main report.

The recommendations include initial notes about implementation. As this report does not delve into full implementation considerations or cost estimates for each potential action, the WEP will build on these points as it continues to work with county actors on implementation. Some of the recommendations are changes in laws, policies, and practices that do not require additional resources. Others are meant to reduce the use of law enforcement and detention resources and should lead to decreased expenditures if implemented. Some recommendations will require funding, mainly to expand supportive services. The overall approach calls for preventing criminal legal system involvement by increasing people's economic, housing, and health stability.

This report provides a broad picture of the criminal legal system in Washtenaw County in 2022, focusing on the points identified as priorities of the WEP subcommittees, and a roadmap of actions to improve it. It is intended to be a beginning rather than an ending. Although the WEP itself sunsets with the publication of this report, it has authorized the WEP chair to form a bridge team, which will include some members of the partnership, to develop a framework and concrete steps for disseminating the report and implementing its recommendations.

## **Strategy 1: Invest in Community, Prevention, and Infrastructure**

Employment and housing are among the most common challenges that people face after release from jail or prison as they try to stabilize their lives. People who have been in jail and prison are more likely to be homeless and face stigma and restrictions related to criminal convictions when applying for public housing and/or for jobs.<sup>20</sup> This is despite the reality that most people with a conviction do not ever have another conviction.<sup>21</sup> Washtenaw County has a robust network of resources and services for housing and employment support (see description in the supplemental report), including some that work specifically with formerly incarcerated people, but numerous barriers persist.

### **1.1 Barriers to Employment for People with Criminal Conviction or Arrest History**

People with arrest and/or conviction histories identified obtaining and retaining a job as one of the most difficult aspects of reintegrating back into the community. They also said that the barriers to finding and keeping a job made it harder to avoid turning to illegal activities as a means of economic survival.

#### Criminal Background Checks and “Ban-the-Box” Policies

Policies limiting employment eligibility based on conviction or arrest history, as well as discrimination and stigma against people with system involvement, are major barriers to securing employment.<sup>22</sup> “Ban-the-box” policies aim to reduce employment discrimination against system-involved people by prohibiting employers from asking about criminal convictions on job applications.<sup>23</sup> In 2014, Ann Arbor’s City Council removed the requirement for city employee applicants to disclose a prior conviction and incorporated Equal Employment Opportunity Commission criteria when seeking to deny an applicant based on conviction history.<sup>24</sup> The University of Michigan also has a similar policy.<sup>25</sup> However, other local governments in Washtenaw County do not yet have a ban-the-box policy.<sup>26</sup> In 2018, through an executive order by the governor, Michigan removed “the box” (requiring disclosure of convictions) from state job applications; however, state law prohibits local governments from mandating that private employers ban questions about conviction history on job applications.<sup>27</sup>

Research on outcomes of ban-the-box policies finds that employers may try to figure out a person’s criminal conviction or arrest history through unofficial channels (like online records) or even by making stereotypical assumptions about who has a record; this harms Black and Latino men in particular.<sup>28</sup> More research is needed to track the implementation of ban the box in Washtenaw, including potential unintended consequences and liability considerations, as well as strategies to mitigate them. This work could be undertaken by local universities. Expungement and sealing of criminal records can also help address this barrier; see Strategy 3 for further discussion.

#### **Recommendation 1: Expand ban-the-box policies countywide.**

Ban-the-box policies (prohibiting employers from requiring disclosure of criminal convictions in job applications) can be an important first step in reducing barriers to employment for people with arrest and/or conviction histories. In addition to the formal policy, stakeholders should provide education, incentives (such as tax subsidies), and support in navigating liability issues to employers who hire people with criminal records (an example is [Kentucky’s Fair Chance Academy](#)) and should

create a public campaign to reduce the stigma of job seekers with criminal records. The county should modify policies to require that any entity receiving county funding or contracts not use income or categorical considerations of past justice system involvement as a factor in hiring. Implementation of expanded ban-the-box policies should include information and resources for employers and should track outcomes.

Implementation steps:

- Key actions: Adopt a resolution to expand ban-the-box policies countywide. Service providers and other invested parties would need to communicate any change in policy with job seekers, so they are aware they do not need to disclose criminal history on a county job application. County agencies, community groups, and local researchers need to track outcomes related to employment of people with past convictions, willingness of private employers to not require disclosure of records and/or to hire people with system involvement, etc.
- Key actors: County commissioners; service providers; Michigan Citizen Reentry Initiative (MiCRI); Michigan Works!.
- Funding: Could be needed for campaigns to share information with job seekers.<sup>29</sup>
- Potential obstacles: Some employers may not agree with ban the box or may make stereotypical assumptions about certain people's criminal history based on appearance, race, or other factors.

## **1.2 Barriers to Housing for People with Criminal Legal System Involvement**

Key housing barriers include public housing authority lookback policies; documentation requirements; restrictions related to certain conviction types; housing access conditioned on abstinence, employment, and other conditions that are hard to maintain without stable housing; application costs; and navigating the housing landscape.

### Lack of Housing Options and Exclusions for People with Conviction History

The City of Ann Arbor's 2022 report to the incoming state legislature, the report of the City of Ypsilanti Citizen Committee on Housing Affordability and Accessibility, and the 2015 czb report for the county underscore the general need for affordable housing.<sup>30</sup> Racial and economic inequality in the county mean that Black people disproportionately bear the burden of high housing costs.<sup>31</sup> In 2020, 2,800 people in Washtenaw County were homeless and/or seeking emergency shelter.<sup>32</sup> People with criminal legal system involvement are disproportionately vulnerable to housing instability. Stakeholders in the reentry sector have stated that there are not enough affordable housing options in the county for people released from jail or prison.<sup>33</sup> Other barriers include the cost of application fees and navigating the process for permanent supportive housing, which requires meeting HUD's criteria for chronic homelessness status.<sup>34</sup> People with sex offense-related convictions face even more exclusions and restrictions, and the quality of housing this group can reach can be substandard. There is also an unmet demand for affordable housing services and local evidence that supportive housing has positive effects.<sup>35</sup>

Focus group and interview participants said that while people appreciate supports for housing access immediately after release, reentry programs should be more comprehensive and flexible in terms of housing options. Some said that they were required to find housing

with narrow parameters (such as not with another person on parole or probation) or that staying in temporary housing was considered a violation of supervision conditions. Several said that incarceration left them without any funds with which to find immediate shelter. Several suggested that reentry programs could provide subsidies, help people interact with potential landlords, and help navigate Section 8 requirements and questions about criminal records.

### Housing Applications That Use Background Checks

Nationally, 90 percent of landlords use background checks to evaluate applicants.<sup>36</sup> Many people with criminal records have low incomes and turn to public housing options. Michigan's 116 public housing authorities (PHAs) that receive federal funding have permanent residency exclusions on people with certain conviction types, including sex offenses and methamphetamine production, and discretion on eligibility for other conviction types.<sup>37</sup> These PHA policies exclude approximately 3.5 percent of all adults in Michigan—about 284,000 people—from housing access.<sup>38</sup>

Best practices to improve housing access include shortening the length of lookback periods (the number of years a background check can cover) in applications (as Illinois did in 2021) and changing tenant selection criteria (as done by the Louisiana Housing Corporation in 2021).<sup>39</sup> PHAs should not screen for arrests, only convictions, and only if there is a (relatively short) lookback policy.<sup>40</sup> Any exclusions from housing eligibility based on conviction type should be limited as much as possible to those that are truly relevant to safety in that housing setting. Vera's initiative on this issue, [Opening Doors to Housing](#), focuses on expanding formerly incarcerated people's access to public and affordable housing in the state of Michigan.

### Lack of Clear Information about Housing

Despite numerous agencies and resources dedicated to obtaining housing in Washtenaw County, finding clear guidance around affordable housing requires navigating various branches of the Washtenaw County government, local housing commission websites, and service providers with varying eligibility and jurisdiction.<sup>41</sup> Navigating lengthy eligibility policies online can be overwhelming. Housing Access for Washtenaw County's (HAWC) hotline is the single point of entry for emergency housing in the county.<sup>42</sup> However, as of fall 2022, according to stakeholders who interact with HAWC, there is a significant backlog of over one thousand cases and uncertainty around a potential new provider for the hotline.

### Lack of Representation during Eviction

Evictions make housing situations even more unstable, especially for already marginalized groups, including people returning from incarceration.<sup>43</sup> In 2018, there were 6,252 eviction filings in Washtenaw County—about one eviction filing for every nine rental units—with about 1,300 actual evictions.<sup>44</sup> There are disparities within the county, with an eviction filing rate of 2.2 percent in the City of Ann Arbor, compared to 20.8 percent in the City of Ypsilanti and 33.6 percent in the Township of Ypsilanti in 2018.<sup>45</sup> These reflect racial and economic inequalities: the City and Township of Ypsilanti have higher proportions of Black and Latinx residents and lower median incomes than Ann Arbor.<sup>46</sup>

Having legal counsel in an eviction case leads to better outcomes for tenants and cost savings for cities through improved community stability—but having an attorney is rare.<sup>47</sup> Statewide, 4.8 percent of Michigan tenants had legal representation compared to 83.2 percent of landlords in eviction cases between 2014 and 2018.<sup>48</sup> In Washtenaw County, only 2.3 percent of tenants facing eviction in 2018 were represented by an attorney.<sup>49</sup> In Washtenaw, tenants with legal representation were more likely to have their case dismissed (56 percent) or receive a decision in their favor (11 percent).<sup>50</sup> Of those who did not have legal representation in Washtenaw, 45 percent of cases were dismissed and no decisions were made in the tenants’ favor.<sup>51</sup> Stakeholders in Washtenaw County noted that only a few organizations provide attorneys for eviction cases for low-income clients, and pro bono assistance is inconsistent.

### Limitations on Housing Vouchers and Assistance

Subsidies and vouchers to cover part or all of housing expenses vary by jurisdiction and type. Washtenaw County housing vouchers are classified as tenant-based (tenant pays a portion of rent, voucher covers the rest, for private housing), program-based (voucher is attached to apartments for qualified residents), temporary (short-term, such as up to six months, through the Michigan Department of Corrections’ Offender Success program for people returning from prison), and Continuum of Care (long-term, HUD-funded, permanent supportive housing for some chronically homeless people).<sup>52</sup> The federal Section 8 program gives “housing choice vouchers” to low-income people to subsidize rent for private-market housing.<sup>53</sup> The demand for housing vouchers outpaces the supply. For example, as of September 2022, the Ypsilanti Housing Commission website says that the wait list is currently closed, and there is not an operational Section 8 program.<sup>54</sup>

Vouchers are meant to help people access housing, but there are barriers to obtaining vouchers and to being able to use vouchers. HUD allows PHAs to deny voucher assistance based on past criminal convictions.<sup>55</sup> Ann Arbor’s voucher program does not have eligibility restrictions for public housing related to criminal convictions (beyond federal restrictions), consistent with best practices for accessible housing.<sup>56</sup> However, this is not the case in other parts of the county. Some landlords refuse to rent to people who are using vouchers. Ann Arbor and Ypsilanti have ordinances banning discrimination based on source of income (housing vouchers, child support, social security, etc.), but other parts of the county do not.<sup>57</sup> This leads to a clustering of housing voucher recipients in the two cities, as service agencies struggle to place people in rental housing in other parts of the county. State legislators introduced bills to ban source of income discrimination in 2021.<sup>58</sup> Notably, in 2020, Ypsilanti also passed an ordinance to ban discrimination based on prior criminal convictions.<sup>59</sup>

### The Housing First Approach

Housing First approaches are increasingly common in the behavioral health sector and in the housing sector, in particular in relation to permanent supportive housing, which is long-term housing that also provides other supports. The premise is to prioritize stable housing as the first response to a situation in which a person is struggling with mental health, addiction, or other types of crises. The Housing First approach upholds the principle that there should be no requirements or conditions on housing that could exclude people who are struggling with behavioral health situations.<sup>60</sup> (See the supplemental report for more information on Housing First approaches and research.)

### **Barriers to a Housing First Model in Washtenaw County**

Staff at behavioral health service providers (see Appendix 2 for survey details) commented on what they perceive to be barriers to implementing a Housing First model. These include:

#### *Difficulty accessing information:*

- "There is one place you can call for anything related to housing in this community, and they never answer and/or respond to any questions/phone calls. They are absolutely horrible."

#### *Laws, policies, and attitudes that are negative toward Housing First approaches:*

- "Laws that screen people out because of prior records."
- "Stigma placed on PSH by the community and police."

#### *Rent, other costs, and lack of housing supply:*

- "Lack of rent control. Cities and municipalities are hesitant to implement policy protecting tenants because landlords and affiliated interest groups threaten and do bring legal action against the city. Recently, landlords were fighting the ordinance passed in Ann Arbor that prohibits discrimination against renters based on criminal background. Any sort of policy or ordinance cities or the county attempts to pass gets vicious pushback from the landlords. They are a major problem, and they are completely uncontrolled."
- "Washtenaw County is an expensive county to live in. Many people who don't qualify for community-based services are homeless (doubled-up, couch-surfing)."
- "Ann Arbor has an ordinance that theoretically prevents landlords from discriminating against people receiving rental assistance—but it is evidently not enforced adequately because landlords discriminate anyway. ... Ypsilanti's ordinance around housing discrimination is less clear-cut than Ann Arbor's, which leaves a lot of room for landlords in Ypsilanti to discriminate."

### **Recommendation 2: Reduce barriers to accessing housing for people with criminal legal system involvement.**

Public housing authorities (PHAs) have eligibility criteria for accessing housing. PHAs, except in Ann Arbor, limit or prohibit tenants based on past criminal convictions, beyond the exclusions required by federal policy. Such eligibility restrictions make it difficult for returning citizens to find stable housing. PHAs should remove policies and practices that allow conviction history to be a criterion for housing eligibility, especially criteria that are subjective. If such policies remain, PHAs should reduce lookback periods (the amount of time that a background check covers), for example, to one year. In addition, if a person is initially denied housing because of their criminal record, they should be given the right to appeal the decision and an individualized review of factors relevant to tenancy should be conducted.<sup>61</sup> The county should fund local organizations to help people navigate complex housing-related forms, including questions about criminal background. Law enforcement should not submit notices of police activity to landlords.<sup>62</sup>

#### Implementation steps:

- Key actions: PHAs should remove lookback policies and ensure that community members and all housing service providers are aware of the eligibility

change. Establish a working group, including people with justice involvement, to address additional housing challenges for people with criminal legal system involvement.

- Key actors: Local housing service providers; PHAs; community members with lived experience with housing needs; county commissioners.
- Funding: Funding is needed to increase capacity for service providers to help clients with criminal records secure housing.
- Potential obstacles: Public housing authority leadership will need to buy in to eliminating lookback policies.
- Other notes: It is important to recognize that some returning citizens are not only trying to find housing for themselves. Housing barriers often impact their family members, including children, or their ability to reside with their families in the housing they already have secured.

### **Recommendation 3: Expand affordable housing options in Washtenaw County.**

There is a need for additional affordable housing in Washtenaw County, as documented in the 2015 czb [Housing Affordability and Economic Equity Analysis](#) report for the Washtenaw County Office of Community and Economic Development and the 2020 [Report and Recommendations of the City of Ypsilanti Citizen Committee on Housing Affordability and Accessibility](#). Stakeholders should analyze recommendations in the report with a race and economic equity lens and determine what progress has been made and what still needs to happen based on the current landscape (such as the effects of inflation and COVID-19).

Implementation steps:

- Key actions: Update the czb report analysis and implement plans to expand affordable housing.
- Key actors: Washtenaw County Office of Community and Economic Development; housing service providers; community members; and representatives from local municipality planning commissions.
- Funding: Funding should not be required to update the recommendations in the report. However, funding will likely be needed to expand housing options.
- Potential obstacles: Some government officials may resist proposals to increase affordable housing (due to perceived costs), and landlords that provide affordable housing may resist implementation measures such as accountability provisions.
- Other notes: Updating the recommendations in this report is only the first step; increasing affordable housing units, assessing housing quality, establishing channels for complaints without eviction risk, and increasing housing options post-eviction are also essential.

### **Recommendation 4: Ensure housing access cohesiveness across county and city entities within Washtenaw.**

Stakeholders and residents said that information about access, eligibility, and capacity for affordable housing can be difficult to navigate. There should be more coordination of resources in Washtenaw County—such as the homeless response sector, centralized entry point, risk mitigation fund, and landlord resource center. Community concerns about the housing hotline, Housing Access for Washtenaw County (HAWC), include



trouble reaching staff on the phone and difficulties understanding the call center's role and policies. All providers should have coordinated, up-to-date information on housing options and eligibility criteria so that they can better guide and serve clients.

Implementation steps:

- Key actions: Housing providers should determine the best way to document housing availability and resources on an ongoing basis.
- Key actors: Public Housing Authorities; housing service providers; staff and leadership from centralized entry points; landlord resource center.
- Funding: Funding is needed to improve the design of housing response systems.
- Other notes: Resources exist to help to keep people in their homes before they face displacement. Practices from the [Continuum of Care Coordinated Entry Policies and Procedures](#) should be followed.

**Recommendation 5: Pass a county resolution that all housing initiatives follow Housing First principles. Urge townships and cities within the county to do the same.**

Housing First is premised on the principle that all people should have access to housing and supportive housing, regardless of perceived “readiness” or sobriety/abstinence status.<sup>63</sup> People returning from incarceration are disproportionately vulnerable to homelessness, substance use, and stigma, so this approach would benefit them.<sup>64</sup> Empirical studies of Housing First initiatives (compared to traditional housing) show positive outcomes—such as fewer reconvictions and improved behavioral health, especially for people with system involvement.<sup>65</sup> The resolution should explain how Housing First principles apply to Washtenaw County for (a) affordable housing generally, (b) permanent supportive housing, and (c) housing for formerly incarcerated people.

Implementation steps:

- Key actions: With input from local housing service providers, county commissioners should develop a resolution with actionable steps for housing initiatives to adopt Housing First models.
- Key actors: County commissioners; representatives from local municipalities; local housing service providers.
- Funding: No funding needed.
- Potential obstacles: Need to build buy-in with service providers who may favor conditions related to abstinence from substances.
- Other notes: The resolution should include examples of Housing First policies, as well as name examples that are not Housing First principles.

**Recommendation 6: Enact municipal and township ordinances prohibiting discrimination based on source of income, such as housing assistance.**

The purpose of voucher programs is to allow low-income people more options and access to housing. However, local laws can allow landlords to discriminate against potential tenants based on the “source of income” they have—such as housing vouchers.<sup>66</sup> Ann Arbor and Ypsilanti passed ordinances adding “source of income” to the list of prohibited grounds for discrimination (such as race, religion, and sex): Ann Arbor addresses this broadly by stating that no person should face discrimination on

the basis of source of income;<sup>67</sup> Ypsilanti's fair housing ordinance prohibits discrimination on the basis of source of income.<sup>68</sup> Source of income can include any housing assistance, such as housing choice vouchers. Community advocates and Washtenaw County should urge all municipalities and townships in the county to pass ordinances prohibiting discrimination based on source of income to increase access to housing. Washtenaw County can point to Ypsilanti's ordinance as a model for other jurisdictions. The county should also modify policies to require that any entity receiving county funding or contracts do not use source of income as a factor in hiring.

Implementation steps:

- Key actions: County commissioners can create a resolution urging municipalities to pass ordinances. Ypsilanti can be used as an example. The county should require that any entity that receives county housing funds or that has built on county land adopts non-discrimination on source of income policies and adheres to Housing First principles. Community advocates can work with municipalities to pass such an ordinance.
- Key actors: County commissioners; governing bodies of municipalities and townships in Washtenaw.
- Funding: No funding required.
- Potential obstacles: County commissioners do not control municipalities and townships and cannot force this change.
- Other notes: County commissioners and staff have an important role to play in communicating with local municipal governments about the benefits of and resources for this countywide change.

### **Recommendation 7: Allocate funding for attorneys to represent tenants who face eviction.**

Research shows that formerly incarcerated people are disproportionately at risk of unstable housing and homelessness.<sup>69</sup> Qualitative research participants interviewed for this report identified housing stability as a primary barrier. Evictions further undermine housing stability and disproportionately affect lower-income neighborhoods. Tenants do not have a right to counsel for eviction, and most organizations are under-resourced to provide this service to clients—but tenants with lawyers have better outcomes.<sup>70</sup> Washtenaw County should provide funding to legal services organizations and should disseminate information to people who may need representation in eviction situations.

Implementation Steps:

- Key actions: County staff should work with local housing service providers to determine the amount of funding needed, then add a budget line item to the 4-year budget, ideally renewable.
- Key actors: County commissioners.
- Funding: County funding is needed for attorneys.
- Potential obstacles: The statewide landlord association previously pushed back against tenant protections put in place during the initial spread of COVID-19 and includes some of the largest local landlords. They will likely need to be engaged.

- Other notes: Eviction prevention requires not just legal assistance but also rental assistance where the issue is inability to pay rent.

### **1.3 Behavioral Health Services and Harm Reduction Approaches**

Numerous organizations provide behavioral health services—which refers to mental health and substance use treatment services—in Washtenaw County. Despite the number of providers, the Washtenaw County Health Department’s [Mental Health Index](#) shows that some areas of the county continue to have socioeconomic and health factors correlated with self-reported poor mental health. Statewide, in the wake of the opening of the 988 crisis line, there is a clear gap between the mental health needs of residents and the availability of professional providers.<sup>71</sup>

Washtenaw County approved an eight-year homeowner tax (millage) in 2017, which provides additional funding to various local behavioral health services.<sup>72</sup> Millage funding has expanded services for medication-assisted therapy (MAT) in the jail, reentry services for people released from jail or prison, plans for a youth assessment center, and a crisis negotiation team.<sup>73</sup>

This section provides a brief overview of the types of services available in Washtenaw County as well as issues of quality and access. Vera conducted a survey of 14 people who work for service provider organizations in the behavioral health sector about their perceptions of barriers to access and of the working conditions for staff in these organizations.<sup>74</sup> See Appendix 2 for details on the survey; see the supplemental report for details on the organizations in this sector.

#### Models of Services and System Mapping: Harm Reduction, Mental Health

Washtenaw County undertook a Sequential Intercept Mapping (SIM) process in 2017 to document and assess gaps and opportunities in the pathways from behavioral health incidents into or out of the criminal legal system.<sup>75</sup> The report provides a map of available services and resources and how they connect with one another, defining each stage (“intercept”) in the “flow chart” of contact with the criminal legal system. Many of these insights align with this WEP report.

In the first intercept (emergency and law enforcement services), the report notes that police and nonprofits have training and familiarity with mental health co-response models and crisis intervention teams, mobile and crisis response capacity, psychiatric services, and several organizations that provide MAT for people who use opioids.<sup>76</sup> For the second intercept (initial detention and hearings), the report notes that the jail has peer staff, assessment tools and processes, mental health data, and numerous service options at the jail, as well as that nonprofits (such as Avalon Housing and CMH) provide case management at the jail and specialty courts.<sup>77</sup> The SIM report identified barriers to access: long wait times and lack of beds at crisis and detox centers, the only stabilization center is in Ypsilanti, difficulties with information-sharing (in part due to HIPAA requirements), and a lack of peer-led and harm reduction approaches (most treatment organizations were abstinence-based).<sup>78</sup> For the detention stage, the report notes that the jail’s process for assessing mental health needs at intake is unclear, that judges lack knowledge on behavioral health issues generally, that there

is a shortage of public defense lawyers, and that coordination across services and with the jail is weak.<sup>79</sup>

The SIM report prioritizes several actions:<sup>80</sup>

- Expand crisis response, including a crisis triage center and post-crisis engagement, following models from national entities like the Substance Abuse and Mental Health Services Administration (SAMHSA) and CIT International.
- Expand substance use disorder treatment options, including through inpatient beds, ambulatory detoxification options, and increasing system utilization by “frequent users.”
- Expand technology utilization, including a data dashboard for each intercept, data matching strategies, and overcoming HIPAA obstacles.
- Expand Crisis Intervention Team training for police departments.
- Expand peer-led services (led by people with direct experience of detention and/or substance use), including in crisis response and jail reentry.
- Ensure that there is continuity of care for services, benefits, and medications for people leaving jail, including unplanned releases.
- Establish a substance use disorder central access point.
- Increase the involvement of people who use substances in planning and outreach for services, including to reach people who are high utilizers of services.
- Improve public defender presence at arraignments, diversion strategies, and cross-system trainings.

These actions align with many of the concerns and actions outlined in this WEP report—but many have not yet been implemented. It is important to begin or continue these actions from the SIM report that remain urgent and to update the needs assessment for those where the local context has changed, such as services for people leaving jail. As noted in the *2021 Millage Impact Report*, progress is clear and further work remains.<sup>81</sup>

### *Harm Reduction*

Harm reduction generally refers to ideas and interventions that aim to reduce the harms of both drug use and the policies that criminalize drug use.<sup>82</sup> Harm reduction highlights the role of social inequalities in affecting one’s vulnerability to problematic substance use and advocates for non-stigmatizing, non-punitive, and non-coercive interventions aiming to improve quality of life for people who use drugs and their communities rather than focusing only on eliminating drug use.<sup>83</sup> Interventions typically include syringe services programs (SSPs—also known as needle exchanges), drug safety testing (for example, fentanyl test strips), overdose reversal by using/offering the medication naloxone, medication-assisted treatment for opioid use (such as methadone or buprenorphine), overdose prevention centers (OPCs, also known as safe consumption sites), Good Samaritan laws (legal protections for people who call emergency services in a drug overdose incident), and education to reduce stigma of people who use drugs.<sup>84</sup> Compared to other Michigan counties, harm reduction services are relatively widespread in Washtenaw County. (See the supplemental report for more details.)

People who participated in Vera’s qualitative interviews did not have direct experience with needle exchanges or naloxone access in the county jail or state prison. However,

stakeholders report that these programs are operating, so more extensive research is needed to assess implementation in detention settings and the continuity of care from incarceration to release. Some interviewees said that medication-assisted treatment has been available in the county jail within the last year or two, as well as in some state prisons. The jail, which had previously provided naltrexone and naloxone, has announced that it started providing buprenorphine and methadone as well in early 2021.<sup>85</sup> In 2021, 40 people received some form of MAT through the jail.<sup>86</sup>

Overdose prevention centers (OPCs), also known as safe injection or supervised consumption sites, are a central harm reduction practice that does not currently exist in Washtenaw County. OPCs are facilities that provide a medically supervised environment for individuals to use drugs while minimizing the risk of overdose or disease transmission; there are over 200 OPCs around the world.<sup>87</sup> Research shows that OPCs have been successful in reducing overdose deaths and public drug use, as well as increasing the number of people seeking substance abuse treatment, without raising rates of drug use or crime in the communities where they are located.<sup>88</sup> There are obstacles to opening OPCs in the United States due to the federal Controlled Substances Act, but two sanctioned sites have opened in New York City, and the federal government is exploring options to exempt or allow more OPCs.<sup>89</sup>

Washtenaw County's harm reduction services include naloxone distribution, medication-assisted treatment, needle exchanges, education, and general services for people who use drugs.<sup>90</sup> However, abstinence-based models also remain relatively common, and local organizations in the sector have varying positions and approaches. Bolder harm reduction strategies—namely, overdose prevention centers and decriminalization of drug possession beyond cannabis—are not yet underway. Service providers who participated in the survey express broad support for expanding harm reduction, including OPCs, changing local ordinances that criminalize drug paraphernalia (which include harm reduction tools like clean syringes and fentanyl test strips; see section 1.7 below), advocating to change state laws that criminalize drug possession, and trying to reduce stigma toward people who use drugs.

### *Mental Health Services*

Community Mental Health (CMH) is the linchpin of the network of services, working with numerous other nonprofit and voluntary organizations, including the National Alliance on Mental Illness (NAMI; see the supplemental report for descriptions of these organizations).<sup>91</sup> CMH is part of the Community Health Partnership of Southeast Michigan (CHPSM) and provides services for residents, especially those without private insurance.<sup>92</sup> According to its public materials, CHPSM members use Person-Centered Planning, based on the Michigan Mental Health Code, which emphasizes an individually tailored plan for treatment.<sup>93</sup> CMH serves as a hub and refers people to an array of services through other providers, including for substance use disorder treatment. CMH also provides direct services, including 24/7 phone and mobile crisis response (in coordination with law enforcement) as well as outpatient and inpatient services for adults, youth, and families, with a range of clinical tools. The PORT/PATH program focuses on people experiencing both homelessness and mental illness.<sup>94</sup> In 2021, CMH served over 4,300 people, and its crisis response team does wellness checks on 40-50 people every day.<sup>95</sup>

CMH also contracts with the jail to provide direct treatment services for those in detention and for people in some diversion programs, in part with support from the Millage Fund. The WEP was unable to obtain data from the Washtenaw County jail about the number of people who have mental health conditions or access services. A public presentation in 2022 estimated that 60 percent of people held in the Washtenaw County jail have a mental illness.<sup>96</sup> However, public information suggests that people with serious mental illness (SMI) in Michigan counties are more likely to be incarcerated and to have longer stays in jail.<sup>97</sup> Further, as CMH and Washtenaw County Sheriff's Office staff have increased collaboration, they have improved identification of and services for people with SMI at initial police contact, in jail, and during reentry.<sup>98</sup> (See the supplemental report for details.)

#### **1.4 Improving Access to and Quality of Behavioral Health Services**

Washtenaw County has strong behavioral health services and continues to invest in expansion. Still, barriers to access and quality remain. The following section draws on insights from interviews and focus groups with people who have had contact with law enforcement and have also used behavioral health services, as well as an online survey of staff at service provider organizations.<sup>99</sup> (See Appendix 2 for details on research methods.)

Participants described the county as being much better-resourced and more welcoming for people with mental health and/or substance use needs, compared to other counties in Michigan. One participant said that they moved to Washtenaw to access supportive recovery communities, a contrast to the county where they previously lived, which took only a "punitive" approach to people who use drugs. Participants agreed that there is generally an effort to provide treatment and alternatives before pushing people into jail or prison. Most had accessed services both in the community and in jail or in state prison. Positive comments on such services include:

- People appreciate services that do not stigmatize people for using drugs or for returning to using during recovery (which is a normal part of recovery).
- Participants said that some organizations, such as Washtenaw's Engagement Center at Home of New Vision, are welcoming and easy to access for short-term housing needs, without requiring abstinence.
- Peer-led support groups—that is, led by people with similar experiences, like the [SURE mothers' group](#) for parents of system-involved juveniles, or AA/NA groups for people in recovery—provide a trusting environment and strong mentorships.

*"Having a safe place to go when you have nowhere to go. And then being surrounded by people who are going through the same thing, others trying to reach the same goals. ... And then just being able to talk to the staff at these places."*

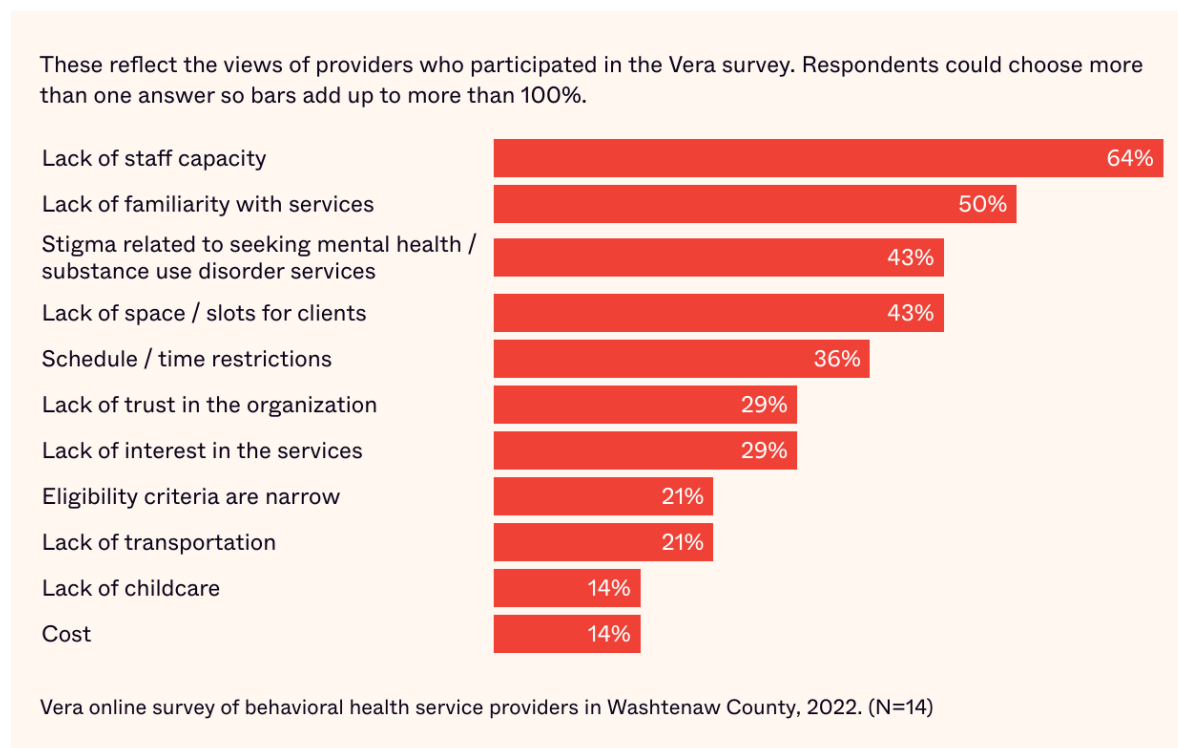
-Washtenaw resident on the value of peer support groups

Participants and staff identified several barriers to both access and quality of substance use and mental health treatment services. In the survey of staff, the most commonly identified barrier (64 percent of respondents) was lack of staff capacity, followed by lack of (client) familiarity with services (50 percent), stigma (43 percent), and lack of space or slots for clients (43 percent)—see table below. Notably, lack of childcare and cost are the least common

answers, which suggests that organizations are relatively well-resourced to help their clients overcome economic limitations.

This section discusses barriers identified by both clients and staff: fragmented information, access limitations, and stigma. The section after that covers staff capacity. For additional details from the survey, including staff responses to each identified barrier, see the supplemental report.

**Table 1. Staff views on barriers to accessing behavioral health services**



### Lack of Clear, Accessible Information about Service Options

Nearly all participants said that it is difficult to find information about service options. For example, people said that figuring out which organizations have available spaces and waive fees, while handling other pressures like precarious housing or a mental health crisis, is challenging. While many of the programs have options to help low-income people afford them—such as vouchers, waivers, sliding scale fees, Medicaid coverage, etc.—people who need these options find it intimidating and difficult to figure out how to access them.<sup>100</sup>

In the survey of service provider staff, all said that they were confident referring clients to other services. This indicates that they are familiar with the landscape of services available in Washtenaw County. However, staff respondents identified a lack of *client* familiarity with services as a barrier to access. Participants in qualitative interviews who had tried to access behavioral health services affirmed this, as the quotation below shows.

*"It's not always easy to know where to go to get access to things that you need to access. There are tons of resources, but ... they don't publicize them to everybody because then there'd be an overwhelming amount of people, you know, all at the same time that would want this help and these services. So, I think that they kind of just sit in the background and wait for people to find out about them and then help them as they come in. And so, I think that a lot of people, especially when it comes to mental health, don't take the steps that they need to because it's not simple to always find out how to get the help you need."*

-Washtenaw resident

### Lack of Spaces/Slots, Waitlists, Logistics, Narrow Eligibility Criteria

Among the staff surveyed, 43 percent said they were not at all confident that people would receive similar services if their organization didn't exist. The reasons that respondents named for this lack of capacity include waitlists, few 24/7 services other than the emergency room, and initial application logistics and fees. Eligibility criteria also limit access: for example, some services are only for people who are currently homeless or at risk of homelessness, for people of certain age groups, or for people with specific mental health conditions. One respondent described that the jail and MDOC apply eligibility criteria in a way that limits access to reentry services. This suggests that some people who may need services but do not check all these boxes may have difficulties accessing this organization's services.

#### **Comments about limited program capacity and eligibility include:**

- "We cannot offer 24-hour, one-on-one support to clients; most of our properties cannot have a front desk that's open 24 hours; we do not have an onsite methadone program; and social workers are spread thin with their caseloads."
- "Waitlists for our 18+ programs are currently full and closed. ... Getting people with little/no income housed in the community is difficult and often impossible. ... Our residential programs can't take on clients who are actively suicidal. ... Our youth shelter can't take minors without parental consent. ... Some of our programs have strict eligibility requirements (per the grants that fund them), such as requiring individuals to be HUD Category 1 Literally Homeless."
- "We need more therapists for our clients to access while they're in our programs, considering a large portion of our clients have a diagnosed mental health condition. We offer housing case management but don't assist with anything financially, such as application fees and other first-time expenses ... getting vital documents, GED testing, or driver's licensure. I think our residential clients could benefit from having an onsite nurse to assess injuries/illness and med dispensing."

### Court-Mandated Access Is Sometimes Easier Than Community Access

Several interview participants said they struggled to access programs in the community, due mainly to wait times and logistics, but that, in contrast, it was straightforward to access services when these were mandated by drug court, probation, or during detention. This sets up an obvious problem of incentives: people should not have to "get themselves arrested" in order to find a way into mental health or substance use services. Some described getting arrested as a way to "skip" the waitlist challenges and to more easily access subsidies or waivers for fees. Further, court-mandated services are more costly to the county and impose other problems (like an arrest record) on participants.



*"Yep, literally if they mandate it through court, they can get it, they can get it, they, look, if they mandate it through court, they can get a job, they can get a therapist, they can get all kind of services. ... The [expletive]-up part about it is I'm not trying to be in nobody's courthouse."*

-Washtenaw resident

### Court-Mandated Treatment Programs Eligibility Criteria and Requirements Are Onerous

The two primary alternatives to incarceration available to people facing drug-related charges are the specialty courts (drug court, sobriety court) and probation. However, it appears that these are not serving as meaningful alternatives, because of limits on eligibility and overly strict rules.

Of the interview participants who had faced eligible charges, none had completed these programs. (Of course, this is a small sample; many participants in these programs do complete the requirements, as outlined in Strategy 3 findings.) Several of these people said that they were not referred to these programs (and instead sent to jail or prison) because they had previous arrests or previous "failures" in these programs. One said their probation officer denied their request to be referred to these programs. Those who were given the option said they chose not to go, opting instead to do time in jail. Both situations suggest that this "alternative" is not serving the purpose it was set up to achieve.

### Stigma toward People Who Use Drugs or Have Mental Health Conditions

Respondents mentioned cross-cutting stigma against people who use drugs and/or struggle with mental health issues. Research suggests that only one in three Black people with a mental health condition in the United States receives treatment. Stigma within the community, such as perceiving mental health struggles as a personal weakness, and from providers; bias; and misdiagnosis of Black people are key reasons for inadequate treatment.<sup>101</sup> One staff person said quite directly that the principal barrier to service access is "racism, the poverty gap, stigma." Another respondent commented that hostile attitudes at the hospital are concerning—see the quote below—since this is meant to be a community-based alternative to seeking mental health treatment in jail or prison.

*"The current response to psychiatric consumers at St. Joe's is, again, terrible. Other patients I spoke with who had poor experiences have no interest in continuing services due to the treatment they received. Currently Huron Valley Ambulance (HVA) transports many clients to St. Joe's. This policy/procedure in and of itself is not the problem, but there are bad actors within HVA and St. Joe's who work directly with clients who cause traumatic experiences because of their indifference or active hostility to psychiatric patients."*

-Washtenaw behavioral health service provider

*"They [organizations and system actors] have just seen me as a drug addict who would never get my life together."*

-Washtenaw resident

### Costs, Housing, Childcare, and Transportation Issues

While these barriers were not ranked as the most serious by staff survey respondents (see chart above), staff did talk about costs as a challenge. One said, "The biggest barrier is the concern about insurance coverage and cost [for services]." Others suggested providing transportation and a food pantry.

Interview participants noted that various housing options exist for people in crisis. Still, they described a gap in housing options, needing "somewhere to sleep while waiting for treatment." They said there is short-term emergency housing for people who are intoxicated (for example, the [Home of New Vision](#) Engagement Center), but this is not appropriate for someone who is in recovery and trying to avoid being around other people who are using substances. Recalling when they were trying to seek treatment, one said that the struggle to find safe, short-term shelter left little energy for figuring out substance use treatment options.

*"Okay, so usually, there's waitlist to get into detox, I guess it depends on the time of year as well. And then you have to call every day and see where you're on the waitlist. So, in the meantime, if you're homeless and have nowhere to go, or don't have a phone, those can be barriers. But like I said, now, there's a couple other places that you can call, there's, you know, an engagement center where you can go every day and stay and then you have to leave the next day where you can call and get back in. So, there's a lot of places and a lot of things."*  
-Washtenaw resident

### **Recommendation 8: Expand peer-led programs and support groups, especially with options outside of AA/NA settings.**

While some Washtenaw residents with lived experience with substance use who participated in research interviews described appreciating 12-step programs, this approach does not serve everyone, especially those who are unable or uninterested in practicing abstinence-based recovery. Research shows that various peer-led models, including peer recovery coaches, peer referrals for people in child welfare settings, and others, also show positive outcomes.<sup>6</sup> These require the leadership of local people with lived (including current) experience of substance use in the program design. Partner organizations can help to set up data tracking systems to understand eventual outcomes. Because peer-led programs show positive effects elsewhere, peer-led models should start expanding even before there is a formal study of the exact model to be implemented in Washtenaw.

#### Implementation Steps:

- Key actions: Launch a coordinating body to expand recruitment of peer leaders.
- Key actors: CMH; organizations providing behavioral health services, such as Dawn Farm, Packard Health, and Home of New Vision; and peer-led groups, such as the Michigan Drug User Health Alliance and the Michigan Users Union.
- Funding: Funding will be needed to pay peer leaders.

**Recommendation 9: Expand access for inpatient and outpatient substance use treatment services in local communities, especially for people who have past, current, or likely justice involvement, ensuring that referrals come more from the community than from courts.**

All local entities—including police, courts, and community providers—should prioritize voluntary referrals and access channels, with court-mandated access remaining available but reserved for more serious cases that cannot be diverted. Further, local organizations should undertake research to understand patterns and barriers to access for community-based versus court-mandated substance use treatment. For people who do initially access services via a court-mandated referral, programs should try to ensure that the type and duration of care is clinically appropriate (guided by advice from health professionals, not court actors) and that access to services is continuous and ongoing, beyond a probation or diversion program term.

Implementation Steps:

- Key actions: Work with substance use treatment providers to encourage more voluntary referrals from the community (as opposed to the courts) through outreach and expanded access options.
- Key actors: Local university research and clinical practice centers; CMH; the Millage Advisory Committee; providers and organizations that offer substance use treatment services, such as Dawn Farm and Home of New Vision; as well as organizations serving people who use drugs, such as Unified HIV Health and Beyond, Harm Reduction Michigan, the Michigan Drug User Health Alliance, and Michigan Users Union.
- Funding: Funding will be needed for added capacity and incentives; for research, including through existing initiatives such as the Millage Fund, the [Michigan Health Endowment Fund](#), and Community-Based Health Centers (CBHC).

**Recommendation 10: Establish one or more overdose prevention sites in the county.**

Overdose prevention sites, while still rare in the United States, have been very successful in reducing overdose deaths and connecting people to services.<sup>102</sup> OPCs, sometimes referred to as safe injection sites or supervised consumption services, provide a medically supervised environment where individuals can use drugs while minimizing the risk of fatal overdose or transmission of disease. Studies of OPCs have consistently found that they prevent overdoses and the drug-use-related transmission of diseases, reduce drug use in public, and increase the number of people seeking treatment for substance abuse disorders—all without an associated increase in rates of drug use or crime in the community.<sup>103</sup> For example, in Vancouver, British Columbia, Canada, reductions in overdose mortality, ambulance calls, and HIV infections were attributed to the operation of a safe injection site.<sup>104</sup>

Implementation Steps:

- Key actions: Issue a request for proposal (RFP) for an existing organization to expand their services to provide an overdose prevention site; launch an advocacy campaign on the benefits of an OPC.

- Key actors: CMH; county commissioners; the prosecutor’s office; law enforcement; and advocacy organizations such as The Lookout Project, Washtenaw Recovery Advocacy Project, and Harm Reduction Michigan.
- Funding: Funding will be required to create a new site.
- Potential obstacles: Public opinion, as OPCs are controversial despite evidence of the benefits of this harm-reduction approach; buy-in from the prosecutor’s office and law enforcement to not pursue arrests or charges in the OPC space; buy-in from the U.S. Attorney given that there are federal legal obstacles related to the Controlled Substances Act.<sup>105</sup>

**Recommendation 11: Expand harm reduction services in the county, including inside the jail.**

The scope and accessibility of harm reduction services in Washtenaw remains modest compared to the demand. Building on the significant progress through the Millage Fund and the sheriff’s office in recent years, these practices can be further expanded in the jail and in prisons. Harm reduction can also include education to reduce stigma surrounding people who use drugs and guidance on health and hygiene challenges associated with drug use.

Implementation Steps:

- Key actions: Launch a task force to identify harm reduction practices that can be expanded or added into the county’s behavioral health services. Contract with organizations to provide identified services.
- Key actors: CMH; Millage Advisory Committee; advocacy organizations such as The Lookout Project, Washtenaw Recovery Advocacy Project, and Harm Reduction Michigan; organizations providing substance use treatment, such as Dawn Farm and Home of New Vision; and organizations led by people who use drugs, such as the Michigan Drug Users Health Alliance (MIDUHA) and the Michigan Users Union.
- Funding: Funding will be needed for additional services.
- Potential obstacles: Public opinion—harm reduction approaches can be controversial due to misinformation.

**Recommendation 12: Improve coordination of, information about, and outreach for behavioral health and other social services.**

**12a. Expand accessible, one-stop-shop information hubs about behavioral health and social services, where people can understand their options. Disseminate and publicize this information to system-involved people, their families, and local communities actively and through multiple channels.**

Despite the array of services in the county, both clients and staff identified difficulties getting clear information as a barrier to access. There are numerous information sources, like the [Washtenaw County Health Initiative Opioid Project](#) and CMH’s [Naloxone Access in Washtenaw County](#) flyer, as well as the 988 and 211 phone lines for mental health services; a single point of entry is also called for in [CMH’s Strategic Plan](#). A one-stop-shop for this information, with more dissemination and involvement from trusted community advisors, would make these resources easier to access, including at an eventual overdose prevention site.

**12b. Ensure providers that serve system-involved people coordinate and collaborate with one another on services available, eligibility, and capacity for new clients.**

Another identified barrier to accessing behavioral health services was a lack of clarity and communication among service providers about each other's eligibility requirements and capacity to refer people to different or additional services. Criminal legal system staff, including police and court actors, could use referral documents and bench cards to facilitate voluntary referrals. A task force or working group, such as a Criminal Justice Coordinating Council or similar entity with community representation, could take on this coordination work.

Implementation Steps:

- Key actions: Set up a working group, collaborative, or online space where service providers can share available services, capacity, needs, eligibility requirements, etc. Set up online and other platforms for centralized information and disseminate through various channels/formats. Document eligibility and access criteria, analyze and address gaps, including through updating the SIM report. (See recommendation under Strategy 5.) Set up peer ambassadors/navigators and other staff to answer questions and do outreach.
- Key actors: Service providers; CMH; 988 and 211 phone line staff; and community members with lived experience of substance use and mental health conditions and/or of behavioral health services.
- Funding: Unlikely, but funding could be needed for additional online or physical platforms/materials.
- Potential obstacles: Creating cohesion among already existing hubs and resources, such as 988 and 211.

**Recommendation 13: Partner with organizations in harder-to-reach communities to help disseminate information about services and reduce stigma about mental health and substance use.**

The stigma of seeking mental health and substance use services, within communities and among some healthcare providers, is an obstacle.<sup>106</sup> Research, including comments from Washtenaw residents, notes that people seeking treatment feel stigmatized for their substance use and mental health trajectories. Partnering with organizations in the community that function outside of mental health—including faith-based groups—can help people better understand resources, identify signs of mental health or substance use issues, and function as advocates to normalize accessing behavioral health care.<sup>107</sup> A general, long-term public education campaign to promote a public health, not criminal legal system, response to substance use and mental health is also necessary.

Implementation Steps:

- Key actions: Build a countywide initiative to train non-mental health care workers on these issues.<sup>108</sup> Partner with the Millage Advisory Committee to expand their existing work on campaigning to destigmatize mental health.

- Key actors: Community leaders; faith-based groups; educators; the Millage Fund; advocacy organizations such as The Lookout Project, Washtenaw Recovery Advocacy Project, and Harm Reduction Michigan; peer-led organizations such as the Michigan Drug Users Alliance and Michigan Users Union; and university entities involved in stigma and/or behavioral health issues.
- Funding: Some funding will be needed for training, campaigns, and outreach.

### **1.5 Staff Capacity and Cultural Responsiveness in the Behavioral Health Sector**

National research indicates that there is a crisis in staffing for the nonprofit sector in general, and there are several barriers to entering and staying in the behavioral health field.<sup>109</sup> Further, behavioral health staff are disproportionately white—yet the highest needs for services are among communities of color.<sup>110</sup> The field is increasingly recognizing that it is crucial that behavioral health services are culturally competent or responsive. This means being informed by and respectful of the cultural practices and lived experiences of its clients, as well as how stigma and structural racism and inequalities influence their mental health.<sup>111</sup> Put another way, this means meeting people where they are and tailoring services to what clients say they need, which is a foundational principle of harm reduction.

#### Low Compensation and Burnout

Research consistently finds that low salaries, stress/burnout, and heavy caseloads are common reasons for staff turnover in mental health agencies.<sup>112</sup> Survey respondents in Washtenaw highlight low wages, constant turnover, and high workloads as negatively affecting retention and recruitment. All but one person reported experiencing burnout, with 38 percent (six respondents) reporting extremely high burnout and 50 percent (seven respondents) reporting moderate burnout. The most commonly suggested solution was increasing salaries. Respondents also suggested improving other workplace benefits, as well as other ways of appreciating staff.

#### **Comments on staff capacity as a problem include:**

- “Poor wages and high staff turnover. The county's union is currently addressing this in that social workers are paid below market rate, have high caseloads, and lack support at the highest level.”
- “We don't have enough staff. Administration is not transparent about funds each of the programs receives to client-facing staff. The staff we do have are working multiple positions because people are not being replaced when they leave. Staff are also working at wages that qualify them for the housing programs we offer.”
- “Low staff retention/being constantly understaffed/workers having overwhelming caseloads.”
- “[Since COVID-19] less people are applying to work at my organization and therefore people's caseloads are extremely, unethically high.”
- “High turnover seems to be one of the biggest barriers. It is difficult to coordinate care when the care providers are constantly changing for a client.”

#### Cultural Competence and Diversity

Washtenaw County agencies offer various trainings and resources related to cultural competence, and national resources exist, such as from SAMHSA.<sup>113</sup> The WEP does not have

data on staff demographics in behavioral health organizations. In the survey of staff, respondents suggested that there is a lack of racial/ethnic diversity and a need for more training. One person said, "I think many can relate to the issue of financial struggles, but not many understand what it is like to go through intensive mental health treatment or criminal incarceration." Respondents suggested more deliberate outreach with organizations that serve people with criminal records, adjusting policies that limit eligibility related to conviction history, and increasing pay would help attract staff with marginalized identities and experiences. One said, "Cultivate a safe, non-judgmental environment. Don't eliminate candidates based on past nonviolent criminal charges (especially if there's no indication that the person would cause harm to the clients)."

**Recommendation 14: Actively recruit and retain people with lived experience of the criminal legal system to serve as staff at service provider organizations. Conduct active outreach and research in communities to better understand barriers to working at these organizations and options for overcoming them.**

Community members noted that many services in the county are not typically provided by people from their own community, and this makes it more challenging to identify with providers. The survey of behavioral health services provider staff echoed this. It is imperative to hire people with lived experience, to assist people in obtaining required certificates/training, and to ensure salaries are equitable and competitive.

Implementation Steps:

- Key actions: Integrate people with lived experiences in all aspects of program design, implementation, and evaluation, with appropriate compensation.
- Key actors: Service providers.
- Funding: Additional funding is needed for service providers to invest in recruiting and training staff with lived experience and to ensure salaries are competitive.

**Recommendation 15: Invest in building and supporting the behavioral health workforce in Washtenaw County.**

Research with professional staff and people with lived experience identified staff shortages and limited space in programs as two of the principal barriers to access and quality of behavioral health services in the county. Participants named low salaries and burnout as contributing factors to challenges with staff recruitment and retention.

**15a. Develop countywide salary and benefit guidelines for behavioral health providers.**

These guidelines should take into account cost of living, leave/vacation policies, and education and licensing requirements for specific positions and be updated annually in accordance with inflation and other market conditions. These guidelines should go beyond "industry standards" to remain competitive and create a larger incentive for people to join the behavioral health field. The county should also require service providers that contract with the county to follow these guidelines as a minimum threshold for salary and benefits and support those budgets accordingly.

#### Implementation Steps:

- Key actions: Conduct an analysis to develop informed salary guidelines, including any specific considerations for organizations that receive Medicaid funding.
- Key actors: County commissioners and CMH.
- Funding: Funding would be required for analysis.
- Potential obstacles: There may be a “catch-up” period for budget adjustments with organizations contracting with the county.

#### **15b. Partner with local universities to prioritize and incentivize ways for Washtenaw residents, especially those from under-served communities, to earn degrees related to behavioral health professions.**

To increase the number of service providers in Washtenaw County who reflect the racial/ethnic identities, economic position, and system involvement of the communities they serve, the county should pursue university partnerships, particularly with social work programs, to create incentives for graduates to stay and work in Washtenaw County. This might include creating scholarships for people currently working in the behavioral health field who want to further their education and providing tuition reimbursements for graduates who work as service providers in Washtenaw County.

#### Implementation Steps:

- Key actions: Partner with universities to develop pathways for student recruitment and create scholarships and post-graduate incentives, focusing on underserved communities.
- Key actors: Universities; CMH; and organizations providing behavioral health services, such as Dawn Farm, Packard Health, and Home of New Vision, as well as peer-led groups.
- Funding: Funding may be required from universities for scholarships and tuition reimbursement.
- Potential obstacles: Obtaining buy-in from the universities.

### **1.6 Minimizing Law Enforcement Contact**

Reducing initial contact with police can prevent some of the “social costs” of police contact, including negative physical and psychological health effects, which are borne disproportionately by Black communities and other communities of color.<sup>114</sup>

Debates about how to improve policing in Washtenaw County, especially with regard to vulnerable groups, racial bias, and oversight, have been underway for years.<sup>115</sup> The sheriff’s office has an active community engagement office and employs people with criminal legal system experience as peer outreach and reentry services staff.<sup>116</sup> It also has some policies and programs that enable diversion, including the introduction of the Law Enforcement Assisted Diversion and Deflection (LEADD) model in 2021.<sup>117</sup> An evaluation of the program is scheduled for completion in 2025.<sup>118</sup>

To explore strategies for safely reducing the use of law enforcement and prioritizing civilian-led responses when appropriate, it is important to map out how police resources are currently used in the county, for both proactive policing and responses to calls for service.



This section addresses what is known about disparities in police arrests and calls for service via 911 dispatch (given limited data); provides an overview of current policing approaches; and discusses emergent community-based violence intervention initiatives.

### Racial Disparities in Arrests

Racial disparities in arrest data are stark across the county. Three law enforcement agencies in Washtenaw report arrest numbers to the FBI's Uniform Crime Reporting system: Ann Arbor Police, Ypsilanti Police, and the Washtenaw County Sheriff's Office.<sup>119</sup>

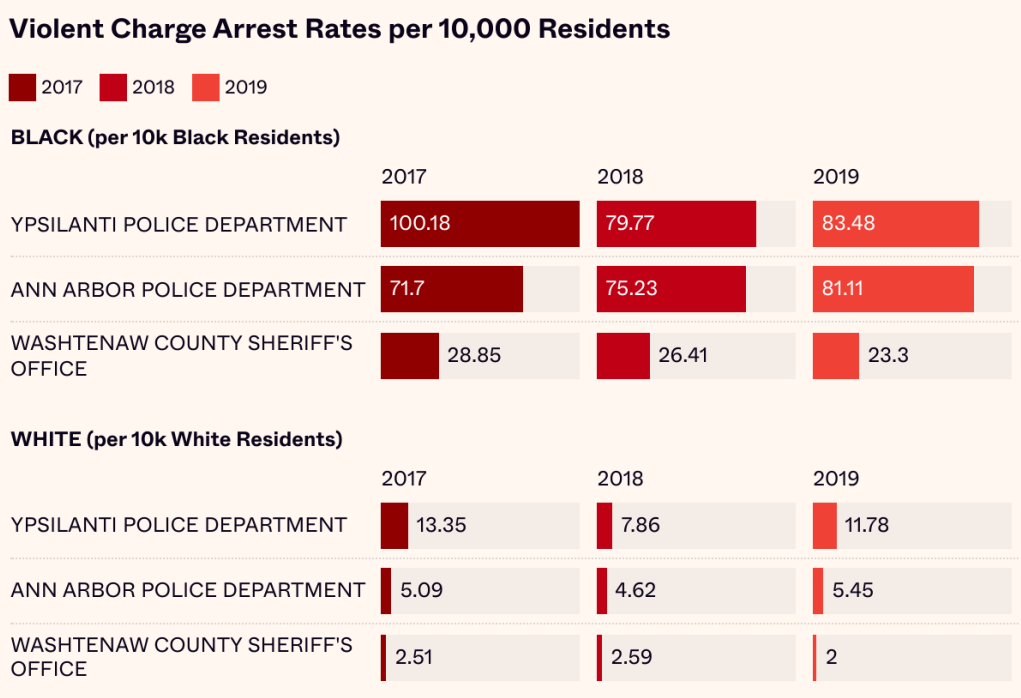
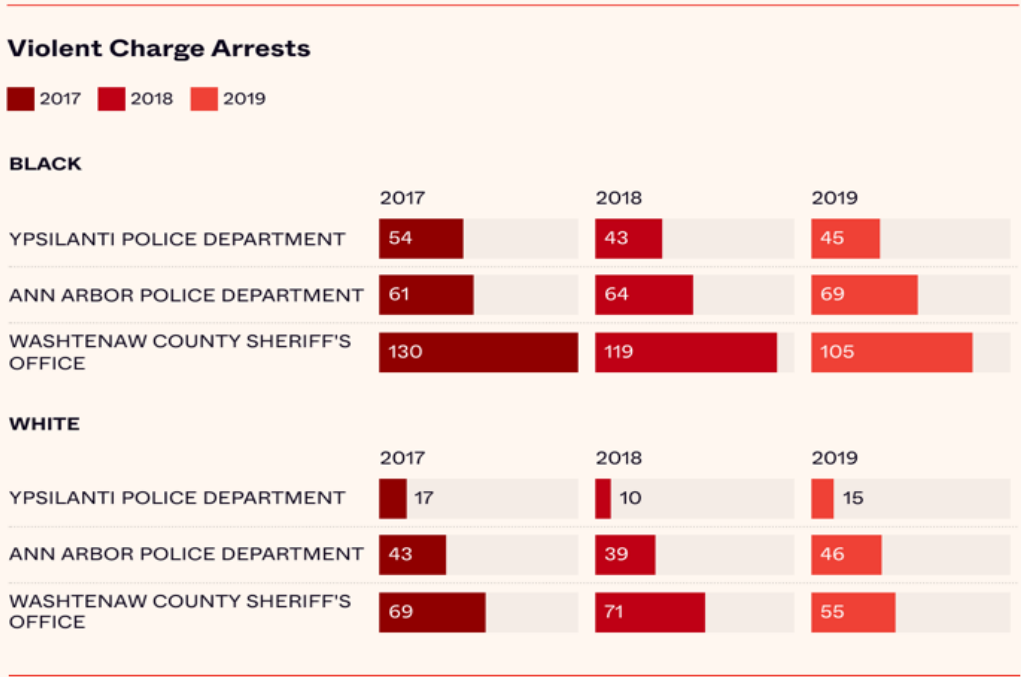
As depicted in Tables 2 and 3 below, in 2019, these three agencies arrested slightly more white people for nonviolent charges (1,720 people) than Black people (1,700), based on the FBI's classification of violent charges, which includes aggravated assault but excludes simple assault (see table notes).<sup>120</sup> However, given the demographics of the county, this means that Black people are substantially overrepresented.<sup>121</sup> White residents were arrested for nonviolent charges at a rate of 61 arrests per 10,000 residents, while Black residents were arrested at a rate of 353 arrests per 10,000 residents, over five times more frequently (total rate not depicted in the graphics).<sup>122</sup> Police agencies arrested more Black people for violent charges (197) than white people (111)—a rate of four arrests per 10,000 residents for white residents, while Black residents were arrested at a rate of 44 arrests per 10,000 residents, 11 times more frequently.<sup>123</sup>

Enforcement varies by jurisdiction. Ypsilanti police arrested Black residents five times more frequently than white residents for nonviolent charges and seven times more frequently for violent charges.<sup>124</sup> Ann Arbor police arrested Black people six times more frequently than white people for nonviolent charges and 14 times more frequently for violent charges.<sup>125</sup> Washtenaw County Sheriffs arrested Black people eight times more frequently than white people for nonviolent charges and 10 times more frequently for violent charges.<sup>126</sup>

These disparities, while stark, should not be interpreted as suggesting that Black Washtenaw residents commit more crimes than white residents. Instead, these numbers point to issues discussed in this report, including the disproportionate policing and surveillance of communities of color, which lead to increased arrests; this pattern exists across the country. This is also reflected in the interviews with Washtenaw residents. Given that police contact is the gateway to the criminal justice system, these arrest numbers suggest that examining and changing police practices are crucial steps toward reducing racial disparities throughout the criminal legal system.

**Table 2: Violent charge arrests in Washtenaw County**

Police arrest more Black people than white people for violent charges. There are disparities in the violent charge rate per 10,000 Black and white residents across all three police agencies, with Black residents being arrested at rates 7 to 14 times higher than white residents.



In the FBI's Uniform Crime Reporting (UCR) Program, violent crime is composed of four charges: murder and nonnegligent manslaughter, rape, robbery, and aggravated assault  
 Source: FBI Uniform Crime Report data, 2017-2019

**Table 3: Nonviolent charge arrests in Washtenaw County**

The Ypsilanti Police Department and the Washtenaw County Sheriff's Office arrest more Black people than white people for nonviolent charges. The disparities in the nonviolent charge *rate* per 10,000 Black and white residents is stark across all three police agencies, with Black residents being arrested at rates 5 to 8 times higher than white residents.

**Nonviolent Charge Arrests**

■ 2017 ■ 2018 ■ 2019

**BLACK**

	2017	2018	2019
YPSILANTI POLICE DEPARTMENT	514	515	414
ANN ARBOR POLICE DEPARTMENT	679	764	731
WASHTENAW COUNTY SHERIFF'S OFFICE	699	600	555

**WHITE**

	2017	2018	2019
YPSILANTI POLICE DEPARTMENT	223	246	204
ANN ARBOR POLICE DEPARTMENT	1,232	1,236	1,124
WASHTENAW COUNTY SHERIFF'S OFFICE	565	412	392

Source: FBI Uniform Crime Report data, 2017-2019

**Nonviolent Charge Arrest Rates per 10,000 Residents**

■ 2017 ■ 2018 ■ 2019

**BLACK (per 10k Black Residents)**

	2017	2018	2019
YPSILANTI POLICE DEPARTMENT	953.6	955.4	768
ANN ARBOR POLICE DEPARTMENT	798.1	898	859.2
WASHTENAW COUNTY SHERIFF'S OFFICE	155.1	133.1	123.2

**WHITE (per 10k White Residents)**

	2017	2018	2019
YPSILANTI POLICE DEPARTMENT	175.2	193.2	160.2
ANN ARBOR POLICE DEPARTMENT	145.9	146.3	133.1
WASHTENAW COUNTY SHERIFF'S OFFICE	20.6	15	14.3

Source: FBI Uniform Crime Report data, 2017-2019

## Experiences of Washtenaw Residents with Police Interactions

The data on disparities is supported by Washtenaw residents' experiences, as recounted in qualitative research. Black participants described pervasive fear, distrust, and caution when interacting with police. All said that police are necessary, but that law enforcement should focus on building trust and relationships in the community. Several participants noted being stopped for minor traffic violations such as a broken taillight and then having old warrants or fines come up, leading to arrests.

*"As a Black person, it's difficult to hide from their eyes. It's not that you're trying to hide, but I think Black people are always assumed to have a problem."*  
-Washtenaw resident

Some residents, especially young Black men, said they feel targeted and harassed by police in certain neighborhoods and public spaces. Young adults talked extensively about police officers approaching them in public spaces, like parks and basketball courts, to ask what they were doing there and search their pockets—with no apparent pretext. Several participants said these interactions led to arrests, because sometimes the young men react negatively to this interaction and police charge them with resisting arrest; others noted that police sometimes find small amounts of marijuana and charge juveniles with possession.

*"Back in the day, it [police presence] was really impossible to live in. Right now, I don't know whether I've gotten used to it or it's just different. But I have suffered this for so long, such that, it's already in me, but it hasn't really changed because I see these kids being arrested. I see these kids being humiliated. I see these kids being bullied by the cop, so it's still happening. And if there's a change, I think there's a very small change."*  
-Washtenaw resident

In contrast, a white participant described their arrest situation as non-confrontational:

*"I was arrested because, like I said, we set up a time, I went, and they actually gave me a ride to the courthouse. And they had me sit in the front seat, not in the back, like ... Law and Order or something, the perps are in the back seat or whatever."*

Generally, interview participants affirmed that they value police and want police in their neighborhoods, but they want them to address crime without causing harm or violence to community residents.

## Policing Approaches and Surveillance of Public Housing and Drug Use

According to stakeholders, law enforcement regularly patrol public housing complexes and have sometimes attempted to patrol interior hallways.<sup>127</sup> Police surveillance of public housing communities often harms residents more than it protects them, as residents are more likely to be subjected to police encounters in and around their homes, with little to no suspicion of criminal activity; basic rule violations can lead to detention, jail time, and criminal prosecution.<sup>128</sup> Community members who reside in one affordable housing complex in Washtenaw County reported to service providers that increased police presence would make them feel less safe.<sup>129</sup> Other people, including county officials, have asserted that residents are asking for security cameras.<sup>130</sup> According to one official, security cameras located at

public housing properties in Ann Arbor are not for law enforcement, although officers can request footage.<sup>131</sup> Cameras are only on the exterior of properties and in common areas, and signage is posted letting tenants and guests know that cameras are active and recording.<sup>132</sup>

There are also concerns about police surveillance of people who use drugs in Washtenaw County. Michigan’s [System for Opioid Overdose Surveillance](#) (SOS) provides close to real-time mapping of drug poisonings (overdoses). The public can access county-level data, while authorized public health and safety officials can access detailed data down to the street name. Yet, a county-commissioned study found that people who self-identify as using drugs feared that police would use SOS data to increase police presence, therefore pushing people who use substances into less safe areas.<sup>133</sup> Stakeholders also expressed similar concerns and worry that the specificity of data would discourage people from calling 911 when in need of medical assistance. Recommendations for improving the SOS include providing different levels of access to law enforcement and avoiding use of street-level data for punitive measures; instead, street level-data should inform outreach efforts for services and supplies.<sup>134</sup>

*“They had a few community officers that would come through and everybody would talk to them, and everybody would know them. But that was almost like putting a band-aid on the situation.”*  
-Washtenaw resident

### Local Ordinances on Drug Paraphernalia

National studies show that laws that criminalize drug paraphernalia make harm reduction more difficult, because key tools, like clean syringes and fentanyl test strips, count as paraphernalia.<sup>135</sup> Michigan’s definition of drug paraphernalia is broad enough that it can include these kinds of tools.<sup>136</sup> Under state law, possession of paraphernalia for sale is a misdemeanor with a maximum punishment of 90 days in jail and a \$5,000 fine, with higher penalties for selling paraphernalia to minors.<sup>137</sup> The law states that “state or local governmental agencies or by a person specifically authorized by a state or local governmental agency to prevent the transmission of infections agents,” which would include syringe service programs (SSPs), are legally allowed to be in possession of harm reduction tools that would ordinarily fall under the category of drug paraphernalia.<sup>138</sup> However, the law does not outline how to designate a participant of an SSP. Many local municipalities have paraphernalia ordinances with varying definitions; this causes confusion about what is legal.<sup>139</sup> Within Washtenaw County, Lodi Township, Pittsfield Township, Ypsilanti Township, and Dexter—among others—all have local ordinances that explicitly outlaw drug paraphernalia.<sup>140</sup> Advocates in Washtenaw County are pushing to change some of these local ordinances because they disincentivize the use of harm-reduction tools.

### Reasons for 911 Calls

One way to understand how law enforcement resources are deployed—and therefore how contact with police may occur—is to look at reasons for 911 calls. In most counties in the United States, calling 911 is the most well-known and direct way to ask for immediate attention. Most calls to 911 are for situations that do not involve violence or imminent danger—such as welfare checks, minor disputes, or businesses asking for a check on suspicious activity.<sup>141</sup> People also call 911 to ask for help with mental health situations, such as an emotionally disturbed or suicidal person, or other behavioral health situations, like intoxication or lewdness. In many such situations, a police response can escalate rather than resolve the problem.

A Vera study of 911 calls in nine cities in 2019-2021 found that an average of 63 percent of calls (and over 70 percent in three cities) were for incidents that are not defined as criminal or violent, while calls for violent crimes, such as robbery, assault, rape, or homicide, made up between 1 to 7 percent of calls in this period.<sup>142</sup> In Detroit during this time frame, the most common calls to 911 (17 percent) were for “disturbances.”<sup>143</sup>

Washtenaw Metro Dispatch is Washtenaw County’s primary public safety answering point, providing dispatch services for multiple agencies, covering 92 percent of the county’s population (Northfield Township, the City of Ypsilanti, the City of Ann Arbor, and Pittsfield Township).<sup>144</sup> There is no ongoing, updated information available to the public on the reasons for 911 calls in the county or how calls are categorized. Past reports give some indication of the frequency and type of calls received. The 2017 annual report from the Washtenaw County Sheriff’s Office (the most recent report) shows that, among about 8,100 calls for service from 2015 to 2017, the most common type of call was complaints about animals (26 percent, which is unusual and may be related to a partnership with the SPCA), followed by domestic violence (15 percent), assault (14 percent), and larceny (13 percent).<sup>145</sup>

Pittsfield Township’s public [policing dashboard](#) shows that in 2021, the most frequent type of call was for traffic situations—but a representative from Pittsfield confirmed that this refers to law enforcement traffic stops, not calls for service.<sup>146</sup> The most common reason for 911 calls was for burglary alarms, but again, the Pittsfield official noted that most of these were false alarms from home security systems.<sup>147</sup> The next most common categories were property damage from a traffic stop and welfare checks; over half of the over 12,000 calls were for non-emergency issues (as defined by the caller request).<sup>148</sup>

### Alternatives to Law Enforcement for Crisis Response and Traffic Safety

Police may not be the most effective or appropriate response to many of these situations—and deploying police where they are not needed prevents them from focusing on where they are needed. Police contact can also harm the physical and mental health of people subject to policing tactics like stop and frisk.<sup>149</sup> Research demonstrates that unarmed responses—in lieu of armed police—to mental health or behavioral health crisis situations in which people call for emergency services can reduce negative outcomes (such as police use of force) and can produce other positive outcomes.<sup>150</sup> Vera research on response models shows that mobile crisis team services have high rates of consumer and provider satisfaction and can effectively increase community-based service use, reduce reliance on psychiatric emergency departments, and link people to community-based care once discharged from an emergency department.<sup>151</sup>

The Vera study of 911 calls in nine cities (2019-2021) finds that about 19 percent of 911 calls could be effectively answered by civilian crisis response programs (including calls not explicitly categorized as mental health calls).<sup>152</sup> Further, the analysis shows that over 60 percent of 911 calls are for situations that do not involve incidents law enforcement would define as “criminal” or “emergency.”<sup>153</sup>

For behavioral health situations, federal best practices published by SAMHSA note that even the presence of law enforcement can unnecessarily escalate a situation; instead, regional crisis call center coordination, 24/7 mobile crisis units, crisis receiving programs, and crisis

care principles are essential.<sup>154</sup> Long-standing civilian-led responses, including CAHOOTS in Eugene, Oregon, and STAR in Denver, Colorado, have shown positive results.<sup>155</sup> Best practice shows that community members should have significant involvement in program design and oversight, but local government is ultimately accountable for implementation.<sup>156</sup>

Civilian response teams can also be applied to traffic and road safety situations as a way to reduce or eliminate the use of discretionary police stops that are shown to drive racial disparities in arrests and fines.<sup>157</sup> Civilian traffic response units, within a local department, can stop cars and issue citations. Other best practices highlighted in Vera's analysis include setting up a voucher program for minor vehicle repairs—to cut cycles of debt from traffic tickets—and automated speeding enforcement through cameras managed by non-police agencies.<sup>158</sup>

One Washtenaw resident underscored the reason people are calling for more unarmed responses to crisis situations:

*"If they [the police] are also gonna be serving social service functions, then they need training, and some of them need to have no guns when they go into the community, like zero guns. You know? Why, if you're going to help somebody get connected to a resource, why do you need to have a gun?"*

In Washtenaw County, Community Mental Health (CMH) has a 24/7 mobile crisis team that has been active for several years.<sup>159</sup> A community member who is experiencing a behavioral health crisis can call CMH's designated phone number, and a clinician will be dispatched.<sup>160</sup> In specific situations, such as if the person is armed, the clinician may request a co-response with law enforcement.<sup>161</sup> According to people familiar with this program, the mobile crisis team often dispatches social workers with law enforcement when receiving 911 calls for mental health emergencies.<sup>162</sup> If a person calls 911 while experiencing a mental health or substance-related crisis, call center dispatchers are not equipped to have the mobile crisis team respond.<sup>163</sup>

According to CMH, the county and sheriff's offices are in the beginning stages of working on an alternative response protocol for 911 dispatchers to have access to, such as the mobile crisis team.<sup>164</sup> The sheriff's office conducted key interviews with organizations, service providers, and community members to learn about perspectives on alternative response.<sup>165</sup> This partnership noted in a public presentation in 2022 that 69 percent of calls for mental health needs did not require a police response.<sup>166</sup>

While the CMH mobile crisis unit is an alternative, it is specific to behavioral health crises and does not serve as an entirely unarmed alternative to law enforcement in Washtenaw County for other situations. The [Coalition for Re-Envisioning Our Safety](#) (CROS) successfully advocated for the city of Ann Arbor to have an unarmed alternative to law enforcement.<sup>167</sup> In April 2021, Ann Arbor directed the city administrator to develop an Unarmed Public Safety Response Program.<sup>168</sup> A new initiative, developed through CROS, called Care-Based Safety, is working on developing potential models.<sup>169</sup> Traffic stops not related to safety are another area in which non-police response capacity may be appropriate.<sup>170</sup> In early 2022, the Ann Arbor Human Rights Commission called on the City Council to create a local ordinance to increase transparency of data on traffic stops by local police.<sup>171</sup>

## Oversight of Police

Civilian oversight of law enforcement plays an integral role in police accountability and transparency. But scholars and practitioners note that evidence on the outcomes of civilian oversight is limited and that different oversight models face constraints (due to design and implementation) in their power to change police misconduct.<sup>172</sup> Best practices show that community oversight should be “proactive, independent, individualized, community-driven, empowered, transparent, an investment and an iterative process.”<sup>173</sup> In practice, this looks like a group of people, including those most impacted by law enforcement, who have an independent voice separate from politics, funding sources, and other government agencies. The local government can authorize this oversight entity to make decisions on disciplinary matters, recruiting, and policies. It can have the authority to go beyond complaints and analyze police data and procedures to make recommendations. Municipal financial support, public reports and meetings, and adaptability to oversight changes are integral to success.<sup>174</sup>

In Washtenaw County, there are five oversight committees: the Ypsilanti Police Advisory Commission (YPAC), Eastern Michigan University’s Public Safety Oversight Committee, the University of Michigan’s Police Department Oversight Committee, the Independent Community Police Oversight Commission in Ann Arbor, and the Community Advisory Board for Law Enforcement (CABLE) in the Washtenaw County Sheriff’s Office. While there is not much publicly available information, it appears that CABLE has not met since at least April 2022.<sup>175</sup> EMU’s Southeast Michigan Criminal Justice Policy Research Project (SMART) has started addressing concerns about coordination by establishing a countywide consortium where all the county’s police oversight commissions meet monthly to share their learning and experience, as allowed.<sup>176</sup>

CABLE has shifted in recent years from sitting under the Washtenaw County Board of Commissioners to the sheriff’s office to being its own entity. While not sitting within a county agency could provide autonomy to this body, this has also limited CABLE’s access to resources and decision-making power.

The Washtenaw County Sheriff’s Office created a 21<sup>st</sup> Century Policing Compliance Commission, broken into subcommittees, one of which is the oversight and policy subcommittee.<sup>177</sup> This subcommittee, made up of community members and sheriff’s office staff, is tasked with reviewing the sheriff’s office’s practices related to community oversight. Over the last two years the subcommittee has provided detailed recommendations to the sheriff’s office to improve oversight and accountability. However, the recommendations have not been implemented or made public and are not shareable because, reportedly, the subcommittee members signed nondisclosure agreements at the start of the project. By making recommendations public, the community and oversight committees in the county could work together to ensure implementation of recommendations that align with national best practices.

## Community Violence Intervention Initiatives

Gun violence is a serious problem in many communities—and ramping up policing and prison sentences as the primary or sole response can not only cause harm but does not work over the longer term; reducing access to guns and improving case investigation results are more promising avenues.<sup>178</sup> Community violence intervention (CVI) programs prioritize those most affected by gun violence and use peer networks, public health approaches, and supportive



relationships to prevent cycles of gun violence—and although they also involve police collaboration, they use law enforcement responses only as a last resort and in ways that do not expand stop-and-search tactics.<sup>179</sup> Results from cities across the United States show reduced rates of shootings and killings—and investing in these approaches saves money spent on policing and hospitals.<sup>180</sup>

There are a few organizations in Washtenaw County that appear to follow elements of CVI models. In 2021, Ann Arbor’s mayor convened a Community Violence Intervention Team, made up of community members, to address violence among young people. This group developed 14 recommendations, including focusing on trauma-informed healing, investing in anti-violence workforce development, and building a community center.<sup>181</sup> In addition, Washtenaw County released a statement declaring that commitment to preventing and reducing crime includes individuals with lived experience engaging in the work to keep neighborhoods safe.<sup>182</sup> It is important to track and evaluate the initiatives that exist or emerge, to ensure the greatest impact in the community. University of Michigan centers like the [Michigan Youth Violence Prevention Center](#) and the [Institute for Firearm Injury Prevention](#) have expertise in these issues; numerous organizations across the country offer assessments, technical assistance, and implementation support for community violence intervention projects.<sup>183</sup>

**Recommendation 16: Engage groups that are accountable to community members to lead the effort in Washtenaw County to create a non-law enforcement option for situations that require emergency services attention and are not a threat to public safety.**

Unarmed civilian responses—in lieu of police—to mental health or behavioral health crisis situations can reduce police use of force and disparities in arrests. Mobile crisis teams can increase community service use and reduce reliance on emergency departments.<sup>184</sup> Vera’s research across nine cities shows that over 60 percent of 911 calls are for non-criminal, non-emergency situations (like welfare checks, disturbances, or businesses calling about suspicious activity), and 19 percent of 911 calls are behavioral health situations that could be effectively answered by civilian responders.<sup>185</sup>

While it is commendable that the sheriff’s office has taken steps to establish alternatives, best practice indicates that community members and groups should have significant input, and local government—but not police agencies—should manage implementation.<sup>186</sup> The 911 call center, run by the sheriff’s office, could still receive these calls but should have options to send civilian response teams to the situations where there is no need for police. Stakeholders should learn from Ann Arbor’s initiatives to expand unarmed alternatives to law enforcement across the county.<sup>187</sup> They should also build on lessons from other cities with long-standing models (like CAHOOTS in Eugene, Oregon, and STAR in Denver).<sup>188</sup> This initiative should integrate best practices for alternative crisis response approaches, including having civilians, social workers, recovery coaches, clinicians, and other appropriate professionals in key roles.<sup>189</sup> Other best practices include joint, multidisciplinary trainings and approaches for assessing crisis situations, recruiting responders who reflect the communities they serve, ensuring ongoing data tracking and evaluation updates with

program and community stakeholders, and building mechanisms for ongoing feedback and accountability.

Implementation steps:

- Key actions: Establish a process for community input and oversight of civilian response models, with clear intended outcomes, and for government responsibility for implementation (not led by police entities).<sup>190</sup> Build community awareness of the program.
- Key actors: County commissioners; community members; service providers.
- Funding: Funding will be needed for community members' time undertaking this process.
- Potential obstacle: Consultation and collaboration to build buy-in and determine roles and accountability will be necessary, given that the sheriff's office has already begun a process.

**16a: Establish systems so that 911 call dispatchers can send unarmed response teams for behavioral health and traffic situations that do not pose an imminent danger.**

To implement civilian response options, 911 dispatch operators must be trained to understand when and how to send civilian response teams for behavioral health, traffic, or other situations that do not require police. (See recommendation 16.) Behavioral health experts should be embedded in 911 call centers. Staff at dispatch should also have clear assessment criteria and ongoing trauma-informed training, do data tracking and evaluation, and acknowledge and address community distrust in call centers and system-based responses.

Implementation steps:

- Key actions: All partners need to determine steps for adding a referral route for dispatchers. A potential example is [Community Assistance and Life Liaison \(CALL\)](#) in St. Petersburg, Florida.
- Key actors: County commissioners; sheriff's office; dispatch staff; county IT; and community groups with behavioral health and social services expertise.
- Funding: Will be needed for training and infrastructure.
- Potential obstacles: This is a complex undertaking and may take time to establish a process and implement.
- Other notes: It's important to analyze how calls to 988 can also be routed to civilian-led responses, as appropriate.

**Recommendation 17: Advocate for state legislators to decriminalize drug possession for personal use.**

The criminalization of drug possession perpetuates stigma around drug use and addiction, rendering people who use drugs less likely to seek help and more likely to engage in unsafe practices. The criminalization of drug possession disproportionately harms Black, Latinx, and Native American people through higher arrest rates that cannot be explained by differences in drug use.<sup>191</sup> As part of a broader effort to treat substance use as a public health issue rather than a criminal justice issue, Washtenaw can look to jurisdictions like Oregon that have passed legislation to decriminalize all

personal drug possession and expand funding and access to treatment.<sup>192</sup> Local actors can push for changes to state laws and can also act ahead of state legislation by choosing not to arrest, charge, or convict for personal possession of substances.

#### Implementation Steps:

- Key actions: Advocates can highlight success in other jurisdictions and explain the impact on reducing criminal justice involvement and improving health outcomes. The prosecutor's office can issue a formal declination to prosecute an expanded list of substances.
- Key actors: Local agencies; law enforcement; the prosecutor's office; the public defender's office; and community organizations with expertise in substance use and public health.
- Funding: This likely can be done with existing resources.

### **Recommendation 18: Eliminate local laws that consider harm reduction tools as drug paraphernalia.**

Laws that criminalize drug paraphernalia reduce people's willingness to seek help, due to fear of arrest. They can also constrain harm reduction services that aim to decrease the risk of disease or overdose, such as through syringe services programs (SSPs—also known as needle exchange programs) or fentanyl test strips.<sup>193</sup> Michigan's law on drug paraphernalia has exceptions for programs that reduce disease transmission (like SSPs), but practical interpretation of these exceptions can be confusing.<sup>194</sup> Some local municipalities have their own paraphernalia ordinances that can cite or arrest someone under municipal law.<sup>195</sup> Instead, municipalities should ensure that drug paraphernalia, especially items related to harm reduction practices but also items used for personal consumption, are fully decriminalized in local regulations; provide training to law enforcement and other agencies; and educate the public about changes to the laws.

#### Implementation Steps:

- Key actions: Analyze the details of laws in Washtenaw County localities to better understand inconsistencies. Update local laws, ordinances, and policies. Train agencies on policy changes. Partner with local law enforcement agencies more inclined to support alignment in state law. Track outcomes.
- Key actors: Municipal governments; law enforcement; public health officials; and providers and organizations that offer substance use treatment services, such as Dawn Farm, Packard Health, Home of New Vision, and the Washtenaw Recovery Advocacy Project.
- Funding: Funding may be required for advocacy efforts around legislative changes.
- Potential obstacles: Obtaining buy-in from law enforcement.

### **Recommendation 19: Increase community input and decision-making around camera surveillance and law enforcement presence within public housing areas.**

According to local organizations, some residents in public housing say they do not want their community surveilled by law enforcement, and others say they do want at least some surveillance. There are conflicting views on what makes people feel

safe. Resident-led groups should establish a process for gathering input, setting criteria, and regulating the use of surveillance in their housing areas in collaboration with public housing authorities (PHAs) and landlords.

#### Implementation Steps:

- Key actions: Respected, local nonprofit organizations can help guide the process to create resident-led groups (if needed) and share research around law enforcement surveillance with groups. Resident groups should have ongoing meetings and meet with PHAs and landlords to share concerns and come up with processes to regulate surveillance.
- Key actors: People that reside in public housing; landlords and public housing authority leaders; and local nonprofits that have rapport/trust with community members.
- Funding: Funding is not needed.
- Potential obstacles: Landlords and PHAs could be uninterested in meeting with resident-led groups and/or not motivated to change surveillance practices. Power imbalances between residents and landlords could deter residents from speaking out against surveillance.

### **Recommendation 20: Reduce the scope of policing to align with public safety needs identified by people impacted by crime and the criminal legal system.**

There is a growing body of research documenting the social harms of police contact, including stop and frisk tactics.<sup>196</sup> Nationally, there is a growing consensus that hardline policing is ineffective and that better outcomes occur through strong communities and policing that is narrower in scope and more responsive to the needs identified by people who have been affected by crime and/or by the criminal legal system. Approaches reflective of procedural justice principles, which prioritize perceptions of trust and fair treatment, are more promising—but the reach of policing, not just its tactics, needs to change.<sup>197</sup> Washtenaw County residents, in particular young Black men, described fear and distrust toward police due to aggressive police tactics targeting them in public spaces.

Many traffic stops are not related to traffic safety or public safety.<sup>198</sup> Black people are more likely to be pulled over, searched, arrested, or given fines for routine traffic violations.<sup>199</sup> Traffic tickets can lead to compounding cycles of unpaid fines and fees, warrants, and arrests, disproportionately affecting low-income people. To mitigate negative effects of traffic stops, the county should implement a program for minor traffic violations to provide drivers with vouchers for free light repairs instead of tickets or warnings (one example is [Lights On! in Minneapolis](#)). The county could consider a policy to bar police from non-safety-related traffic stops (like equipment or documentation issues) and to ban requests for search consent and pretextual stops for people in public spaces or for traffic violations. To the extent that laws permit, the county should create an unarmed, civilian traffic response unit to respond to traffic collisions and minor violations, following best practices.

Implementation steps:

- Key actions: Local government, law enforcement, community groups, and researchers should work together to identify needs and priorities for policing and how to incorporate principles and metrics related to community trust.
- Key actors: County commissioners; city councils (for municipalities within Washtenaw); law enforcement agencies; and community members and organizations.
- Funding: Potentially needed for officer training.
- Potential obstacles: There could be resistance from law enforcement leadership and/or frontline staff.
- Other notes: There is a need for oversight and accountability mechanisms.

### **Recommendation 21: Strengthen police oversight committee practices and community input countywide.**

Currently, police oversight entities in Washtenaw County primarily respond to complaints, but best practice involves addressing concerns more proactively.<sup>200</sup> A first step should be to set up a clear, robust process for community input on police oversight. The county should publicize and develop a work plan to implement relevant recommendations developed by the Washtenaw County Sheriff's [21<sup>st</sup> Century Policing Compliance Commission](#). By making recommendations public, the community and oversight committees in the county can work together to ensure implementation. Furthermore, oversight committees can identify gaps and recommend additional steps, so that policing and oversight processes align with best practices and are transparent and accountable.

Implementation steps:

- Key actions: A clear process for robust, ongoing community input on oversight should be established. The sheriff's office should make findings from the 21st Century Policing Compliance Commission public. Oversight boards should review recommendations and develop a work plan to improve practices.
- Key actors: Sheriff's office; oversight boards; and community members.
- Funding: Potentially needed for implementing relevant recommendations.
- Potential obstacles: The sheriff's office may choose not to publicize recommendations.
- Other notes: Oversight of an elected sheriff is different from oversight of a municipal police department.

## **Strategy 2—Reduce Initial System Contact, Restructure Custody and Court Processes**

This section analyzes aspects of court processes in Washtenaw County, from bail and pretrial detention through sentencing, to understand potential racial disparities and reasons for these. It considers relevant existing research about trends and best practices and draws on policies and practices of restorative justice programs and alternative courts, including aggregate data provided by three alternative courts in Washtenaw—the mental health court, veterans court, and drug court. Finally, trial court data provided to the committee shows that while racial disparities are prevalent at the front end of the criminal legal system, the disparities are largely reduced by the time cases reach resolution.

### **2.1 Reducing Pretrial Detention and Initial System Contact**

Once a person is booked into jail, whether they remain in pretrial detention, and for how long, can have serious implications for the outcome of their case and their lives. Research has shown that pretrial detention is associated with worse outcomes for subsequent steps of a case: people who are detained pretrial for longer periods are 13 to 25 percent more likely to be convicted, due at least in part to the greater pressure to plead guilty in order to get out of jail.<sup>201</sup> Pretrial detention decreases the likelihood that a person’s charges will be reduced or dismissed and increases the likelihood of jail or prison time and of a lengthier sentence.<sup>202</sup> Even short periods of pretrial detention are disruptive to people’s lives and can increase the chance that a person will be rearrested in the future.<sup>203</sup>

One of the main causes of pretrial detention is the overuse of money bail: when people booked into jail cannot afford even relatively low cash bonds, they remain in jail.<sup>204</sup> National research has generally shown that Black people have significantly worse bail outcomes than white people, both in terms of being held pretrial and having higher bond amounts set.<sup>205</sup> One study, for example, found that Black people were 80 percent less likely to be released on their own recognizance than white people.<sup>206</sup> When bail amounts are similar, Black people are more likely to remain in jail due to an inability to pay the bond amount.<sup>207</sup>

Changes in bail policy and practice are likely to significantly increase pretrial release. A study of a policy prohibiting prosecutors in Philadelphia from requesting cash bail in most cases (similar to, though not exactly the same as, the current prosecutor policy in Washtenaw County, discussed below) found that it led to a 23 percent increase in people being released on their own recognizance (without monetary conditions) and a 22 percent decrease in people who spent at least one night in jail with no change in failures to appear in court or recidivism.<sup>208</sup>

#### **Bail Reform in Michigan and Settlement in 36<sup>th</sup> District Court**

There has been momentum building for state-level pretrial reform in Michigan for some time. For example, the Michigan Joint Task Force on Jails and Pretrial Incarceration, which included legal system stakeholders from counties across Michigan, advocates, and a bipartisan group of lawmakers, issued a series of recommendations in its report that included proposed policy actions to reform the use of bail across the state.<sup>209</sup> In late 2021, a bipartisan group of state lawmakers introduced an eight-bill package (HB 5436-5443) based on the task force recommendations that, if passed, would restrict the use of secured money bail across

Michigan and establish a set framework for determining risk and imposing pretrial release conditions.<sup>210</sup> This bill package may pass in the 2023 legislative session. For more details on national research on racial disparities in bail use, bail use overall, and bail reform in Michigan, see the supplemental report.

Another promising development in bail reform in Michigan is the recent settlement agreement in a class action case challenging the bail practices in Detroit's 36<sup>th</sup> District Court.<sup>211</sup> Under this settlement, the court will presume that people should be released without money bail and with minimal nonfinancial conditions unless there is evidence that they present a flight risk or danger to the public.<sup>212</sup> In any case where cash bail is imposed, the court must examine the person's ability to pay and state on the record how much the person can actually afford, with a rebuttable presumption that anyone whose household income is 200 percent or less of the federal poverty level cannot afford to pay any amount.<sup>213</sup> People are entitled to prompt hearings (within a day for "affordable" bail amounts) to review bail amounts, and they are entitled to attorneys at arraignment.<sup>214</sup> The agreement sets ambitious targets for release rates, for example, that 97 percent of people charged with misdemeanors should be released within 24 hours.<sup>215</sup>

### Bail in Washtenaw County

Data on bail in Washtenaw County is very difficult to access. Bail is set in the district courts, and information about the bail that is set there is not recorded in the trial court's data system; that system only includes information about bail if it was modified in the trial court. When the WEP tried to access bail data from the district court, the court administrator explained that the system can provide information about the bail set in individual case records in the JIS (database), but it was not possible to pull a full dataset on bail information for all cases in the courts, even with vendor intervention. Without this data, the WEP was unable to do an analysis of the types of bonds or the bail amounts set in Washtenaw County.

There is some information about bail in Washtenaw County available from an analysis of 2017 Washtenaw County Jail data done by the ACLU of Michigan in 2019.<sup>216</sup> That analysis found that, of people booked into the Washtenaw County Jail for whom money bail was set, 22 percent had amounts less than \$5,000, 10 percent had less than \$1,000, and 6 percent had less than \$500.<sup>217</sup> Twenty-one percent of people booked into the jail stayed there for at least three days.<sup>218</sup> Of people who stayed in jail three days or longer, 55 percent did not have felony charges, 27 percent had bail amounts less than \$5,000, and 8 percent had bail amounts less than \$500.<sup>219</sup> For people who stayed in jail seven days or longer, 47 percent did not have felony charges, 29 percent had bail amounts less than \$5,000, and 9 percent had bail amounts less than \$500.<sup>220</sup> Finally, only 10 percent of people booked into the jail with a felony charge and only 30 percent booked with a misdemeanor charge or less were released on personal recognizance.<sup>221</sup>

Current practices regarding bail have changed since 2017. When Eli Savit took office as the Washtenaw County prosecutor in 2021, he issued a policy directive on bail that prohibited assistant prosecuting attorneys (APAs) from seeking a cash bond in any case.<sup>222</sup> The policy did allow APAs to request surety bonds (where a third party guarantees payment of the amount if the defendant does not meet conditions, usually posted through a bail bondsman and requiring the payment of a fee that is typically 10 percent of the bond amount) in some cases and to recommend denial of bail entirely in the categories of cases where the Michigan

Constitution allows that.<sup>223</sup> This policy also instructed APAs to seek the least restrictive release conditions.<sup>224</sup> For example, the policy recommends that drug and alcohol testing or tether (electronic monitoring) should only be requested in crimes against persons and property.<sup>225</sup> It should be noted, however, that this policy only controls what APAs can request for bail, and the courts may still set cash bonds regardless of the APA's request.<sup>226</sup> As of early 2023, there is not yet a study of the implementation or effects of this bail policy.

Qualitative interview participants who had direct experience of the criminal legal system in Washtenaw County talked about being unable to post bail even when it was set at what would generally be considered a low amount. Some people with substance use issues also talked about judges using pretrial detention to “help” them avoid overdosing.

*“I was accused of assisting in a crime [petty thievery], right. They set the bail at, I think it was \$1,000. I couldn't raise that. My mom at the time was in hospital, was having problems with her health. So, we had spent a lot of time and a lot of resources in taking care of her. Since we had moved, we couldn't raise the amount, so I had to do time. I did the time, got out in six months.”*

-Washtenaw resident

*“They gave me a bail of ... like \$250,000. ... And they knew that my mom was on welfare, and I was homeless. They never lowered it, they never gave me a chance for a PR [personal recognizance], and it was my first time with a big felony, with any type of felony.*

-Washtenaw resident

### Racial Disparities in Bail in Washtenaw County

Because of the lack of specific bail data, there is limited information about racial disparities in bail in Washtenaw County. Some comparisons of disparities in pretrial detention stays—likely due to inability to pay bail—are available in the 2017 ACLU of Michigan analysis of Washtenaw County jail data and the analysis of trial court data included in this report. (See section 2.4 for details.) However, neither dataset includes criminal record information, which limits the ability to fully compare the type and amount of bail set by race.

According to the ACLU analysis, in 2017 Black people were 8.55 times more likely than white people (relative to the overall county populations) to be incarcerated in the Washtenaw County Jail due to an inability to pay bail.<sup>227</sup> The disproportionate representation of Black people in the jail population was greater for people being held pretrial—Black people made up 12 percent of the county population and 54 percent of people in the jail overall, but 59 percent of people being held in the jail pretrial—which is likely due to less ability to post bail.<sup>228</sup>

Vera's analysis of trial court data (see section 2.4 below for details) provides some insight into disparities related to bail. The amount of time a person spent in jail prior to sentencing (the “time served” variable in the trial court data) serves as a rough proxy, as longer pretrial detention is usually due to inability to pay bail.<sup>229</sup> This data shows that 23.1 percent of Black people had some amount of “time served” noted as part of their sentence, compared to 18.3 percent of white people, and that this difference was statistically significant. Black people also had slightly higher amounts of “time served” listed in sentencing information.<sup>230</sup>



## **2.2 Alternatives to Traditional Courts and Court Processes**

### Restorative Justice Programs in Washtenaw County

Restorative justice (RJ) is defined by the United Nations as a “process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator.”<sup>231</sup> RJ processes can include “mediation, conciliation, conferencing, or sentencing circles.”<sup>232</sup> RJ has its roots in the practices of many indigenous communities and aims to promote healing and accountability, rather than punishment.<sup>233</sup> Research shows that RJ can be more effective than traditional approaches in increasing the satisfaction of the victim and the person charged with a crime, ensuring compliance with restitution, and reducing recidivism.<sup>234</sup>

There are two RJ programs currently operating in Washtenaw County: the Peacemaking Court in the trial court and the prosecutor’s office’s restorative justice program; both work in partnership with the Dispute Resolution Center (DRC).<sup>235</sup>

The Peacemaking Court was started in 2013 with input and support from tribal courts and uses a peacemaking circle model of conflict resolution that focuses on four fundamental principles: relationships, responsibility, respect, and resiliency.<sup>236</sup> Participation in the Peacemaking Court is completely voluntary and decisions on whether a case is appropriate are made on a case-by-case basis, without formal eligibility criteria.<sup>237</sup> The Peacemaking Court started with family and civil court cases, particularly child welfare, and the majority of cases handled have been child protection and juvenile issues.<sup>238</sup> An early analysis of results showed a significant reduction in the number of children in foster care in Washtenaw County and that the vast majority of participants reached agreement and had positive views of the process.<sup>239</sup> While there had been a hope that the Peacemaking Court would be able to expand to criminal cases, only one has been referred so far.<sup>240</sup>

The prosecutor’s office’s restorative justice program was initiated in September 2021, as a pre-charge deflection program.<sup>241</sup> There are no categorical restrictions on participation based on criminal record, though some serious types of cases are excluded.<sup>242</sup> Cases may also be considered where the “crime survivor” is the community, but drug possession or carrying a concealed weapon cases are generally not considered appropriate.<sup>243</sup> If a case is deemed appropriate and the survivor and person who would otherwise be charged with a crime agree to participate in the program, the prosecutor’s office puts charges on hold and refers the case to the DRC.<sup>244</sup> The DRC then facilitates an RJ process based on acknowledging and taking responsibility for the harm done, making amends, and ensuring that the harm does not reoccur.<sup>245</sup> If a case is successfully resolved through this RJ process and the person doesn’t have any new charges within 18 months of when the case was referred to the DRC, the prosecutor’s office will permanently decline the charges.<sup>246</sup> The prosecutor’s RJ program has only deflected a handful of cases so far.<sup>247</sup> Various stakeholders told the WEP that there is a plan to expand this program to include a post-charge diversion option, but that the courts have to approve that before it can begin.

### Specialty Courts in Washtenaw County

Specialty courts (also known as problem-solving courts, treatment courts, or therapeutic courts) are an alternative to traditional punishment that connects people charged with crimes

to community-based treatment or services to attempt to address the underlying causes of criminal behavior, with the goal of reducing recidivism and reducing the use of jail/prison.<sup>248</sup> These courts combine intensive supervision and monitoring, usually including frequent, random drug testing, with mandated treatment plans.<sup>249</sup> They usually have a multidisciplinary team led by the judge that meets frequently to review the progress of participants and recommend incentives or sanctions based on how people are doing in the program.<sup>250</sup> Participants appear regularly for status hearings in which the judge discusses their progress and may give people incentives or sanctions based on their participation. Most specialty courts operate either on a pre-plea or post-conviction model; while the original drug courts were almost entirely pre-plea, most of these courts are now post-conviction.<sup>251</sup>

Generally, research on drug courts has concluded that they significantly reduce participants' recidivism compared to people who receive traditional (prison) sentences, especially among white and female participants.<sup>252</sup> More modest research on mental health courts and veterans courts also shows reduced recidivism for participants, compared to people with prison sentences.<sup>253</sup> Nationally, data on race/ethnicity and disparities is scarce among specialty courts.<sup>254</sup> However, research has found that Black people are underrepresented in drug courts relative to other parts of the criminal legal system.<sup>255</sup> In Milwaukee, Black people were 44 percent less likely than white people to be admitted to drug court from 2016 to 2019.<sup>256</sup> Research suggests that disparities in drug court participation are due to eligibility criteria related to charge type or prior criminal records.<sup>257</sup> Stereotypes about "willingness to cooperate" may also disproportionately exclude Black people.<sup>258</sup> Although there is more limited research on mental health courts, studies do show that Black people are underrepresented in those courts as well, in part due to lower referral rates.<sup>259</sup> Numerous studies also show racial disparities in specialty court completion rates for Black people, often as much as 25 to 40 percentage points lower.<sup>260</sup> In two 2017 studies of Michigan specialty courts, Black people were found to be 83 percent less likely than white people to complete drug courts and 70 percent less likely than white people to complete hybrid courts.<sup>261</sup> One reason for these disparities is socioeconomic disadvantage, which makes it difficult to pay fees, attend appointments, etc.<sup>262</sup> Other reasons include over-policing of Black people (since arrests lead to termination), dominant cultural assumptions affecting the way white system actors perceive the behavior and responsiveness to treatment of Black participants, and an over-emphasis on 12-step programs that treat addiction as primarily a matter of individual responsibility and de-emphasize the role of racism, poverty, trauma, and community supports.<sup>263</sup>

There are two major critiques of specialty courts: first, that research and metrics of success compare drug courts to prison, not to the other obvious alternate path, that is, community-based treatment with no formal criminal legal system processing at all; and second, that specialty courts can hold lower-level cases in the formal justice system, which would otherwise be dismissed or diverted, in the name of "treatment"—a concept called "net-widening."<sup>264</sup> In some locations, drug courts were associated with increases in arrests for drug possession, even as other minor arrest trends were falling.<sup>265</sup>

Scholars and policy advocates argue that avoiding the criminal legal system altogether for substance use and mental health situations is a fairer and more effective response than either specialty court or prison.<sup>266</sup> Further, there are concerns about specialty courts' use of jail detention as a penalty for non-compliance, despite evidence that this practice does not

improve compliance and has other negative effects, including stigma.<sup>267</sup> Also, people who enter specialty courts and fail to complete them receive harsher sentences than they would have received if they had never tried the specialty court.<sup>268</sup> For a detailed look at research on treatment courts, see the supplemental report.

The adult specialty courts in Washtenaw County include the Drug Treatment Court in the Trial Court; the Recovery Court in the 14B District Court; and the Sobriety Court, Mental Health Treatment Court, and Veterans Treatment Court in the 15<sup>th</sup> District Court. These programs generally take 18 to 24 months to complete.

Eligibility criteria for these courts are largely determined by Michigan law, which prohibits admission of people with charges or past convictions for violent offenses.<sup>269</sup> For drug courts, participants must be dependent on or abusing drugs or alcohol, and their charges must be related to the abuse, illegal use, or possession of a controlled drug or alcohol.<sup>270</sup> For mental health courts, participants must meet diagnostic criteria for a serious mental illness, serious emotional disturbance, co-occurring disorder, or developmental disability.<sup>271</sup> For veterans courts, participants must be veterans, as defined by statute; must be dependent on or abusing drugs or alcohol or suffer from a mental illness; and their charges must be related to their military service, which can include substance use or mental illness related to their service.<sup>272</sup>

In addition to eligibility criteria, Michigan law mandates other important requirements for specialty court participants. First, people must plea to the charges before being accepted, and not all participants are eligible to have the charges dismissed even if they complete the program.<sup>273</sup> Second, specialty courts can charge fees for participation; participants are required to pay that fee and any additional costs for programs, along with all other fines, court costs, and restitution, before being able to graduate.<sup>274</sup> Drug courts and veterans courts, but not mental health courts, are also required to terminate anyone who is convicted of a felony while in the program.<sup>275</sup>

People with lived experience of specialty courts in Washtenaw County participated in interviews for this report. Several people talked about not being offered the chance to participate in a specialty court program or asking to participate but being denied because of their current charges or prior record. One person also said that they were recommended for drug court, but their probation agent denied the recommendation. Several other people discussed how they were offered the opportunity to participate in specialty court programs but chose to take a jail sentence instead because of how difficult it was to comply with all the requirements, and pay all fees and costs, while also maintaining employment.

*"I don't have a problem getting on the right track. It's just when it affects my pockets where I'm missing money and I'm giving up because once, one dollar, one hour, one minute, is too much. So ... as soon as I got that, I don't, I've never let anyone interfere with that. So, it didn't even... I couldn't even calculate it. So, I think sometimes it's just better to not fight. You know? Or even work with it. Just give everything up. Like, here I am, you know? Put your nose in your, in your chest, you know, just bow down to the system. Especially if it's like, your second, you know, offense or something. There's not really any mercy."*

-Washtenaw Resident, on choosing jail instead of court-mandated treatment.

Participants also said that the requirements to comply with drug court and probation supervision were “impossible” to meet. They named having to go to appointments, program sessions, and drug testing clinics at hours that conflict with typical jobs, and that these schedules were often inconsistent, with unpredictable and sometimes lengthy wait times once they arrived. They also named the costs as a barrier—traveling to these sessions, paying fees, and having to cover childcare and other costs.

*“Drug court, you had to report to your probation officer whenever they said. You had to drug screen based off a color that you were assigned. You had to call this number and check. You had to do drug drops. You had to get your urine tested at different places. And you had to attend AA, NA meetings, two to three, sometimes every week every day. ... The probation officer could search your home or pop up at random to your house. ... I mean on top of trying to work and meet with a probation officer 9 to 5, trying to schedule a drug test between 9 to 5, usually don’t get breaks from work. ... You don’t know what time, how long you’re going to be sitting in the waiting room. There’s no way to calculate that, and it’s whatever time they assign. It’s not like an appointment [where] you can go from 3 to 5. You know? It’s an assigned time. ... So, it’s just, it’s just really difficult. It’s not about the money. The reason I didn’t choose sobriety court is it’s not reasonable expectations. And it wouldn’t be living. You know? ... If you can’t live, to me, it’s a jail. So, I chose jail for less time.”*

-Washtenaw Resident

*“[E]ven this last time, they never have given me the opportunity to [go to] drug court. They always told me that I wasn’t a good candidate for drug court.”*

Interviewer: *“How come?”*

Participant: *“I don’t know ... because I never successfully completed anything, and so they just never gave me the chance. ... [T]his last time before my last go around I tried to get drug court and they denied me, and that’s when I went back to prison. But I’ve had, yeah, opportunities to do treatment, or I do the treatment in prison.”*

-Washtenaw Resident

Finally, they described paternalistic comments from court actors that contributed to a sense of stigma and distrust. For example, one participant said a judge said he was sending the person to jail “to save your life”—meaning, to avoid overdose by being locked up.

### Racial Disparities in Specialty Courts in Washtenaw County

The WEP requested aggregate data from the five adult specialty courts in Washtenaw County and received this data from the Drug Treatment Court, the Mental Health Court, and the Veterans Treatment Court. The Recovery Court and the Sobriety Court did not provide data. Overall, the number of participants in these courts is extremely small compared to the overall number of people with criminal cases filed in Washtenaw County.

As shown in Table 4 below, Black people are significantly underrepresented in the Drug Treatment Court—they represent 60 percent of people charged with treatment-court eligible offenses in the Trial Court but only 24 percent of participants in the Drug Treatment Court, whereas white people make up only 38 percent of people charged with eligible offenses but represent 72 percent of Drug Treatment Court participants.<sup>276</sup> However, there are variations in representation by charge. For example, while Black people are underrepresented on most of the charges, they are actually overrepresented among those charged with drug possession, comprising 75 percent of those in the treatment court for that charge but only 49

percent of the people facing that charge in the Trial Court overall.<sup>277</sup> Similarly, while white people are overrepresented on most charges, they are underrepresented among those charged with drug possession (0 percent of treatment court participants compared to 51 percent of the general docket). The degree of overrepresentation is lower for white people charged with driving under the influence because they make up a far larger proportion of people with that charge in the overall court docket.<sup>278</sup>

It appears that disproportionate participation may be related to fewer Black people being referred to the Drug Treatment Court, which is consistent with the comments from people with lived experience who said they were not offered or approved for a specialty court. From the data that was provided to the WEP, it is impossible to discern the causes of these disproportionalities. Black people represent only 26 percent of total referrals while white people represent 71 percent of referrals. However, the percentage of people referred who are accepted into the program is actually slightly higher for Black people (44 percent) than for white people (41.8 percent).<sup>279</sup> The majority of referrals (62 percent) were made by public defenders, followed by retained counsel (22 percent), and then other court-appointed counsel (16 percent). However, the acceptance rate was highest for referrals from other court-appointed counsel (53.3 percent), followed by public defenders (44.1 percent), and then retained counsel (28.6 percent). Unfortunately, the data did not permit comparison of referrals by both race and type of attorney. Finally, while the data about outcomes is limited due to the short period of time that the Drug Treatment Court has been operating, 36.4 percent of Black participants have terminated from the program, compared to 21.4 percent of white participants, and the only person to successfully complete the program so far has been white.<sup>280</sup>

**Table 4. Top charges for Drug Treatment Court participants vs. Trial Court defendants**

For the eligible charges, 21 white defendants out of 140 total (15 percent of defendants) have cases in the Drug Treatment Court, compared to seven Black defendants out of 194 total (4 percent of defendants).

**Comparing Top Charge Type and Demographics for Washtenaw Drug Treatment Court and Trial Court Defendants**

	White-Drug Treatment	White-Trial Court	Black-Drug Treatment	Black-Trial Court
OBSTRUCTING POLICE	3	16	0	37
CONT. SUBSTANCE - POSSESSION	0	25	3	24
CONT. SUBSTANCE - D/M	0	2	0	25
OWI/OUIL 3rd	8	31	1	16
B&E/HOME INVASION	4	18	2	25
PROPERTY OFFENSE	6	27	1	60
<b>TOTAL</b>	<b>21</b>	<b>119</b>	<b>7</b>	<b>187</b>

Drug treatment court participants retained in the program (still active as of 6/30/2022) compared to 22nd circuit court defendants with drug treatment court eligible offenses filed in 2021. This table excludes defendants with a race/ethnicity listed as “other” (n=1 in Drug Treatment Court and n= 4 in Trial Court).

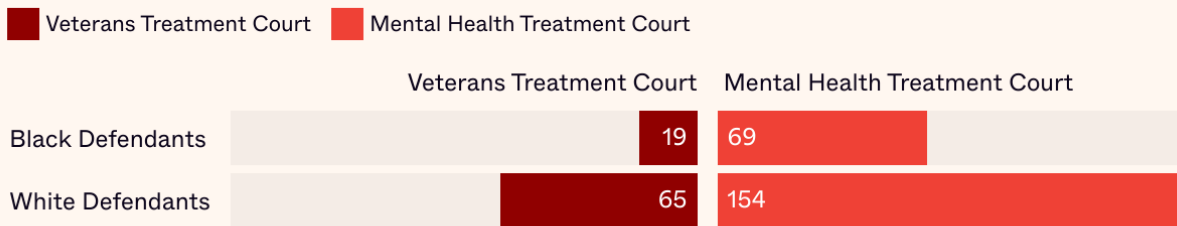
Source: Data provided by Washtenaw Drug Treatment Court

As shown in Table 5 below, Black people appear to be underrepresented in the Mental Health Treatment Court and Veterans Treatment Court as well. In the Mental Health Treatment Court, Black people made up 29.5 percent of those admitted, while white people made up 65.8 percent.<sup>281</sup> In the Veterans Treatment Court, 21.1 percent of people admitted were Black, and 75.6 percent were white.<sup>282</sup> There were differences between the two courts in terms of outcomes, however. In the Mental Health Treatment Court, a higher proportion of white people than Black people were successfully discharged (47.9 percent vs. 40.3 percent) while a higher proportion of Black people than white people were unsuccessfully discharged (54.8 percent vs. 36.3 percent).<sup>283</sup> Interestingly, in the Veterans Treatment Court, a slightly higher proportion of Black people than white people were successfully discharged (68.4 percent vs. 66.7 percent), although a higher proportion of Black people than white people were also likely to be unsuccessfully discharged.<sup>284</sup>

**Table 5. Racial breakdown of treatment court admissions, 2012-2021**

White defendants were admitted to Veterans Treatment Court over three times more frequently than Black defendants. For Mental Health Treatment Court, white defendants were admitted over two times more frequently than Black defendants.

**Treatment Court Admissions for Black and White Defendants, 2012-2021**



Admissions 2012-2021, excludes admissions of other race/ethnicities (n=1 for Veterans Court and n=11 for Mental Health Treatment Court).

Source: Data provided by the Washtenaw Treatment Courts

**Recommendation 22: Reduce the use of the criminal legal system to respond to substance use and mental health needs. Reserve specialty courts for more serious cases.**

Court-mandated treatments have inconsistent effectiveness and can perpetuate the criminalization of substance use, especially when conditions of compliance are strict. The county should utilize more community-based treatments that do not define success solely through abstinence, instead of court-mandated treatment, and should expand options for community-based treatment beyond abstinence-based programs, especially for more minor cases. Where court-mandated treatments are necessary, follow these principles (along with related recommendations in this section):

- Avoid criminalization of substance use or possession (formal charges or requirements to plead guilty), even if a person is referred to a specialty court.
- Offer diversion and “off ramps” at every step, so that specialty courts and probation are a last resort.
- Expand eligibility criteria for drug courts so that people with more serious cases can access them. This includes people with “habitual” status, multiple “failures,” violent charges, and other factors previously considered to be exclusion criteria.
- Ensure due process and justice throughout the process, including access to counsel.
- Ensure that treatments under specialty court supervision are appropriate for the individual’s needs, determined and supervised by medical professionals (not court staff), and include harm reduction approaches.
- Do not require drug testing as a condition of compliance.
- Do not permit jail detention as a penalty for not meeting the conditions of the program; offer other accountability measures that are supportive.

- Do not discontinue services for individuals that do not successfully complete treatment or have had unsuccessful treatments in the past.

#### Implementation Steps:

- Key actions: Propose funding from Millage Fund with specific goal of expanding/developing programs that do not follow abstinence-only models of treatment (in coordination with related recommendations in Strategy 1). Prosecutors and judges should prioritize community-based treatments and not attach treatment to case outcomes.
- Key actors: Legislature (for elements that are statutory); prosecutor’s office; public defender’s office; judges; providers and organizations that offer substance use treatment services, such as Packard Health and Home of New Vision; and harm reduction and advocacy organizations, such as The Lookout Project and Washtenaw Recovery Advocacy Project.
- Funding: Funding will be required for expansion of or development of new community-based treatment centers.
- Potential obstacles: Finding organizations to take on this work or update their models; getting buy-in from individual court actors.

### **Recommendation 23: Expand the types of criminal cases that are eligible to participate in restorative justice initiatives, including more assaultive offenses and charges involving possession of drugs and firearms.**

To reduce the number of cases processed through the formal court system (and the collateral consequences of formal criminal charges and convictions), one step is to expand the use of alternatives that do not carry punitive consequences, including restorative justice programs. The biggest area for expansion of criminal cases being resolved through restorative justice processes in Washtenaw County are cases without a specific, identifiable victim. The current prosecutor’s office’s restorative justice policy says such cases could be considered, but also that drug or carrying concealed weapons charges are not appropriate because they do not directly involve a victim.<sup>285</sup> Drug or carrying concealed weapons charges could be handled through a restorative justice process by using conferences or circles with members of the participant’s community to discuss the harms caused and determine the conditions that the person would have to satisfy.<sup>286</sup> Allowing these charges to be handled through restorative justice processes would also allow for greater participation by Black people from communities that face disproportionate arrests for drugs and gun charges. Both county RJ initiatives should also consider other ways to expand the types of cases they accept, focusing on cases that would otherwise go through the formal system—not cases that would otherwise be dismissed—to prevent an unintended net-widening effect.

#### Implementation Steps:

- Key Actions: Determine if restorative justice initiatives could be expanded to include types of charges that might not be considered currently, including more assaultive offenses and drug possession and firearms charges where there isn’t an identified victim. Collaborate with university research centers, such as the University of Michigan’s Youth Violence Prevention Center, to understand the



research on the intersection of assaultive offenses and the use of restorative justice approaches.

- Key Actors: Dispute Resolution Center; Peacemaking Court; prosecutor's office; and county commissioners.
- Funding: County funding might be needed to manage higher caseloads if this results in more cases being handled by restorative justice initiatives.

**Recommendation 24: Ensure that the restorative justice initiatives have clear guidelines for referral and eligibility, as well as a tracking mechanism to inform the public, the judiciary, participants, and stakeholders of the scope and availability of the Peacemaking Court, the prosecutor's RJ program, and the Dispute Resolution Center programs.**

The degree to which these RJ initiatives overlap and how they should interact is not entirely clear internally nor to the public. For example, these initiatives need to determine if and how they will handle criminal cases. It is also important for restorative justice initiatives to strike an appropriate balance between maximum consideration of cases and having a process so undefined that it discourages case referrals. For example, the WEP heard from some stakeholders that the lack of any criteria for eligibility for the Peacemaking Court could be a reason why more cases aren't referred to that program, especially criminal cases.

The Peacemaking Court should have clear written guidelines on the factors that make cases appropriate for consideration, how the referral process works, options for referral at various stages (both pre-conviction and pre-sentencing), and details on participation and the results of successful completion. The prosecutor's office's restorative justice program eligibility criteria preclude participation of people deemed to be a threat to public safety or an identifiable person, which is extremely broad and subjective.<sup>287</sup> Leaving the decision about which cases should be accepted too much to individual actors' discretion risks opening the process to implicit bias and the stereotypical misperception that Black people represent more of a danger than white people.

Since restorative justice approaches are currently underused for criminal cases in Washtenaw County, these initiatives should also educate criminal defense attorneys and the community about the program and its benefits to build greater buy-in and to increase referral and participation rates.

Implementation Steps:

- Key Actions: Determine the roles that each restorative justice initiative will play in handling criminal cases. Ensure that each program has clear, written guidelines outlining the factors that make cases appropriate for consideration, explaining how the referral process works, detailing referral options at different stages, and explaining what participants can expect. Conduct outreach to educate judges, defense attorneys, and community members about the availability and benefits of restorative justice initiatives. Develop an institutional process for notifying attorneys and clients about the opportunity to participate in restorative justice initiatives.

- Key Actors: Dispute Resolution Center; Peacemaking Court; prosecutor’s office; judges; public defender’s office; private defense attorneys; county bar association; community members; and community groups serving communities of color.

**Recommendation 25: Allow individuals with current or past charges for violent activities to participate in specialty courts where otherwise eligible. Eliminate the statutory requirement that fines and fees be paid as a pre-condition of successful completion of a program.**

There are several statutory eligibility criteria and program requirements, such as the exclusion of anyone with current or past violent charges or anyone convicted of a felony while participating in a drug court or veterans court, as well as the obligation to pay all fines, fees, costs, and restitution before graduating, which are likely to reduce participation and disproportionately affect Black people, due to the over-policing, over-charging, and relative socioeconomic disadvantage of this group.

Implementation Steps:

- Key Actions: County commissioners work with the county’s legislative delegation and advocacy groups to get the necessary statutory changes proposed and enacted.
- Key Actors: County commissioners; county legislative delegation; and advocacy groups.
- Other notes: Washtenaw County is participating in the Cities and Counties for Fines and Fees Justice initiative, which aims to eliminate non-statutory fines and fees related to local justice involvement.<sup>288</sup>

**Recommendation 26: Address barriers to participation in and completion of specialty court programs, especially barriers that contribute to racial disparities.**

**26a. Address barriers to participation in specialty court programs, including increasing awareness of the programs and increasing referrals.**

**26b. Address economic and other barriers to completion of specialty court programs, especially those that affect Black people.**

Since it appears that fewer referrals of Black people may be a significant factor in their underrepresentation in specialty courts, those courts should work with attorneys to understand why they might be referring fewer Black clients to these programs and how to increase referrals. Potential reasons include more Black clients simply have criminal records that would exclude them from eligibility, which couldn’t be addressed without statutory changes; attorneys may feel that more of their Black clients are unlikely to complete these programs; or fewer Black clients may be familiar with the benefits of participating in the programs. Issues like these could be addressed by (a) making sure that the assessment of Black clients’ chances of success are not made on race-based assumptions and (b) identifying and addressing factors attorneys identify as reasons they may not refer Black clients.

Participation in specialty courts requires people to attend frequent court sessions, treatment sessions, and meetings with probation officers, and to show up for random

drug testing whenever they're notified.<sup>289</sup> This can be difficult for people who have jobs without flexible schedules and/or who lack transportation. To address this, Washtenaw County should provide transportation or travel vouchers for specialty court participants to get to these required appointments.

Specialty court participants (other than those in the Washtenaw County Drug Treatment Court) are also required to pay program and service fees, such as for drug testing, and must pay those and any other fines, fees, court costs, and restitution before graduating. The combination of these costs makes it much harder for people without employment or resources to complete the programs. To remedy this, Washtenaw County should provide funding for all specialty courts, including those in the district courts, to offset the costs of the programs so the burden does not fall on participants. Specialty court judges should also take advantage as much as possible of their ability to waive other fines and costs if paying them would be a substantial hardship for the person or interfere with their recovery.

Without compromising on aspects of the programs that are required to maintain state funding, specialty courts should make sure that the requirements for participants are not so difficult that they are unable to find or maintain employment.<sup>290</sup> For example, Washtenaw County could provide additional funding to allow Community Corrections to do random drug testing after regular work hours and to reduce wait times for testing.

While making changes like this would improve the chances of graduation for all indigent participants, they are likely to have a bigger impact on Black people, who are more likely to be socioeconomically disadvantaged. Requiring participants to pay court fees before graduating, for example, has been found to be the factor most associated with greater disparities in specialty court graduation rates.<sup>291</sup>

#### Implementation Steps:

- Key Actions: Specialty court judges and staff work with public defenders and private attorneys to determine possible factors preventing more Black people from participating in specialty court programs and how to address those barriers. Provide travel vouchers or subsidies for specialty court participants without access to reliable transportation to get to required court sessions and appointments. Eliminate specialty court participation fees and charges for program services. Provide drug testing outside of regular work hours and reduce the amount of time people have to wait to be tested.
- Key Actors: Specialty court judges and staff; county commissioners; Community Corrections; public defender's office; and private criminal defense attorneys.
- Funding: County funding is needed for travel vouchers or subsidies and for all specialty courts (including those in the district courts) to offset costs so fees and charges can be eliminated. County funding may also be needed to allow Community Corrections to offer drug testing outside of regular work hours and reduce wait times.

**Recommendation 27. Establish community advisory committees for specialty courts, with representation from communities of color. Provide for periodic review of participation and outcomes, with recommendations to increase effectiveness and equity.**

Many specialty courts across the United States have created community advisory committees to better understand the underlying causes of participants' problems and develop alternative services.<sup>292</sup> A study of 142 specialty courts found that having an advisory committee that included community members was the factor most associated with lower disparities.<sup>293</sup> It is not clear to what extent the specialty courts in Washtenaw County have involved community members in the process. Those that have not done so should start, and those that have should make sure that community members play a significant role and can provide meaningful input.

Implementation Steps:

- Key Actions: Work closely with community members and groups to establish advisory committees that include community members, representatives from community-based organizations, and criminal legal system stakeholders. Develop processes for community advisory committees to periodically review disparities in participation and outcomes and recommend ways to make specialty court programs more effective and address disparities.
- Key Actors: Specialty court judges and staff; community members and groups; and county commissioners.
- Funding: County funding to compensate community members and representatives from community-based organizations for their time.

### **2.3 Pre-sentence Investigations (PSI)**

#### The PSI Process

Completion of pre-sentence investigations (PSI) by probation agents—who are employees of the Michigan Department of Corrections (MDOC)—is required prior to sentencing for people convicted of felonies and may be ordered at the judge's discretion in misdemeanor cases.<sup>294</sup> The purpose of a PSI is to give the judge a picture of relevant information and context about the offense, and about the person's life more broadly, for consideration in determining a sentence. Probation agents are required to interview the convicted person, preferably face-to-face, to get the necessary information.<sup>295</sup> When requested by the person's defense attorney, agents must give notice and reasonable opportunity for the attorney to attend this interview.<sup>296</sup> MDOC requires numerous additional types of information beyond what state law mandates.<sup>297</sup> Although the policy calls for interviews with an array of people connected to the person facing sentencing, in practice, the PSI writers rely mostly on the COMPAS risk/needs assessment (Correctional Offender Management Profiling for Alternative Sanctions, a proprietary assessment developed by the company Equivant) to evaluate the person's strengths, weaknesses, readiness for change, etc.<sup>298</sup> For a description of the PSI content, process, and policies, see the supplemental report.

In Washtenaw County, probation supervisors say that recommendations for downward departures (where sentencing guidelines would recommend prison and the agent recommends a community-based sentence) are more common.<sup>299</sup> Those supervisors report that upward departures (in other words, a harsher sentence) do happen but are far rarer.<sup>300</sup>

Most PSIs in Washtenaw County are done by probation agents who also have active supervision caseloads; PSIs are mostly assigned to agents randomly.<sup>301</sup> From January 2019 to January 2020, the Washtenaw probation office had 18 agents who completed 504 PSI reports, an average of a little over two reports per month per agent.<sup>302</sup> From June 2021 to June 2022, the Washtenaw probation office had 16 agents who completed 534 reports, an average of slightly under three reports per agent per month.<sup>303</sup> While local agents do record whether the sentence the judge imposes differs from the sentence recommended in the PSI, that information is not tracked generally and does not appear to be recorded in a way that would enable a broader analysis.<sup>304</sup>

A 1997 audit of the PSI process in Michigan found that MDOC “had not established a continuous quality improvement process to monitor and improve the effectiveness of the PSI process.”<sup>305</sup> The WEP has been unable to determine so far whether a continuous quality improvement process has since been implemented or whether any subsequent audits of the PSI process have been conducted.<sup>306</sup>

### PSIs and Racial Disparities

The MDOC did not provide the quantitative data about PSIs that the WEP (via Vera) requested, and thus any analysis of how PSIs in Washtenaw County might differ by race was not possible. Without such data from MDOC, the only way to analyze racial disparities in the PSI process in Washtenaw would involve a review of paper copies of PSI reports on file with the court, which is logistically unfeasible for the WEP. (Other researchers may be able to take this on—see supplemental report.)

The relatively few quantitative analyses of differences in PSI recommendations between racial groups show mixed findings. Notably, a 2022 study of 11 years of sentencing data from Pennsylvania found that having a PSI *increased* both the odds of receiving a sentence to incarceration and the length of the sentence for everyone (with few racial disparities), compared to not having a PSI.<sup>307</sup> Other studies found disparities in sentencing outcomes, but not necessarily due to PSI recommendation content.<sup>308</sup> A 2011 study of over 2,000 sentences in an unnamed urban county in Michigan found that there were differences in PSI recommendations by race, but that these differences were more strongly associated with factors such as education level, marital status, or prior convictions, although the influence of these factors combined to generate overall differences by race.<sup>309</sup> This is consistent with other research that suggests that PSI recommendations are influenced by extralegal factors like lack of employment, socioeconomic status, and the probation officer’s perception of the person’s demeanor, all of which could be affected by race.<sup>310</sup> For a summary of research on racial disparities and PSIs, see the supplemental report.

Additionally, the use of risk assessments and sentencing guidelines that rely heavily on factors related to offense severity and criminal history generally have racial disparities “baked in” because of over-policing and over-charging of Black people regardless of actual behaviors.<sup>311</sup> Further, the COMPAS risk scores are also based on factors like non-compliance under supervision, age of first conviction, education, and employment, all of which can be affected by inequitable treatment of Black people in the criminal legal system and society generally.<sup>312</sup> All of this suggests that one of the intended functions of the PSI—to provide

contextual information that may justify mitigation of sentences—may not be reaching Black people as much as others.

As an example of how assessments could be framed differently, a comparison from Canada of PSI reports and a special type of pre-sentence report used specifically for Native people, called a Gladue report, shows how the same information presented in different ways can have very different effects.<sup>313</sup> While both types of reports include information about things like family histories, prior criminal records, education, and employment, the PSI reports largely present this information in terms of individual criminogenic risk and needs, whereas Gladue reports attempt to present all of those factors within the context of histories of race relations.<sup>314</sup>

**Recommendation 28: Develop a pilot program for a parallel pre-sentence investigation (PSI) report that focuses on mitigating factors and circumstances.**

There are concerns that the current structure of PSIs focuses too much on negative things about people and their backgrounds. To ensure that more positive information is presented to the court, Washtenaw County should fund a pilot project to provide additional, parallel reports that focus entirely on mitigating factors and circumstances. To preserve the appearance of objectivity, these reports should not be done by county employees. Rather, the county should contract with an independent nonprofit organization to do investigations and write these reports. These mitigation reports should provide greater context about the offense(s) for which people were convicted and people’s backgrounds, especially information about ACEs, histories of trauma, and experiences of discrimination.

Understanding a person’s individual experiences of racial discrimination and the extent to which they might have been unfairly treated by the criminal legal or other systems in the past helps to mitigate racial biases that could be built into the current PSI structure. These mitigation reports should also include information about the impacts on communities of color of people being removed from the community and reentering it (for example, the census implications and allocation of resources). The pilot project should last at least six to 12 months to allow for a proper assessment of whether these mitigation reports are useful and should ideally allow for mitigation reports to be provided in every case for which a PSI is done.

Implementation Steps:

- Key Actions: Create an RFP for the pilot project, specifying the length of the pilot, which cases mitigation reports must be completed for, what mitigation reports should include, and the type of evaluation of the pilot that will be required. Contract with a local nonprofit to do investigations and complete mitigation reports and to evaluate the results of the pilot project.
- Key Actors: County commissioners; local nonprofit organization; courts and court personnel; the prosecutor’s office; the public defender’s office; and private defense attorneys.
- Funding: County (or grant) funding is needed to contract with a local nonprofit.
- Other notes: Design this process so that it does not encourage adversarial dynamics between MDOC-led reports and parallel reports.

**Recommendation 29: Provide pre-sentence investigation (PSI) reports to the prosecution and defense earlier.**

Both state statutes and Michigan Department of Corrections (MDOC) policy require copies of the PSI reports to be provided to the parties only two business days before the sentencing hearing.<sup>315</sup> This gives far less time to review the report and raise objections prior to sentencing than in the federal system, where copies of PSI reports are required to be provided at least 35 days before sentencing.<sup>316</sup> This recommendation would allow more time for defense attorneys for people of color to object to information that could introduce racial bias into the process or to request the inclusion of additional mitigating information. It is likely that this would require a change both to MCL § 771.14 (the applicable state statute) and MDOC policies. Technically, though, the current requirement is that the PSI report be provided “not less” than two days before sentencing, so it might be possible for judges to require that they be provided sooner.

Implementation Steps:

- Key Actions: Trial court judges work with the local MDOC field office to determine how PSI reports could be completed and provided earlier without delaying people’s sentencing hearings. County commissioners work with the county’s legislative delegation to change the statutory deadline for providing PSI reports, if necessary.
- Key Actors: Trial court judges; local MDOC field office; county commissioners; and the county legislative delegation.
- Funding: State funding may be needed to ensure that the local MDOC field office has the staff needed to complete PSI reports earlier.

**Recommendation 30: Enforce adherence to Michigan Department of Corrections (MDOC) policy requiring that PSI writers consistently document the sources of all information in PSI reports and that the names of law enforcement officers involved be included.**

MDOC policy states that PSI writers should document their sources of information in the PSI report.<sup>317</sup> However, people who have reviewed multiple PSI reports have told Vera that this requirement is not routinely followed. Documenting the sources of information is essential to enable those reading these reports to determine how accurate they think the information is. The court should review PSI reports and send back for revision any that don’t document all the sources of information. Additionally, the court should require that the names of law enforcement officers involved in the case be included in the PSI report. This would provide a way to better track potential issues with specific officers, for example, if some officers bring resisting/obstructing charges more than others or if they copy the same language in different police reports.

Implementation Steps:

- Key Actions: Trial court judges communicate to the local MDOC field office that they expect the existing policy that all sources of information in PSI reports be documented to be strictly followed. Trial court judges grant continuances of sentencing hearings, if requested, to provide missing information about sources

or require PSI writers to fill in any missing information about sources post-sentencing and file an amended report.

- Key Actors: Trial court judges and the local MDOC field office.
- Funding: Funding is not needed.

## **2.4 Patterns and Disproportionalities in Trial Court Outcomes and Sentencing**

To understand sentences in the Washtenaw County Trial Court and whether there were racial disparities in sentencing, the Vera team did an analysis of court data from 2014 to 2022. While this analysis looks at similar questions as the 2021 CREW report did—racial disparities in sentencing—and it also finds disproportionalities in charging and sentencing that negatively affect Black people, the WEP study is not a replication of or update to the CREW study. The analysis in this WEP report uses a dataset with different parameters and takes a different statistical analysis approach—most notably, it does not examine individual judges as a variable. The State Court Administrative Office (SCAO) and the CJARS research center at the University of Michigan have done a broader, statewide analysis of sentencing data, which will be published in 2023.<sup>318</sup> Additionally, the Prosecutor Transparency Project—a partnership between the ACLU of Michigan, the University of Michigan Law School, and the Washtenaw Prosecutor’s Office—will release a study of prosecutor data in 2023.<sup>319</sup> This report is complementary to, but not connected to, these other studies.

### Trial Court Dataset

The Washtenaw County Trial Court provided an initial dataset to Vera, with information on all trial court cases from October 2014 to April 2022.<sup>320</sup> This dataset contained information on all charges filed, case outcomes (dispositions and sentences), and race, as well as an assortment of details in text fields, but did not include information on ethnicity (for example, Latinx) or criminal history. This dataset included 3,523 unique individuals with 4,874 unique cases and 13,828 charges. Vera then received a second dataset with sentencing data and matched that to the first one. Vera dropped the cases for which there was no sentencing information; this reduced the dataset to 3,287 unique individuals and 4,402 unique cases. Vera then reduced this dataset further to include only the top (most serious) charge for each case (but saving any pertinent sentencing information on lower charges), which is the charge used in the sentencing analysis. (For details on the data analysis process, see Appendix 2.)

This analysis examines differences in case outcomes for Black and white people at three levels. Most broadly, it looks at case disposition outcomes, which include charges dismissed either by a judge or the prosecution (charges dismissed by prosecution are commonly referred to as *nolle prosequi*), cases acquitted entirely, guilty pleas, convictions by a judge (bench trial), or convictions by a jury. For cases that resulted in a sentence, it looks at the type of sentence: jail time, prison time, and these in combination. It then compares sentences with any type of incarceration (prison and/or jail) to those that have no incarceration (for example probation, monitoring, fines, etc.). For cases that resulted in a carceral sentence, it also looks at the length of the sentence by type, measured as the number of days in jail, number of days in prison, and number of days of incarceration overall (jail and prison combined).<sup>321</sup> For the latter two outcome types (those that relate to sentencing), the analysis selects the most serious charge on a given case, as this charge typically drives the rules and choices about sentencing.



There are a few important limitations to this analysis:

- First, because the dataset did not include ethnicity, the number of white people may be overstated (because Latinx people are likely listed as white). This could affect the analysis of the existence or extent of disproportionalities.
- Second, because the data is only from the trial court (not district court), this section does not address differences in charges, pretrial release conditions, dispositions, or sentencing for misdemeanor or ordinance violation cases that were handled solely in the district courts.
- Third, crucial case information appears as text notes rather than a standardized quantitative data field. This includes details on the amount of bail, status as a “habitual offender,” electronic monitoring (“scram” or “tether”), individual judge names, and plea bargain information, including Cobbs and sentencing agreements. Overall, the consistency and completeness of these text notes were insufficient to permit using them as variables in the analysis. Notably, this means that this report does not analyze the role of individual judges in differences in sentencing decisions, as the 2021 CREW report did.
- Fourth, because the dataset does not contain criminal history information at all, the analysis does not include this variable. Criminal history is a standard consideration in sentencing decisions and, as a quantitative variable, typically explains a significant portion of disproportionalities. But criminal history information is not a neutral variable, as it also contains “baked in” racial bias, because people of color, especially Black people, are subject to more frequent and aggressive contact with and surveillance by law enforcement and courts. This leads to more arrests, charges, and convictions, regardless of actual behavior, which eventually convert into lengthier “criminal history” metrics that work against people in future risk assessments and sentencing decisions.<sup>322</sup> Therefore, in a quantitative analysis of sentencing data, it can be difficult to disentangle the effects of racial bias from criminal history. Thus, this report underscores the absence of criminal history information as a caveat to most of its findings.

Four further notes about how this report presents the trial court data analysis findings:

- Because the number of people of other races with charges in the trial court was so small (fewer than 100 people total, across all other races or cases where race was unavailable), this report limits the reported findings to Black and white people.
- This report also shows the length of sentences by both mean (the average of all values) and median (the value that falls in the middle of the entire range) number of days (in prison, jail, and combined). This choice is because mean values can often be skewed one way or the other by extreme outliers (that is, a few cases with very long or very short sentences), so showing both mean and median provides a more accurate picture.
- Although Michigan does not allow capital punishment, the term “capital felonies” is a common category name, referring to a set of serious charges. Capital felonies are equivalent to Class A felonies that are punishable by up to life in prison.<sup>323</sup> Our analysis focuses on the five most frequent charges over this time period, counting the most serious charge on each case, none of which are capital felonies. See Appendix 2 for more details on the dataset and the analytical approach.

- This analysis uses the most serious charge on each case, as this typically determines case outcomes. The research team used a structured approach, based on sentencing and the court’s own ranking, to select the most serious charge in each case. For details, see Appendix 2.

**Key Findings from Trial Court data (2014-2022):**

1. Black people are substantially overrepresented relative to their share of the county population both among all people with charges in the trial court and among those charged with capital felonies.
  - Black people make up 12.3 percent of the county population, but 53.8 percent of people with charges in the trial court and 70 percent of people charged with capital felonies.
  - White people make up 74.2 percent of the county population but only 44 percent of people with charges in the trial court and only 30 percent of those charged with capital felonies.
  - In four of the five most frequent charges (counting only the most serious charge per case), Black people make up the majority of cases: 78 percent of cases for carrying a concealed weapon, 74 percent for assaulting/resisting/obstructing a police officer, 66 percent for drug possession (under 25g), and 55 percent for larceny in a building. Meanwhile, white people are charged in a higher proportion (63 percent) of cases for which operating under the influence (OUI) 3<sup>rd</sup> notice was the most serious charge.
2. Case disposition outcomes:
  - Black defendants are found guilty by judges at much higher rates than white defendants, which is important because both mean and median penalty days are significantly higher for people found guilty by a judge compared to those who pled guilty. For those who were found guilty by a judge, the median incarceration sentence was 275 days, compared to 185 days for those who pled guilty. Because of the small number of people going to trial (that is, who do not take a plea), this does not really affect overall differences in sentencing. See Tables 8 and 10 below.
  - Black defendants are more likely than white defendants to have charges dismissed: 33.2 percent for Black people, compared to 30.5 percent for white people (a small but statistically significant difference  $p = .005$ ). This difference is larger for cases in which the most serious charge is a capital felony (60.9 percent for Black people and 51.8 percent for white people). While this analysis lacks contextual details for each case, this pattern suggests that the original charges are more likely to be unwarranted for Black people—that is, over-charging may be happening. See Table 9 below.
3. Sentence length by charge:
  - For two of the five most frequent charges that resulted in a conviction (carrying a concealed weapon and assaulting/resisting/obstructing a police officer), Black defendants received statistically significant longer incarceration sentences—counted as the mean number of days in jail and/or prison—than white defendants. White defendants received statistically significant longer incarceration sentences for controlled substance possession. See Table 10 below. For cases in these same charge types in which the sentence did not involve incarceration—for example, probation or fines—there were no statistically significant differences between the proportion of cases sentenced to non-incarceration with Black defendants compared to cases with white defendants.

### Differences in Charges by Race

Tables 6 and 7 below show the proportion of people charged by race, for the most frequent charges (across all charges in Table 6 and using the most serious charge per case in Table 7). Within both sets of cases, Black defendants make up over half of people charged in four out of the five charges in both lists, despite making up only 12 percent of the Washtenaw population. Like the arrest numbers and rates in the previous section, national research indicates that this kind of pattern reflects policing and charging practices, as well as socioeconomic disadvantage, that disproportionately affect Black people.

**Table 6. Differences in charges by race (five most frequent trial court charges)**

For the five most frequent charges (in Table 6 among all charges, regardless of outcome, and in Table 7 among charges resulting in a conviction), the proportion of Black people charged is disproportionate across all five. More than half of cases in four out of five charges are against Black people.

#### Top Five Most Frequent Charges (Trial Court 2014-2022)

Considering the most serious charge across all cases

Charge	Black	White	% Black	% White	Total (% of all Cases)
Operating Under the Influence 3rd Notice	148	240	37%	61%	396 (8%)
Carrying a Concealed Weapon	214	65	76%	23%	283 (6%)
Possession of a Controlled Substance – Less than 25g	134	108	55%	44%	243 (5%)
Delivering/Manufacturing a Controlled Substance – Less than 50g	191	31	86%	14%	223 (5%)
Assaulting/Resisting/Obstructing a Police Officer	133	59	68%	30%	197 (4%)

Out of 4,881 cases.

Total (% of all cases) includes cases involving people who were not counted as Black or white; thus rows do not sum to the total.

Table: Vera Institute • Source: Washtenaw County Trial Court Data

**Table 7. Differences in charges by race (five most frequent top trial court charges)**

For the five most frequent charges (among all charges and among charges resulting in a conviction), the proportion of Black people charged is disproportionate across all five. More than half of cases in four out of five charges are against Black people.

**Top Five Most Frequent Top Charges (Trial Court, 2014-2022)**

Considering only the most serious charge on a booking for which there was a conviction.

Charge	Black	White	% Black	% White	Total (% of all Cases)
Operating Under the Influence 3rd Notice	123	210	36%	62%	341 (9%)
Carrying a Concealed Weapon	169	49	76%	22%	222 (6%)
Possession <25g	139	73	66%	34%	212 (6%)
Assaulting/Resisting/Obstructing a Police Officer	133	47	73%	26%	183 (5%)
Larceny in a Building	67	54	54%	44%	124 (3%)

Out of 3,792 cases.

Total (% of all cases) includes cases involving people who were not counted as Black or white; thus, rows do not sum to the total.

Table: Vera Institute • Source: Washtenaw County Trial Court Data

Differences in Case Disposition Outcomes by Race

As shown in Table 8, the disposition outcomes show a range of disproportionalities, with Black defendants overrepresented across all outcomes. The most disparate outcomes occurred in bench trials (in which a judge determines convictions) and others (the majority of which are deferred dispositions under the Holmes Youthful Trainee Act [HYTA]).<sup>324</sup> Table 9 shows dispositions ending in plea deals or dismissals for the most frequent charges (counting the most serious charge per case).

**Table 8. Case dispositions by race**

Of all cases, judges or prosecutors dismissed the top charge in 41 percent of cases (32 percent by judges and 9 percent by prosecutors). The majority of cases, 53 percent, ended in a plea deal—representing 96 percent of all convictions in the trial court. Black people were more likely to be found guilty by a judge than white people.

**Case Disposition Type, by Race (Trial Court, 2014-2022)**

Using the top (most serious) charge on every case in the dataset

<b>Disposition</b>	<b>Black</b>	<b>White</b>	<b>▼ Total</b>	<b>Percent Black</b>	<b>Percent of Total Cases</b>
Pled	1,422	1,115	2,537	55%	53%
Dismissed	931	608	1,539	59%	32%
Nolle Prosequi	262	163	425	62%	9%
Other	104	46	150	68%	3%
Found Guilty - Jury	34	31	65	52%	1%
Acquitted	20	16	36	54%	1%
Found Guilty - Judge	19	8	27	63%	1%

4,779 Total Cases.

Nolle Prosequi means the charges were dismissed by the prosecution.

Percent total cases includes cases in which defendant was not counted as Black or white, so rows do not all sum to total.

Pled: 41% Pled Guilty, <1% Pled Guilty - Mentally Ill, 12% Pled No Contest

Table: Vera Institute • Source: Washtenaw County Trial Court (2014-2022)

**Table 9: Trial Court dismissals and pleas (most frequent charges)****Cases Dismissed, by Race and Charge (Trial Court, 2014-2022)**

Considering only the most serious charge on a case

<b>Charge</b>	<b>% White Dismissed</b>	<b>% Black Dismissed</b>	<b>% Pled</b>
Operating while Intoxicated 3rd Notice	7% (16)	7% (11)	90% (355)
Possession of a Controlled Substance – Less than 25g	21% (23)	16% (22)	61% (149)
Carrying a Concealed Weapon	22% (14)	15% (32)	63% (177)
Assaulting/Resisting/Obstructing a Police Officer	27% (16)	27% (36)	56% (111)
Larceny in a Building	27% (19)	23% (23)	60% (105)

Out of 4,881 cases

Percent Pled includes cases in which the defendant was not counted as Black or white; thus rows do not all sum to total.

Table: Vera Institute • Source: Washtenaw Circuit Court Data (2014-2022)

*Guilty Pleas and Convictions*

As shown in Table 8 above, the most common disposition (using the top charge per case) is a guilty plea, making up 53 percent of all cases. Of cases overall, 55 percent ended in a conviction, with the vast majority of convictions being through a plea (96 percent of convictions) and a smaller portion by bench or jury trial. Of cases overall, only 3 percent went through a trial, with a third of these (1 percent overall) resulting in a conviction by a jury and another third (1 percent overall) resulting in a conviction by a judge (bench trial). The remaining third of trial cases (1 percent overall) ended in an acquittal (not guilty).

One striking difference, as shown in Table 8 above, is that even though bench trials make up a small proportion of cases overall, among these, a much higher proportion of Black defendants' cases resulted in a conviction by bench trial (a judge finds the person guilty). Of cases that went to bench trial, 70 percent of Black defendants were found guilty by judges, compared to only 30 percent of white defendants. This is important because both the mean and median penalty days are significantly higher for people found guilty by a judge compared to those who pled guilty. The mean number of incarceration days for those who were found guilty by a judge was 2,757 days compared to 399 days for those who pled guilty, with a median of 275 days compared to 185 days. Because the majority of cases (53 percent) result in a plea deal, not a trial by judge or jury, the more severe length of sentence does not appear as clearly in overall patterns in sentence length. Nonetheless, this may be an

example of the “penalty” that defendants face for exerting their constitutional right to a trial.<sup>325</sup>

As shown in Table 9 above, for four out of the five most frequent charges in the dataset, when looking at the most serious charge on a booking, the majority of the charges (ranging from 56 percent to 90 percent) ended in a plea. In none of the top five most frequent charges did a ruling by a judge or a jury make up more than 3 percent of overall dispositions.

People with lived experience who participated in qualitative interviews said that they felt pressured by their defense attorneys to plead guilty and that their attorneys did not communicate often or clearly enough with them. They said that, as a result, they had pleaded guilty without fully understanding the consequences.

### *Dismissals*

Among all cases, 41 percent ended in a dismissal of the top charge, either by the judge (32 percent) or by the prosecution (9 percent, also known as *nolle prosequi*). While dismissals by a prosecutor or judge are generally a positive outcome for defendants and may result from insufficient evidence, they are also often an indication that prosecutors are over-charging people, in other words, filing more charges or more serious charges than are warranted, usually with the intent of making it easier to get the defendant to agree to a plea bargain by offering to drop some of those charges in exchange for a guilty plea to others. This is especially salient for charges in which police officer actions and discretion play a significant role—like the charge of resisting an officer (ARO). As shown in Table 9, the highest rate of dismissals is for cases with ARO as the most serious charge, of which 27 percent ended in dismissals, for both Black and white defendants.

This analysis does not examine the nuances of cases in which some charges were dismissed but others proceeded—which is a common result of plea bargain negotiations. This is a topic that merits further attention from other local researchers.

In Michigan, there are some types of plea bargains that can affect sentencing. One relatively common type is what is known as a Cobbs agreement, in which the judge declares what the likely sentence would be if the defendant were to plead guilty or *nolo contendere* (or no contest, a type of plea in which the defendant does not admit guilt, but it nonetheless results in a conviction).<sup>326</sup> Another type is a sentencing agreement, in which the prosecution and defense ask about the judge’s inclination to accept the terms of a plea agreement. In both cases, the defendant can withdraw their plea if the judge ultimately decides to give a harsher sentence than the agreement. The trial court dataset contained some text notes about cases in which Cobbs and/or sentencing agreements occurred, but this information is incomplete and appears in only about 6 percent and 5 percent of cases, respectively, which is likely an undercount of cases in which these agreements occurred. Therefore, this analysis does not examine disparities in Cobbs or sentencing agreements, but this is an important avenue for further research.

### Differences in Type of Sentences Imposed

Across all cases that resulted in a conviction and sentence, there are differences in the type of sentence imposed—that is, fines, probation/other conditions, jail time, and/or prison time. The differences in type of sentence between the proportion of Black defendants and white

defendants were not statistically significant when looking at cases overall. The proportions are noted in Table 10 below. However, it is important to underscore that the data on probation—including length of term, conditions, and penalties for violations—in the trial court dataset are mostly text notes, resulting in incomplete and inconsistent information. Therefore, this analysis looks only at the proportion of defendants who received a non-incarceration sentence compared to an incarceration sentence. A more comprehensive analysis of probation sentences would be helpful and could point to patterns that are not evident in this report’s analysis.

#### Differences in Length of Incarceration Sentences Imposed

Looking at length of incarceration sentences across the full dataset of convicted cases, the differences by race were not statistically significant. However, there are notable and statistically significant differences in the mean length of incarceration sentences between Black and white defendants for certain common charges. Table 10 shows the five most frequent charge types (counting only the most serious sentenced charge per case). The data on the length of probation sentences were not reliable, because this information appeared only in text notes, and so this analysis compares only the length of incarceration sentences, measured as the combined number of days in jail and/or prison.

This analysis does not account for the effect of mandatory sentences, in which the judge has no discretion in their sentencing decision. Mandatory sentences, which apply to some capital felonies, likely increase the average sentence length for defendants overall in this dataset. However, the disparities appear in the five most frequent charges resulting in a conviction, and none are capital felonies, so the potential distortion from mandatory sentencing requirements is minimized.



**Table 10. Sentencing disparities across the five most frequently sentenced charges**

**Differences in Sentence Length, by Charge (Trial Court, 2014-2022)**

Considering the most serious sentenced charge per case. Incarceration days combines jail and prison time.

Charge	Mean # incarc days	Median # incarc days	# of cases	Any incarceration
<b>Operating Under the Influence (OUI) 3rd</b>				
	*			
Black	165	3	116	94.8% (127)
White	147	3	193	92.5% (209)
<b>Controlled Substance &lt;25g</b>				
	*			
Black	199	169	118	87.7% (150)
White	286	305	66	92% (81)
<b>Carrying Concealed Weapon (CCW)</b>				
	**			
Black	331	185	144	85.2% (150)
White	65	1	39	79.2% (42)
<b>Assaulting/ Resisting/ Obstructing a Police Officer (ARO)</b>				
	*			
Black	356	276	119	89.6% (147)
White	252	258	40	86.3% (44)
<b>Larceny in a building</b>				
Black	259	276	58	89% (81)
White	243	274	52	96.8% (61)

Statistical significance: \* p<0.05, \*\* p<0.01. Standard deviations: OUI-3rd bl 251, wh 248; CS bl 250, wh 259; CCW bl 568, wh 130; ARO bl 600, wh 265; larceny bl 192, wh 212.

Source: Washtenaw Trial Court Data (2014-2022)

Table 10 shows notable patterns for specific charges, which are listed above by order of frequency. However, the most striking differences occur in two charges in which Black people have longer sentences (assaulting, resisting, or obstructing a police officer [ARO] and carrying a concealed weapon [CCW]) and one charge in which white people have longer sentences (drug possession). These are charges that typically stem from direct contact with law enforcement officers—including in stops initiated by officers—and for which the justification for the charge relies more heavily on discretion and subjective interpretation of circumstances than other charges.

It is important to note that the total number of cases is relatively small (just over 300 cases for operating under the influence and just over 100 cases for larceny), but the statistical patterns are nonetheless clear.

- On cases in which the most serious sentenced charge is carrying a concealed weapon (CCW), Black defendants received much higher incarceration sentences. The difference in mean number of days is statistically significant.
- On cases in which the most serious charge is assaulting, resisting, or obstructing a police officer (ARO), Black defendants also received longer incarceration sentences. The difference in mean number of days is statistically significant. It's also striking that for convictions in which this is the most serious charge, the median sentence is eight or nine months of confinement, regardless of race. Among these cases, more white people were sentenced to jail time only, while judges imposed much longer prison sentences on some Black defendants.
- On cases in which the most serious charge is possession of a controlled substance (less than 25 grams), the pattern goes in the other direction, with white defendants receiving longer incarceration sentences, compared to Black defendants; the difference in mean number of days is statistically significant. The explanation for this requires more research, but it is possible that the white people for whom drug possession was the most serious charge had more substantial criminal histories (which are a factor that can lead judges to impose longer sentences) or that this conviction was part of a plea deal that allowed pleading down from more serious charges.
- The differences in sentence length are less notable for the other two charges. For operating under the influence, third notice (OUI-3<sup>rd</sup>), the median incarceration sentence length is the same for Black and white defendants (three days), but the mean sentence length is statistically higher for Black defendants (165 days) than for white defendants (147 days). This suggests that some cases have much longer sentences. For the charge of larceny in a building, the differences in sentence length by race were not statistically significant.

Overall, this report underscores that racial disparities are stark at the front end of the system, in terms of arrests (based on FBI data, see section 1.7 above) and in the decision to charge people. Police are more likely to arrest Black people, especially for more serious charges; qualitative and national research suggest that this is due to choices in where to focus police attention and in stereotypical assumptions about dangerousness.<sup>327</sup> Prosecutors are more likely to charge Black people, including for more serious charges.

On case outcomes, while there are no statistically significant differences in sentence length by race when looking at all cases overall, there are notable differences when looking at certain common charges. Judges impose longer incarceration sentences—number of days in

jail and prison—on Black people compared to white people when the most serious sentenced charge on the case is carrying a concealed weapon or assaulting/resisting/obstructing a police officer. As noted above, these charges typically flow from direct interactions with police, in which discretionary decisions by officers can escalate the interactions.

This analysis focuses on differences in case outcomes for Black defendants compared to white defendants—and the dataset has several limitations, noted above. While the analysis points to notable and significant disproportionalities by race, it is not possible to attribute these differences solely or primarily to the race of the defendant (that is, to the potential of racial bias in the case decision). This analysis does not make any causal claims about the disproportionalities described. This is because the dataset lacks several key variables that have a direct influence on case disposition and sentencing outcomes.

The most important of these is criminal history, including prior charges and convictions. Typically, all key players in the criminal legal system—including police officers, prosecutors, and judges—take prior criminal history into account when making decisions about arrests, charges, plea deals, and sentence length. Adding this variable into the analysis would likely change the extent to which the race of the defendant shapes differences in case outcomes. However, it is also essential to note, as discussed throughout this report, that research has demonstrated that criminal history itself contains “baked in” racial bias, due to disproportionate and harsher policing, charging, and sentencing negatively affecting Black people.<sup>328</sup> Though this report does not have the data to assess this within Washtenaw County, there is no reason to think that the county is an outlier in this area. For this reason, this report recommends that criminal legal system actors give less weight to criminal history in both risk assessments and case decisions. Nonetheless, criminal history remains a major influence on how cases proceed, and so a more comprehensive analysis of racial disparities in the county criminal legal system should attempt to integrate this variable as much as possible.

**Recommendation 31: Change the “one judge for life” rule that exists for criminal cases in Washtenaw County to random assignment of a judge, consistent with the Michigan Supreme Court’s rules for assigning cases in the trial courts.**

The Michigan Court Rules provide that all judicial assignments shall be based on an equal and random distribution “by lot” unless a different system has been established by a local court administrative order.<sup>329</sup> The Washtenaw County Trial Court adopted a local court administrative order that says that once a person has had a criminal case assigned to a particular judge, the same judge will be assigned if that person has any new charges in the future. Washtenaw County appears to be an outlier in this respect, as all other counties that the WEP reviewed follow the default system of random assignment established in the Michigan Court Rules. Given that there is no research finding that either random assignment or non-random assignment generates fairer case outcomes in criminal cases, the county should align with state practice. While the trial court could still maintain judicial economy by allowing a judge to be assigned new charges filed against a person for whom the judge is presiding over in an open criminal case, it should change the local administrative order to return to the default of random judge assignment for all other criminal cases.

Implementation Steps:

- Key Actions: Create a local administrative order mandating random distribution of cases to judges, except when new charges are filed against a person for whom a judge is presiding over an open criminal case.
- Key Actors: Trial court chief judge.

### **Recommendation 32: Establish a court navigator program.**

Court navigator programs, particularly those led by peers with lived experience, have been established in other jurisdictions and help people charged with crimes to understand the court process and what their options are.<sup>330</sup> Establishing such a program would help address the concerns raised by people who have been through the system about not understanding what was going on.

Implementation Steps:

- Key Actions: Create an RFP for a local nonprofit to establish and manage a court navigator program, with priority consideration given to organizations that propose to have people with lived experience serve as navigators.
- Key Actors: Trial court; county commissioners; and a local nonprofit organization.
- Funding: County funding will be needed to contract with the local nonprofit that will establish and manage the program.

### **Recommendation 33: Reconsider the extent to which prosecutors and judges use criminal history as a factor in deciding how to deal with charges where there is a recognized history of disparate enforcement.**

Even if the disparities that do exist within the court are largely due to differences in criminal history, as the primary research described in this report suggests (see section 2.4), that should not be considered a sufficient explanation and the disparities dismissed. Research documents the over-policing of Black neighborhoods, differential arrest rates where there are no differences by race in who is committing crimes, and that these factors play into charging decisions and potential over-charging by race. Therefore, judges and prosecutors should carefully consider assumptions about whether or to what extent criminal records imply greater risk or culpability when those records include charges for which there is a recognized history of disparate enforcement (which can disfavor people of color, LGBTQ people, immigrants, or other marginalized groups). They should reconsider the weight that they give to criminal history for charges or convictions like drug possession or sales or assaulting/resisting/obstructing an officer, given that these offenses show the starkest racial disparities. The charges filed and the sentences imposed should be proportional to the harm caused by the offense(s) a person is currently alleged to have committed, not their prior record.

Implementation Steps:

- Key Actions: Adopt policies that judges and prosecutors should not give as much weight to prior convictions for charges where there is typically disparate enforcement by police (for example, drug possession/sale or assaulting/resisting/obstructing an officer) when making decisions about what charges are filed, how cases are resolved, or what the sentence should be.

- Key Actors: Trial court judges; the prosecutor's office.
- Funding: No funding required.

**Recommendation 34: Consider a policy of sentencing young adults below the guidelines, based on a consideration of the *Miller* factors—looking at the enhanced capacity for rehabilitation and the lack of culpability compared to adults, based on youth and attendant factors.**

In *Miller v. Alabama*, the United States Supreme Court set out five factors that judges must consider before sentencing people under 18 to life without parole.<sup>331</sup> These five factors are often referred to as the *Miller* factors.<sup>332</sup> The Michigan Supreme Court recently decided that people aged 18 are entitled to the same consideration as those under 18 in sentencing, but only in the context of mandatory life cases.<sup>333</sup> The legislature has also recognized that young adults up to the age of 26 should be considered for disposition under the Holmes Youthful Trainee Act, based on the fact that there is still cognitive development occurring that impacts their choices and actions.<sup>334</sup> These same considerations for why young adults may be less culpable exist for all offenses, and consideration of the *Miller* factors for downward departures should be the norm, not limited only to those youth eligible for a life without parole sentence, as Michigan's current sentencing guidelines fail to adequately take youth into account. Since the majority of youth and young adults appearing before the court are youth of color, this would help to counter embedded bias.<sup>335</sup>

Implementation Steps:

- Key Actions: Trial court judges should make sure that they are familiar with the factors set out in *Miller v. Alabama* and impose sentences below the guidelines in cases where those factors are applicable. Alternatively, the trial court chief judge could create a local administrative order requiring judges to consider those factors when determining sentences for young people.
- Key Actors: Trial court judges.
- Funding: No funding required.

## 2.5 Probation and Probation Violations

In the analysis of trial court case and sentencing data, probation is one of the sentence types. Looking more closely at this outcome, the analysis shows that there were not significant differences by race in who was sentenced to probation only.

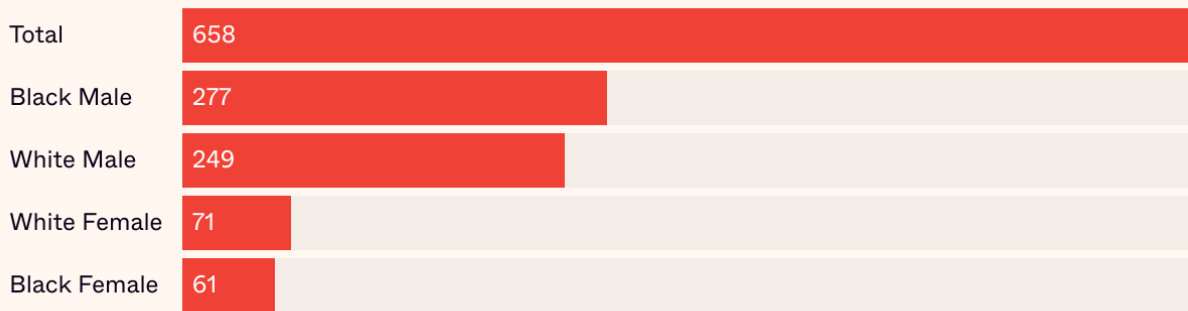
Due to incomplete records in the trial court data, Vera was unable to do an analysis of probation violations (PVs) or the sentences imposed for violations. Information about whether people had PVs is only included in a couple of the text fields, and the terms used to refer to violations vary, making it extremely hard to identify all cases with violations. Similarly, information about the sentences imposed for PVs does not appear to be regularly recorded and, where it is included, it is only in the text fields. Vera requested data about PVs in Washtenaw County from MDOC, but despite several conversations, MDOC has not provided that data or access to it. Vera also requested some aggregate data from the Washtenaw County Sheriff's Office about who was in the jail on PVs but had not received this data at the time of publication.

Vera was, however, able to obtain unofficial data through publicly available MDOC records. This data, which is a one-day snapshot from September 2022, suggests that about 650 people in total whose cases are from Washtenaw County are on active probation status (see Table 11). While records only indicate the county of the court case, it is likely that the majority of these individuals whose cases are in Washtenaw also reside within the county. This is likely an undercount, due to data limitations. See the supplemental report for a potential approach to doing analysis on MDOC and/or jail data regarding reasons for admission and probation status.

**Table 11. Washtenaw residents on active probation**

**Number of cases on probation status, Washtenaw County (2022)**

Based on a one-day snapshot from September, 2022.



This data represents cases from Washtenaw County courts for which the status was "active probation." This is likely an undercount.

Chart: Vera Institute • Source: MDOC data collected by and on file with the American Friends Service Committee

*"Probation was always hard ... everything they pile on you. It's a little overwhelming, especially money-wise, you have to pay for drug tests, and you have to go to classes. You know, pay all of this money before you get off probation, a lot of the stuff that like, like that time was just not gonna happen for me."*

-Washtenaw resident

In qualitative interviews, Washtenaw residents talked about difficulties they faced on probation. One person talked about the fees: "I was arrested this time ... for nonpayment of restitution, two hundred and thirty something dollars. ... I was reporting all the time [to probation], not dropping dirty. I did everything I was supposed to do. Completed school, kept a job and everything." Another common challenge was that probation limits people's

ability to work due to the need to meet with probation agents and show up for random drug tests during normal work hours without the ability to plan for this. Several people even said that they found the conditions of probation to be so onerous that they chose to accept a sentence to jail over a sentence to probation.

On the general process of handling probation violations in Washtenaw County, there is no county-specific PV response guide for Washtenaw, so local agents follow the general MDOC policy and guidelines for PVs.<sup>336</sup> Under MDOC's PV guidelines, the probation agent first determines the level of violation, based on a specific categorization of types of violations, whether the original offense is an "assaultive offense," and the person's risk score (based on the COMPAS tool). The combination of these factors shapes the agent's decision as to whether to respond to the violation administratively or through filing with the court, and the type of response based on the Probation Violation Response Guidelines.<sup>337</sup> For details of these guidelines, see the supplemental report.

While this generally structured approach to PVs and the use of graduated responses removes a lot of the unfettered discretion that could allow implicit bias to enter the process, the reliance on risk assessment scores and the broad range of what MDOC considers to be assaultive offenses are problematic. Risk assessment instruments usually incorporate factors that have baked-in disparities, such as criminal history or education, which are reflective of the inequitable treatment of Black people in the society at large and in all of the different stages of the criminal legal system.<sup>338</sup> Similarly, using an extensive list of assaultive offenses has the potential to differentially affect Black defendants due to previous over-charging.<sup>339</sup> Moreover, this structured response guide allows less room for probation officers to work with other community groups to help the person overcome the challenges they may face in complying with probation.

**Recommendation 35: Work with the local probation office to develop a county-specific probation violation response guide.**

MDOC policies allow probation program managers to work with the manager of the local community corrections advisory board or their designee to create a probation violation response guide specific to that county. Washtenaw County should take advantage of this opportunity to create a response guide that keeps some of the structured decision-making and use of graduated sanctions but does not involve reliance, or at least heavy reliance, on risk assessment scores or the offense for which a person is on probation. A county-specific guide would also give greater attention to resources and supports that are available in local communities when determining the

appropriate response to probation violations. It could also substantially narrow the criteria for recommending jail time or revocation of probation as a response.

Implementation Steps:

- Key Actions: Create a local probation violation response guide that does not rely, or does not rely heavily, on risk assessment scores or the offense for which a person is on probation. Consult with community members who have been on probation to understand what supports and responses would have helped them the most and incorporate that feedback into the local response guide.
- Key Actors: Probation program manager; manager or designee of the local community corrections advisory board; and county residents who have been on probation.
- Funding: Funding will be needed to compensate community members for their time.



## Strategy 3—Restructure In-Custody Programming, Release, Reentry, and Community Support

### 3.1 Jail and Prison Conditions

The conditions that people experience while in confinement—including physical infrastructure, access to programs and services, and interactions with staff members and with other incarcerated people—influence their ability to manage challenges and establish stability during detention and during reentry. Generally, time in prison or jail does not prepare people for life in the community, because incarceration interrupts positive connections to society in the community.<sup>340</sup> The key principles and best practices used in reentry programs supporting people *after* they have been released can be adopted to begin while people are still incarcerated.<sup>341</sup> Best practices from county jails specifically underscore that organizational culture and transition planning are key components for contributing to more successful reentry.<sup>342</sup> Further, jails and prisons with assessment and case management approaches that connect to reentry plans and outcomes—rather than using them just to decide where people are housed within the jail or prison—see more effectiveness in their programs.<sup>343</sup> More access to and frequency of family visits also support better outcomes in reentry.<sup>344</sup>

In qualitative interviews and focus groups for this report, the people who spoke about their experiences in the Washtenaw County Jail had been detained several years ago, not recently or during the COVID-19 pandemic. Some commented that the jail relied more heavily on things like AA/NA and religious programs and that there was a lack of more structured treatment programs, other than some of the mental health services. For interview participants who had been in state prison, their experiences were also from several years ago. They generally said that there was more programming available in prison than in the jail (which is usually the case everywhere), and that there were more structured or intensive mental health and substance use programs available. They also said, however, that they weren't always aware of the programs that were offered or provided much information about them.

As previously noted, MDOC has not provided the information that Vera requested—which includes data on prison populations, conditions and programs, parole and probation numbers, and reentry programs. For a potential approach to doing analysis of such data, should it be available in the future, see the supplemental report.

Despite the dearth of information about programs and conditions, there is some public information about access to programs in state prisons. While MDOC doesn't provide numbers by facility or for every program, there appear to be lengthy waiting lists for programs in the prisons generally. In 2020 (the latest year for which MDOC has published the information), there were 6,440 people on the waiting list for GED programs and 10,306 people on the waiting list for employment readiness programs, which shows that there is insufficient capacity for these programs.<sup>345</sup>

The limits on contact with friends and family members is another factor that can reduce the chances of successful reentry. Numerous studies have shown that maintaining ties with family and friends, especially through in-person visitation, is strongly associated with better reentry outcomes like reduced recidivism.<sup>346</sup> This positive effect of visitation on reentry is also consistent across racial and ethnic groups.<sup>347</sup>

MDOC has policies around visitation and the location of facilities. MDOC requires those in prison to put friends and relatives on their visiting list before those people can even be considered for visits, and people can only add names to their visiting list once every six months.<sup>348</sup> Once someone is added to the list, the potential visitors have to submit applications to the prison and wait to be approved, which doesn't happen automatically.<sup>349</sup> When/if people are approved, they are allowed to visit during regularly scheduled visiting hours on specific days.<sup>350</sup> MDOC has also eliminated visits on Tuesdays and Wednesdays for all but a small number of facilities.<sup>351</sup> The restrictions and procedural hoops, along with the fact that so many prisons are located far away from the major population centers in the southeastern part of the state (and thus require travel time), adds to the difficulties in visitation.<sup>352</sup> People in MDOC custody may also be denied visitation privileges based on disciplinary infractions.<sup>353</sup> This could disproportionately affect Black people, as they are more likely to receive disciplinary infractions than white people, despite some evidence suggesting that both are equally likely to violate the rules.<sup>354</sup>

Beyond in-person visits, the only ways for people to stay in touch with friends and family members are by mail, email, or phone calls.<sup>355</sup> The costs of communicating by email or phone may further limit contact. Email is only available through a secure system, which requires people in prison to purchase a tablet specifically designed for use in prison.<sup>356</sup> The cost of a 15-minute phone call from an MDOC facility was recently reduced to \$1.31, which would rank Michigan around 24<sup>th</sup> out of all states on the affordability of calls from prison, and people will be provided with one free 10-minute call per week.<sup>357</sup> However, the costs of phone calls (which are often borne by the friends and family members who are called) may still be prohibitive for some people.<sup>358</sup>

### **3.2 Jail Programming/Reentry**

The Washtenaw County Jail programming information is available on the county website; programs include therapy and behavior change programs, high school and literacy classes, physical and mental health and substance use treatment programs, religious programs, and transition planning.<sup>359</sup> It is likely that some or most of these programs underwent significant disruptions during the COVID-19 pandemic and the restrictions on jail access that were put in place. There are no public reports on current services in the jail or for reentry, numbers of people who access which services, or racial disparities in service access. The jail was unable to provide this level of detail to the WEP. (See the supplemental report for details on types of programs available.)

The Washtenaw County Sheriff's Office Annual Report from 2017 (the most recent report available online) provides some basic information on jail population trends.<sup>360</sup> In 2017, there were 7,798 admissions to the jail.<sup>361</sup> The average daily population was 357 people; this number dropped slightly from 401 in 2012.<sup>362</sup> According to publicly reported statistics, the average daily population was 370 in 2018 and 365 in 2019, but then decreased significantly to 187 in 2020, the latest year for which data is available.<sup>363</sup> This decrease is consistent with national trends, which saw jail populations across the country drop dramatically in 2020 due to the change in practices during the COVID-19 pandemic, although they have generally gone back up since then.<sup>364</sup>

#### Reentry Services in the Jail

Reentry services in the Washtenaw County Jail are overseen by a team that includes a reentry coordinator, two peer outreach workers, and two case managers, all of whom have been personally affected by incarceration in some way.<sup>365</sup>

As noted in Strategy 1, Washtenaw County expanded reentry services in 2019 for people leaving jail who have mental health or substance use challenges, through a \$1 million grant from the Bureau of Justice Assistance and a further \$1 million from Washtenaw County's Public Safety and Mental Health Preservation Millage.<sup>366</sup> This funding helps support the jail's reentry team and provide expanded assistance for accessing housing and treatment for people leaving the jail.<sup>367</sup> The reentry team's work is built on the evidence-based Transition from Jail to Community (TJC) model, which focuses both on improving reentry systems and building strong relationships with community partners and service providers.<sup>368</sup>

The peer outreach workers meet with people in the jail to better understand their needs, and the case managers then work with the outreach workers and with representatives from different types of service organizations (in areas like housing, mental health, and employment support) to prepare for successful reentry.<sup>369</sup> After assessing people's risks and needs using standard assessment tools, they develop a transition case plan, which includes recommendations for programming in the jail, and later do discharge planning and outreach for support and follow up with people after they are released.<sup>370</sup> There are some general concerns about risk assessment tools, as they can give too much weight to criminal conviction history, which may reflect biased policing.<sup>371</sup> But the main limitation of risk assessments for overall programming decisions is that they can exclude some people from services if they are assessed as low risk, as services are meant to be prioritized for higher-risk people.

According to reports on the county's website, the reentry team provides individualized support for people's needs, such as helping them to get the documents they need to get a job after release, providing clothing or bus tokens, or connecting them with behavioral health and other service providers in the community.<sup>372</sup> The greatest need people have for support tends to be for housing, which is expensive and limited in Washtenaw County, and is particularly hard for people with criminal records to secure.<sup>373</sup> The reentry team works with a network of community-based service providers to help people find temporary or long-term housing and is able to use grant funds to help cover initial housing costs for up to 150 people.<sup>374</sup> There is no public information about the specifics of how many people access which services.

Focus group and interview participants who have direct experience of the local criminal legal system said that housing is one of the main challenges in reentry. Many suggested that reentry programs that help people find housing should be more comprehensive and flexible. Participants also suggested that these organizations should provide direct subsidies to cover rent and other needs in the first months of reentry. Even though there are recent initiatives to cover some housing costs for some people, far more than 150 people are released from

*"I think there should be a little monetary donation or something just to assist, ... in case you don't [have money at release]. ... Someone that is just leaving ... doesn't have a place to return to, doesn't have a place called home, and [so] he lands back on the street. ... I would speculate he could definitely go back into stuff like that [criminal activity]."*  
-Washtenaw resident

county jail each year (not including those released from state prison—see below), and these programs do not provide direct subsidies for needs other than housing. Several explained that they did not have any money with which to find immediate shelter, buy food, or pay for transportation.

**Recommendation 36. Provide access to community-based services including case management, peer support, and other services to everyone in the Washtenaw County Jail who wants them.**

Research on jail reentry generally shows that increased access to support services and reentry planning is helpful for eventual reintegration; qualitative research with Washtenaw residents echoed this. Currently, access to case management and services in the jail appears to rely heavily on a risk-based screener, with services being limited to people who are assessed as higher risk. While this is consistent with the risk-needs-responsivity (RNR) framework principles, it doesn't account for people who are low risk/high needs or low-risk people who might not do as well if mandated to receive services but could benefit from voluntarily receiving services. Instead of using risk assessment to determine access to case management, peer support, and services, jail staff should talk to the people incarcerated in the jail to discuss what is available and should provide access to the services and support that people say they want, in addition to services and support that case managers determine are needed.

*"The clients I get from the jail have to be referred to me by the case manager. The case manager herself is very good at being able to ID [who] would benefit from services, however, due to jail rules the case manager first has to screen the individual and if they are not high-risk enough, they will not qualify for case management and thus will not qualify for my program (not my choice). My organization has no criteria/eligibility. If I had it my way, anyone who wanted could get access ... My clients from the MDOC are referred to me by their POs [probation officers]. The POs check off 3 of 4 boxes stating their client: 1. struggles with life skills ... 2. has a history of recidivism or technical violations, 3. physical or mental health diagnoses or 4. has a history of OS [Offender Success] programming (this was an MDOC ask) ... Anyone of any age and ability is eligible."*

-Washtenaw Behavioral Health Services provider

Implementation Steps:

- Key Actions: Adopt a new policy to provide case management, peer support, and services to everyone in the jail who wants them. Local community-based organizations provide additional case management, peer support, and services. Track program participation and outcomes, including whether broadening access to a range of services improves outcomes after release.
- Key Actors: WCSO; jail staff; community-based organizations; and county commissioners.
- Funding: Funding for the local community-based organizations that would provide additional case management, peer support, and services.

**3.3 MDOC Admissions from and Releases to Washtenaw County**

The vast majority of people who serve a sentence in prison return to their communities and need reentry services. In Michigan, over 11,000 people were released from state and federal

prison in 2019.<sup>375</sup> Publicly available MDOC records provide a window into the number of Washtenaw residents who are in state prison custody and who are, or will be in the future, released back to Washtenaw County after completing a sentence and/or on parole.<sup>376</sup> Accruing this information is important so that local county organizations can plan some elements of support and services during parole and/or reentry for the appropriate number of people, ahead of when people actually need the services. However, these records show the latest possible release date; in practice, many people are released sooner (such as through being placed on parole), with unpredictable timing, and some people serve short sentences not captured in three-year forecasts. Therefore, a more sophisticated multi-year planning approach seems necessary.

According to Vera's Incarceration Trends data, which tracks prison populations across the country, the number of people with cases in Washtenaw County who were sent to MDOC custody (state prison) fell steadily from 2012 to 2018, dropping by 54 percent during this period. The admissions of Black residents fell by 53 percent, while the admissions of white residents fell by 57 percent. The number of people from Washtenaw in MDOC custody also declined during this period, dropping by 22 percent. However, the proportion of Black people from Washtenaw County in state prison custody increased by five percentage points, from 61 percent of the MDOC-incarcerated Washtenaw population in 2012 to 66 percent in 2018.<sup>377</sup> In other words, fewer Washtenaw County residents are serving time in state prison, which is a sign of progress, but white people are benefiting from this trend more than Black people.

**Table 12. Washtenaw residents in MDOC custody**

The total number of people sent to state prison from Washtenaw County is down by 22 percent since 2012, but the proportion of this population who are Black has been slowly increasing, from 61 percent in 2012 to 66 percent in 2018.

**Washtenaw County Residents in MDOC Custody (2012-2018)**

	Black Male MDOC	White Male MDOC	Black Female MDOC	White Female MDOC	Other Pop MDOC	Total MDOC Population
2012	645	365	29	27	41	1,107
2013	676	373	29	26	41	1,145
2014	657	355	31	27	40	1,110
2015	632	324	35	19	37	1,047
2016	612	306	33	21	34	1,006
2017	561	268	28	15	32	904
2018	544	252	20	10	32	858

The data source does not include non-binary gender categories.

Chart: Vera Institute • Source: Vera Incarceration Trends Project

As shown in Table 13 below, based on publicly available MDOC records about who is currently in state prison and latest release dates, an estimated 180 people are likely to return from state prison to Washtenaw County in the next three years. This is a one-day snapshot from September 2022. This number does not capture any potential early parole releases or people serving shorter sentences that began after the date of this data snapshot. It also may not account for all people in MDOC custody, since some people may not be listed in public records.

**Table 13. Estimated MDOC releases by year for Washtenaw residents in custody**

For parole and reentry service planning, it is important to note that at least 180 people will likely be returning from state prison to Washtenaw County from 2023 to 2025.

**Latest Release Dates for Washtenaw County Residents in MDOC Custody (2022)**

This is a one-day snapshot from September 2022. It includes cases from Washtenaw County, so the assumption is that most (but not all) are likely to return to the county.

	Black Male	Black Female	White Male	White Female	Total
2022	27		16	1	44
2023-2025	129	5	41	6	181
2026-2028	26		13	2	41
2029 and after	264	15	124	12	415
No Discharge Date	81	7	34	2	124

These numbers do not include cases for which the listed race/ethnicity was a category other than Black or white.

Chart: Vera Institute of Justice • Source: Publicly available MDOC records

**Recommendation 37: Reduce barriers to incarcerated people maintaining contact with their family and friends and assist people in maintaining contact.**

Given the research on how important maintaining contact with family and friends is to successful reentry, Washtenaw County should work with its legislative delegation to try to urge the MDOC to expand the times when visits are allowed, eliminate charges for phone calls, and eliminate or take further steps to significantly reduce charges for tablets/email. Washtenaw County should also provide local assistance to increase the ability for people in the county to have more regular contact with family members who are in prison by providing funding to subsidize the costs of phone calls and the costs of transportation for people to get to MDOC facilities for in-person visits.

Implementation Steps:

- Key Actions: Work with county legislative delegation to expand MDOC visitation hours, eliminate charges for phone calls, and eliminate or significantly reduce charges for tablets/email. Provide subsidies for phone calls and transportation.
- Key Actors: County commissioners; county legislative delegation; and advocacy groups.
- Funding: Funding is needed to subsidize the costs of phone calls to incarcerated family members and transportation for in-person visits.

### 3.4 MDOC Reentry Programs

MDOC did not provide any direct data for this report. The supplemental report details future research questions and analytic strategies to use when the data is obtained. While not an official MDOC program, the Michigan Department of Labor and Economic Opportunity announced in late 2022 that it is launching a program to provide in-prison training and post-release assistance to improve access to stable employment for returning residents.<sup>378</sup>

#### Michigan Prisoner Reentry Initiative (MPRI)

MPRI was created in 2003 and was implemented in FY 2005 (which ended in September 2006) in eight pilot sites.<sup>379</sup> In FY 2006, an additional seven sites, including Washtenaw County, were added, and the program was expanded statewide in FY 2008.<sup>380</sup> The stated mission of MPRI was “to reduce crime by implementing a seamless plan of services and supervision developed with each offender—delivered through state and local collaboration—from the time of their entry to prison through their transition, reintegration, and aftercare in the community.”<sup>381</sup> MPRI incorporated three major reentry models: the Department of Justice’s Serious and Violent Offender Reentry Initiative, the National Institute of Corrections’ Transition from Prison to Community Initiative, and the policy statements and recommendations from the Report of the Reentry Policy Council that is coordinated by the Council of State Governments.<sup>382</sup> It uses three phases (admission, pre-release, and release) and sets out expectations for the individual, MDOC staff, and communities for each phase in Transition Accountability Plans (TAPs).<sup>383</sup> The program also provides some housing support for some people—such as one to three months’ stay in a transitional housing facility at no cost to the person.<sup>384</sup> For a detailed account of the MPRI’s operations, see the supplemental report.

MPRI saw relatively positive results from its inception through 2012, including lower parole revocation rates (due to the use of graduated sanctions) and a decrease in recidivism rates from 46 percent to 31 percent.<sup>385</sup> One of the qualities of MPRI that has been most consistently identified as critical to its success was the degree of local control and collaboration, including a steering committee and a community-based reentry plan for each person.<sup>386</sup> Starting in 2012, for reasons that are unclear, MDOC began cutting funding for MPRI, particularly community funding, and taking greater control over local planning and programs.<sup>387</sup>

#### Offender Success (OS):

It was more difficult to find information about OS, including specifics on when MDOC officially shifted from MPRI to OS; this appears to have been initiated around 2016, but possibly not officially implemented until 2017 or 2018.<sup>388</sup> The stated mission of OS is “to reduce crime by implementing a seamless plan of services, supervision, and opportunities developed with each offender and delivered through State and Regional collaboration with the goal of obtaining employment and self-sufficiency.”<sup>389</sup> Much of the model seems similar to MPRI. It still incorporates the three major reentry models.<sup>390</sup> The OS model also uses the same three phases (though with slightly less welcoming names) and seven decision points, uses in-reach facilities, and incorporates the TAP (described in the supplemental report).<sup>391</sup>

There is almost no publicly available information about OS outcomes, perhaps because of the short time the program has been operating. Statewide recidivism rates in Michigan are



now lower than they were under MPRI, however, 29.1 percent in 2019 and 26.7 percent in 2020.<sup>392</sup> (There is no public official information on county-level recidivism rates.)

#### MPRI and OS in Washtenaw County:

People involved with administering MPRI and OS in Washtenaw County had comments about the programs that largely mirrored the broader assessments of each one above. For example, those involved with MPRI said that one of the greatest strengths of that program in Washtenaw County was the local control and collaboration.<sup>393</sup> They noted that having a local steering team that included not only community representation but also representatives from local agencies and system stakeholders who were decision makers or close to them allowed them to better identify local resources and barriers, and to help some agencies do more to support people returning from prison.<sup>394</sup> The local advisory council, with broader community participation, served as a counterbalance to the more institutional steering team and helped to better understand where people's needs still weren't being met and build public support for the program.<sup>395</sup>

Washtenaw residents who had experience with MPRI/OS several years ago said that the support for housing was far more limited than what the programs advertised. One person said that the program official told him he was ineligible to continue in MPRI-subsidized housing after one month because he had obtained a job. He described this as "a helpful program until I read the fine print." Another person said that he had local reentry support through an organization contracted by the county (PCS), which promised rental subsidies for several months, but ended up covering much less:

"As far as like, the State of Michigan putting a hand out to try to help me [on parole], that's not happening. They, they keep their, they keep their boot on my neck and hold me down more than they ever helped."

MPRI in Washtenaw County differed from the general model, because it used local, community-based service navigators (not parole agents) who stayed with people through the whole process and handled case management, coordinated services, and made sure that the connections between service providers and clients actually happened.<sup>396</sup> From the perspective of a Washtenaw member of the local MPRI steering team, the MDOC initially didn't want to allow the local service navigators, and the local steering team had to fight for this.<sup>397</sup> While OS no longer uses local steering teams, there are still advisory councils, and Washtenaw County does still have greater community involvement than other counties in Region 9.<sup>398</sup> People involved with both programs noted difficulties in engaging people with lived experience, especially people with more recent experience, in the process.<sup>399</sup>

There are some differences between the two programs in how people are chosen for participation and the information provided to community coordinators. Under MPRI originally, everyone who scored medium or high for risk of violence or recidivism was referred to the program.<sup>400</sup> MDOC also provided the community coordinator in Washtenaw with annual data for planning purposes on the number of people expected to be paroled to the county and the number expected to need services under MPRI.<sup>401</sup> Under OS, it seems there are more sources of referrals: by institutional parole agents in the prisons or the parole board, or parole agents seeking extra services for people they supervise in the community (according to interlocutors, this is now about 30-40 percent of referrals in Washtenaw's

region).<sup>402</sup> MDOC no longer provides the OS regional community coordinator with information about the people paroled to Washtenaw County overall.<sup>403</sup>

People involved with MPRI in Washtenaw talked about changes to the program starting around 2012. Similar to what was happening statewide, MDOC began taking more control over the process and cutting the local budget.<sup>404</sup> For example, MDOC started requiring the supervising parole agent to sign off on everything, limiting the effectiveness of the local service navigators and resulting in fewer services being provided.<sup>405</sup> Referrals to the program in Washtenaw also dropped from about 80 percent of people being paroled to 20 percent.<sup>406</sup> The lower number of people served and the reduced level of services have continued under OS, for example with more limited housing support available and the lack of a focus on family reunification.<sup>407</sup>

It was difficult to get much information about funding for either program in Washtenaw County and even harder to compare what information we could find. The total funding in Washtenaw County under MPRI was not completely dependent on MDOC, as the local planning process allowed the program to leverage other state, federal, and foundation funding, for a total of nearly \$1 million.<sup>408</sup> OS funding for Region 9, which covers six counties, was \$1,305,092 for 2020-2021 and \$1,395,046 for 2021-2022.<sup>409</sup> Even if Washtenaw received 30 percent of the total budget for the region, though, the overall funding would still be less than half of that for MPRI in FY2008.<sup>410</sup>

Due to the lack of access to MDOC data (which has case-level details), it is not possible to analyze racial disparities under either program.

### **Recommendation 38: Increase Washtenaw County involvement in the local Offender Success advisory council.**

The Michigan Prisoner Reentry Initiative (MPRI), a program managed by MDOC to support people released from prison, changed its name to Offender Success around 2016 and adopted a regional management model. Stakeholders named the significant degree of local control over planning and service coordination as one of the most important factors in the success of MPRI in Washtenaw County.<sup>411</sup> Even under the OS regional model, it would be possible to increase the degree of local control through greater participation in the local advisory council. Washtenaw County should try to use involvement in the local advisory council to make sure that reentry services are meeting the needs of people returning to the county and to address some of the restrictions around reentry housing that emerged in qualitative research (for example, a 7 p.m. curfew regardless of what the person's parole curfew is, prohibitions on any visitors, and people getting kicked out of housing abruptly after 90 days or when they find employment) that make it harder for people to adapt to reentry.

#### Implementation Steps:

- Key Actions: Work with the OS regional community coordinator to determine how to increase county participation in the local OS advisory council. Leverage involvement in the advisory council to ensure that reentry services in Washtenaw County are sufficient and address local barriers to successful reentry.
- Key Actors: County commissioners and the OS regional community coordinator.

### **Recommendation 39: Allow self-referrals for Offender Success reentry programs and services.**

Participants in qualitative research who had direct reentry experience underscored the difficulty in accessing support services, especially for housing and employment. A state-run program, such as OS, should be as accessible as possible. Currently under OS, generally only the parole board or agents can refer people for reentry programs and services. This can reduce the number of people who need reentry services who actually receive them and can be limited by what programs and services parole board members or individual parole agents are aware of. People should be able to refer themselves to programs and services they need regardless of their parole status. This is something that the OS regional community coordinator has also identified as a change that would be beneficial.

#### Implementation Steps:

- Key Actions: Local OS steering team works with MDOC to change its policies to allow self-referrals for reentry services. If necessary, county commissioners work with the county legislative delegation to try to enact statutory changes to this effect. MDOC reevaluates qualifications for OS funding regarding type of supervision to allow services to be provided to people beyond just those on parole.
- Key Actors: Local OS steering team; MDOC; county commissioners; and the county legislative delegation.
- Funding: Redirected or additional state funding will be needed to cover expanded reentry programming and services and to hire additional staff.

### **Recommendation 40: Create a pilot project to regularly interview people returning from jail or prison to understand their experiences during reentry.**

There is currently no consistent, accessible documentation about the numbers or traits of people reentering in Washtenaw County, the programs they access, their experiences and perceptions, and their outcomes in terms of recidivism and/or improved stability. To better understand how conditions affect people's release and reentry experiences, as well as to understand the needs of people returning to the county from jail or prison and the challenges they're facing, Washtenaw County should create a pilot project with a local university or community-based organization to interview all or most of these people and to code and analyze the results of those interviews. This work should be both research- and outcome-oriented, with the responses people give being used to develop indicators for reentry success and inform future decisions about allocating resources for support and services. The pilot project could determine if this is something that should be done on an ongoing or periodic basis.

#### Implementation Steps:

- Key Actions: Create an RFP for the pilot project, specifying the length of the pilot, who and how many people should be interviewed, and the type of analysis/assessment of the pilot that will be required. Contract with a local university or nonprofit to interview people returning from incarceration, code and

analyze the results, and do an overall analysis/assessment of the effects of the pilot project.

- Key Actors: County commissioners and a local university or nonprofit organization.
- Funding: County or grant funding is needed to contract with a local university or nonprofit.

**Recommendation 41: Provide funding for general economic subsidies, to support reentry, and subsidies to support housing and transportation for Washtenaw residents returning from incarceration.**

It is difficult for people in prison to save money to support their reentry due to MDOC policies such as paying extremely low wages for work in prison, deducting fees from the accounts of people who are able to save over a certain amount, and creating barriers to people setting up outside bank accounts. There are also inherent difficulties in finding employment during the period immediately after reentry, which can make it more likely for people to resort to criminal activity to support themselves. Lack of access to affordable housing or transportation and difficulties finding employment were consistently identified as the greatest challenges to reentry generally. To address these issues, the county should provide general economic subsidies (a set amount of money per month) for the first few months after people who are Washtenaw residents return from prison, as well as subsidies specifically for housing and for public transportation or gas, where needed, so that people are able to get to the appointments necessary to comply with supervision and to access needed services.

Implementation Steps:

- Key Actions: Determine appropriate amounts for subsidies and allocate funding and procedures for those.
- Key Actors: County commissioners and service providers.
- Funding: Funding is needed to provide and administer subsidies.

### **3.5 Parole**

There is no entitlement to parole in Michigan—eligibility is left almost entirely to the discretion of the Michigan Parole Board, 10 members appointed by the director of MDOC.<sup>412</sup> In determining if parole is appropriate, the board can consider the person’s criminal behavior, institutional adjustment, readiness for release, personal history and growth, and physical and mental health.<sup>413</sup> The MDOC has developed guidelines that cover eight areas and are scored for each person.<sup>414</sup> There is some language in MDOC’s policy directive that appears to allow for subjective reasons for parole decisions.<sup>415</sup> For additional details on the parole guidelines and decision factors, as well as existing research on racial disparities in the parole process, see the supplemental report.

Without detailed MDOC data about people on parole, it is impossible to analyze racial disparities in parole decisions or violations. Publicly available data, even at the state level, is extremely limited. Black people in Michigan made up 53.5 percent of people in prison but only 49.7 percent of people on parole in 2018 (the most recent year for which data on both points is available).<sup>416</sup> Also, while there is no publicly available data about parole violations by race in Michigan, MDOC reports show that the majority of people on parole who returned to

prison in the state were sent back on technical violations (64.1 percent in 2019, 68.6 percent in 2020, and 59.3 percent in 2021).<sup>417</sup>

Unlike probation violations, there is no process for creating a local response guide for parole violations in Washtenaw County, so responses are determined by individual parole officers based on MDOC's guidelines.<sup>418</sup> The local parole office did pilot an incentives process for people on parole, which has since been adopted statewide.<sup>419</sup> Through this process, people who are doing well on parole are rewarded with things like being removed from tether (electronic monitoring) early or being allowed to report to their parole agents virtually rather than in person.<sup>420</sup> Barriers to effective reentry that stakeholders named include lack of affordable housing, lack of transportation, and insufficient funding for mental health services.

In interviews with people who had spent time on parole, comments were mixed. Some people said they had access to therapists and counseling, while others did not. One person mentioned being forced to do demeaning, menial tasks, like cleaning toilets, as part of a community service condition. Responses were mixed about parole agents as well, some people said that the agents they dealt with were mostly punitive, while others said their agents were supportive. One Black person specifically commented that he had bad experiences with white agents, but then had a Black agent who was much more supportive, commenting about the distinction, "You know it was different because I felt like this is someone that understands me and probably is someone that has been where I was."

**Recommendation 42: Create a pilot project to refer technical parole violations to local community organizations to help respond to behaviors and support needs rather than returning people to prison.**

The WEP could not access detailed data about parole violations in Washtenaw County from MDOC. Public records show that most people (approximately 60 percent) on parole in Michigan who were sent back to prison were sent back for technical violations (which means a violation of a condition of parole that is not a criminal activity—such as a missed appointment or failing to report an address change).<sup>421</sup> Parole officers' responses to technical violations do not appear to always look at the potential reasons for behaviors that lead to violations and how to address those. Washtenaw residents who participated in this report spoke about struggling to meet strict conditions and frustration with overly rigid enforcement. Many people on parole have histories of trauma and/or traumatic brain injuries and may lack some of the basic skills and resources necessary to succeed under parole supervision. The abrupt transition from the hyper-structured environment of prison to the far less structured experience of parole may also create barriers for people that make it difficult to be able to meet conditions. Rather than returning people to prison for technical violations, those people should be referred to community-based organizations that can identify the challenges people face that led to the violations and help to address those. In some cases, this could be as simple as providing training for people on time management or how to use cell phones. Washtenaw County should work with the local MDOC field office to create a pilot program to try this approach and determine if it produces better outcomes.

#### Implementation Steps:

- Key Actions: Work with the local MDOC field office to adopt policies that require parole agents to follow this approach during the pilot project. Develop parameters for the pilot project and its evaluation. Identify local community-based organizations that could work with people on parole to identify and address the causes of behaviors leading to technical violations. Evaluate the pilot outcomes and recommend next steps.
- Key Actors: Local MDOC field office; courts and court staff; county commissioners; and local community-based organizations.
- Funding: State, county, or grant funding is needed to support the local community-based organizations that would work with people on parole during the pilot project.

### **3.6 Clean Slate and Record Expungement Efforts**

Expunging a criminal record after a person has completed their sentence is important for connecting that person to housing and employment, as well as reducing stigma and ongoing punishment.<sup>422</sup> One study estimated that, as of 2014, when Michigan’s laws required eligible people to apply for expungement, only 6.5 percent of eligible individuals received an expungement within five years of meeting the criteria; those who did receive expungements had improved economic outcomes and low recidivism rates.<sup>423</sup> In 2020, the Michigan Legislature passed a group of bills referred to as the “Clean Slate” package.<sup>424</sup> With some exceptions, this package of bills expands the number of felony and misdemeanor convictions that can be expunged, reduces the waiting period before convictions are eligible for expungement, makes most traffic offenses eligible for expungement, and counts multiple convictions arising from the same event as one for expungement purposes.<sup>425</sup> Additionally, starting in the spring of 2023, up to two felony convictions and up to four misdemeanor convictions will be automatically expunged after specific waiting periods.<sup>426</sup>

Michigan also passed a “Clean Slate for Kids” bill package in 2021.<sup>427</sup> These new laws allow people to apply to set aside juvenile adjudications one year after court jurisdiction ends, eliminate the previously required application fee, and make juvenile records nonpublic.<sup>428</sup> Beginning in July 2023, there will be a process whereby juvenile adjudications for certain offenses will be automatically set aside, without prosecutors having an opportunity to object, two years after court jurisdiction ends or when the person turns 18, whichever is later.<sup>429</sup>

Stakeholders noted that while these changes are positive, people still struggle to complete the expungement process, due to lack of knowledge and guidance. Michigan Legal Help has a self-service toolkit on expungements.<sup>430</sup> However, Michigan Legal Help’s internal data shows that only about 22 percent of people who started using the online tool completed their applications—suggesting they may need guidance from people with expertise (such as attorneys, paralegals, or trained nonlawyer navigators).<sup>431</sup> While the new provisions for automatic expungement are a major improvement to the process, there are still people who would benefit more from filing for expungement rather than waiting for the automatic process to take effect, and these people would need legal help with the filing process.<sup>432</sup>

**Recommendation 43: Increase record sealing and expungements to help facilitate access to housing and employment opportunities.**

**43a. Hire additional paid attorneys and expand pro bono attorney involvement to increase capacity to process applications for record sealing and expungements.**

**43b. Provide information about record sealing and expungement processes at the courthouse and at public events and locations, such as libraries.**

Increasing access to record sealing and expungements (where applicable—especially for past marijuana convictions) can help people attain housing and employment more easily, since landlords and employers continue to use background checks. Recent legislation strengthens sealing and confidentiality measures generally ([Clean Slate](#)) and for juvenile records ([Clean Slate for Kids](#)). However, capacity (in other words, attorneys) to process expungement is limited, creating a barrier to clearing someone's record. Greater access and swifter processing of both sealing and expungements generally would facilitate people's access to housing, work, and other social services where background checks can be involved.

Implementation steps:

- Key actions: Hire additional staff to expedite processes for expungement and decrease docket load. Identify an advocate who is willing to work with local universities and law firms to determine if there are people who can fill pro bono roles to assist with record sealing/expungement. Create accessible one pagers/flyers about record sealing expungement and place in public locations. Conduct public awareness campaigns to inform residents of policy.
- Key actors: County commissioners; local agencies that facilitate the expungement process, such as the prosecutor's office; housing and employment services providers; and universities and law firms with pro bono programs.
- Funding: Funding is needed for additional paid staff, especially if there are not enough pro bono attorneys to fill the need. Funding may also be required for printed material and any public awareness campaigns.

## Strategy 4—Support Youth Development

### 4.1. Juvenile Justice Reforms and Diversion: Research, Policy, and Practice

Juvenile justice policy in the United States generally has been shifting from the “tough on crime” approach of the 1990s—the era of the “superpredator” discourse that favored punishment over rehabilitation—toward one that reduces the use of the court system and detention and instead promotes age-appropriate alternatives. Driven by significant juvenile justice research and two key Supreme Court decisions (*Graham v. Florida*, 2010, and *Miller v. Alabama*, 2012), juvenile justice actors recognize that youth are developmentally different than adults and that this should affect sentencing decisions, including limiting life without parole sentences.<sup>433</sup> The broad consensus in research and practice is that delinquent behavior in youth is rooted in systemic inequities, not individual deficiencies, and that using incarceration or punitive responses lead to negative outcomes for individual well-being and for public safety.<sup>434</sup> Research shows that solutions should focus on intervention points and programs that keep a young person out of the juvenile justice system and support their rights to education, health, safety, and emotional well-being.<sup>435</sup> The three priorities of the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) sum up the current principles of an evidence-based approach to juvenile justice work: juveniles are developmentally different than adults, community-based programs should be prioritized over detention-based programs, and institutions must remove barriers that system-involved youth face in accessing support.<sup>436</sup> The recommendations contained in this strategy are based on evidence that shows providing youth with evidence-informed supports and treatments result in better outcomes than traditional justice system responses. For details on key research findings and best practice principles, see the supplemental report.

The state of Michigan has undertaken steps to modernize its juvenile justice system.<sup>437</sup> These include:

- “Raise the age” legislation passed in 2019 (which went into effect in 2021) to raise the upper age limit for trying youth in the juvenile justice system from 17 to 18 years old.<sup>438</sup> (Youth ages 14-17 can still be tried as adults using waivers.)<sup>439</sup>
- The separation of juveniles from adults within adult correctional facilities occurred in 2013, and as of 2020, there were still 74 juveniles who were processed as adults and incarcerated in Michigan adult prisons.<sup>440</sup>
- Based on the principle that youth deserve the chance to learn from their mistakes with a fresh start, Michigan enacted the Clean Slate for Kids legislation in 2020 (SB 681 and 682), which provides much stronger confidentiality protections for juvenile records than what previously existed.<sup>441</sup>

The lieutenant-governor-led Michigan Task Force on Juvenile Justice Reform issued a broad series of recommendations in its July 2022 report. The 32 recommendations cover seven broad themes, as described in the press release:

- “Expanding diversion opportunities for youth who are not a public safety risk.
- Creating a statewide juvenile public defense system and best practice standards.
- Increasing funding for effective community-based programs, including alternatives to incarceration, and tying funding to evidence-based practices.
- Adopting data-driven tools to guide diversion, court, and detention decisions.



- Strengthening standards and quality assurance for local probation practices and statewide residential programs.
- Expanding data collection to measure system performance, outcomes, and equity.
- Establishing a statewide advisory board of youth and families impacted by the system to help guide ongoing system improvements."<sup>442</sup>

According to the task force report, over 60 percent of youth placed in detention statewide had a status offense or misdemeanor offense charge as their most serious charge.<sup>443</sup> This statistic suggests that many counties are not following the national evidence recognizing that system involvement leads to more negative outcomes than community-based supports.

According to a 2021 report by Wayne State University, Black youth in Michigan were arrested at twice the rate of white youth from 2009 to 2019, despite overall arrests of juveniles dropping by 64 percent over the same period.<sup>444</sup> The report also found that the number of cases in which juveniles were tried as adults (waivers) and charges filed (authorized petitions) dropped by 41 percent and 52 percent, respectively, from 2009 to 2019, with the largest declines being for drug and alcohol charges.<sup>445</sup> Black youth were more likely to be adjudicated for certain charges, compared to white youth, including drug/alcohol charges, weapons charges, motor vehicle charges, and "incurability" charges, which are largely influenced by discretionary policing practices such as traffic stops and searches.<sup>446</sup> Additional details on these two reports can be found in the supplemental report.

Juvenile courts across Michigan handle charges related to delinquency, but also other matters, like statutes and dependency, with an approach that is more rehabilitative and less punitive than adult courts. In Washtenaw County, the trial court has a [juvenile division](#), which handles diversion programs and delinquency proceedings. Juvenile probation also falls under the juvenile division. Washtenaw County Children's Services includes the Youth Center, a detention facility that is separate from the juvenile court. The [Office of Prosecuting Attorney](#) and the [Public Defender Office](#) also have juvenile divisions. The prosecutor determines if certain acts committed by a juvenile should be authorized as petitions (in other words, have charges filed) and referred to the juvenile court or declined or diverted. The prosecutor also handles the legal proceedings during trial and makes dispositional and sentencing recommendations if the juvenile is adjudicated. Public defenders in the juvenile division represent juveniles in delinquency matters and ensure their rights are protected.

### Status Offenses

Another key area of juvenile justice reform is status offenses, which are actions that would not be illegal if the minor were an adult, such as skipping school, missing curfew, underage drinking, running away, or "ungovernable" behavior ("acting out"). Status offenses push over 100,000 juveniles per year into the justice system, according to the Casey Foundation.<sup>447</sup> Research shows that formal justice system responses to these situations make outcomes worse and alternative approaches that provide therapy and positive support yield better outcomes.<sup>448</sup> The 2018 amendment to the federal Juvenile Justice Reform Act includes a prohibition on incarcerating youth charged with status offenses in an adult secure facility, with a few limited exceptions.<sup>449</sup> In Michigan, this approach was already the standard, and there is specific guidance on implementing this practice in the state context.<sup>450</sup>

As of January 2021, Washtenaw County is no longer prosecuting status offenses, including “truancy, curfew violations, and running away from home; tobacco or vaping-related offenses; disorderly conduct and crimes related to juvenile use of marijuana or alcohol.”<sup>451</sup> This policy decision by the county prosecutor is in line with research recognizing that status offenses such as truancy are often rooted in family environment risk factors and require a social service response geared toward family healing, not a criminal response geared toward the child.<sup>452</sup> Researchers should do further analysis on the impacts of this directive on juvenile cases in Washtenaw County.

### Juvenile Diversion

Diversion is an approach used most often by prosecutors and the courts to provide an “off-ramp” for a child before their case formally moves forward in the court process. In Michigan’s governing statute, the [Juvenile Diversion Act](#) includes what many call “deflection,” that is referring a minor “to a person or public or private organization or agency that will assist the minor and the minor’s family in resolving the problem that initiated the investigation” *prior to* filing or authorizing a petition.<sup>453</sup> The statute does two things here: it provides for diverting a young person away from further system involvement before a petition gets to a prosecutor and sends the youth and their parents to work with a third party to resolve the issue at hand. Research consistently shows that less system involvement is associated with better outcomes and lowers the risk of future court involvement, and Michigan law supports early interventions that reroute a young person away from the criminal justice system.<sup>454</sup> The law specifies that the decision about diversion must consider factors other than the offense charged.<sup>455</sup>

When there are defined criteria guiding who is eligible for diversion, the rules often limit eligibility to cases involving a first offense or low-level offense. Such is the case in Washtenaw according to the most recently available Washtenaw Trial Court Juvenile Division report (2017–2018).<sup>456</sup> As noted in a 2022 Sentencing Project report, however, racial disparities occur when the opportunity for diversion is only available to those with a first offense because, “even though youth of color and white youth have similar rates of self-reported law-breaking for most categories of crime, youth of color are far more likely to be arrested than their white peers” thus making it more likely that youth of color will have had a prior charge that eliminates them as a candidate for diversion.<sup>457</sup>

Limiting diversion to low-level charges and/or low assessed risk level does not align with research, as there is no evidence to show that diversion is effective only for such youth. On the contrary, a 2013 meta-analysis found that diversion was effective for youth assessed as low risk as well as those deemed a moderate/high risk.<sup>458</sup> Further, a 2014 study examining recidivism rates for thousands of Ohio youth at every risk level found that those who were diverted from court had far lower recidivism rates than those who were formally petitioned.<sup>459</sup>

### Assessment Tools (Risk-Based, Functional-Based)

Some entities, including the state task force, recommend the use of structured assessment tools for making decisions about diversion/deflection and subsequent case junctures. Validated risk, needs, functional, and mental health assessments, when administered properly, can be important tools to understanding the underlying factors that may contribute to a youth’s behavioral challenges and to document their needs and how they engage with programs. There are differences between the functional assessment tools (used to assess

needs, functional abilities, and mental health) and risk assessments (which raise more concern in the juvenile justice field).

There are three notable criticisms of risk assessment tools used in the criminal legal system, which also apply to the use of such tools for juveniles. The first criticism is that these tools often "bake in" racial bias because they consider criminal history and socioeconomic disadvantage as key factors, which are often influenced by policing practices rather than actual illegal behavior. As a result, Black and Latinx people are more likely to be deemed "high risk" based on these factors.<sup>460</sup> The second criticism is that judicial decisions often rely too heavily on risk assessments and scores, disregarding the principle of the presumption of innocence and the potential for rehabilitation/reintegration.<sup>461</sup> The third criticism is that most diversion programs and correctional institutions do not have the resources or capacity to tailor programs to individuals' particular profiles as prescribed by the risk-needs-responsivity model. As a result, the effectiveness of these assessments is reduced.<sup>462</sup>

It is important to distinguish between assessment tools that assign a risk score based on identified risk factors and those that assess a child or adolescent's skills and challenges without attaching a specific risk score. The stage at which a risk assessment is administered and who administers it can also affect the outcome. Functional assessment tools, such as the [Child and Adolescent Functional Assessment Scale](#), can be used to tailor responses to a child's needs without projecting future risks, but it is important to be aware of personal bias that may influence scores.<sup>463</sup> Assessments that are done at an earlier stage, involve input from a wide range of sources, and are conducted by organizations not affiliated with the court system may be less likely to overemphasize projections of recidivism risk.

Given that the task force explicitly recommends the use of a structured, validated assessment tool—as do other best practice documents—it is important to ensure that the specifics of this tool's design and use in practice guard against, as much as possible, the concerns noted above. For more information, see the supplemental report.

## **4.2 Juvenile Diversion/Deflection in Washtenaw County**

As described above, diverting youth away from the legal system before they come into contact with a prosecutor or court is sometimes called deflection, as opposed to diversion, which occurs after a petition is filed. Deflection can be practiced informally and can be as straightforward as a police officer issuing a young person a warning instead of an arrest. It can also be a more formalized approach taken by a police department to connect a young person with a program in lieu of an arrest under the pretense that they do not get arrested again. Both deflection and court-based diversion occur in Washtenaw County.

In Washtenaw County, there are numerous organizations to which the court refers a young person when diverting them to programs. The WEP was not able to access case-level data broken down by demographic details for any of these diversion programs, so the WEP could not determine whether there are any disparities in who gets diverted and/or the effectiveness of each diversion program. It thus relies on descriptions from staff working in or alongside these programs and some comments from qualitative interviews with people who have direct or parental experience of juvenile diversion. Additional details on these organizations are in the supplemental report.

### Court-Based Diversion Programs through the Washtenaw Trial Court

In the Washtenaw Trial Court, youth who have petitions filed (meaning charges authorized) come through the diversion docket only when the court decides diversion is better than a traditional case processing path in the juvenile system.<sup>464</sup> It is unclear how the court decides which youth can be diverted after a petition is filed by the prosecutor. While a youth is in a diversion program, there is still a level of accountability to the court system to ensure the terms for successful completion have been met. Usually, upon completion, the court dismisses the case. In some instances, diversion can happen pre-charge, such as a recent pilot program the trial court has in partnership with the nonprofit organization My Brother's Keeper. With this program, the court connects the young person to My Brother's Keeper before a petition is authorized and does not supervise the diversion. Upon completion of the program, the charges are officially denied.

As part of their diversion efforts, staff at the juvenile division of the trial court refer youth to community-based services and follow a casework support approach. The court also partners with, among others, the University of Michigan, schools, the Minister's Alliance of Ypsilanti, Ann Arbor & Vicinity, and My Brother's Keeper.<sup>465</sup> (See full list in the supplemental report.) While there is an array of resources, it is notable that in interviews and focus groups, very few young adults or parents of justice-involved juveniles were aware of any of these programs or organizations (see section 4.4 below); none mentioned these by name or type of service. The trial court's juvenile diversion division has integrated access to resources into their case management. Families with youth who have an active case can receive support to connect with subsidized housing and other needs. Access challenges remain, such as people lacking eligibility documentation and feeling unfamiliar with potential programs and their parameters.

### **4.3 Washtenaw Residents' Experiences with Juvenile System Involvement**

Young adults living in Washtenaw County described some of their pathways into juvenile justice system involvement through qualitative research interviews and focus groups. Adults who have more recent involvement with the adult system—such as a stay in jail or prison—almost all said that their initial interactions with law enforcement and arrests were as juveniles. Even brief interactions with police that did not lead to detention were jarring; these experiences generated a sense of distrust and fear of police.

Most participants described some kind of diversion program or probation sentence; only a couple reported serving time in juvenile detention. Several said that they did multiple stints, on separate charges, on community service programs/alternatives as juveniles. This suggests that, in contrast to the adult system, prosecutors and judges are willing to give multiple "chances" to juveniles, rather than resorting to detention once a person has multiple arrests. While a few adult participants perceive this approach to be "too lenient" toward youth who are involved in more serious crimes, it does align with research and best practice that underscore that detention should be avoided for juveniles. One participant said that their teenage son spent one night in the Washtenaw County jail and found it traumatizing; he struggled to sleep alone at home for months afterward.

The most common theme from people's recent juvenile justice involvement in Washtenaw County was a sense of confusion and lack of information about options, programs, and

implications of different pathways. Most were unsure about whether certain programs required a guilty plea or if they were programs meant to avoid a conviction. Some said that, looking back, they feel they did not realize at the time that taking a guilty plea—and thus having a criminal record—would have longer-term implications for their options. One significant implication is that a guilty plea can lead to mandatory restitution fees, which can be quite major (thousands of dollars) and, unlike program fees, are not eligible for waivers or vouchers for people with low income. For juveniles owing restitution money, it is the parents who take on this financial burden. Additionally, some were unsure about whether their juvenile records were sealed, expunged, or potentially accessible to background checks or police checks once they are adults.

One parent described frustration with a lack of information, from the defense attorney and from the judge, when their teenager was facing charges and some “alternative” options.

*“And I didn’t know that until the judge was accepting the plea on the bench, and she actually called it a plea as opposed to a diversion sentence. So, it was at that moment [I realized] ...”*

*Interviewer: “... [you] had to plead guilty to access the program.”*

*Participant: “Yep. ... So, and that’s what we did. We didn’t take it to trial, which I wish we would have.”*

Another central theme from people with recent juvenile experience was that the content of the “alternative” program they did was “community service”—and this entailed mostly menial tasks. Participants described cleaning county buildings and doing gardening work. One participant who spent time in juvenile detention also said that the youth did similar tasks for several hours a day during their detention stay.

The youth and parents who described some kind of therapy program as part of the alternative had generally positive comments about this. They said the space to talk and reflect with other youth, as well as deeper therapy one-on-one, was beneficial. One parent appreciated that their child was treated (by therapists) as someone needing support, rather than a guilty person needing punishment.

#### **Recommendation 44: Work with law enforcement and juvenile justice actors to eliminate formal charges for all status offenses.**

Aligning with research that indicates the harm that status offense charges can have on a young person, county actors should track such charges and ensure that law enforcement and other actors divert juvenile cases out of the criminal legal system, rather than charging them.<sup>466</sup>

Implementation Steps:

- Key actions: County actors need to track charges for status offenses, in particular possession of marijuana by minors, and actively divert minors from the system to community-based programming. Advocates need to emphasize the impact of status offenses and drug-related charges on youth and their family. Advocates need to emphasize impetus and duty in terms of racial justice and health equity.

- Key actors: Municipal legislature; law enforcement; the prosecutor’s office; the public defender’s office; and providers and organizations that offer substance use treatment services.
- Funding: Funding is not required for the elimination or diversion of formal charges; funding would be required if paired with drug treatment or other community-based services.
- Potential obstacles: “Tough on crime” rhetoric.

**Recommendation 45: Leverage statewide momentum on juvenile justice reforms that can be implemented on the county level.**

The Michigan Task Force on Juvenile Justice Reform has developed a plan to transform juvenile justice statewide.<sup>467</sup> This momentum on transforming the juvenile justice system gives ample opportunity to leverage these efforts and transform the county system. A local committee could be formed to follow statewide reform efforts and work to implement them at a local level in Washtenaw County. Certain recommendations are especially salient for county action, including expanding community-based programs, quality assurance for local probation, data collection, and youth advisory input, and diversion and court process. There is also an opportunity to address Recommendation 15 in the task force’s plan, which would eliminate most non-restitution fees associated with juvenile justice system involvement.<sup>468</sup>

Implementation Steps:

- Key actions: Identify an organizing body to work with the state and align the county efforts with task force recommendations.
- Key actors: County commissioners; court; public defender; prosecutor’s office; advocates; researchers, including the Child and Adolescent Data Lab at the University of Michigan and the Michigan Youth Violence Prevention Center
- Funding: Not needed.
- Potential obstacles: There may be some misalignment between WEP and task force recommendations in the approach to certain reforms—specifically around the use of risk assessments. Belief that Washtenaw is seen as an outsider and a very different county compared to the rest of the state.
- Note: The Millage Fund is supporting a Youth Assessment Center, according to its 2021 report.

**4.4 Trends from the Michigan Committee on Juvenile Justice Data**

The Michigan Committee on Juvenile Justice (MCJJ) published youth justice system numbers—statewide and county-level statistics on juvenile arrests, delinquency proceedings, and case dispositions—from 2017 to 2020 on a public dashboard.<sup>469</sup>

In Washtenaw County, these numbers show that there are clear racial disproportionalities at every stage of youth contact with the justice system. As shown in Table 14 below, Black youth make up 17 percent of the county population of 10-16-year-olds but make up the majority of incidents of arrests, referrals to juvenile court, detention, and other types of juvenile justice involvement. The MCJJ dashboard data shows that in Washtenaw County, during this period, the disparities are stark.

Compared to neighboring counties that reported similar data in 2020 (Wayne and Jackson did not submit comparable data), Washtenaw has greater racial disproportionalities in the juvenile justice system.

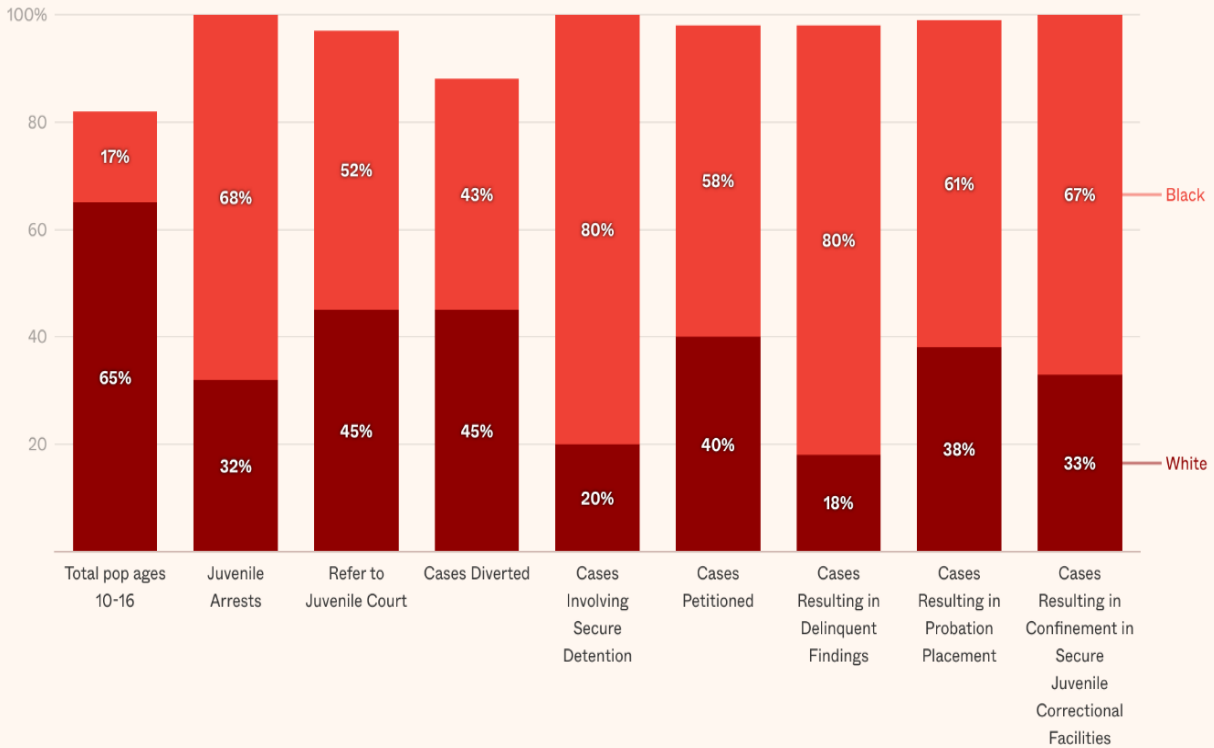
- Livingston County is 93 percent white (ages 10-16), and youth involved in the justice system were 100 percent white.<sup>470</sup>
- Lenawee County is 81 percent white, 14 percent Latinx, and 4 percent Black (ages 10-16). Thirteen percent of youth arrests were of Black youth, but the rest of the system data points were only white youth.<sup>471</sup>
- Monroe County is 88 percent white, 6 percent Latinx, and 4 percent Black (ages 10-16). Eighteen percent of youth arrests were of Black youth, 10 percent of diverted cases involved Black youth, and 26 percent of the cases filed were on Black youth.<sup>472</sup>

As Table 14 below shows, the disproportionalities in Washtenaw County between Black and white adolescents are starkest for the more advanced stages of the system: delinquent findings and secure detention decisions.

**Table 14. Washtenaw County juvenile justice system point breakdowns by race**

Despite comprising only 17 percent of the 10-16-year-old population, Black youth in Washtenaw are vastly overrepresented at every stage of the juvenile justice system.

**Juvenile Outcomes in Washtenaw County for White & Black Youth**



Categories not totaling 100% exclude youth identifying as a race/ethnicity other than White or Black.  
 Source: <https://data.michigancommitteeonjuvenilejustice.com>

**Table 15. Washtenaw County juvenile justice system points by year and raw numbers of youth**

While disparities exist at each level of the juvenile justice system, the points with the greatest difference between Black and white youth are cases involving secure detention and cases resulting in delinquent findings. The disparities in cases resulting in confinement in secure juvenile correctional facilities is a product of the 2017 data, and numbers for all youth have plummeted.

**Washtenaw Black Youth System Outcomes, 2017-2020**

Black Youth	2017	2018	2019	2020	Total
Juvenile Arrests	137	131	101	88	457
Refer to Juvenile Court	205	329	201	213	948
Cases Diverted	32	114	23	74	243
Cases Involving Secure Detention	76	82	53	39	250
Cases Petitioned (Charges Filed)	210	212	173	149	744
Cases Resulting in Delinquent Findings	119	128	105	196	548
Cases Resulting in Probation Placement	122	188	82	63	455
Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	84	4	1	4	93

Source: <https://data.michigancommitteeonjuvenilejustice.com>

**Washtenaw White Youth System Outcomes, 2017-2020**

White Youth	2017	2018	2019	2020	Total
Juvenile Arrests	69	82	48	41	240
Refer to Juvenile Court	114	223	156	184	677
Cases Diverted	27	79	49	79	234
Cases Involving Secure Detention	21	20	18	10	69
Cases Petitioned (Charges Filed)	117	126	103	102	448
Cases Resulting in Delinquent Findings	42	41	57	43	183
Cases Resulting in Probation Placement	43	105	45	39	232
Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	31	1	0	2	34

Source: <https://data.michigancommitteeonjuvenilejustice.com>



#### 4.5 Trends from Washtenaw County Juvenile Justice Data

The University of Michigan Child and Adolescent Data Lab has access to data from the Washtenaw County Prosecutor's Office (on juvenile cases) and the Michigan Department of Health and Human Services (on child welfare interactions), which allows its team to identify patterns and potential sources of disparities in the juvenile justice system. The Data Lab is sharing its ongoing analysis with the WEP; the full analysis will be completed in a separate report that will be released by the Data Lab. The research includes analyzing the demographics and trajectories of cases referred to the juvenile justice system at several junctures—initial referral, decision to authorize the petition (proceed with charges) or not, and eventual case disposition—and to consider other potentially relevant factors, like charge and past contact with justice or child welfare authorities. This information can be used to focus actions on the junctures at which disparities are starkest.

The Data Lab uses juvenile case-level data from the Washtenaw County Prosecutor's Office, limiting the analysis to cases that were referred from 2018 to 2021 (the years with complete information). The sample includes 1,285 cases, including 806 in which the young person is Black (62.7 percent) and 479 in which the young person is white (37.3 percent). As with other data in this report, the number of cases that listed race/ethnicity as Latinx or Hispanic (22) or another racial group (16) was too small for meaningful analysis, and another 70 cases were missing race information; these 108 cases (8 percent of the total) are not included in the quantitative analysis. The data does not include non-binary gender information, as cases are categorized as male or female (referred to in this report as boys and girls); these categories reflect how the system labeled each young person and do not necessarily represent the young person's gender identity. Of the 1,285 referral cases analyzed, 50.5 percent were referrals for felony charges and 49.5 percent were referrals for misdemeanor charges.

Initial findings from the Data Lab analysis show statistically significant racial disproportionalities in both referrals to the juvenile justice system and in decisions to proceed with or dismiss charges for juveniles in Washtenaw County.<sup>473</sup> This analysis does not include information on diversion or final case disposition. For more detail, see the forthcoming Data Lab report.

- The starkest disproportionality occurs at the referral stage: Black youth make up 62.7 percent of cases referred to the juvenile justice system, but Black youth (10-17 years old) make up only 13.6 percent of the county population of the same age range.<sup>474</sup>
- As shown in Table 16, Black youth are more likely to face more serious charges (called "referrals" in the juvenile justice system) than white youth. Black youth were more likely to be referred with felony class charges (58.4 percent of all referrals for Black youth) compared to white youth (36 percent of all referrals for white youth). The difference is consistent for both girls and boys: of referrals for Black girls, 40.1 percent are for felony charges, compared to 29.6 percent of referrals for white girls. For boys, 62 percent of referrals for Black boys are for felony charges, compared to 52 percent of referrals for white boys. These differences are all statistically significant.
- Overall, Black youth are significantly more likely to have their cases proceed to charging than white youth. As shown in Table 17, 66.3 percent of referrals for Black youth proceeded to authorization, compared to 60.5 percent for white youth. The magnitude of the racial disparity is larger and statistically significant for girls, but not

for boys: 63.5 percent of all referrals for Black girls were authorized, compared to 55.9 percent of all referrals for white girls; 67.7 percent of all referrals for Black boys were authorized, compared to 63.3 percent of all referrals for white boys. Even when controlling for past contact with the juvenile justice system and the child welfare system, Black girls are 55 percent more likely than white girls to have their cases authorized.

- There are other patterns when it comes to the authorization of felony referrals. First, over two-thirds of all felony referrals (68.4 percent) are authorized overall. For all young people, felony referrals are more likely to proceed to authorization than misdemeanor referrals: Boys referred for felonies are significantly more likely to have their cases authorized (70 percent) as compared to boys referred for misdemeanors (60.7 percent). Girls follow a similar pattern (63.8 percent vs. 58.6 percent), but this difference is not statistically significant. The trends suggest that Black youth are more likely than white youth to have felony cases authorized, but these differences did not reach statistical significance (65.5 percent compared to 60.4 percent for girls, and 72.1 percent compared to 65.4 percent for boys).
- Differences by race and gender in authorizations of the 636 misdemeanor referrals did not reach statistical significance.

**Table 16. Proportion of young people’s case referrals for felonies, by race and gender**

**Juvenile case referrals (felony class), Washtenaw County (2018-2021)**

Black youth are more likely to face felony class referrals than white youth. These differences are statistically significant overall, as well as when looking at just girls and just boys.



Based on 1285 referral cases (2018-2021). \* indicates statistical significance at p<0.05.

Chart: Analysis by the University of Michigan Child and Adolescent Data Lab. • Source: Washtenaw County Prosecutor’s Office.

**Table 17. Proportion of young people’s case petitions authorized, by race and gender**

### Juvenile petitions authorized, Washtenaw County (2018-2021)

Petitions authorized means that charges were formally filed. Black youth were more likely than white youth to have petitions authorized. The differences are statistically significant overall and when looking at just girls, but not when looking at just boys.



Based on 1285 referral cases, of which 824 (64.1%) were authorized. Data did not include non-binary gender categories. \* indicates statistical significance at  $p < 0.05$ .

Chart: Analysis by the University of Michigan Child and Adolescent Data Lab • Source: Washtenaw County Prosecutor's Office

It is notable that the disparity by race at this decision juncture—the decision to proceed with charges—is statistically significant for cases involving girls, but not cases involving boys. This effect persists even in a multivariate regression model, which controls for other relevant factors—age at charge, charge class, prior juvenile justice charges/history, and prior history of child welfare system contact. In this analysis, Black girls are 55 percent more likely to have their cases authorized than white girls.<sup>475</sup> This suggests that reforms should give particular attention to authorization decisions affecting Black girls.

There is also reason to focus attention on Black boys, who make up the largest proportion of referrals to the juvenile justice system: 41.4 percent of case referrals, even though they are only about 13.8 percent of the county population.<sup>476</sup> A higher proportion of felony referrals proceed to authorization for Black boys than white boys, and even though this difference is not statistically significant in this sample, it may be in a larger sample.

Finally, the Data Lab analysis shows the prominence of contact with the child welfare system among youth who have juvenile justice cases. As shown in Table 18, among the 1,285 cases referred from 2018 to 2021, 69 percent of youth had at least one formal allegation and one Children’s Protective Services investigation for suspected maltreatment. This proportion was significantly higher for Black youth (72.2 percent) than for white youth (63.7 percent) and for boys (72.7 percent of Black boys compared to 61 percent of white boys) but not for girls (71.2 percent of Black girls compared to 68.2 percent of white girls). Generally, young people who

have interactions with the child welfare system are more likely to experience worse outcomes in the juvenile justice system.

**Table 18. Proportion of young people with justice referrals and prior child welfare contact, by race and gender**

### Juveniles with child welfare history and justice system referrals, Washtenaw County (2018-2021)

Black youth with cases in the juvenile justice system were more likely to have prior contact with Child Protective Services (defined as at least one allegation of maltreatment) than white youth. These differences are statistically significant overall and when looking at boys, but not girls.



Based on 1285 juvenile justice system referral cases (2018-2021). \* indicates statistical significance at  $p < 0.05$ .

Chart: Analysis by the University of Michigan Child and Adolescent Data Lab • Source: Michigan Dept of Health and Human Services; Washtenaw County Prosecutor's Office

Further details on this analysis will be published in 2023 in a report by the Data Lab.

### **Recommendation 46: Use "diversion," not a formal charge, in as many cases as possible (including youth who are already under supervision).**

Diversion is an approach to dealing with a youth's alleged misconduct without formally pulling that youth into juvenile court. Juvenile courts have historically managed decisions about and supervision of youth diversion programs. In recent decades, the trend has been to divert youth earlier, before formal court involvement, because research has shown that, compared to formal juvenile court involvement, pre-arrest and pre-court diversion programs lead to better outcomes, including lower likelihood of subsequent arrests and violence, higher rates of school completion, and higher adult income levels.<sup>477</sup>

As outlined above, racial disparities occur at the decision point at which a young person's case is diverted or proceeds as a delinquency case. Disparities occur for several reasons. For example, where there is a lack of objective criteria to guide courts in deciding which youth to divert, it leaves open the possibility that court intake staff may rely on "shorthand cues based on race and class stereotypes" when deciding who to divert.<sup>478</sup> Formal criteria

can also be limiting if they constrain access to people on a first charge, a minor charge, or with lower risk scores.

National and local research suggests that, to reduce racial disparities and improve youth outcomes, Washtenaw County should restructure its process for youth diversion so that it occurs at the pre-arrest or pre-petition (charge) phases; expand who is eligible for diversion using evidence-based criteria; and provide community-based, not court-linked, responses to the needs of youth. As described in a review of best practices in youth diversion, these programs can include caution and warning programs that deflect a young person without arrest, family-based counseling, and skill-building programs.

Any initiative to improve diversion could benefit from the expertise of the University of Michigan Child and Adolescent Data Lab, which has case-level data on Washtenaw's youth involved in the child welfare and juvenile justice systems, as well as school-related data. The Child and Adolescent Data Lab could track how diversion is used in Washtenaw County and where disproportionalities appear, and it could evaluate the effectiveness of the current diversion processes and programs and of eventual restructuring of the diversion approach.

**46a. Volunteer to be a pilot site to implement an expansion to the Diversion Act, in alignment with the Michigan Task Force on Juvenile Justice Reform's Recommendation 7.**

As recommended by the Michigan Task Force on Juvenile Justice Reform, all charges, except for the most serious ones, should be eligible for pre-court diversion based on established local criteria.<sup>479</sup> There is an opportunity for Washtenaw to take the lead in implementing the approach recommended by the task force. The WEP recommends one caveat: while the task force recommendation encourages the use of a validated risk screening tool, the use of such a tool should only be used if:

- It is used in parallel with a functional assessment.
- The risk screening tool has been designed to account for and mitigate racial bias.
- It is used only by trained staff with a background in youth services and training in trauma-informed care and in administering and interpreting assessments through an equity lens.

If the court does decide to incorporate a risk and functional assessment tool, it must be made available to all youth no later than when a petition is filed (in other words, before it is authorized) with the Washtenaw County Prosecutor's Office. The process by which a risk and functional assessment tool is selected must be transparent and accompanied by clear instruction on how the assessment guides decision-making and regular evaluation of its effectiveness.

Key stakeholders should also consider establishing or adjusting the criteria by which cases proceed (petitions are authorized), with the goal of maximizing the cases that are routed for diversion. The criteria should be explicit and transparent, with the opportunity for input from the most-impacted communities. All misdemeanors and nonviolent felonies should fall under a presumption of pretrial release.

#### **46b. Continue to expand current options and partnerships for diversion.**

Relevant stakeholders should collaborate to expand diversion and deflection efforts across the multiple entities in place (schools, organizations, the court) to increase access to programs that are tailored for different target groups, including Black youth. There are currently various diversion opportunities offered for youth in Washtenaw County, both through the trial court and outside independent organizations. A community-based organization that is not directly affiliated with law enforcement should function as a coordinating body and work with the court to connect youth to both voluntary services and diversion programs as part of deflection efforts.

The county should convene schools, law enforcement, the prosecutor's office, public defenders, the trial court (probation), community-based agencies, and advocates to map out all diversion options (as well as eligibility criteria and access channels), share best practices, and identify opportunities for expansion. Partnerships with the Washtenaw Justice Project and other relevant organizations should build a vetting process for diversion/deflection, identify what supports are needed, and distribute these through the Washtenaw Alliance for Children and Youth and other organizations. This process should allow community-based organizations to work with diverted or deflected youth independently, without involving law enforcement.

Youth, their families/guardians, and their lawyers should also receive clear and consistent written information on what their case options are, including possible ramifications for all available paths to ensure decisions are informed by all relevant considerations.

#### **46c. Create an ongoing oversight board to review youth involvement with diversion.**

Clear criteria for diversion are not always written out in laws or procedures, as they are sometimes at the discretion of court actors. Some discretion can be valuable, but it is important to reduce the potential for implicit bias and other subjective factors—even the perception of bias can influence decisions regarding who gets diversion. To mitigate subjective influences in diversion selection, an oversight board should be composed of multiple stakeholders, especially people who work with youth and/or are connected to the most-impacted communities and/or are trained in trauma-informed and developmentally appropriate practices.<sup>480</sup> Examples of tasks for the oversight board include:

- Reviewing cases prior to a formal petition, including tracking patterns, rates, numbers, and disparities. This approach could emulate the Collaborative Review Team model in Ramsey County, Minnesota.<sup>481</sup> (Such a team within the oversight board should involve, at minimum, the prosecutor's office, a public defender, and a member of the community, among others.)
- Examining and providing input on the criteria by which people are referred to and/or approved for diversion, who makes this decision, and how that diversion program is evaluated.
- Collecting and studying data on the two diversion approaches ("complete" and regular) to understand whether there are any disparities in who receives diversion (by age, race, gender, and charge type, among other factors) and to measure outcomes of both approaches.

- Working with relevant stakeholders to eliminate fines and fees related to diversion/deflection and youth court processes. Recent research has shown that youth assigned fees were more likely to become re-involved in the justice system—and that this effect was strongest for Black youth.<sup>482</sup> (Washtenaw County is participating in the [Cities and Counties for Fines and Fees Justice initiative](#), which aims to eliminate non-statutory fines and fees related to local justice involvement.<sup>483</sup>)

#### Implementation Steps:

- Key actions: Develop a timeline. Recruit members for the oversight board; members could potentially be partners from the WEP youth justice subcommittee, among others. Partner with schools, organizations, and courts to review processes and expand options for diverting as many youth as possible, as early as possible. Apply for funds to contract more CBOs to offer diversion programming; CBOs should also receive grants and funding to offer services. Recruit partners; draft memoranda of understanding (MOUs) and get MOUs signed; share with all partners seeking to deflect/divert (schools, law enforcement, and courts); and revisit annually.
- Key actors: Existing diversion/youth justice organizations in place in Washtenaw; experts in trauma-informed care, developmentally appropriate responses for youth, adverse childhood experiences, etc.; the sheriff's office; police departments; the trial court; the prosecutor's office; county commissioners; the United Way; school districts; CMH; and after-school and summer programs that partner with diversion programs.
- Funding: Funding will be required to expand diversion options, as needed, and potentially for additional staff/existing teams to provide care for more youth. Funding is also needed for the oversight board to have resources to conduct analysis on the effectiveness and progress of diversion efforts. Start-up funding to shift diversion efforts to early intervention points of contact may be needed until justice reinvestment savings are realized.
- Potential obstacles: Time to educate relevant stakeholders on early diversion and build political will to support this implementation; adding more work and youth cases to already overworked caseworkers and staff at youth diversion organizations.

**Recommendation 47: For cases in which formal probation applies, reduce caseloads and shift toward practices that support sustained behavior change and positive relationships, rather than compliance metrics.**

Research shows that formal probation should be a last resort, as outcomes for youth are better when diversion occurs before formal court contact.<sup>484</sup> Therefore, the county should reduce the number of young people on probation overall. For the cases in which probation is deemed necessary, programs/practices should allow for individualized support and a care-first model for the youth. Programs should enable long-term investment in youth well-being and provide a support system, as this provides better outcomes than the more punitive approach of traditional probation.

The courts, prosecutor's office, and public defenders should conduct a review of current probation cases and consider shifting less serious ones to diversion channels. For those remaining, conduct a review of caseloads, case details, and conditions of supervision and consider how community programming could support those youth. They could also limit the term length and number of conditions for probation, as well

as eliminate remand for technical violations.<sup>485</sup> The Annie E. Casey Foundation has a guide for family-engaged case planning for youth on probation, as well as principles and implementation guidelines for juvenile probation, for the narrow subset of more serious cases where diversion is not recommended.<sup>486</sup> Washtenaw County should conduct a review of current probation practices to shift toward these principles.

#### Implementation Steps:

- Key actions: Undertake a review of current probation cases using current research to determine which cases can be shifted to diversion with the goal of shifting as many as possible. Create specific and individualized compliance metrics and plans for all youth on probation to support their needs. Increase and strengthen data collection on referrals, case decisions, and outcomes in order to determine if more youth are actually shifting to early diversion (without net-widening). Identify and advise system actors on best practices to support justice-impacted youth through longer-term behavior change and positive relationships (mentorship, jobs/career development, free meals, therapy, support groups). Staff working with youth will need training in restorative justice, implicit bias, trauma-informed care, and on the juvenile system. Reallocate cost savings resulting from reduced use of probation toward community-based diversion programs.
- Key actors: The prosecutor's office; defense attorneys; public defenders; probation; courts; schools and school districts; and community-based organizations that work with system-impacted youth and/or that have worked with youth generally (for instance, organizations that offer programs in tutoring, literacy, etc.).
- Funding: Funding may be required to hire additional staff and lessen caseloads for probation officers (depending on cost savings from reduced use of probation and detention). Funding is needed to contract with organizations and provide additional capacity at the organization level. Funding is also required for additional support both with organization and with the court (to provide food, transit, etc.).
- Potential obstacles: Time to educate relevant stakeholders on the new approach to build the political will for implementation; seeking funding and identifying community-based organizations that exist or need to be created; and developing further capacity for effective diversion programming. There may be unintentional net-widening consequences if lower caseloads result in excessive supervision restrictions or enforcement on juveniles on probation.

#### **Recommendation 48: Expand substantive, evidence-informed programming for system-involved youth in lieu of "community service models."**

Washtenaw residents with direct experience of the juvenile justice system who participated in qualitative interviews spoke about generic, disengaging work as part of their probation-mandated community service work. Youth with prior juvenile justice system involvement and parents of system-involved youth underscored that diversion, probation, and detention programs typically involved menial community service work. They suggested that this work did not provide any meaningful new skills or experiences; thus, this was a missed opportunity. The pretrial diversion and probation stages are key intervention points to connect youth with meaningful services and supports that can address some of the challenges youth face, including systemic



issues driving youth into the system. Some diversion programming exists in Washtenaw, but processes to connect youth to more meaningful or effective programming could be strengthened. The specific model(s) for meaningful programs should be tailored to the needs of Washtenaw County youth, and should follow these guiding principles:

- Center racial/ethnic and gender equity in design and program model.
- Be designed and staffed by people with lived experience, and/or that come from the communities of people they will serve.
- Incorporate restorative and transformative justice.
- Be evidence-informed.
- Approach the needs of youth holistically, offering cross-system support and wraparound services.
- Offer support and programming that are not tied to conditions or require program completion.

The county should collaborate with local organizations to work with the community and system-involved youth to design and tailor programming and pull resources to fund expanded programming.

Implementation Steps:

- Key actions: Conduct a comprehensive needs assessment of Washtenaw County's system-involved youth to develop the programming. Partner with existing successful evidence-based programs to learn more about their models. Issue an RFP to contract with a local community-based organization that can follow the model as designed by the county.
- Key actors: Prosecutor's office; courts; probation; public defender's office; law enforcement; experts in adolescent development, ACES, etc.; and community-based organizations serving youth.
- Funding: Funding is required for organizations that will offer programming. Funding is potentially required if a vendor/consultant is used to conduct the needs assessment and program design.
- Potential obstacles: These types of programs take time to build, so stakeholders will need to consider what happens to youth in the meantime. Need to consider how to include evidence-informed practices.

#### **4.6 Reducing the Use of Residential Placement**

As noted above, the further a young person gets entrenched in the criminal legal system, the more detrimental the impact is to their future. Overwhelmingly, research shows that incarcerating a young person, both pre-trial and post-adjudication, does not improve public safety, does not address or course-correct behavior, and has harmful consequences for the incarcerated youth.<sup>487</sup> Facilities that incarcerate or detain juveniles (holding them in locked, secure facilities) are often described as "residential placement" or "residential settings."<sup>488</sup> Michigan is among the eight states that account for over 50 percent of all girls in residential placement nationwide, so a focus on gender equity is also important.<sup>489</sup>

The goal is to prevent as many young people as possible from encountering the legal system and being detained. However, for those situations where detention in a residential facility

would normally be the result, research shows that community-based alternatives are more effective than placing a young person in a carceral setting.<sup>490</sup> In other words, detention is not helpful. Interventions that focus on behavior, skills, and attitudes—such as credible messengers (people who can connect with youth to transform attitudes and interrupt cycles of violence), wraparound services, and skill-building programs, which are just a few examples of a robust list of alternatives to detention—show better outcomes for youth and cost less money to implement than using detention.<sup>491</sup>

**Recommendation 49: For cases in which residential placement applies, seek options to shift youth to community-based organizations that are treatment-focused.**

Shifting to community-based organizations and treatment-centered care for youth, both during and after the pre-trial/trial period, allows for a more rehabilitative experience during residential placement. This option mitigates the harsh penal setting and allows for more direct care that centers the youth's needs.

System stakeholders should:

- conduct more frequent (30–90 days) reviews of cases of youth currently in detention and identify which ones could be shifted to formal probation or release;
- ensure that programs in detention support positive relationships and behavior change, in line with principles cited above;
- ensure that programming in a residential setting does not keep a young person in placement, especially when there are comparable services in the community;
- ensure that youth in detention have access to family, education, health, and social programs provided by government and community agencies, to maximize connections with the community; and
- regularly evaluate outcomes of youth in detention to determine effectiveness of detention center's policies and programs.

**49a. When residential placement is required, expand options for less harsh settings (more “home-like”)—without widening the net of who is in detention.**

Given the negative mental, emotional, and physical impacts of juvenile justice system involvement—especially detention—when residential placement is required, decision-makers should allow more home-like options. “Home-like” environments in the community are more rehabilitative—although still not really “home-like” as they are confinement—because they allow the youth to be close to the area they know and are not as harsh as detention settings. Instead of facilities that look more like a traditional detention setting, the county should create more supportive environments that are based in the community. Alternatives such as specialized foster parent placement and specialized, supervised independent living homes should also be considered.

**49b. Create an option for youth who are not eligible for a residential placement under current criteria, but do not have an appropriate place to live in the community.**

Stakeholders noted youth who do not qualify to be in a residential placement may stay in detention simply because they do not have a place in the community to return to. This can be due to their guardians or relatives refusing their return, or due to

concerns for the young person's safety.<sup>492</sup> A residential, transitional option should exist for young people that are not able to return home but should not be in detention.

#### Implementation Steps:

- Key actions: Conduct a more detailed analysis of residential placement patterns and decision points to identify gaps and needs, as well as opportunities to reallocate resources. Partner and contract with organizations that work with youth experiencing homelessness (such as Our House and Ozone House) to expand their services to include a placement option (transitional or respite shelter). To add foster placements as placement options, additional foster parent training needs to be considered and implemented. The court could also seek a license to be a child placement agency to aid in connecting a young person to a foster family if they do not have a safe residence to which they can return.
- Key actors: CPS and child welfare workers; courts and judges; the prosecutor's office; and community-based organizations that specifically work with foster and system-involved youth.
- Funding: Funding is needed (new or reallocated) to analyze current needs and potentially to expand treatment options in community-based organizations and more homelike options, as well as staff for these programs.
- Potential obstacles: Focusing on gaps in residential placements could unintentionally expand spaces for youth who should not be in such secure placements (net-widening). Organizations that would be appropriate to serve more youth have limited resources.

### **4.7 Dual Ward Youth**

The term "dual ward youth" refers to juveniles who are involved in both the juvenile justice system and the child welfare system at some point. Some organizations use the term "crossover" youth, as well as "dually involved," "dually adjudicated," "dual-system," or "multi-system" youth.<sup>493</sup> There are nuances in the specifics for each of these terms, including in Michigan.<sup>494</sup> This report does not go into detail on this debate, but it is important to note that policy work in this sector should clearly define its terms.

Youth who have experienced mistreatment or abuse, who are female, and who are Black are at greater risk for dual involvement than their peers without these experiences and marginalized identities. Nationally, more than half of dual ward youth are Black, and when compared to the general juvenile justice population, girls are also overrepresented.<sup>495</sup> Dual ward youth are also significantly (83 percent) more likely to experience challenges with mental health or substance use.<sup>496</sup> They are also more likely to experience other challenges, including physical health, barriers to accessing education, recidivism, longer stays in detention, lower stability in placements, and higher use of public support systems (such as cash aid, nutrition assistance, etc.).<sup>497</sup> Research suggests that child welfare system contact functions as a pipeline for overrepresentation of Black youth in the juvenile justice system.<sup>498</sup> Key research findings and best practices for this group of youth are included in the supplemental report.

### Washtenaw Practices for Dual Ward Youth

There is limited open-source information on dual ward youth specifically in Washtenaw County. The forthcoming report by the University of Michigan Child and Adolescent Data Lab, described in section 4.5, will provide some description of the numbers and traits of dually involved youth in Washtenaw County (including youth who have non-concurrent and concurrent involvement with the two systems). The objective of these analyses is to describe and explain patterns (notably, the overrepresentation of Black youth in both systems) and potential contributing factors.

#### **4.8 School Approaches to Disciplinary Issues**

A critical early intervention point begins within the school system—studies show positive interventions within schools have been shown to reduce later system involvement. Disciplinary responses are a crucial juncture: suspension and/or expulsion from school fuel further and ongoing involvement with the criminal legal system. National research shows that racial disparities in the use of school suspensions and expulsions are severe and persistent, and they are attributable to differential treatment of children by teachers and school officials.<sup>499</sup> The disproportionate amounts to which Black and Latinx youth are disciplined also functions as a major contributor to the achievement gap among youth of color.<sup>500</sup> Additional information on the evolution of discipline in schools is in the supplemental report.

School resource officers (SROs), meant to provide a police liaison and visible security presence in schools, can increase the likelihood of youth coming into formal contact with the justice system.<sup>501</sup>

Public information about the presence of SROs in schools in Washtenaw County is limited, but some school boards, such as Ypsilanti Community Schools, cancelled SRO contracts in mid-2020.<sup>502</sup> The Washtenaw Intermediate School District (WISD) and county sheriff's office have implemented a "handle with care" initiative, under which police can notify schools when students have been exposed to traumatic events, with the goal of helping the schools respond holistically rather than punitively to related behavioral concerns.<sup>503</sup>

SRO numbers have been dropping in the county, and many youth organizations do not agree with the presence of SROs in schools, given their harmful effects on increasing system contact.<sup>504</sup> The executive director of community and school partnerships of the WISD notes there are currently few school resource officers in place, estimating two officers in two districts; she also notes that additional funding is available through school grants.<sup>505</sup> For more information on the WISD's work toward alternative approaches, see the supplemental report.

Each district and school network in the county has its own routines for referrals and school discipline. Washtenaw ISD has worked with a WEP member and the executive director of the Student Advocacy Center to implement restorative practices to address disciplinary situations in schools, instead of using formal disciplinary actions that may lead to law enforcement contact. The director also noted that some people see substance use among students as a factor that negatively affects student attendance and behavior.

In qualitative interviews, young adults and parents of justice-involved youth mentioned various incidents that took place in schools that led to police involvement. None said that any

SRO was involved; all said that school staff or other students called local city police. Several participants praised school leaders (such as principals and guidance counselors) for trying to help the young people avoid charges and to limit the involvement of police. One parent commented that when an incident gets attention on social media, school officials can face public pressure to involve the police, even if this is not the most helpful response.

**Recommendation 50: Create substance use and harm reduction treatment programming in the community, specifically for minors.**

**50a. Leverage state mental health dollars in schools to contract with providers to offer in-school treatment and services.**

Youth who have mental health and/or substance use treatment challenges need programs tailored for their developmental needs and stage of life. Community-based programs should partner with schools to create a stronger network of care for youth—but programs should not increase exposure to the formal juvenile justice system. Services and interventions to treat youth substance use should primarily seek to reach youth outside of/before a court setting, but organizations should also partner with courts as needed.

Implementation Steps:

- Key actions: Partner with schools, youth organizations, and behavioral health entities who treat substance use disorder to create youth-specific services and a pipeline of care. Train school social workers on identifying and working with youth struggling with substance use.
- Key actors: CMH; WISD; organizations focused on substance use, such as Packard Health, Harm Reduction Michigan, Unified HIV Health and Beyond, Corner Health, etc.; and organizations that specialize in children and youth (see supplemental report).
- Funding: Funding is needed for treatment (MAT, counseling services, rehab, youth-specific programs, etc.). Funding for schools to contract with programs to service these students is also needed.
- Potential obstacles: Substance use and mental health treatment options can take kids away from schools, and effective programming may not always contain curriculum to supplement what they miss in school. Some youth must work outside of school hours and may have less time available to participate in programming/treatment. There are privacy and HIPAA regulations that need to be taken into consideration as well, such as between school administrators and the medical professionals treating a young person. There could be a lack of acceptance around providing substance use treatment in school settings.

**Recommendation 51: Eliminate the use of suspension as widely as possible.**

**51a. End the use of expulsions as well as cumulative suspensions or removals exceeding 10 days in elementary school, except in extreme cases.**

Research on child development and trauma suggests that, in most cases, harsh disciplinary practices for young children lead to more harm, often perpetuating negative behavior and setting the stage for future disciplinary issues. Ending the use

of suspensions and expulsions for young children would encourage schools to identify developmentally appropriate alternatives that help students to process and manage strong emotions. Eliminating long-term suspension and expulsion as a disciplinary tactic also needs to come along with supports and training for school staff on the appropriate and safe alternatives that should be used in lieu of school removal.

**51b. Fully eliminate all suspensions for K-5<sup>th</sup> grade and mostly eliminate suspensions for 6<sup>th</sup>-12<sup>th</sup> grade.**

Behavioral concerns during early childhood should be viewed as an opportunity to address a need rather than punish a behavior. Suspension or expulsion is not an effective way to change behavior.<sup>506</sup> Removal from school can lead to lifelong negative outcomes that predominantly impact youth of color, especially Black boys. As research shows, instead of relying on suspension or expulsion as the means to address an issue with a child, it is in the best interest of Washtenaw's youth for all schools to move toward evidence-based approaches including social-emotional learning, restorative justice models, and even family counseling (when possible).<sup>507</sup>

**51c. Offer clear guidance and accountability on how to implement Michigan law on alternative considerations to suspension or expulsion.**

Under Michigan state law MCL 380.1310c, schools are required to consider using restorative practices as an alternative to suspension or expulsion. While tools exist to offer guidance on how to determine when a suspension or expulsion is necessary, schools may not be fully aware of how to follow the law, and there may be insufficient tools to respond when a school does not follow it.

**51d. Update the applicable codes of conduct for schools so that they include due process protections for removals over 10 days.**

The new content should include, but not be limited to:

- Adding an eighth factor requiring consideration of whether the student is currently or has formerly been a homeless child or youth ([see federal guidelines](#)) and developing processes that involve homeless liaisons and building allies in discipline matters.
- Adding a ninth factor requiring consideration of any other relevant factors, including but not limited to any adverse childhood experiences, history of trauma, or toxic stress experienced by the student.

Removals that are lengthier and more extended require extra attention to the youth's home life and external factors outside of school that impact their educational experience and behavior. By considering these factors through a case review, the key organizations working with a student who has been removed from their school can better understand and protect individual students' needs.

Implementation Steps:

- Key actions: Advocate for all school districts to update their codes of conduct. Develop and expand additional intervention models and social-emotional learning programs that can be used in schools in place of suspension, including behavior interventionist support, restorative practices, and social-emotional instruction.

Coordinate with multiple districts and schools to create policies that are consistent across the county.

- Key actors: Washtenaw Intermediate School District and school boards; local organizations such as the Student Advocacy Center; and school personnel.
- Funding: Funding is needed for more intervention programs in schools. Funding is needed for more social workers and social-emotional learning in schools. Funding is required for training classroom teachers. Funding is needed for supplemental materials to encourage engagement when a student is suspended or expelled as an alternative, including (but not limited to) take-home curriculum and staffing to work with a student during their absence from school.
- Potential obstacles: Lack of consistency in disciplinary actions across schools and districts can make implementation more difficult. The number of schools and school districts might cause differences in timelines for implementing new policies on suspension/expulsion. Time to educate stakeholders, including school personnel, to build buy-in.

## **Strategy 5—Use Data to Ensure Equity, Measure Outcomes, and Achieve Accountability**

Siloed, inconsistent data collection and a lack of data analysis are often cited as significant roadblocks to effectively addressing racial disparities and other policy issues in the juvenile and adult criminal legal systems.<sup>508</sup> The WEP was encouraged to prioritize consistent, integrated data collection, analysis, and transparency by Washtenaw County's creation of the [Washtenaw Opportunity Index](#), which integrates data looking at different measures of well-being (health, education, and employment) as “part of Washtenaw County's broader efforts to increase racial equity” and the county's adoption of budget principles emphasizing the use of data to measure outcomes, address inequities, and drive coordination and planning among county units of government.<sup>509</sup>

Although collecting data is a routine task of government, the WEP's mapping of criminal justice data collection in Washtenaw found inconsistent data collection and analysis practices within the county and local criminal legal system entities. Further, as noted throughout this report, the WEP faced obstacles in obtaining data from local and state public institutions, including the police, the county jail, the courts, and the Michigan Department of Corrections. The WEP concluded that implementing consistent and quality data practices is so fundamental to ensuring equitable, effective policies and outcomes for Washtenaw residents that it devotes Strategy 5 to recommendations related to data and areas for further research. For details on the approaches used to assess data practices in the county, see the supplemental report.

### **5.1 Building a Countywide Data Warehouse**

When the WEP studied ways to develop sound criminal justice data collection practices that would allow for integrated data and the ability to analyze that cross-system data and make relevant data transparent, it landed on a tool used by counties and states around the country: a data warehouse. A data warehouse is a central repository of information that can be analyzed to make more informed decisions about policies and practices, such as within a county's criminal legal system. A data warehouse specific to criminal legal systems usually integrates juvenile and adult system information and public safety data from local sources. It allows individual agencies to continue their operations and agency data systems without interference, and it involves access controls for sensitive data. It provides policy makers, institutional leaders, and data analysts with tools for data-driven and evidence-based decision-making to inform program design and performance, inform policy making, understand whether interventions result in intended outcomes, and understand historical trends. These analyses, in combination with other research, enable agencies to address racial disparities and inequities as well as other issues in these systems. In short, a data warehouse contributes to fairness, effectiveness, fiscal responsibility, accountability, and transparency, because institutional actors can use hard data to measure the outcomes of policies, practices, and programs.

A generation ago, a handful of counties around the country were on the cutting edge of improving government efficiency when they integrated data from different departments into a central data warehouse repository and used the integrated data to address inequities, measure outcomes, develop policy, and increase efficiency across an entire system. Since then, technological developments have made data integration and data warehouses



accessible to a wide range of counties across the country—urged on by institutions such as the U.S. Department of Justice and the National Association of Counties.<sup>510</sup>

### Government Data Warehouses

Over 20 years ago, Allegheny County, Pennsylvania, integrated data from siloed county human services units into a data warehouse staffed by data analysts.<sup>511</sup> Since then, the data warehouse has expanded to include data from other sources, including criminal legal units of government.<sup>512</sup> Internally, the warehouse helped the county improve services and measure outcomes, among other uses, and externally, the county fulfilled its goal of transparency and accountability to its taxpayers.

Around the same time, Multnomah County, Oregon, allocated a portion of its bond funding to establish a [data warehouse](#) for criminal legal system information. It allows individual agencies to continue their operations and data systems without interference and allows users to query justice agency data and track events such as criminal incidents, arrests, case dispositions and sentencing across data systems. Experienced criminal legal data analysts respond to requests for research regarding operational and policy issues affecting the public safety system.<sup>513</sup> From a policy perspective, this warehouse is used to inform program design, track disparities, and evaluate outcomes.

The WEP learned about the benefits and challenges of creating a countywide data warehouse from conversations with administrators from both counties' data warehouses and by studying reports from other counties' data warehouse efforts. (The WEP data subcommittee's analysis, located in the supplemental report, details the research, including the mapping of data collection by criminal justice agencies within the county.) Key principles and practices include:<sup>514</sup>

- Planning, developing, and implementing a data warehouse takes time. It is important to have a clear, concrete plan.
- Establishing a governing body to oversee the planning and operational phases is crucial.
- Through having credible data from across units of government and data analysis capabilities, a data warehouse can identify gaps and needs in services. This can open the door to outside funding from federal, state, and private sources. Both Multnomah and Allegheny counties mentioned that the implementation of their data warehouses led to other initiatives funded by outside sources.

An effective cross-system data warehouse has multiple uses. As noted in this section, the key uses are (1) internal, to assist the individual and cross-system operations of criminal legal system institutions, (2) external, to help the broader community understand the operations and impact on the system as a whole, and (3) policy-related, to employ data to inform policy decisions that improve outcomes and equity in the system.

### The Data Warehouse Checklist as a Roadmap

Developing and maintaining a cross-system data warehouse is complex, and the most effective ones are planned in an inclusive process overseen by a governing group and staffed by a team of experts.<sup>515</sup> To assure the warehouse's quality and effectiveness, the WEP adapted a [checklist](#) produced by the Council of State Governments for the Bureau of Justice

Assistance at the U.S. Department of Justice. The WEP recommends its “Checklist for Building and Maintaining a Data Warehouse” as a basis for planning, implementing, and using a data warehouse in Washtenaw County. (See the supplemental report for the full checklist.)

The WEP checklist lays out three phases: planning, development, and implementation. It details the duties and composition of an effective oversight group, such as setting shared goals, mapping/analysis of existing data, securing the required IT and other expertise, assuring adequate infrastructure, developing information-sharing agreements, obtaining needed financial resources, having a detailed work plan, addressing security and privacy issues regarding data access/use, conducting user testing, creating training and growing supports to assist users, ensuring quality assurance and improvement mechanisms, working to financially sustain the data warehouse, and developing policies to guide modifications or future expansion of the data warehouse.

### Essential Components for a Public-Facing Dashboard

The public’s right to court data is well established. In *Nixon v. Warner Communications*, the Supreme Court stated that “the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.”<sup>516</sup>

In addition to court data, the WEP believes the public’s ability to readily access other key data across the entire criminal legal system is important because this builds public trust and transparency in the criminal legal system, which accounts for more than two-thirds of Washtenaw taxpayers’ tax bills. To that end, the WEP studied dashboards as a vehicle for transparently communicating data drawn from Washtenaw’s criminal legal entities to the public.

The WEP didn’t have to look far for expertise. Beginning in 2021, the University of Michigan’s Poverty Solutions initiative spearheaded an effort to research criminal justice dashboards around the country and create a dashboard for the Washtenaw County Prosecutor’s Office (WCPO) as part of the Prosecutor Transparency Project.<sup>517</sup> As part of their research, they catalogued over 150 dashboards from around the country and studied their features before distilling those down to a set that worked best for the WCPO.

Among the many lessons they learned, a few stood out:

- Data transparency does not mean that every data field that is collected should be posted on a dashboard; the county’s criminal legal agencies and those that fund those agencies have a different set of data needs when it comes to accessing the data warehouse than that of the public. Data that is displayed to the public can and should be aggregated and anonymized to protect victims and witnesses—and to avoid creating unnecessary stigma related to criminal legal involvement.
- Dashboards that focus solely on caseload and case processing time don’t fully convey the kinds of information that help the public understand whether their criminal legal system is fair and equitable. They should also be flexible enough to include emerging approaches such as restorative justice and unarmed response.
- A public-facing dashboard must present information consistent with confidentiality and privacy laws and norms, and avoid stigmatizing, traumatizing, or otherwise harming any of the individuals who are involved in the criminal legal system.

## Data Warehouse as a Resource for Data and Research Needs across Issues and Agencies

Implementing a cross-system criminal legal data warehouse with data analysts in Washtenaw will support recommendations across the strategy areas of the Washtenaw Equity Partnership. Below are data points that a data warehouse could collect and analyze that would support various components of the criminal legal system. For more details and various data limitations on criminal legal system agencies, please see the supplemental report.

- a. MDOC: Numbers, demographics, conviction types, sentence length, housing classification, program access, and potential parole dates for people currently in MDOC custody whose cases are from Washtenaw County.
- b. PSIs: Access to case-level information about PSI themes, sources, recommendations (including risk scores), and case outcomes.
- c. Parole: Analysis of case-level information on people released to Washtenaw County on parole and their trajectories, specifically violations and penalties for violations.
- d. Probation: Analysis of case-level information on people released to Washtenaw County on probation (felony and/or misdemeanor) and their trajectories, specifically in violations and penalties for violations.
- e. Reentry services: Analysis of people using reentry services provided by the state (MPRI/OS), the county, or nonprofits, including re-arrest or re-incarceration metrics but also positive reentry metrics.
- f. Jail bookings and releases: Analysis of jail roster data, including numbers, demographics, dates of admission and release, reason for admission (charges), reason for release, bail amounts, housing classification, and (if possible) programs accessed and/or mental health flags.
- g. Trial and district court: Case-level data on charges, bail (district court), case outcomes, and sentence information.
- h. Restorative justice initiatives: case-level data on referral source, overall numbers and demographics, reason for admission (charge), type of service/intervention provided, completion status, and case outcome.
- i. Specialty courts: case-level data on referral source, numbers and demographics, reason for admission (charge), type of service/intervention provided, completion status, and case outcome.
- j. Schools: Data on numbers, demographics, and case-level details on disciplinary cases, including outcome (suspension, expulsion, referral to police, or other).
- k. Juvenile justice: Data including educational status (whether the youth was attending school, on suspension, expelled, or dropped out), where the youth was last enrolled in school, whether an arrest originating from a school was a school-based referral or by a school resource officer, and whether the student had a disability. Data on deflection/diversion decisions, charge decisions, case outcomes, and sentences.
- l. Child welfare: Data on numbers, demographics, care situation, and cases for dual-ward youth.
- m. County, city, and township police arrest data: Numbers and demographics of people arrested, initial charge, demographics of arresting officer, location of arrest, and additional incident information if possible.
- n. 911 call data: Reasons for 911 calls and, if possible, zip codes.
- o. Law enforcement traffic stop data: Use best practices from the Center for Policing Equity and/or metrics adopted by Ann Arbor City Council upon recommendation

from the [Independent Community Police Oversight Commission](#) to provide regular public updates on numerous aspects of policing.<sup>518</sup>

**Recommendation 52: Develop a cross-system criminal justice data warehouse and public dashboard for the county.**

**52a. Use the WEP’s detailed “Checklist for Building and Maintaining a Data Warehouse” to develop, implement, and maintain a high-quality, effective data warehouse and public dashboard.**

An interactive, public-facing dashboard allows the public to view metrics to help them understand Washtenaw County’s juvenile and adult criminal legal systems. To create an effective data warehouse, the WEP recommends the use of its detailed “Checklist for Building and Maintaining a Data Warehouse” (see supplemental report) to ensure that all necessary actions are taken to produce a high-quality, effective data warehouse and public dashboard, including such steps as governance/oversight, project management, resources, implementation, maintenance, protocols for ethical uses and evaluation, and consideration of whether and how to integrate individual case-level information across agencies.

**52b. Use information from the data warehouse to share relevant information with the public via a public-facing dashboard through which ordinary people can understand information about the legal system, especially through an equity lens.**

The ability to collect and analyze data across the criminal legal system in a data warehouse allows outcome measurement and improves equity, effectiveness, fiscal responsibility, and accountability. A centralized warehouse that integrates data across criminal legal system units of government (units that, when taken together, represent more than two-thirds of Washtenaw County’s budget) supports all five of the budget principles adopted by the Washtenaw County Board of Commissioners (outcome-oriented, equity, coordination, planning, and measurement).

The entity that is best positioned to adopt and act on the WEP’s recommendations is Washtenaw County. Because so many criminal legal and related units fall under its governance structure, it can launch a successful process to build a data warehouse that is inclusive and stable. The county could appoint a governing entity, made up of both agency and community representatives, to oversee the day-to-day management of the data warehouse and public-facing dashboard. Experiences from other counties suggest that adding oversight of a data warehouse to an existing group would make it difficult to maintain the focus needed to get the data warehouse off the ground, so a new group assembled just for this purpose would be preferable.

Implementation Steps:

- Key actions: County establishes a governance group to oversee design and implementation of a data warehouse and dashboard using the checklist as a guide. Ensure appropriate staffing expertise and technical capabilities are in place to develop and implement the data warehouse.

- Key actors: County government, including commissioners; criminal legal institution leaders and staff; and advocates, people with lived experience, and community groups.
- Funding: A planning process to use technology to integrate cross-agency data with the goal of ensuring a more equitable criminal legal system in Washtenaw County seems to align with priorities of philanthropic foundations such as the Michigan Founders Fund and Arnold Ventures. Units at local universities may have the technical expertise and capacity to create and host a data warehouse. For example, the skills and expertise at the University of Michigan’s Poverty Solutions employed in creating Washtenaw County’s Opportunity Index and the dashboard for the Prosecutor Transparency Project are similar to those needed to create and house the data warehouse and its dashboard. County funding will be needed for ongoing data warehouse operations.
- Potential obstacles: Educating relevant government officials and decision makers on the needs for and benefits of building data consistency and analytics to ensure an efficient and equitable system.

## 5.2 Additional Data and Research on Specific Topics

While the first part of Strategy 5 focused on recommendations related to a systemwide data warehouse and systemwide dashboard, the remaining recommendations in Strategy 5 focus on specific areas within the criminal legal system for which relevant data was either not collected by the unit of government or was not accessible for this report—as noted throughout Strategies 1 through 4. The recommendations below identify next steps to generate and/or access data and to conduct relevant analysis necessary to track trends, measure outcomes, and advance equity.

### Data and Research: Behavioral Health and Social Support Services

#### **Recommendation 53: Update the 2017 Sequential Intercept Model Mapping Report and the 2019 Critical Intervention Map (focused on youth).**

There have been significant changes in Washtenaw County’s behavioral health and criminal legal systems since these two reports were published, including referral processes for Community Mental Health (CMH) and changes in practice during the COVID-19 pandemic. Updating the analysis in the SIM and CIM reports will help implementation of many recommendations in this report.

In 2017, Policy Research Associates (PRA) published the *Sequential Intercept Model Mapping Report for Washtenaw County, MI*, which mapped available resources and services and identified gaps in terms of how a person with behavioral health needs goes through the criminal legal system.<sup>519</sup> Updating this report could provide more detail on the specific content or access criteria for social services and behavioral health services in the county, or the referrals or pathways by which people access them.

In 2019, a similar process that focused on the youth justice system and improving community responses to justice-involved youth with behavioral health and trauma conditions resulted in the *Critical Intervention Mapping and Strategic Planning*

*Report.*<sup>520</sup> The process to update the report should identify what is necessary to create a more cohesive, efficient system to provide services to young people.

The updating and review should also evaluate the use of functional assessments among service providers. An assessment tool is necessary to ensure a young person is receiving the most appropriate and effective services and supports, but the strengths and limitations of specific assessments—along with how they are administered—vary. The analysis should review what tools are used among providers and then identify a tool that could be used by all organizations and agencies that (a) could strengthen the work between providers and encourage more collaborative approaches to working with a young person, (b) reflects the population of Washtenaw and is designed to eliminate racial bias, and (c) is effective at assessing needs and goals of a young person.

Implementation Steps:

- Key actions: Partner with PRA to build on the existing work they have done and update the SIM report.
- Key actors: Policy Research Associates or a similar facilitator organization.
- Funding: Funding is needed for PRA or a similar entity.

**Recommendation 54: Undertake further research, including qualitative and quantitative input from service providers and clients, to assess cultural responsiveness of services in the county.**

Service provider staff noted that they have received some cultural competence training but also expressed concern that some organizations are still insufficiently culturally responsive for the communities they serve. Washtenaw residents with lived experience noted that staff and service approaches were not sufficiently connected to the experiences of affected communities; this generates a sense of distrust of some organizations. It is challenging to determine if a program is culturally responsive without conducting in-depth research. Therefore, the county (perhaps with the Racial Equity Office) could partner with university or other research teams to do further research with service providers and current/potential participants would shed light on areas to address.

Implementation steps:

- Key actions: County commissioners could issue an RFP for evaluation of some current service providers locally.
- Key actors: Washtenaw County Racial Equity Office; local organizations or councils concerned with equity and diversity; community members; service providers; research organizations at local universities and/or other entities; the United Way; the Ann Arbor Area Community Foundation.
- Funding: Funding is needed for research and participant time.
- Potential barriers: Service providers may need time and conversation/education to understand how some policies, practices, and attitudes may not be culturally responsive—and then to build willingness to try new approaches.
- Other notes: Input from community members using/needing services is integral.

**Recommendation 55: Conduct an independent analysis of community violence intervention programs in Washtenaw County to understand how the program aligns with community violence intervention (CVI) model best practices and how these practices can be further implemented locally.**

Violence interruption models exist in Washtenaw County, but there is no research or documentation of their models/principles, strategies, and outcomes. National guidance and training on designing and implementing community violence intervention (CVI) programs are available.<sup>521</sup> The county should partner with community groups, local research entities, and national organizations with CVI expertise to analyze existing community violence prevention models in Washtenaw County. Community members should be involved in this process to ensure accountability of implementation and improvements to models to align with best practices and local context. Once the needs and potential local models are clearly identified, the county could consider expanding community violence programs.

Implementation steps:

- Key actions: County could collaborate with relevant research units (potentially the [Michigan Youth Violence Prevention Center](#) or others, including from other states) to do an independent analysis, needs assessment, and local model proposal for CVI programs in the county. Ensure community members and clients of violence prevention programs are involved in evaluation. Local violence prevention programs should be available to provide information to contracted evaluators.
- Key actors: County commissioners; community violence programs in Washtenaw County; and research centers at local universities.
- Funding: Funding is likely needed, could be through research partnerships.

Data and Research: 911, Arrests, and Policing

**Recommendation 56: Improve collection, analysis, and accessibility of data related to 911 calls, police stops, and arrests.**

**56a. Develop a public 911 call dashboard at the county level for community transparency on calls for service.**

There is currently no consistent, accessible information on the types of, responses to, outcomes of, or trends in calls for emergency service to 911 in the county. Creating a dashboard would be one step (in alignment with the data warehouse recommended by this report). The dashboard could include county-level dispatch, which covers 90 percent of the county, and all other dispatch centers in the county. The dashboard should ensure that data is broken down by race and ethnicity and that there is a clear, transparent explanation of the categories of calls and how calls are verified. A community or university group could assist in building this system. Data on types of 911 calls is important for understanding the sources and reasons for calls for service. A clear approach to tracking types of 911 calls is essential to building alternative responses for situations beyond behavioral health crises (such as welfare checks or animal complaints), following similar examples elsewhere.<sup>522</sup>

Implementation steps:

- Key actions: Determine how 911 call data can be fed into a public dashboard. Determine parameters for a public dashboard.
- Key actors: County commissioners; county IT staff; the sheriff's office; and dispatch center leadership.
- Funding: Needed.
- Potential obstacles: Municipalities within the county may not want to share data.
- Other notes: It is important to show the distinction between self-initiated contact at the officer level versus actual calls from the community (proactive versus reactive). Funding and management of the dashboard should not be in law enforcement's budget or office.

**56b. Work with all law enforcement agencies to ensure data related to police stops, arrests, and interactions are accurately tracked and made available to oversight entities and to the public.**

"Stop data" consists of "vehicle and pedestrian stops, including all citations, searches, arrests, [and] uses of force."<sup>523</sup> Ensure that this collection follows field best practices, such as the ones laid out in the Center for Policing Equity's [stop data collection guidebook](#) and/or metrics adopted by Ann Arbor City Council. A potential further collaboration is with Eastern Michigan University's Southeast Michigan Criminal Justice Policy Research Project (SMART), which is working with the Ann Arbor Police Department and the Ann Arbor Independent Community Police Oversight Commission to analyze traffic stop data; its forthcoming report may provide a useful roadmap.<sup>524</sup>

Data on arrests (from FBI sources—see section 1.7) in this report show that there are disparities among arrest rates of Black people in Washtenaw County. The sheriff's office should publicize a de-identified summary of key elements of daily activity logs and clearly state how demographic information is recorded (for example, whether an officer asks the individual they interact with about their race, gender, and age or simply assumes). It is important that all police departments in the county share arrest and traffic stop data with the data warehouse. Additionally, in order to understand how police agencies manage incidents of potential bias or misconduct, they should share their policies on how agencies determine individual officer patterns in unlawful profiling, harassment, and/or use of force, how disciplinary consequences are decided, and numbers of allegations and disciplinary consequences.

Implementation steps:

- Key actions: County commissioners and city council members direct law enforcement agencies to share data, including demographics. Government and community entities ensure correct data is captured and tracked. In collaboration with county-level information technology (IT) and community members, determine the best way to share this data publicly.
- Key actors: County commissioners; city council (for municipalities within Washtenaw); all law enforcement agencies within Washtenaw County; county IT; community members; and police oversight entities.
- Funding: Funding may be needed, could be integrated with the broader data warehouse.
- Potential obstacles: Law enforcement agencies may be hesitant to share data.



- Other notes: Ensure police administrators are not evaluating officers on how many tickets or arrests they make as a way to measure their “productivity.”

Data and Research: Courts, Specialty Courts, Restorative Justice

**Recommendation 57: Establish and implement a clear system for capturing information and data about key elements of court cases, including:**

**57a. Bail and bond issuance, including charges, cash bail, bond conditions, violations, and consequences that link to race, gender, age, and ethnicity.**

The inability to collect and analyze general data on bail set in the district courts is a barrier to understanding bail practices in Washtenaw County and determining what racial disparities may exist. Necessary data includes charges, money bail details, bond conditions, violations, and consequences that link to race, gender, age, and ethnicity. Ideally, this lack of accessible bail data will be addressed in the long term through the statewide judicial case management system that is being planned.<sup>525</sup> In the short term, however, Washtenaw County should consider ways to collect better and more consistent data on bail. This could be done either by sending case-level data from the district courts and entering it into the trial court’s system, which would allow for broad analysis of the data, or by asking the prosecutor’s office to collect this data and share it for analysis.

Implementation Steps:

- Key Actions: Work with IT staff and the State Court Administrative Office (SCAO) to determine if Judicial Information Services (JIS) can be expanded or improved to track and analyze data on bail or if bail data can be sent from the district courts to the trial court.
- Key Actors: County IT staff; SCAO; trial court and district court IT staff; and courts.
- Funding: Possible funding needed for the trial court or prosecutor’s office to create additional data fields in its system.

**57b. Criminal history and probation violations (in the trial court’s data system).**

A fuller understanding of the causes of the racial disparities that do exist in the court process will not be possible without studying the effects of criminal history and probation violations on case outcomes and sentences, but the court’s data system currently does not include any of that information. Similarly, information about probation violations and the sentences imposed in response to them is not readily available because it is entered inconsistently in text fields. Washtenaw County should create the capacity for this information to be more accessible by adding data fields and addressing how information across cases is captured.

For criminal history, the court should look at the potential to add data fields for each of the seven prior record variables (PRVs) from the sentencing guidelines. While this would not perfectly capture each person’s entire criminal record, it would likely provide enough information about criminal history to enable more meaningful comparisons of cases and a more accurate assessment of the causes of racial disparities.

For probation violations, the court should look at adding specific data fields to indicate when a person has a probation violation; whether that violation is technical, based on a new charge, or both; the dates the violation was filed and resolved; and the outcome of the violation (for instance, probation extended, conditions changed, sentence imposed and probation continued, or probation revoked and sentence imposed), including the length of any sentence imposed.

#### Implementation Steps:

- Key Actions: Coordinate with the court and SCAO (which is developing a uniform judicial case management system) to ensure that the trial court's system has additional data fields to consistently and uniformly capture data on the seven PRVs and on probation violations (specifically noting if they are technical, based on a new charge, or both; date filed and resolved; and outcomes). Ensure that all seven PRVs are included separately in the trial court's system, adding data fields for this if necessary.
- Key Actors: SCAO; trial court and county IT staff; and county commissioners.
- Funding: Funding may be necessary for data system improvements, or the new SCAO system may cover the needs noted here.

#### Data and Research: Washtenaw County Jail

##### **Recommendation 58: Provide more public information about the jail population: admission and release dates, charge types, programs, and demographics.**

Providing regular, public information about the demographics of people in the jail and in programs would allow Washtenaw County residents to monitor and understand disparities in the jail population or in access to programs and services on an ongoing basis. Public dashboards typically include, at minimum, booking, releases, and length of stay, as well as program/service involvement of the people in the jail, all of which can be sorted by race.<sup>526</sup> Washtenaw County's dashboard should include information about the programming and services people receive while in jail. A jail dashboard would be one component of a countywide data warehouse, and it could be developed more quickly than the full warehouse.

#### Implementation Steps:

- Key Actions: Washtenaw County Sheriff's Office and county IT staff determine how data from the jail's system could feed into a public dashboard. Sheriff's office and county IT staff or an outside contractor develop a public jail dashboard.
- Key Actors: Sheriff's office; county IT staff; and county commissioners.
- Funding: Funding may be needed for additional staff time to do this work or to hire an outside contractor and to cover the technical costs of setting up and maintaining a dashboard. This could be folded into existing budgets or may require additional funding.

##### **Recommendation 59: Conduct an analysis of how drug possession drives jail bookings, including new charges and violations of community supervision or specialty courts due to drug use.**

Drug use is a health issue, but it is also a common pathway to formal contact with the criminal legal system. Further analysis is needed to better understand how drug-related

charges, including when related to a technical violation of probation or parole (such as through drug testing conditions), affect jail bookings/population trends and other decisions by court actors. Court actors should:

- Establish a baseline for the current number and proportion of bookings under these categories.
- Develop a way to track technical probation/supervision violations related to drug testing or use (acquire details on the reasons for violations, as opposed to data fields that simply cite “probation violation”).
- Measure change in bookings for these categories over several months and years to determine how policy changes recommended above (related to reducing the use of criminal charges for drug use) are translating into practice.
- Conduct qualitative research with justice-involved people, social services, police, jail staff, and probation staff to understand how the real-world implementation of a more public health-oriented approach to drug use is unfolding (and could explain shifts in jail bookings).
- Ensure that data tracking disaggregates by gender, race, and other salient demographic categories.
- Partner with relevant units at local universities (such as the Criminal Justice Administrative Records System, the Prosecutor Transparency Project, the Child and Adolescent Data Lab [for juvenile cases], and others) to understand the findings and to compare Washtenaw trends to other parts of Michigan or to past patterns in the county.
- Make analysis and data transparent and accessible to the public.
- Recommend policy and practice steps to reduce the frequency, scope, and disparities in charges related to drug possession, including for supervision violations.

#### Implementation Steps:

- Key actions: Collaborate with a local research entity to conduct this analysis. Require all relevant agencies to provide data.
- Key actors: Relevant research units at local universities; law enforcement; the prosecutor’s office; and the public defender’s office.
- Funding: Funding may be required for research.
- Potential obstacles: There may be limitations on data systems, quality/detail of data, or other technical obstacles.

Data and Research: MDOC, Prison, Probation, Parole

**Recommendation 60: Advocate for MDOC to authorize the Criminal Justice Administrative Records System (CJARS, at the University of Michigan) to share its data with Washtenaw County.**

The WEP’s work was hampered by lack of access to MDOC data. This appears to be partly due to inadequacies in MDOC’s data system as far as the data that is collected and the ability to pull and analyze it. However, the process for accessing even de-identified data that MDOC does have is arduous, requiring the submission of formal research proposals and a lengthy bureaucratic process. MDOC has, however, shared data related to Washtenaw County with the State Court Administrative Office (SCAO) and the University of Michigan’s Criminal Justice Administrative Records System

(CJARS). Ideally, MDOC should make its data available to the public online, similar to the Florida DOC [website](#) that allows people to download its entire database. As this is unlikely to happen in the short term, Washtenaw County should seek authorization from MDOC to allow CJARS to share the data it receives from MDOC with the county and with some research entities. This data can then be used to analyze disparities and outcomes, such as the analyses outlined in recommendation 61 below.

#### Implementation Steps:

- Key Actions: Commissioners work with the county’s legislative delegation to convince MDOC to authorize CJARS to share the data it receives from MDOC with Washtenaw County. MDOC authorizes CJARS to share data. County and CJARS work out the details of data sharing.
- Key Actors: County commissioners; county’s legislative delegation; MDOC or CJARS.
- Funding: Funding is not needed.

### **Recommendation 61: Work with the legislature to ensure that MDOC conducts and publicly shares the statutorily mandated analysis of the effects of the parole guidelines on disparities in release decisions.**

As noted above, MDOC is statutorily required to ensure that the parole guidelines do not create disparities in release decisions.<sup>527</sup> However, there is no indication that MDOC has actually done an analysis of the effects of the parole guidelines on release decisions that would be required to determine if the guidelines result in disparate release decisions. Washtenaw County should work with its legislative delegation to make sure the analysis is completed and that the results are shared publicly. The county should also push for this analysis to focus particular attention on how disparities in disciplinary infractions may be contributing to disparities in the effects of the parole guidelines, as research shows this is an area where there is significant differential enforcement.<sup>528</sup>

#### Implementation Steps:

- Key Actions: County commissioners work with advocacy groups and the county’s legislative delegation to make sure that MDOC completes the required analysis and shares the results publicly, perhaps by threatening to withhold funding.
- Key Actors: County commissioners; county legislative delegation; MDOC; and advocacy groups such as the American Friends Service Committee and Safe and Just Michigan.
- Funding: State funding may be needed to enable MDOC to conduct the analysis.

#### Additional Analysis on Racial Disparities

### **Recommendation 62: Conduct a detailed analysis, with representatives from communities of color, of racial disparities in:**

- **the Pre-sentence Investigation (PSI) process, including how mitigating factors are included;**
- **who is released to parole in the county and who has their parole violated;**
- **access to Washtenaw County Jail programs, services, and reentry support;**
- **who received services under MDOC reentry programs;**

- **how conditions in prison affect release and reentry; and**
- **referrals, acceptances, and dispositions related to restorative justice initiatives by race, ethnicity, age, and counsel status.**

To fully understand data points where disparities might arise and produce recommendations to address those disparities, the WEP requested access to data from various sources, including MDOC and the Washtenaw County Jail. The WEP was unable to access these datasets for a variety of reasons. The work to obtain MDOC's data related to Washtenaw County has already been done by the University of Michigan's Criminal Justice Administrative Records System (CJARS) and SCAO, which eliminates any potential burden on MDOC to use staff time to respond to a data request. If the county can get access to MDOC data through CJARS, the data could be used for the analyses noted above. If MDOC does not permit access via CJARS, the county should work with its legislative delegation to get MDOC to provide the necessary data. Staffing shortages have also hampered the ability to retrieve sheriff's office data. The county can assist with this in order to conduct the analyses related to the jail.

The analysis of the PSI process should look at whether there are racial disparities in areas including the sentences recommended, how those recommended sentences relate to the sentencing guideline ranges, and recommended departures from the sentencing guidelines. It should also include working with representatives from the communities of color in the county most affected by the criminal legal system to look at how both legal and extralegal factors could be perceived differently for people of color and other ways that bias could enter the process. (PSIs are discussed in more detail in Strategy 2.)

The analysis of parole should look at racial disparities in areas including who is released to Washtenaw County on parole, how long it takes for people to be released on parole, how many people max out their sentences, who has their parole violated and for what reason, and the dispositions or other outcomes of those parole violations. (For further discussion, see Strategy 3, section 3.5.)

The analysis of jail programs should include services provided by the jail and third-party providers and look at racial disparities in areas including access to programming, services, and reentry support both for pretrial and sentenced populations; who is eligible for these programs; how programming decisions are made, how housing or security classification decisions are made and how those affect access; who receives programming, services, and reentry support; and who completes or is terminated from programs. It is possible that funding could be available to support this analysis under the Community Corrections Act (often referred to as Public Act 511), which allows local community corrections advisory boards to apply for funding to develop, implement, and operate community corrections programs based on data analysis of the local criminal legal system indicating the populations to be targeted and the services needed.<sup>529</sup>

The analysis of MDOC reentry programs should look at racial disparities in areas including how many of the people released to Washtenaw County on parole have

participated in either MPRI or OS, the services they received, and the outcomes for people who participated, both within each program and when comparing the two programs.

The analysis of prison conditions should look at racial disparities in how conditions in the jail and prisons, such as housing or security classifications or what MDOC facility someone is placed in, affect access to programs or services that are needed to secure parole release, and how access or lack of access to programs and services affect reentry outcomes.

In order to ensure equitable access to restorative justice initiatives, more detailed data is needed. Neither the Peacemaking Court nor the Dispute Resolution Center (DRC), which are intended to provide alternatives to traditional prosecution and sentencing, currently track cases by race, although the DRC is planning on adding that capacity, and it doesn't appear that they track cases by ethnicity, age, gender, or type of attorney.<sup>530</sup> We were unable to determine if the prosecutor's office tracks cases deflected through its restorative justice program internally by race, ethnicity, age, gender, or type of attorney. In order to determine if there are disparities in these programs, it is first necessary to ensure that the appropriate data is collected. These programs could then use that data to regularly evaluate whether there are disparities in referral, acceptance, or completion of the program.

See the supplemental report for more detailed potential research plans using MDOC and county jail data, should those datasets become available.

#### Implementation Steps:

- Key Actions: Washtenaw County Sheriff's Office produces administrative jail data with short-term support, if needed, from the county or a local university. Commissioners and the state legislative delegation receive authorization from MDOC allowing CJARS to share MDOC's Washtenaw County data with the county and the organization(s) that will be conducting the analyses. Washtenaw County Community Corrections Advisory Board explores the potential to get Community Corrections Act funding for the analysis of jail programs. The county partners with local universities or nonprofits to do these analyses. Representatives from communities of color participate in the analysis of disparities in the PSI process and determine if the DRC can track data for all restorative justice initiatives. If not, develop processes for each initiative to track the data. Evaluate data on an ongoing basis to identify disparities (via the data warehouse).
- Key Actors: County commissioners; CJARS or MDOC; county legislative delegation; sheriff's office; local universities or nonprofit organizations; representatives from communities of color; Washtenaw Community Corrections Advisory Board; DRC; Peacemaking Court; prosecutor's office; and county administration.
- Funding: Funding will be needed to contract with local universities or nonprofits and compensate representatives of communities of color for their time and expertise. State funding may be possible under the Community Corrections Act. County funding is needed to expand data collection and analysis capacity.

## Data: Youth, Juvenile Justice, and Schools

### **Recommendation 63: Collaborate with juvenile diversion entities, juvenile court, and juvenile detention authorities to improve data tracking and program evaluation, including using positive metrics.**

While the trial court plans to keep comprehensive data and use data to inform diversion programming, it has not yet fully developed any system to evaluate outcomes of its programs. Further, diversion occurs outside the court, too, as discussed in Strategy 4. Key performance measures must be developed at the outset. Tracking program outcomes is vital to ensure the programs with the strongest outcomes are supported and scaled. Evaluation should not only consider recidivism but employment and educational outcomes as well.

There should also be regular, publicly available third-party evaluations of:

- diversion, court-based, and detention-based programs, including participation, outcomes, and disparities;
- risk and functional assessment tools, in particular regarding how they may exacerbate racial disparities; and
- court-imposed fines and fees, including criteria to assess disparities (by demographics, socioeconomic factors, or charge type). This supports Recommendation 15 of the Michigan Task Force on Juvenile Justice Reform, which calls for the elimination of non-restitution fees, as well as the goals of the Cities and Counties for Fines and Fees Justice initiative, in which Washtenaw is a participant.<sup>531</sup> Macomb County has already eliminated juvenile fines and fees.<sup>532</sup>

Implementation Steps:

- Key actions: Partner with a research institution, such as the University of Michigan's Child and Adolescent Data Lab to conduct third party evaluations. Data can be effectively and continuously collected by the trial court. Data needs to be analyzed and widely available (via the data warehouse) to evaluate programming of the trial court. Analysis of data should be the driver of the role of the trial court and youth diversion/youth justice.
- Key actors: Local agencies; trial court; the prosecutor's office; and the Child and Adolescent Data Lab.
- Funding: Funding may be needed if infrastructure for software and personnel support is not currently in place.
- Potential obstacles: There may be resistance from courts or programs to new evaluation attention. Data collection is now beginning, including through the statewide SCAO system, but it will take a while to have enough data to track changes and patterns. There are privacy concerns around working with collecting and tracking information of minors. There may be different systems and agencies using different terminology for data collection.

**Recommendation 64: Create a clear approach to tracking experiences of dual ward youth (with Children’s Protective Services and juvenile justice involvement), and undertake further research on trends in referrals, key case decision points, and outcomes.**

In Michigan, there is a statewide definition of dual ward youth: a young person who has an open foster care case and has been referred or committed to the Michigan Department of Health and Human Services for delinquency placement and supervision.<sup>533</sup> However, there seems to be variation in the classification of youth and inconsistency with how data are tracked and then shared with other agencies and/or researchers. It is vital to establish specific definitions of youth in both systems to better serve their needs and direct them toward effective prevention and intervention programs. Further, more research on trends, disparities, and outcomes for dual system-involved youth, considering various potential factors and metrics, is needed for policy/program design and evaluation to better support these youth’s needs.

Implementation Steps:

- Key actions: Build coherence between the definition of dual ward youth and how data are tracked and presented across different entities in the state. Create a tracking system for youth who are dually involved—the University of Michigan Child and Adolescent Data Lab has begun connecting data from juvenile justice and child welfare systems. Create a group of organizations that work with dual ward youth and foster youth to track commonalities on how cases are tracked and managed.
- Key actors: CPS; trial court; the prosecutor’s office; MDHHS; the Child and Adolescent Data Lab; and local organizations working with youth in the foster care system.
- Funding: Funding is not needed.
- Potential obstacles: Including youth who are involved in the juvenile system at different levels, for instance arrest stage, in resident placement, in probation, etc.

**Recommendation 65: Conduct a countywide analysis on disciplinary action within schools to track disciplinary incidents and understand the associations of responses to such incidents with criminal legal involvement.**

**65a. Create a task force (or revive the Washtenaw School Justice Partnership) that would work alongside this analysis to develop strategies to close disparities that are identified.**

School is often an entry point to legal system involvement for young people. An analysis that reviews disciplinary action in school broken down by race, gender, age, and discipline code can help to understand whether responses differ based on these factors and develop actions to address disparities. This analysis should also investigate arrests within the school system and the frequency with which police are called to resolve conflict. Importantly, a countywide analysis that investigates how disciplinary action within schools is directly contributing to juvenile criminal legal involvement would be useful. The Child and Adolescent Data Lab at University of Michigan has already begun a deep analysis of the juvenile justice system in Washtenaw and could be a potential partner in this work.



#### Implementation Steps:

- Key actions: Conduct a data analysis of disciplinary action. Expand the number of schools and districts involved in collecting data on multiple grade levels and age groups.
- Key actors: Prosecutor's office; trial court; Washtenaw Intermediate School District; county school districts; local organizations such as the Student Advocacy Center; and the University of Michigan, including their Child and Adolescent Data Lab.
- Funding: Funding may be needed to conduct the analysis—collaborate with local universities to secure funding.
- Potential obstacles: Collection of data and analysis can take a long time. Differences in districts and schools that the data must be collected from can cause complications in accessing data and analyzing trends. Lack of consistency with disciplinary actions across schools and even districts can also make the process more difficult.

## Appendix 1: WEP Guiding Principles

### A. Equitable Outcomes

Fairness and equity for people who have been justice-impacted must be at the center of the juvenile and adult criminal legal systems, which must focus on outcomes to eliminate and prevent racial disparities, eliminate structural racism, and improve the human condition of residents of Washtenaw County.

### B. Evidence-Based Action

Quantitative and qualitative data must inform the development, use, and evaluation of policies and practices that eliminate racial disparities, improve outcomes for justice-impacted persons, and avoid unintended, harmful consequences. In addition to data from legal institutions, information should come from people who have been affected by the juvenile and adult criminal legal systems. Evidence-based action must be dynamic and ongoing, such that short-, medium-, and long-term policy and practice improvements can be identified and implemented.

### C. Accountability

Accountability and transparency must guide collection, analysis, and sharing of data and information across the system so institutions and the public can take evidence-based actions and easily measure progress toward reduced disparities and improved outcomes for people who have been justice-impacted.

### D. Collaboration

Collaboration, coordination, and partnerships among legal institutions, non-governmental organizations, and the public must be sustained to promote shared learning and decision-making, and integrated solutions. Respect for each person's expertise and lived experience will be a cornerstone of collaboration. Members of the partnership will contribute their expertise and hold each other accountable for making progress toward a shared vision of racial equity.

### E. Innovation

Creative thinking, open-mindedness, and non-traditional approaches are encouraged in reimagining how Washtenaw County can eliminate racial disparities across the juvenile and adult criminal legal systems and improve outcomes for people who have been affected by these systems.

### F. Resources

The allocation of resources should reflect each of these principles and target the reinvestment of funds away from the criminal legal system, whenever possible, and toward services that address structural disadvantages, promote healthier outcomes, and reduce and prevent system involvement.

All subcommittees were asked to consider the following general questions in their work:

1. How will each of your subcommittee recommendations address racial disparities and/or create more equitable outcomes for system-involved people and families?
2. Has your subcommittee accounted for structural elements in society that result in inequitable outcomes in the juvenile or criminal legal systems?

3. How could the footprint of the criminal legal or juvenile system be reduced?
4. How could the criminal legal or juvenile system support healthier outcomes that value healing over punishment and improve affected communities?
5. How will your subcommittee's recommendations foster improved public transparency and accountability from government agencies?
6. Are there potential unintended consequences of your subcommittee's recommendations?
7. What performance/outcome measures should be used to evaluate whether your subcommittee's recommended interventions are successful?

The Working Group also identified the following six research themes and asked each subcommittee to connect their work to at least one of the themes:

1. What are the primary drivers of racial disparities in the criminal legal system and how can they be intervened upon?
2. What are the gaps in access to community resources/services?
3. What do county residents need to thrive and feel safe, and are government agencies and other service providers addressing those needs?
4. What are effective non-punitive/non-carceral approaches to increase safety and how are they being used?
5. What are strategies to increase government transparency and accountability?
6. What are strategies to move problems outside of the criminal legal system?

The WEP and Vera would like to thank the people who participated in sub-committee work for this report:

Alma Wheeler Smith	WEP Chair, Former State Legislator; Citizens for Racial Equity in Washtenaw
Eleanore Ablan-Owen	Interfaith Council for Peace and Justice
Natasha Abner	University of Michigan
Trevor Bechtel	University of Michigan, Poverty Solutions
Grady Bridges	Prosecutor Transparency Project, University of Michigan Law School
Jamall Bufford	Washtenaw County My Brother's Keeper/Formula 734
Angela Burchard	Community Mental Health
Robert Burton-Harris	Community Member; Attorney
Victoria Burton-Harris	Prosecutor's Office, Washtenaw County
Ché Carter	Ann Arbor Huron High School
Mark Creekmore	National Alliance on Mental Illness (NAMI), Washtenaw County
Judge Tim Connors	Washtenaw County Peacemaking Court
Devin Dailey	Catholic Social Services
Nat Dodd	Ozone House
Belinda Dulin	The Dispute Resolution Center

Alyshia Dyer	Formerly Washtenaw County Sheriff's Office
Karen Field	Washtenaw County Prosecutor's Office, Juvenile Division
Jim Fink	Pittsfield Township Prosecutor's Office
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Natalie Holbrook	American Friends Service Committee
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Lisa Jackson, Ph.D.	Ann Arbor Independent Community Police Oversight Commission
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Tish Lee	Michigan Advocacy Program
Maisie Lee Gholson	University of Michigan School of Education
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Dr. Vonnie McLoyd	University of Michigan
Dan McNeil	Community Member
Walter Miller	Community Member
Jason Morgan	Washtenaw County Commissioner
Judge Darlene O'Brien	Washtenaw County Trial Court
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Aubrey Patiño	Avalon Housing
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Liz Spring	Community Mental Health
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Linh Song	Ann Arbor City Council
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Corey Telin	Packard Health
Angela Tripp	Michigan Legal Help Program
Gina VanDuinen	Clinical Social Worker
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Vineyard Church of Ann Arbor  
Ypsilanti Community Schools

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## Appendix 2: Research Methods

### A. Trial Court Data Methodology

#### Data Cleaning and Joining

Vera received two datasets from the Washtenaw County Circuit Court: one contained information pertaining to charge, disposition, and demographics, the other to sentencing information from 2014 through April 2022. The first dataset had 3,523 unique individuals and 4,874 unique cases. Across these cases were 13,828 individual charges. Each row in this dataset represented a different charge.

This dataset's largest limitation was that it had little to no information on ethnicity. The variable that Vera received coded as ethnicity appears to represent language spoken and was only used a handful of times. This meant there was no information about who in the dataset was Hispanic. Vera used this dataset to make broad statements about the demographic characteristics of the dataset as well as high-level observations about charging and dispositions. For example, the team examined how many charges per case, on average, were brought against Black defendants versus against white defendants and what percentage of those charges were dropped.

The second dataset was much larger, at 264,518 rows, and formatted differently. The critical information for this report's analysis was stored in two columns, one indicating the variable and the other indicating the value. For example, in one column there was text indicating that the variable was the minimum number of prison days to be served and in the next the number of prison days. The next row might handle minimum jail days in the same format. This very long way of storing the data made it unwieldy for analysis. Each charge might have a dozen to a hundred rows giving sentencing information, only a handful of those rows being pertinent to our analysis. To address this, Vera pivoted the dataset to be wider, once again making each row an observation of a single charge.

The joined dataset contained every charge for which there was sentencing information; Vera retained the dataset for every charge, including cases that ended in dismissals or acquittals. The variable of interest was most often the top charge on a list of charges. Vera has an internal algorithm to determine the most serious charge (based on charge class and sentencing guidelines), and this ranking matched the "charge number" provided in the dataset (which indicates the ranking of charges per case). To analyze sentencing by the top charge, Vera reduced the dataset to only the most serious charge on a list of sentenced charges, concatenating all sentencing information stored in lower charges. This made the dataset one row per case (rather than one row per charge) and allowed for more detailed analysis about how top charges were sentenced differently. This entailed a necessary loss of information about the lower charges in making broad claims about sentencing. Vera created variables that stored how many total charges there had been as well as how many sentenced charges there had been to retain some of the information lost in the reduction of the dataset. In this reduced dataset there were several separately listed cases that were for the same person, sentenced on the same day, and for the same charge. While there was no indication in any text field whether these two separately decided cases were to be served concurrently or consecutively, Vera decided that the most likely scenario was that they were concurrent

and thus decided the safest option for analysis was to drop the duplicate same-day charges. Vera chose between these three datasets based on the question being analyzed. The original dataset and the top charge dataset were the most frequently used.

### Charging and Disposition

The analysis of charging and disposition type entailed comparing frequencies and averages across different groups. For questions in which the charge was the unit of analysis, for example, the number of times a given charge appears (regardless of if it is the most serious charge on a case), Vera used the full, original dataset. For some questions in which the case was the unit of analysis (rather than the charge), Vera used the dataset with the most serious charge per case, so that the demographic information was not inflated by the number of charges on each case.

### Sentencing Variables

To analyze sentencing disparities, Vera created variables that attempted to aggregate and quantify sentencing information. This proved to be a challenge, as much of the pertinent information was stored in long strings of text in comment sections. For example, two people might receive the same amount of probation, but one with much more onerous restrictions. The variable that indicates how much probation time was served would be identical; differences in conditions appear only by reading the text comment. To try to alleviate this issue, Vera created binary variables that indicated the presence of some of the most common probation conditions, such as ankle tethers and drug testing requirements (discussed below). Despite this, there is some informational nuance missing from the quantification process.

Vera also created variables that indicated total probation time, total jail time, total prison time, the sum of jail and prison time, and the sum of all three. Additionally, Vera made variables that recorded whether a defendant received probation only or whether their sentence also, or instead, required incarceration. Due to limitations in data quality, the main analysis of sentence length did not use the number of days on probation; it compares only the percentage of cases who received non-incarceration sentences (including probation) compared to those that received incarceration sentences.

There are different approaches to quantifying the severity of sentences. Ideally, it would be important to take sentencing guidelines and other constraints (like minimums and maximums) into account. Vera scraped the table of charges and their classification from the state's guidelines document (pdf online) and joined it by the penal code to the dataset. Because of discrepancies in notation, this process led to cases for which there was not complete data. While Vera saw no reason that the loss of information in the process would be systematically correlated with race, the team decided to be prudent and not lean heavily on this type of comparison. Therefore, the main analysis in this report simply compares the total number of days of incarceration (jail and prison) on cases that had the same top charge at conviction.

### Sentencing Analysis

In analyzing sentencing discrepancies, the largest obstacles were the lack of information on prior contact with the criminal legal system and technical details of the case. As per the Michigan sentencing guidelines mentioned above, the first step the judge is instructed to



take is to quantify all prior contact with the criminal legal system, a variable to which Vera had no access. The next step is to identify the specifics of the crime: for example, was anyone injured, to what extent, and how many people were present. Vera also had no access to this information. Only after these two variables have been completed is the judge instructed to find the class of the crime. These two variables have an enormous impact on the severity of a sentence. For example, for a class A crime, if both variables were at their lowest point, the suggested minimum is around two years in prison; if they are at their maximum, it is around 22.5 years to life. It is therefore difficult to make any definitive statements on sentence discrepancies without this information.

This dataset offered some value in examining how different charges were sentenced across race but had some obvious limitations. For example, the same charge would be sentenced differently based on whether it was alone or the most serious in a list versus if it was lower down on a list of more serious charges. Vera's quantification of prior cases in the trial court under the same individual ID is not a reliable proxy for criminal history overall, and the number of other charges on a given case does not meaningfully serve as a proxy for the severity of the secondary charges.

With those limitations in mind, Vera turned to analyzing the sentencing data. Vera looked at the average length and type of sentence by race, comparing primarily across charge, focusing on the most frequent charges. For charges or categories on which there were racial discrepancies in sentencing, the team tried to examine what other factors might be at play in creating the disparity. For a few categories, this meant making a more detailed frequency table that included appearance count or charge count. For others it meant running simple regression models to try to test the effect of race, holding the other variable we had available constant. The differences in sentence length noted in the main text of this report remained significant even after including these other factors. Again, given the missing information on criminal history and case context, this analysis does not allow any strong claims about implicit or explicit racial bias being a main reason for differences in sentence length.

#### Analysis of Keywords in Text Strings

There were several phrases contained in text comments in the sentencing data that we were interested in analyzing. For example, the WEP wanted to examine the racial application of Cobbs agreements. To do this, Vera constructed a variable that indicated whether the relevant keyword was contained in the text field and then made additional variables if there were other keywords of note related to the original keyword. For example, the word "withdrawn" in connection to Cobbs is relevant. However, given that it appears that the text information was not consistent or complete, it is likely that these variables (like Cobbs agreements, but also other factors, like habitual offender status, electronic monitoring/tether conditions, etc.) are severely undercounted. Therefore, the team opted not to present this analysis in this report.

#### Other Analyses

While the charging, sentencing, and disposition types made up the heart of the analysis in this report, Vera did examine a few other variables of interest. For example, the team looked at the effects in terms of sentencing of having time served on record as well as in the racial breakdown of those having time served. As the dataset contained practically no bail information, the team used having time served as a rough proxy for bail (since inability to pay

bail is a common reason for pre-trial detention). Analyses such as this were primarily done on the reduced dataset and were, unless otherwise specified, conducted by examining frequency tables or crosstabs.

## **B. Qualitative Interviews and Focus Groups**

Vera conducted qualitative research with people who had past or current experience with the criminal legal system in Washtenaw County and who currently reside in the county. Vera sent recruitment messages through the WEP's networks and social media posts. Each interview and/or focus group participant received a gift card for their time. It was challenging to recruit more people because the research team was working remotely and relied on the circulation of electronic recruitment invitations.

The qualitative research participants included:

- people with experience of the adult criminal legal system in Washtenaw;
- people with experience of both the adult criminal legal system and behavioral health services in Washtenaw;
- young adults with past experience of the juvenile justice system in Washtenaw; and
- parents of people who had current or past experience of the juvenile justice system in Washtenaw.

Vera conducted two focus groups and 14 interviews, with 20 people overall (some participated in both). All participants had significant system experience, meaning a case that involved hearings and diversion and/or supervision or incarceration time. Vera also held brief conversations with numerous people who had brief interactions with law enforcement but did not do full interviews with them.

All interviews and focus groups were conducted remotely, on Zoom or by phone, and were confidential. The Vera team coded transcripts in Atlas.ti. The qualitative research plan was approved by Vera's IRB in June 2022.

## **C. Behavioral Health Staff Survey**

In October 2022, Vera sent for dissemination an online survey to service provider organizations and to individuals involved with the WEP. Respondents filled out initial eligibility questions (related to their current professional role in an organization that provides behavioral health services in Washtenaw County), and then eligible respondents completed questions about current work and credentials, services offered by their organization, perceived barriers to services, trainings completed, perceptions of working conditions and retention factors for staff, and demographic information.

A survey link was distributed to behavioral health service providers across Washtenaw County to provide insight on staff's experiences within their organization. The survey largely consisted of open-ended questions on topics including services provided, screening/assessment tools used, cultural competence and representativeness of staff, perceived gaps in services, staff demographics, and recommendations for improvements for both staff and client satisfaction.

Despite best efforts to encourage participation, we received only 14 valid responses. Although the sample was small, the information provided by respondents was useful in providing context around the barriers to services within Washtenaw County and the ways agencies could better serve existing clients and reach potential clients moving forward.

A majority of the respondents work for nonprofit organizations, but some respondents also work for hospitals and private providers. The sample includes case workers, social workers, and mental health professionals. The time of tenure varied widely, with several people in their positions for less than two years, but more than half had been in their positions for five years or more, with a few reporting over ten years in the field.

## Appendix 3: List of Acronyms and Glossary of Terms

### Organizations/Programs

AA–Alcoholics Anonymous  
CABLE–Community Advisory Board for Law Enforcement of Washtenaw County  
CHP–Community Housing Prioritization committee  
CJARS–Criminal Justice Administrative Record System, University of Michigan  
CMH or WCCMH–Washtenaw County Community Mental Health  
DHHS–Federal Department of Health and Human Services  
DRC–Dispute Resolution Center  
EEOC–Equal Employment Opportunity Commission  
EMU–Eastern Michigan University  
HAWC–Housing Access for Washtenaw County  
HUD–Department of Housing and Urban Development (federal)  
HVA–Huron Valley Ambulance  
ICE–Immigration and Customs Enforcement  
JAC–Juvenile Assessment Center  
MCJJ–Michigan Center on Juvenile Justice  
MDOC–Michigan Department of Corrections  
MIDUHA–Michigan Drug Users Health Alliance  
MPRI–Michigan Prisoner Reentry Initiative  
MSHDA–Michigan State Housing Development Authority  
MUU–Michigan Users Union  
NA–Narcotics Anonymous  
NAMI–National Alliance on Mental Illness  
NCYOJ–National Center for Youth Opportunity and Justice  
NRC–National Research Council  
OJJDP–Office of Juvenile Justice and Delinquency Prevention  
OS–Offender Success  
PHA–Public Housing Authority  
PRA–Policy Research Associates, Inc.  
ROOT–Recovery Opioid Overdose Team, Home of New Vision Engagement Center  
SACM–Student Advocacy Center of Michigan  
SMART–Southeast Michigan Criminal Justice Policy Research Project (Eastern Michigan University)  
START–Support, Training and Resources for Tomorrow Court Program  
SURE–Sisters United Resilient and Empowered  
WeLIVE–Washtenaw Embraces Life Is Valuable Everyday  
WEP–Washtenaw Equity Partnership  
WHI–Washtenaw Health Initiative  
WISD or ISD–Washtenaw Intermediate School District  
WMBK–My Brother’s Keeper Washtenaw County  
WRAP–Washtenaw Recovery Advocacy Project  
WCSO–Washtenaw County Sheriff’s Office  
YPAC–Ypsilanti Police Advisory Commission

## **Other acronyms**

ACEs–Adverse Childhood Experiences  
CIT–Crisis Intervention Team  
CYPM–Crossover Youth Practice Model  
czb Report–A short-hand for a 2015 report published by the Washtenaw County Office of Community and Economic Development Affordable Housing/Equity Leadership Team, called “Housing Affordability and Economic Equity–Analysis.”  
HF–Housing First  
HIPAA–Health Insurance Portability and Accountability Act  
JIS–Judicial Information Services, the database system used by district courts in Michigan  
JJRA–Juvenile Justice Reform Act  
MAT–Medication-Assisted treatment  
MCL–Michigan Compiled Laws  
OPC–Overdose Prevention Centers  
OUIL–Operation while Under the Influence of intoxicating Liquor  
OWI–Operating While Intoxicated  
PSH–Permanent Supportive Housing  
PSI–Pre-Sentence Investigation  
PV–Probation Violation  
RJ–Restorative Justice  
RNR–Risk-Need-Responsivity model  
SIM–Sequential Intercept Mapping  
SOS–Opioid Overdose Surveillance  
SRO–School Resource Officer  
SSP–Syringe Services Program  
SUD–Substance Use Disorder  
TJC–Transition from Jail to Community model (National Institute of Corrections)  
UCR–Uniform Crime Report (FBI)

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<sup>1</sup> See generally Daniel Abreu and Debra A. Pinals, *Sequential Intercept Model Mapping Report for Washtenaw County, MI* (Delmar, NY: Policy Research Associates, 2017),

<https://drive.google.com/file/d/1sERn9WO442vvgRTHXMPUMv783UeEsQF4/view>; and Citizens for Racial Equity in Washtenaw (CREW), *Race to Justice: Report on Racial Disparities in the Washtenaw County Criminal Legal System* (Ann Arbor, MI: CREW, 2020), <https://www.citizensforracialequitywashtenaw.org/crew-s-report>.

<sup>2</sup> This report uses “residents” to denote residents of Washtenaw County, as well as people arrested in and who have criminal cases in the county, when describing the data findings. These individuals are likely residents of the county, but we do not have comprehensive residential data corresponding to each dataset.

<sup>3</sup> See, for example, Fair and Just Prosecution, *Reconciling Drug Courts, Decarceration, and Harm Reduction*, Issue Brief (New York: Fair and Just Prosecution, 2021), <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2021/02/FJP-Drug-Courts-Issue-Brief.pdf>; Cynthia Hujar Orr, John Wesley Hall, Norman L. Reimer, et al., *America’s Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform*, Report (Washington, DC: National Association of Criminal Defense Lawyers, 2009), 42-45,

<https://www.nacdl.org/getattachment/d15251f8-6dfe-4dd1-9f36-065e3224be4f/americas-problem-solving-courts-the-criminal-costs-of-treatment-and-the-case-for-reform.pdf>; and Joel Gross, “The Effects of Net-Widening on Minority and Indigent Drug Offenders: A Critique of Drug Courts,” *University of Maryland Law Journal of Race, Religion, Gender and Class* 10, no. 1 (2010), 161-178, 162-163, <https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1178&context=rrgc>.

<sup>4</sup> Eric J. Wodahl, Leanne Fiftal Alarid, and John H. Bowman IV, “‘Would You Prefer Jail or Probation?’ Differences in Sanctioning Preferences among White, Black, and Latinx Adults,” *Prison Journal* 102, no. 4 (2022), 395-416.

<sup>5</sup> See, for example, Tina L. Freiburger and Carly M. Hilinski, “Probation Officers’ Recommendations and Final Sentencing Outcomes,” *Journal of Crime and Justice* 34, no. 1 (2011), 45-61, 53-57; and Samuel Walker, Cassia Spohn, and Miriam DeLone, *The Color of Justice: Race, Ethnicity, and Crime in America, Sixth Edition* (Boston: Cengage Learning, 2018).

<sup>6</sup> Washtenaw County Office of the Prosecuting Attorney, *Policy Directive 2021-02: Policy Eliminating the Use of Cash Bail and Setting Standards for Pretrial Detention* (2021), 8,

<https://www.washtenaw.org/DocumentCenter/View/27208/Cash-Bail-Policy>.

<sup>7</sup> See, for example, Thomas Baker, Meghan M. Mitchell, and Jill A. Gordon, “Prison Visitation and Concerns about Reentry: Variations in Frequency and Quality of Visits Are Associated with Reentry Concerns among People Incarcerated in Prison,” *International Journal of Offender Therapy and Comparative Criminology* 66, no. 12 (2022), 1263-1284, <https://doi.org/10.1177/0306624X211013516>; Raven C. Dismuke, Jennifer E. Copp, and Jennifer M. Brown, “An Examination of Racial and Ethnic Variation in the Effect of Prison Visitation on Recidivism,” *Crime & Delinquency* (2022), 19-22, <https://doi.org/10.1177/00111287221118021>.

<sup>8</sup> See, for example, Janeen Buck Willison, Daniel P. Mears, and Jeffrey A. Butts, “The U.S. Juvenile Justice Policy Landscape,” in *U.S. Criminal Justice Policy: A Contemporary Reader, Second Edition*, edited by Karim Ismaili (Burlington, MA: Jones & Bartlett Learning, 2017); Richard Mendel, *Why Youth Incarceration Fails: An Updated Review of the Evidence* (Washington, DC: The Sentencing Project, December 8, 2022), 5-6, <https://www.sentencingproject.org/app/uploads/2023/03/Why-Youth-Incarceration-Fails.pdf>.

<sup>9</sup> Michigan Committee on Juvenile Justice, “Racial and Ethnic Disparities Data,” database (Lansing, MI: Michigan Committee on Juvenile Justice, Michigan Department of Health and Human Services), <https://data.michigancommitteeonjuvenilejustice.com/>.

<sup>10</sup> Vera Institute of Justice, *Investing in Evidence-Based Alternatives to Policing: Creating Supportive School Environments* (New York: Vera Institute of Justice, 2021),

<https://www.vera.org/downloads/publications/alternatives-to-policing-school-safety-fact-sheet.pdf>.

<sup>11</sup> Abreu and Pinals, *Sequential Intercept Model Mapping Report for Washtenaw County, MI*, 2017; and National Center for Youth Opportunity and Justice, *Critical Intervention Mapping and Strategic Planning* (Ann Arbor, MI: Washtenaw County Community Mental Health, 2019),

<https://www.washtenaw.org/AgendaCenter/ViewFile/ArchivedAgenda/10182019-239> (see attachment 4).

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- <sup>34</sup> The 2017 SIM report notes that an additional challenge is that a person may lose their homeless status (per the HUD definition) if they stay in jail longer than 90 days; this affects eligibility for housing options upon release. Abreu and Pinals, *Sequential Intercept Model Mapping Report for Washtenaw County, MI*, 2017, 19.
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<sup>64</sup> Lucius Couloute, *Nowhere to Go: Homelessness among Formerly Incarcerated People* (Northampton, MA: Prison Policy Initiative, 2018), <https://www.prisonpolicy.org/reports/housing.html>.

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- <sup>101</sup> National Alliance on Mental Illness, "Identity and Cultural Dimensions: Black/African American," <https://www.nami.org/Your-Journey/Identity-and-Cultural-Dimensions/Black-African-American>.
- <sup>102</sup> Elizabeth A. Samuels, Dennis A. Bailer, and Annajane Yolken, "Overdose Prevention Centers: An Essential Strategy to Address the Overdose Crisis," *JAMA Network Open* 5, no. 7 (2022), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2794326>.
- <sup>103</sup> Levenson, Yoon, Davoust, et al., "Supervised Injection Facilities as Harm Reduction," 2021.
- <sup>104</sup> Ng, Sutherland, and Kolber, "Does Evidence Support Supervised Injection Sites?" 2017, 866.
- <sup>105</sup> In 2021, the United States Court of Appeals for the 3<sup>rd</sup> Circuit ruled that Philadelphia's OPC violated the federal Controlled Substances Act. *United States v. Safehouse*, 985 F.3d 225 (3d Cir. 2021). The U.S. Supreme Court denied review. *United States v. Safehouse*, 985 F.3d 225 (3d Cir. 2021) *cert. denied sub nom. Safehouse v. Dep't of Just.*, 211 L. Ed. 2d 184, 142 S. Ct. 345 (2021). As of April 2023, the U.S. Department of Justice is engaged in mediated talks with Safehouse, the nonprofit organization managing this OPC, and the case has been remanded to the Eastern District of Pennsylvania to consider an additional claim. Aubrey Whelan, "Philly's Supervised Injection Site Nonprofit Will Again Start Settlement Talks with the Feds," *Philadelphia Inquirer*, January 3, 2023, <https://www.inquirer.com/health/opioid-addiction/supervised-injection-site-philadelphia-safehouse-settlement-federal-government-20230103.html>. Two OPCs operate in Manhattan with support from city government and without active opposition from the federal government, but this obstacle is worth noting. Whelan, "New York's Supervised Injection Sites," January 3, 2023.
- <sup>106</sup> Ozlem Eylem, Leonore de Wit, Annemieke van Straten, et al., "Stigma for Common Mental Disorders in Racial Minorities and Majorities a Systematic Review and Meta-Analysis," *BMC Public Health* 20 (2020), Article 879,

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<https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-020-08964-3>.

<sup>107</sup> Interdepartmental Serious Mental Illness Coordinating Committee, *How Faith-Based Communities Build Bridges to Treatment* (Washington, DC: SAMHSA, 2018),

[https://www.samhsa.gov/sites/default/files/programs\\_campaigns/ismicc\\_sept\\_2018\\_blog.pdf](https://www.samhsa.gov/sites/default/files/programs_campaigns/ismicc_sept_2018_blog.pdf).

<sup>108</sup> One relevant model builds awareness and skills about mental health among people who work in barbershops. The Confess Project, <https://www.theconfessprojectofamerica.org/>. See also Elizabeth Young Colabello, "The Confess Project: A Barbershop Mental Health Movement," *Modern Salon*, May 3, 2022, <https://www.modernsalon.com/1077520/the-confess-project-a-mental-health-barbershop-movement>.

<sup>109</sup> Key barriers include issues related to training, compensation, workload, and organizational culture. Staff, "Nonprofit Workforce Shortages: A Crisis That Affects Everyone," National Council of Nonprofits, March 22, 2023, <https://www.councilofnonprofits.org/tools-resources/nonprofit-workforce-shortages>; and Valerie A. Canady, "Poll Highlights Workforce, Service Challenges Providers Face Amid COVID-19," *Mental Health Weekly* 31, no. 40 (2021), 1-3. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8662059/>.

<sup>110</sup> Luona Lin, Karen Stamm, and Peggy Christidis, "How Diverse Is the Psychology Workforce?" *Monitor on Psychology* 49, no. 2 (2021), <https://www.apa.org/monitor/2018/02/datapoint>; see also Bureau of Labor Statistics, "Labor Force Statistics from the Current Population Survey," database (Washington, DC: BLS) modified January 25, 2023, <https://www.bls.gov/cps/cpsaat11.htm>.

<sup>111</sup> Rebecca Kim, "Addressing the Lack of Diversity in the Mental Health Field," National Alliance on Mental Illness, March 7, 2022,

<https://www.nami.org/Blogs/NAMI-Blog/March-2022/Addressing-the-Lack-of-Diversity-in-the-Mental-Health-Field>;

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Laurence J. Kirmayer and G. Eric Jarvis, "Culturally Responsive Services as a Path to Equity in Mental Healthcare," *Healthcare Papers* 18, no. 2 (2019), 11-23.

<sup>112</sup> Laurel A. Brabson, Jordan L. Harris, Oliver Lindhiem, et al., "Workforce Turnover in Community Behavioral Health Agencies in the USA: A Systematic Review with Recommendations," *Clinical Child and Family Psychology Review* 23, no. 3 (2020), 297-315.

<sup>113</sup> SAMHSA, *A Treatment Improvement Protocol: Improving Cultural Competence* (Washington, DC: U.S.

Department of Health and Human Services, 2018), <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4849.pdf>.

<sup>114</sup> Aaron Stagoff-Belfort, Daniel Bodah, and Daniela Gilbert, *The Social Costs of Policing* (New York: Vera Institute of Justice, 2022), <https://www.vera.org/publications/the-social-costs-of-policing>.

<sup>115</sup> Lynette Clemetson, "How a Liberal Michigan Town Is Putting Mental Illness at the Center of Police Reform," *Politico*, July 20, 2021,

<https://www.politico.com/news/magazine/2021/07/30/police-reform-mental-health-illness-ann-arbor-race-501344>;

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<https://www.wemu.org/show/washtenaw-united/2022-07-18/washtenaw-united-a-different-approach-to-policing-and-public-safety-in-ann-arbor-and-washtenaw-county>.

<sup>116</sup> "First Year of Reentry Services Grant Focuses on New Staff, Housing Supports," Washtenaw County, February 18, 2021, <https://www.washtenaw.org/CivicAlerts.aspx?AID=1449>.

<sup>117</sup> Cleoniki Kesidis, "Introducing LEADD: A New Millage-Supported Program to Divert from Jail to Mental Health Services," Washtenaw County, December 14, 2021, <https://www.washtenaw.org/CivicAlerts.aspx?AID=1921>; and Washtenaw County Sheriff's Office Procedural Guideline 8.44PG (LEADD), issued June 24, 2022,

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<sup>118</sup> CHRT, "Evaluating and Communicating about Washtenaw County's Law Enforcement Assisted Diversion and Deflection (LEADD) Program," <https://chrt.org/project/criminal-justice-diversion-michigan/>

<sup>119</sup> Federal Bureau of Investigation, "Crime Data Explorer," database (Washington, DC: FBI), <https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/downloads>.

<sup>120</sup> FBI, "Crime Data Explorer," database; and Vera analysis.

<sup>121</sup> U.S. Census Bureau, "Quick Facts."

<sup>122</sup> FBI, "Crime Data Explorer," database; and Vera analysis.

<sup>123</sup> FBI, "Crime Data Explorer," database; and Vera analysis. Per FBI categories, "violent charges" are defined as murder/non-negligent manslaughter, rape, robbery, and aggravated assault. Notably, this does not include simple assault, which is included in the "nonviolent" category. See, for example, FBI, "Violent Crime," in *Crime in*

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<sup>125</sup> Ibid.

<sup>126</sup> Ibid.

<sup>127</sup> Conversations with staff from a housing non-governmental organization (NGO), July 2, 2022, with Tara Dhanraj, Senior Program Associate, Vera Institute.

<sup>128</sup> Alexis Karteron, "When Stop and Frisk Comes Home: Policing Public and Patrolled Housing," *Case Western Reserve Law Review* 69, no. 3 (2019), 669-729, <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=4812&context=caselrev>.

<sup>129</sup> Conversations with staff from a housing NGO, July 2, 2022, with Tara Dhanraj, Senior Program Associate, Vera Institute.

<sup>130</sup> Email from Jennifer Hall, Executive Director, Ann Arbor Housing Commission to Tara Dhanraj, Senior Program Associate, Vera Institute of Justice, September 14, 2022.

<sup>131</sup> Ibid.

<sup>132</sup> Vera reached out to the Ypsilanti Housing Commission requesting the same information around camera surveillance and law enforcement access but did not receive a response.

<sup>133</sup> SOS is a partnership between the University of Michigan Injury Prevention Center and Michigan HIDTA (High Intensity Drug Trafficking Areas). For study, see Ashley Shukait and Andrea Mantsios, *Community Perspectives on the Michigan System for Opioid Overdose Surveillance* (Ypsilanti, MI: UNIFIED HIV Health & Beyond, 2021), iii, [https://www.washtenaw.org/DocumentCenter/View/25137/Community-Perspectives-on-the-Michigan-SOS-Unified-Evaluation-Report\\_FINAL](https://www.washtenaw.org/DocumentCenter/View/25137/Community-Perspectives-on-the-Michigan-SOS-Unified-Evaluation-Report_FINAL).

<sup>134</sup> Shukait and Mantsios, *Community Perspectives on the Michigan System for Opioid Overdose Surveillance*, 2021, 40.

<sup>135</sup> Jeffrey A. Singer and Sophia Heimowitz, *Drug Paraphernalia Laws Undermine Harm Reduction* (Washington, DC: CATO Institute, 2022),

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<sup>136</sup> Mich. Comp. Laws § 333.7451,

[http://www.legislature.mi.gov/\(S\(nuddrev5cvdfquc0aeyuy4xz\)\)/mileg.aspx?page=GetObject&objectname=mcl-333-7451](http://www.legislature.mi.gov/(S(nuddrev5cvdfquc0aeyuy4xz))/mileg.aspx?page=GetObject&objectname=mcl-333-7451).

<sup>137</sup> Mich. Comp. Laws §§ 333.7451, 333.7453, 333.7455,

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<sup>138</sup> Mich. Comp. Laws § 333.7457,

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<sup>139</sup> This report does not have data on actual arrests, charges, or citations for paraphernalia, but this analysis is possible with jail and police data. See Strategy 5 for discussion.

<sup>140</sup> Lodi Township, MI Ordinance § 2019-001; Pittsfield Township, MI Ordinance § 14-17; Ypsilanti Township, MI Ordinance §42-290; and Dexter, MI Ordinances §§ 26-241, 26-242, 26-243.

<sup>141</sup> Nazish Dholakia, "Most 911 Calls Have Nothing to Do with Crime. Why Are We Still Sending Police?" Vera Institute of Justice, April 22, 2022,

<https://www.vera.org/news/most-911-calls-have-nothing-to-do-with-crime-why-are-we-still-sending-police>.

<sup>142</sup> Vera Institute of Justice, *911 Analysis: Call Data Shows We Can Rely Less on Police* (New York: Vera Institute of Justice, 2022), 3, <https://www.vera.org/downloads/publications/911-analysis-we-can-rely-less-on-police.pdf>.

<sup>143</sup> Ibid., 4.

<sup>144</sup> While Metro dispatch is responsible for dispatching law enforcement only, staff will triage calls for both fire and EMS services. According to the Sheriff's Office 2017 Report, in 2017, Metro dispatch answered 187,751 calls for service, 214,938 911 calls, and 256,418 non-emergency calls. Washtenaw County Sheriff's Office, *2017 Annual Report* (Ann Arbor, MI: Washtenaw County Sheriff's Office, 2017), 25,

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<sup>145</sup> Calls for animal complaints may have been higher during this time period than other years due to a new partnership at the time between the sheriff's office and SPCA. Washtenaw County Sheriff's Office, *2017 Annual Report*, 2017, 13.

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<sup>146</sup> Email from Michelle Mahmoud, Administrative Services Manager, Pittsfield Township Department of Public Safety, to Tara Dhanraj, Senior Program Associate, Vera, January 10, 2023.

<sup>147</sup> Ibid.

<sup>148</sup> Pittsfield Township Police Department, "Policing Dashboard," database (Pittsfield, MI: Pittsfield Township Police Department), <https://portal.arxcommunity.com/dashboards/community/mi-twp-pittsfield-pd>. The dashboard uses a priority system. Priority 0 and 1 are for the most serious offenses that require immediate response, such as assault, battery, domestic violence, and robbery. There were 12,127 calls for service in 2021: 5,482 were for priority areas 0, 1, and 2; 6,446 were for priority areas 3-9; 199 were not categorized.

<sup>149</sup> Stagoff-Belfort, Bodah, and Gilbert, *Social Costs of Policing*, 2022, 4-6.

<sup>150</sup> Co-response and CIT models have better outcomes than police-only models. Even though there is less empirical evidence about non-police models, outcomes are promising. See, for example, Natania Marcus and Vicky Stergiopoulos, "Re-examining Mental Health Crisis Intervention: A Rapid Review Comparing Outcomes across Police, Co-Responder and Non-Police Models," *Health & Social Care in the Community* 30, no. 5 (2022), 1665-1679, <https://onlinelibrary.wiley.com/doi/full/10.1111/hsc.13731>; and Amy C. Watson, Michael T. Compton, and Leah G. Pope, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities: A Review of the Literature on Police-Based and Other First Response Models* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/downloads/publications/crisis-response-services-for-people-with-mental-illnesses-or-intellectual-and-developmental-disabilities.pdf>.

<sup>151</sup> Watson, Compton, and Pope, *Crisis Response Services*, 2019.

<sup>152</sup> Vera Institute of Justice, *911 Analysis*, 2022, 4.

<sup>153</sup> Dholakia, "Why Are We Still Sending Police?" 2022.

<sup>154</sup> SAMHSA, *National Guidelines for Behavioral Health Crisis Care Best Practice Toolkit* (Washington, DC: SAMHSA, 2020), 33,

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<sup>155</sup> Jackson Beck, Melissa Reuland, and Leah Pope, "Case Study: CAHOOTS," in *Behavioral Health Crisis Alternatives* (New York: Vera Institute of Justice, 2020), <https://www.vera.org/behavioral-health-crisis-alternatives/cahoots>;

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<sup>156</sup> Beck, Stagoff-Belfort, and Tan de Bibiana, *Civilian Crisis Response: A Toolkit*, 2022, Chapter 7.

<sup>157</sup> Seleeke Flingai, Mona Sahaf, Nicole Battle, and Savannah Castaneda, *An Analysis of Racial Disparities in Police Traffic Stops in Suffolk County, Massachusetts, from 2010 to 2019* (New York: Vera Institute of Justice, 2022),

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<sup>158</sup> Vera Institute of Justice, *Investing in Evidence-Based Alternatives to Policing: Non-Police Responses to Traffic Safety* (New York: Vera Institute of Justice, 2021), 2-3,

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<sup>159</sup> Washtenaw County Community Mental Health, "Crisis Services,"

<https://www.washtenaw.org/2936/Crisis-Services>.

<sup>160</sup> Community Mental Health staff member, conversation with Tara Dhanraj and Angie Carpio, Senior Program Associates, Vera Institute of Justice, Zoom, September 20, 2022.

<sup>161</sup> Ibid.

<sup>162</sup> WEP Front end and prevention sub-committee meeting, conversation with Tara Dhanraj, Senior Program Associate, Vera Institute of Justice, Zoom, September 2022.

<sup>163</sup> Ibid.

<sup>164</sup> Community Mental Health staff member, conversation with Tara Dhanraj and Angie Carpio, Senior Program Associates, Vera Institute of Justice, Zoom, September 20, 2022.

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<sup>166</sup> Jackson and Gentz, "A Community Collaboration Model for Crisis Intervention."

<sup>167</sup> Coalition for Re-Envisioning Our Safety, "Building Care-Based Safety in Washtenaw County," <https://www.reenvisionoursafety.org/>

<sup>168</sup> Ibid.; Ann Arbor City Council Resolution 21-0612 (April 5, 2021), <https://a2gov.legistar.com/LegislationDetail.aspx?ID=4874520&GUID=84A3D90E-7AF3-46C9-98B8-FE4789A7DAB1&Options=&Search=>. The City of Ann Arbor is in the process of seeking community input to develop a request for proposals (RFP) that is slated to be released in late 2022. Coalition For Re-Envisioning Our Safety member, conversation during WEP Front End and Prevention Subcommittee meeting with Tara Dhanraj, Senior Program Associate, Vera Institute of Justice, Zoom, September 13, 2022.

<sup>169</sup> Coalition for Re-Envisioning Our Safety member, conversation during WEP Front End and Prevention Subcommittee meeting with Tara Dhanraj, Senior Program Associate, Vera Institute of Justice, Zoom, September 13, 2022.

<sup>170</sup> Akhi Johnson and Erika Bryant, "End Police Stops for Minor Infractions," Vera Institute of Justice, October 4, 2021, <https://www.vera.org/news/end-police-stops-for-minor-infractions>.

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<sup>173</sup> National Association for Civilian Oversight of Law Enforcement, "Community Oversight Paves the Road to Police Accountability," [https://www.nacole.org/community\\_oversight\\_paves\\_the\\_road\\_to\\_police\\_accountability](https://www.nacole.org/community_oversight_paves_the_road_to_police_accountability). See also Theresa Rocha Beardall, "Police Legitimacy Regimes and the Suppression of Citizen Oversight in Response to Police Violence," *Criminology* 60, no. 4 (2022), 740-765, <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9125.12321>; and Sharon R. Fairley, "Survey Says?: US Cities Double Down on Civilian Oversight of Police Despite Challenges and Controversy," *Cardozo Law Review de novo* (2020), 1-54, <https://arc.cardozo.yu.edu/cgi/viewcontent.cgi?article=1070&context=de-novo>.

<sup>174</sup> National Association for Civilian Oversight of Law Enforcement, "Community Oversight Paves the Road to Police Accountability," [https://www.nacole.org/community\\_oversight\\_paves\\_the\\_road\\_to\\_police\\_accountability](https://www.nacole.org/community_oversight_paves_the_road_to_police_accountability).

<sup>175</sup> Washtenaw County, *CABLE & Community Feedback* (Ann Arbor, MI: Washtenaw County), <https://www.washtenaw.org/2568/Community-Feedback>.

<sup>176</sup> Sarah Rigg, "EMU Project Collaborates with Oversight Commissions to Improve Public Safety in Washtenaw County," *Concentrate: On the Ground Ypsilanti*, December 1, 2021, <https://www.seconddwavemedia.com/concentrate/innovationnews/emusmart0618.aspx>; and Eastern Michigan University, "Southeast Michigan Criminal Justice Policy Research Project (SMART)," <https://www.emich.edu/smart-research-project/projects/index.php>.

<sup>177</sup> Washtenaw County Sheriff's Office, "21<sup>st</sup> Century Policing," <https://www.washtenaw.org/3168/21st-Century-Policing-Commission>.

<sup>178</sup> Philip J. Cook, "Thinking about Gun Violence," *Criminology & Public Policy* 19, no. 4 (2020), 1371-1393; Howard Henderson and Denise Brown, *Preventing Gun Violence Takes More than Police* (Washington, DC: Brookings Institute, 2022), <https://www.brookings.edu/blog/how-we-rise/2022/03/31/preventing-gun-violence-takes-more-than-police/>; Lakeidra Chavis and Geoff Hing, "The War on Gun Violence Has Failed. And Black Men Are Paying the Price," *The Marshall Project*, March 23, 2023, <https://www.themarshallproject.org/2023/03/23/gun-violence-possession-police-chicago>.

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<sup>180</sup> Nazish Dholakia and Daniela Gilbert, *Community Violence Intervention Programs, Explained* (New York: Vera Institute of Justice, 2021), 4, <https://www.vera.org/inline-downloads/community-violence-intervention-programs-explained-report.pdf>.

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- <sup>181</sup> Washtenaw County, *Community Violence Intervention Team (CVIT) Recommendation Report* (Ann Arbor, MI: CVIT, 2022), <https://www.washtenaw.org/DocumentCenter/View/26728/CVIT-Recommendations-Final-Version>.
- <sup>182</sup> Washtenaw County Sheriff's Office, "Media Release: Understanding and Supporting CVI," press release (Ann Arbor, MI: Washtenaw County, November 1, 2022), <https://www.washtenaw.org/CivicAlerts.aspx?AID=2317>.
- <sup>183</sup> For an outline of CVI models and examples, see *CVI Ecosystem*, <https://www.cviecosystem.org/>, and *End Community Violence*, [https://www.endcommunityviolence.com/report/#contentWithButton-block\\_62d7ee33bdb24](https://www.endcommunityviolence.com/report/#contentWithButton-block_62d7ee33bdb24). For a list of organizations offering technical assistance, see Other Training and Technical Assistance Experts, CVI Ecosystem, <https://www.cviecosystem.org/pdfs/Other-Training-and-Technical-Assistance-Experts.pdf>. A Chicago-based organization with expertise in these issues is READI National Center for Safe Communities, <https://www.heartlandalliance.org/readinationalcenter/>.
- <sup>184</sup> Marcus and Stergiopoulos, "Re-examining Mental Health Crisis Intervention," 2022; and Watson, Compton, and Pope, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities*, 2019. Co-response and CIT models have better outcomes than police-only models. Even though there is less empirical evidence about non-police models, outcomes are promising.
- <sup>185</sup> Vera Institute of Justice, *911 Analysis: How Civilian Crisis Responders Can Divert Behavioral Health Calls from Police*, data analysis (New York: Vera Institute of Justice, 2022), <https://www.vera.org/downloads/publications/911-analysis-civilian-crisis-responders.pdf>; and Dholakia, "Why Are We Still Sending Police?," 2022.
- <sup>186</sup> Beck, Stagoff-Belfort, and Tan de Bibiana, *Civilian Crisis Response: A Toolkit*, 2022.
- <sup>187</sup> Steve Friess, "Effort Underway in Ann Arbor to Launch Unarmed Police Alternative," *Hour Detroit*, August 8, 2022, <https://www.hourdetroit.com/community/ann-arbor-to-test-unarmed-police-alternative/>.
- <sup>188</sup> For CAHOOTS see Jackson Beck, Melissa Reuland, and Leah Pope, "Case Study: CAHOOTS," in *Behavioral Health Crisis Alternatives* (New York: Vera Institute of Justice, 2020); for STAR see Dholakia and Gilbert, "What Happens When We Send Mental Health Providers Instead of Police," 2021. See also *Civilian Crisis Response* (New York: Vera Institute of Justice, 2021), <https://www.vera.org/downloads/publications/alternatives-to-policing-civilian-crisis-response-fact-sheet.pdf>; and Beck, Stagoff-Belfort, and Tan de Bibiana, *Civilian Crisis Response: A Toolkit*, 2022.
- <sup>189</sup> Beck, Stagoff-Belfort, and Tan de Bibiana, *Civilian Crisis Response: A Toolkit*, 2022.
- <sup>190</sup> Community members should have substantial advisory, planning, and oversight involvement, but governments should be accountable for implementation and coordination of civilian response units, according to best practice. For more details, see Jackson Beck, Aaron Stagoff-Belfort, and Jason Tan de Bibiana, "Program Planning and Community Collaboration" and "Ongoing Oversight for a Community Driven Program," in *Civilian Crisis Response: A Toolkit for Equitable Alternatives to Police* (New York: Vera Institute of Justice, 2022), respectively, <https://www.vera.org/civilian-crisis-response-toolkit/1-program-planning-and-community-collaboration> and <https://www.vera.org/civilian-crisis-response-toolkit/7-ongoing-oversight-for-a-community-driven-program>.
- <sup>191</sup> Ricky Camplain, Carolyn Camplain, Robert T. Trotter II, et al., "Racial/Ethnic Differences in Drug- and Alcohol-Related Arrest Outcomes in a Southwest County From 2009 to 2018," *American Journal of Public Health* 110 (2020), S85\_S92, <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305409>; The Drug Policy Alliance, *The Drug War, Mass Incarceration and Race* (New York: The Drug Policy Alliance, 2018), [https://drugpolicy.org/sites/default/files/drug-war-mass-incarceration-and-race\\_01\\_18\\_0.pdf](https://drugpolicy.org/sites/default/files/drug-war-mass-incarceration-and-race_01_18_0.pdf); Ezekiel Edwards, Emily Greytak, Brooke Madubonwu, et al., *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform* (New York: ACLU, 2020), <https://www.aclu.org/report/tale-two-countries-racially-targeted-arrests-era-marijuana-reform>; and Brian D. Earp, Jonathan Lewis, Carl L. Hart, et al., "Racial Justice Requires Ending the War on Drugs," *The American Journal of Bioethics* 21, no. 4 (2021), <https://www.tandfonline.com/doi/abs/10.1080/15265161.2020.1861364>.
- <sup>192</sup> Andrew Selsky, "Oregon 1<sup>st</sup> State to Decriminalize Possession of Drugs," AP News, February 1, 2021, <https://apnews.com/article/oregon-decriminalize-drug-possession-6843f93c3d55212e0ffb8b93be9196>.
- <sup>193</sup> Corey S. Davis and Derek H. Carr, "Repealing State Drug-Paraphernalia Laws-The Need for Federal Leadership," *The New England Journal of Medicine* 387, no. 15 (2022), 1344-1346, <https://pubmed.ncbi.nlm.nih.gov/36214589/>.
- <sup>194</sup> Mich. Comp. Laws § 333.7451.
- <sup>195</sup> Lodi Township (Ordinance § 2019-001), Pittsfield Township (Ordinance § 14-17), Ypsilanti Township (Ordinance §42-290), and Dexter (Ordinance §§ 26-241, 26-242, 26-243)—among others—all have local ordinances that explicitly outlaw drug paraphernalia.
- <sup>196</sup> Stagoff-Belfort, Bodah, and Gilbert, *Social Costs of Policing*, 2022; and Juan Del Toro, Tracey Lloyd, Kim S. Buchanan, et al., "The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino



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Boys," *Proceedings of the National Academy of Sciences* 116, no. 17 (2019), 8261-8268, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6486703/>.

<sup>197</sup> On the harms of punitive policing generally, see Jeremy Travis and Bruce Western, *The Era of Punitive Excess* (New York, NY: Brennan Center, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/era-punitive-excess>. On procedural justice, see Christopher Donner, Jon Maskaly, Lorie Fridell, et al., "Policing and Procedural Justice: A State-of-the-Art review," *Policing: An International Journal of Police Strategies & Management* 38, no. 1 (2015), 153-172,

[https://www.researchgate.net/publication/273866947\\_Policing\\_and\\_Procedural\\_Justice\\_A\\_State-of-the-art-review](https://www.researchgate.net/publication/273866947_Policing_and_Procedural_Justice_A_State-of-the-art-review); and Phillip Atiba Goff, "The Root Cause of Violent Crime Is Not What We Think It Is," *New York Times*, December 12, 2022, <https://www.nytimes.com/2022/12/12/opinion/crime-policies-cities.html>. Principles of procedural justice include the following: ensuring policies are publicly available and subject to review by communities most affected by them; police departments should use data to inform policies and practices; police should be trained in de-escalation techniques and utilize them; and police should receive training in working with different community groups (including LGBTQIA people, immigrants, people of color and youth). Megan Quattlebaum, Tracey Meares, and Tom Tyler, *Principles of Procedurally Just Policing* (New Haven, CT: The Justice Collaboratory at Yale Law School, 2018), x,

<https://policingequity.org/procedural-justice/40-cpe-report-procedurally-just-policing-principles/file>.

<sup>198</sup> Hilary Rau, Scarlet Neath, Maya McDoom, et al., *Redesigning Public Safety: Traffic Safety* (New Haven, CT: Center for Policing Equity, 2022), 4, <https://policingequity.org/traffic-safety/60-cpe-white-paper-traffic-safety/file>.

<sup>199</sup> Pierson, Simoiu, Overgoor, et al., "A Large-Scale Analysis of Racial Disparities in Police Stops across the United States," *Nature Human Behaviour* 4, no. 7 (2020), 736-745, <https://pubmed.ncbi.nlm.nih.gov/32367028/>.

<sup>200</sup> National Association for Civilian Oversight of Law Enforcement, "Community Oversight Paves the Road to Police Accountability," [https://www.nacole.org/community\\_oversight\\_paves\\_the\\_road\\_to\\_police\\_accountability](https://www.nacole.org/community_oversight_paves_the_road_to_police_accountability).

<sup>201</sup> Léon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera Institute of Justice, 2019), 3-6, <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf>.

<sup>202</sup> Digard and Swavola, *Justice Denied*, 2019, 4.

<sup>203</sup> Digard and Swavola, *Justice Denied*, 2019, 6.

<sup>204</sup> Digard and Swavola, *Justice Denied*, 2019, 2-3; Michigan Joint Task Force on Jail and Pretrial Incarceration, *Promote Liberty and Public Safety in Pretrial Decision-Making* (Lansing, MI: Michigan Courts, 2021), <https://www.courts.michigan.gov/493abf/siteassets/committees.-boards-special-initiatves/jails/summary-of-jails-tf-pretrial-policies.pdf>.

<sup>205</sup> Digard and Swavola, *Justice Denied*, 2019, 7; Cynthia Jones, "'Give Us Free': Addressing Racial Disparities in Bail Determinations," *Legislation and Public Policy* 16 (2013), 919-961, 938-944, <https://perma.cc/VN97-WUU2>; Traci Schlesinger, "Racial and Ethnic Disparity in Pretrial Criminal Processing," *Justice Quarterly* 22, no. 2 (2005), 170-192,

[https://www.researchgate.net/publication/248967295\\_Racial\\_and\\_Ethnic\\_Disparity\\_in\\_Pretial\\_Criminal\\_Processing](https://www.researchgate.net/publication/248967295_Racial_and_Ethnic_Disparity_in_Pretial_Criminal_Processing); Stephen Demuth, "Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A Comparison of Hispanic, Black, and White Felony Arrestees," *Criminology* 41, no. 3 (2003), 873-908; and David Arnold, Will Dobbie, and Crystal S. Yang, "Racial Bias in Bail Decisions," *Quarterly Journal of Economics* 133, no. 4 (2018), 1885-1932, <https://perma.cc/Y529-8JV6>.

<sup>206</sup> Tina L. Freiburger, Catherine D. Marcum, and Mari Pierce, "The Impact of Race on the Pretrial Decision," *American Journal of Criminal Justice* 35, no. 1 (2010), 76-86, 81, <https://perma.cc/8HAT-BDYW>.

<sup>207</sup> Schlesinger, "Racial and Ethnic Disparity in Pretrial Criminal Processing," 2005, 182-183; and Demuth, "Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes," 2003, 897.

<sup>208</sup> Aurelie Ouss and Megan Stevenson, "Does Cash Bail Deter Misconduct?" (January 1, 2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3335138](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3335138). The major differences between the two policies are that the Philadelphia policy does allow prosecutors to ask for cash bail in some circumstances and that the Washtenaw policy still allows prosecutors to request surety bonds in some cases.

<sup>209</sup> Garlin Gilchrist II, Bridget McCormack, Jim Miller, et al., *Michigan Joint Task Force on Jail and Pretrial Incarceration Report and Recommendations* (Lansing, MI: Michigan Joint Task Force on Jail and Pretrial Incarceration, 2020), 24-27, <https://www.courts.michigan.gov/48e562/siteassets/committees.-boards-special-initiatves/jails/jails-task-force-final-report-and-recommendations.pdf>.

<sup>210</sup> Julia Forrest, "Half of Those in Jail Can't Afford Bail, but Bipartisan Bills Aim to Fix That," *Michigan Advance*, November 17, 2021, <https://michiganadvance.com/2021/11/17/half-of-those-in-jail-cant-afford-bail-but-bipartisan-bills-aim-to-fix-that/>; and Phil Mayor and Dan Korobkin, "Bail Reform: The Time Is Now," *Michigan Bar*

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*Journal*, February 2022. If HB 5436 were to pass, money bail could not be set unless a charge falls into one of the following five categories: (1) any assaultive crime; (2) a “listed offense,” meaning certain sex offenses; (3) a serious misdemeanor (including assault and battery, breaking and entering, lower-level child abuse and neglect, etc.); (4) operating a vehicle while intoxicated; or (5) any felony punishable by five years or more, <https://www.michbar.org/journal/Details/Bail-reform-The-time-is-now?ArticleID=4326>.

<sup>211</sup> *Ross et al. v. Chief Judge of Michigan’s 36th District Court et al.*, No. 19-cv-11076 (E.D. Mich., filed Apr. 14, 2019) (settlement agreement),

[https://www.aclumich.org/sites/default/files/field\\_documents/ross\\_v\\_36d\\_agreement.pdf](https://www.aclumich.org/sites/default/files/field_documents/ross_v_36d_agreement.pdf).

<sup>212</sup> *Ibid.*, 5-13. For a plain text explanation of the settlement, see American Civil Liberties Union Michigan, *Detroit Bail Agreement: Summary of Agreement Structure and Features* (Detroit, MI: ACLU, 2022), [https://www.aclumich.org/sites/default/files/field\\_documents/bail\\_agreement\\_summary\\_-\\_final.pdf](https://www.aclumich.org/sites/default/files/field_documents/bail_agreement_summary_-_final.pdf). If there is evidence of risk of flight or danger to the public, the court will first consider non-monetary conditions and will only consider cash bail if there are no other conditions sufficient to address these risks.

<sup>213</sup> *Ross et al. v. Chief Judge of Michigan’s 36th District Court et al.*, No. 19-cv-11076 (E.D. Mich., filed Apr. 14, 2019) (settlement agreement), 6-7. Under the agreement, bail is intended to be set at an affordable amount; the court is only allowed to set bail at an unaffordable amount if it finds that pretrial detention is the only way to protect the public or prevent the risk of flight.

<sup>214</sup> *Ross et al. v. Chief Judge of Michigan’s 36th District Court et al.*, No. 19-cv-11076 (E.D. Mich., filed Apr. 14, 2019) (settlement agreement), 11, 13. People who have cash bail set that was intended to be affordable are entitled to another hearing the following day if they have been unable to post it, and people who have cash bail set in an amount intended to be unaffordable are entitled to a hearing within 48-72 hours to challenge the decision to detain them. *Ross et al. v. Chief Judge of Michigan’s 36th District Court et al.*, No. 19-cv-11076 (E.D. Mich., filed Apr. 14, 2019) (settlement agreement), 7-8.

<sup>215</sup> *Ross et al. v. Chief Judge of Michigan’s 36th District Court et al.*, No. 19-cv-11076 (E.D. Mich., filed Apr. 14, 2019) (settlement agreement), 19.

<sup>216</sup> ACLU Michigan, *Washtenaw County Statistics: Preliminary Findings* (Detroit: ACLU, 2019), on file with Vera.

<sup>217</sup> *Ibid.*, 2.

<sup>218</sup> *Ibid.*, 1.

<sup>219</sup> *Ibid.*, 1-2.

<sup>220</sup> *Ibid.*

<sup>221</sup> *Ibid.*, 2. This figure does not account for people who were released on personal recognizance without ever being booked into the jail.

<sup>222</sup> Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-02: Policy Eliminating the Use of Cash Bail and Setting Standards for Pretrial Detention (2021), 8, <https://www.washtenaw.org/DocumentCenter/View/27208/Cash-Bail-Policy>.

<sup>223</sup> *Ibid.*, 7-8, 13.

<sup>224</sup> *Ibid.*, 8-13.

<sup>225</sup> *Ibid.*, 9-10.

<sup>226</sup> Because the WEP and Vera were unable to access bail data from the district courts, we are unable to say what effects this policy has had so far.

<sup>227</sup> ACLU Michigan, *Washtenaw County Statistics*, 2019, 1.

<sup>228</sup> *Ibid.*, 2.

<sup>229</sup> The time served variable only captures cases that were bound over to the trial court, so this data analysis does not capture cases where bail was set in the district courts only on misdemeanors or ordinance violations.

<sup>230</sup> The mean time served for Black defendants is 56.3 days and for white defendants is 51.1 days,  $p=.0038$ .

<sup>231</sup> Yvon Dandurand and Curt T. Griffiths, *Handbook on Restorative Justice Programmes* (Vienna: United Nations Office on Drugs and Crime, 2006), 100, [https://www.unodc.org/pdf/criminal\\_justice/Handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf).

<sup>232</sup> *Ibid.*

<sup>233</sup> Reese Frederickson, Alissa Marque Heydari, and Chloe Marmet, *Restorative Justice: A Best Practice Guide for Prosecutors in Smaller Jurisdictions* (New York: The Institute for Innovation in Prosecution at John Jay College of Criminal Justice [IIP], 2022), 3, <https://static1.squarespace.com/static/5c4fbee5697a9849dae88a23/t/61f18ead2f9f040ed03aa1f1/1643220659137/FINAL+Restorative+Justice+Paper+2022.pdf>.

<sup>234</sup> Jeff Latimer, Craig Dowden, and Danielle Muise, “The Effectiveness of Restorative Justice Practices: A Meta-Analysis,” *Prison Journal* 85, no. 2 (2005), 127-144, 136-139, [https://www.d.umn.edu/~jmaahs/Correctional%20Assessment/rj\\_meta%20analysis.pdf](https://www.d.umn.edu/~jmaahs/Correctional%20Assessment/rj_meta%20analysis.pdf).

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- <sup>235</sup> Washtenaw County Trial Court, "Peacemaking," <https://www.washtenaw.org/1168/Peacemaking>; Washtenaw County Prosecutor's Office, "Restorative Justice," <https://www.washtenaw.org/3458/Restorative-Justice>; Dispute Resolution Center, "Mission and History," <https://thedisputeresolutioncenter.org/about/mission-and-history/>; and Dispute Resolution Center, "Restorative Justice Program," <https://thedisputeresolutioncenter.org/services/restorativejustice/>.
- <sup>236</sup> Judge Timothy Connors, "Exit, Pursued by a Bear: Why Peacemaking Makes Sense in State Court Justice Systems," *Judges' Journal* 55, no. 4 (2016), 25, <https://turtletalk.files.wordpress.com/2016/11/exit-pursued-by-a-bear-pdf-from-publisher.pdf>; Washtenaw County Peacemaking Court, *Year End Summary: 2016* (Ann Arbor, MI: Washtenaw County Peacemaking Court, 2016), 1, <https://www.washtenaw.org/DocumentCenter/View/4056/2016-Summary-of-Peacemaking-Court-in-Washtenaw-County-PDF>; and Vera conversation with representative from the Peacemaking Court, 7/26/22.
- <sup>237</sup> Representative from the Peacemaking Court, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 26, 2022.
- <sup>238</sup> *Ibid.*; Peacemaking Court data (1/1/2014-6/1/22) provided by the Dispute Resolution Center.
- <sup>239</sup> Washtenaw County Peacemaking Court, *Year End Summary: 2016*, 2016; and Judge Connors, "Exit, Pursued by a Bear," 2016, 28.
- <sup>240</sup> Vera conversation with representative from the Peacemaking Court, 7/26/22.
- <sup>241</sup> Washtenaw County, Office of the Prosecuting Attorney Policy Directive 2021-16: Policy Regarding Restorative Justice (2021), 6, <https://www.washtenaw.org/DocumentCenter/View/22245/Restorative-Justice-Policy?bidId=>.
- <sup>242</sup> *Ibid.*, 6-7. Cases involving intimate-partner violence, sexual assault, a child victimized by an adult, harm committed by a person who was in a supervisory role or position of authority over the victim, or cases where the factual circumstances indicate the person charged is a threat to an identifiable person or to public safety are excluded from consideration.
- <sup>243</sup> Washtenaw County, Office of the Prosecuting Attorney Policy Directive 2021-16: Policy Regarding Restorative Justice (2021), 6-7.
- <sup>244</sup> *Ibid.*, 7.
- <sup>245</sup> *Ibid.*, 8.
- <sup>246</sup> *Ibid.*, 8-10.
- <sup>247</sup> Representative from the Dispute Resolution Court, conversation with Alex Roth, Senior Program Associate, Vera Institute, September 6, 2022.
- <sup>248</sup> Cindy Brooks Dollar, Bradley Ray, Mary Kay Hudson, et al., "Examining Changes in Procedural Justice and Their Influence on Problem-Solving Court Outcomes," *Behavioral Sciences & the Law* 36, no. 1 (2018), 32-45, [https://libres.uncg.edu/ir/uncg/f/C\\_Dollar\\_Examining\\_2018.pdf](https://libres.uncg.edu/ir/uncg/f/C_Dollar_Examining_2018.pdf); and Michigan Courts, "Problem-Solving Courts," <https://www.courts.michigan.gov/administration/court-programs/problem-solving-courts/>.
- <sup>249</sup> Justice Elizabeth T. Clement, *Problem-Solving Courts Annual Report: FY 2021*, Annual Report (Lansing, MI: Michigan Problem-Solving Courts, 2021), 7, <https://www.courts.michigan.gov/496434/siteassets/reports/psc/pscannualreportfy2021.pdf>; and Alejandra Garcia and Dave Lucas, *Bridging the Gap: A Practitioner's Guide to Harm Reduction in Drug Courts* (New York: Center for Court Innovation, 2021), 4, [https://www.courtinnovation.org/sites/default/files/media/document/2021/Guide\\_TA\\_BridgingtheGap\\_08102021.pdf](https://www.courtinnovation.org/sites/default/files/media/document/2021/Guide_TA_BridgingtheGap_08102021.pdf).
- <sup>250</sup> Douglas B. Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," *Court Review: The Journal of the American Judges Association* 49 (2013), 40-47, 40-41, <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1416&context=ajacourtreview>; *Problem-Solving Courts Annual Report FY 2021*, 2021, 8; and Garcia and Lucas, *Bridging the Gap*, 2021, 4.
- <sup>251</sup> Nastassia Walsh, *Addicted to Courts: How a Growing Dependence on Drug Courts Impacts People and Communities* (Washington, DC: Justice Policy Institute, 2011), 2-3, [https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/addicted\\_to\\_courts\\_final.pdf](https://justicepolicy.org/wp-content/uploads/justicepolicy/documents/addicted_to_courts_final.pdf); David R. Lilley, "Did Drug Courts Lead to Increased Arrest and Punishment of Minor Drug Offenses?" *Justice Quarterly* 34, no. 4 (2017), 677, <https://www.tandfonline.com/doi/abs/10.1080/07418825.2016.1219760>.
- <sup>252</sup> Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," 2013, 41; Jerome McKean and Kiesha Warren-Gordon, "Racial Differences in Graduation Rates From Adult Drug Treatment Courts," *Journal of Ethnicity in Criminal Justice* 9, no. 1 (2011), 42, [https://www.researchgate.net/publication/233453940\\_Racial\\_Differences\\_in\\_Graduation\\_Rates\\_From\\_Adult\\_Drug\\_Treatment\\_Courts](https://www.researchgate.net/publication/233453940_Racial_Differences_in_Graduation_Rates_From_Adult_Drug_Treatment_Courts); Alyssa M. Sheeran and Amanda J. Heideman, "The Effects of Race and Ethnicity on Admission, Graduation, and Recidivism in the Milwaukee County Adult Drug Treatment Court," *Social Sciences* 10, no. 7 (2021), 261, 263, <https://www.mdpi.com/2076-0760/10/7/261>.

<sup>253</sup> For studies on mental health courts, see Marlee E. Moore and Virginia Aldigé Hiday, "Mental Health Court Outcomes: A Comparison of Re-Arrest and Re-Arrest Severity Between Mental Health Court and Traditional Court Participants," *Law and Human Behavior* 30, no. 6 (2006), 659-674, 672, [https://www.researchgate.net/publication/6741810\\_Mental\\_Health\\_Court\\_Outcomes\\_A\\_Comparison\\_of\\_Re-Arrest\\_and\\_Re-Arrest\\_Severity\\_Between\\_Mental\\_Health\\_Court\\_and\\_Traditional\\_Court\\_Participants](https://www.researchgate.net/publication/6741810_Mental_Health_Court_Outcomes_A_Comparison_of_Re-Arrest_and_Re-Arrest_Severity_Between_Mental_Health_Court_and_Traditional_Court_Participants); Woojae Han, Jason Matejkowski, and Sungkyu Lee, "Racial Variation in Mental Health Court Experiences and the Associations of These Experiences with Recidivism," *Criminal Justice and Behavior* 47, no. 7 (2020), 808-828, 812; Evan M. Lowder, Candalyn B. Rade, and Sarah L. Desmarais, "Effectiveness of Mental Health Courts in Reducing Recidivism: A Meta-Analysis," *Psychiatric Services* 69, no. 1 (2018), 15-22, 19-20, <https://ps.psychiatryonline.org/doi/pdf/10.1176/appi.ps.201700107>; and Woojae Han and Allison D. Redlich, "Racial/Ethnic Disparities in Community Behavioral Health Service Usage: A Comparison of Mental Health Court and Traditional Court Defendants," *Criminal Justice and Behavior* 45, no. 2 (2017), 173-194, 190-191, [https://www.researchgate.net/publication/321009188\\_RacialEthnic\\_Disparities\\_in\\_Community\\_Behavioral\\_Health\\_Service\\_Usage\\_A\\_Comparison\\_of\\_Mental\\_Health\\_Court\\_and\\_Traditional\\_Court\\_Defendants](https://www.researchgate.net/publication/321009188_RacialEthnic_Disparities_in_Community_Behavioral_Health_Service_Usage_A_Comparison_of_Mental_Health_Court_and_Traditional_Court_Defendants). For studies on veterans courts, see Tiffany Cartwright, "'To Care for Him Who Shall Have Borne the Battle': The Recent Development of Veterans Treatment Courts in America," *Stanford Law & Policy Review* 22, no. 1 (2011), 295-316, 315, <https://law.stanford.edu/wp-content/uploads/2018/03/cartwright.pdf>; Honorable Robert T. Russell, "Veteran Treatment Courts," *Touro Law Review* 31, no. 3 (2015), 385-401, 397, <https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=2656&context=lawreview>; Jack Tsai, Andrea Finlay, Bessie Flatley, et al., "A National Study of Veterans Treatment Court Participants: Who Benefits and Who Recidivates," *Administration and Policy in Mental Health* 45, no. 2 (2018), 242, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5776060/pdf/nihms929803.pdf>; and Richard D. Hartley and Julie Marie Baldwin, "Waging War on Recidivism among Justice-Involved Veterans: An Impact Evaluation of a Large Urban Veterans Treatment Court," *Criminal Justice Policy Review* 30, no. 1 (2019), 52-78, 55, 69-70, <https://journals.sagepub.com/doi/pdf/10.1177/0887403416650490>.

<sup>254</sup> Timothy Ho, Shannon M. Carey, and Anna M. Malsch, "Racial and Gender Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them?" *Journal for Advancing Justice* 1 (2018), 5-34, 9, <https://advancejustice.org/wp-content/uploads/2018/06/AJ-Journal.pdf>; and Robert V. Wolf, "Race, Bias, and Problem-Solving Courts," *National Black Law Journal* 21, no. 1 (2008), 27-52, 35, <https://www.courtinnovation.org/sites/default/files/race.pdf>.

<sup>255</sup> Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," 2013, 41-42; Gross, "The Effects of Net-Widening," 2010, 169-171; Garcia and Lucas, *Bridging the Gap*, 10; Cynthia Hujar Orr, John Wesley Hall, Norman L. Reimer, Edward A. Mallett, Kyle O'Dowd, and Angelyn C. Frazer, *America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform* (Washington, DC: National Association of Criminal Defense Lawyers, 2009), 42, <https://www.nacdl.org/getattachment/d15251f8-6dfe-4dd1-9f36-065e3224be4f/americas-problem-solving-courts-the-criminal-costs-of-treatment-and-the-case-for-reform.pdf>; John Robert Gallagher, Elizabeth A. Wahler, and Elyse Lefebvre, "Further Evidence of Racial Disparities in Drug Court Outcomes: Enhancing Service-Delivery to Reduce Criminal Recidivism Rates for Non-White Participants," *Journal of Social Service Research* 46, no. 3 (February 2019), 7, <https://www.tandfonline.com/doi/full/10.1080/01488376.2019.1575325>. A national survey of drug courts found that the representation of Black people in drug courts was about seven percentage points lower than their representation among the populations of people arrested or on probation or parole. See Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," 2013, 42.

<sup>256</sup> Sheeran and Heideman, "The Effects of Race and Ethnicity on Admission, Graduation, and Recidivism in the Milwaukee County Adult Drug Treatment Court," 2021, 272.

<sup>257</sup> See, for example, Gross, "The Effects of Net-Widening," 2010, 161-178, 169-171; and Robert V. Wolf, "Race, Bias, and Problem-Solving Courts," *National Black Law Journal* 21, no. 1 (2009), 27-52, 44, <https://www.innovatingjustice.org/sites/default/files/race.pdf>.

<sup>258</sup> For example, a 2016 study of Kentucky drug courts found that perceived "lack of cooperation" and "denial of addiction" were factors in determinations of non-eligibility for potential Black participants in drug courts. Lisa M. Shannon, Afton Jackson Jones, Shondrah Nash, et al., "Examining Racial Disparities in Program Completion and Post-Program Recidivism Rates: Comparing Caucasian and Non-Caucasian Treatment Court Participants," *Journal for Advancing Justice* 1 (2018), 63-88, 74 (citing an unpublished study conducted by the Kentucky Administrative Office of the Courts), <https://www.ndci.org/wp-content/uploads/2018/06/AJ-Journal.pdf>.

<sup>259</sup> Han, Matejkowski, and Lee, "Racial Variation in Mental Health Court Experiences," 2020, 811; Han and Redlich, "Racial/Ethnic Disparities in Community Behavioral Health Service Usage," 2017, 3.

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- <sup>260</sup> Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," 2013, 43-44; Sheeran and Heideman, "The Effects of Race and Ethnicity on Admission, Graduation, and Recidivism in the Milwaukee County Adult Drug Treatment Court," 2021, 264; John R. Gallagher and Anne Nordberg, "African American Participants' Suggestions for Eliminating Racial Disparities in Graduation Rates: Implications for Drug Court Practice," in *Journal for Advancing Justice* 1 (2018), 89-108, 90-91, <https://advancejustice.org/wp-content/uploads/2018/06/AJ-Journal.pdf>; Douglas B. Marlowe, Lisa M. Shannon, Bradley Ray, et al., "Developing a Culturally Proficient Intervention for Young African American Men in Drug Court: Examining Feasibility and Estimating an Effect Size for Habilitation Empowerment Accountability Therapy (HEAT)," *Journal for Advancing Justice* 1 (2018), 109-130, 110-111, <https://advancejustice.org/wp-content/uploads/2018/06/AJ-Journal.pdf>; Jerome McKean and Kiesha Warren-Gordon, "Racial Differences in Graduation Rates from Adult Drug Treatment Courts," *Journal of Ethnicity in Criminal Justice* 9 (2011), 41-55, 44-45; Anne Dannerbeck, Gardenia Harris, Paul Sundet, et al., "Understanding and Responding to Racial Differences in Drug Court Outcomes," *Journal of Ethnicity in Substance Abuse* 5, no. 2 (2006), 1-22, 4-5; and Ho, Carey, and Malsch, "Racial and Gender Disparities in Treatment Courts," 2018, 11, 25-29.
- <sup>261</sup> Michelle T. White, Tara L. Kunkel, Fred L. Cheesman II, et al., *Michigan's Adult Drug Courts Recidivism Analysis: Summary of Findings and Recommendations* (Williamsburg, VA: National Center for State Courts, 2017), 35, <https://www.courts.michigan.gov/498c7b/siteassets/court-administration/best-practices/psc/ncsc-adult-recidivismanalysis.pdf>; and Michelle T. White, Tara L. Kunkel, Fred L. Cheesman II, et al., *Michigan's Hybrid Courts Recidivism Analysis: Summary of Findings and Recommendations* (Williamsburg, VA: National Center for State Courts, 2017), 36, <https://www.courts.michigan.gov/498c88/siteassets/court-administration/best-practices/psc/ncsc-hybrid-recidivismanalysis.pdf>.
- <sup>262</sup> Gross, "The Effects of Net-Widening," 2010, 172-174; and Michael M. O'Hear, "Rethinking Drug Courts: Restorative Justice as a Response to Racial Injustice," *Stanford Law and Policy Review* 20 (2009), 463-500, 480, <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1140&context=facpub>.
- <sup>263</sup> Walsh, *Addicted to Courts*, 2011, 23; Sheeran and Heideman, "The Effects of Race and Ethnicity on Admission, Graduation, and Recidivism in the Milwaukee County Adult Drug Treatment Court," 2021, 264, 272; Ho, Carey, and Malsch, "Racial and Gender Disparities in Treatment Courts," 2018, 26; Dannerbeck, Harris, Sundet et al., "Understanding and Responding to Racial Differences in Drug Court Outcomes," 2006, 4-5; Marlowe, "Achieving Racial and Ethnic Fairness in Drug Courts," 2013, 45; John Robert Gallagher and Elizabeth A. Wahler, "Racial Disparities in Drug Court Graduation Rates: The Role of Recovery Support Groups and Environments," *Journal of Social Work Practice in the Addictions* 18, no. 2 (2018), 113-127, 115-116; and Gallagher and Nordberg, "African American Participants' Suggestions for Eliminating Racial Disparities in Graduation Rates," 2018, 111-113.
- <sup>264</sup> Orr, Hall, Reimer, et al., *America's Problem-Solving Courts*, 2009, 42; Gross, "The Effects of Net-Widening," 2010, 162-163; Wolf, "Race, Bias, and Problem-Solving Courts," 2009, 39-40; Walsh, *Addicted to Courts*, 2011, 16; Marlowe, Shannon, Ray et al., "Developing a Culturally Proficient Intervention for Young African American Men in Drug Court," 2018, 112; and Drug Policy Alliance, *Drug Courts Are Not the Answer: Toward a Health-Centered Approach to Drug Use* (New York: Drug Policy Alliance, 2011), 8, 14, [https://drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%20the%20Answer\\_Final2.pdf](https://drugpolicy.org/sites/default/files/Drug%20Courts%20Are%20Not%20the%20Answer_Final2.pdf).
- <sup>265</sup> David R. Lilley, "Did Drug Courts Lead to Increased Arrest and Punishment of Minor Drug Offenses?" *Justice Quarterly* 34, no. 4 (2017), 674-698, 681, 691, <https://www.tandfonline.com/doi/abs/10.1080/07418825.2016.1219760>; and David R. Lilley, Megan C. Stewart, and Kasey Tucker-Gail, "Drug Courts and Net-Widening in U.S. Cities: A Reanalysis Using Propensity Score Matching," *Criminal Justice Policy Review* 31, no. 2 (2020), 287-308, 298-300 (drug court implementation was associated with a 16.8% overall increase in minor drug arrests among cities with over 50,000 population during the 1990-2006 time period), <https://journals.sagepub.com/doi/abs/10.1177/0887403419828045>, and Morris B. Hoffman, "The Drug Court Scandal," *North Carolina Law Review* 78, no. 5 (2000), 1437-1534, 1501-1512, <https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=3872&context=nclr>.
- <sup>266</sup> See, for example, Fair and Just Prosecution, *Reconciling Drug Courts, Decarceration, and Harm Reduction* (San Francisco: Fair and Just Prosecution, 2021), <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2021/02/FJP-Drug-Courts-Issue-Brief.pdf>; and Kerwin Kaye, *Enforcing Freedom: Drug Courts, Therapeutic Communities, and the Intimacies of the State* (New York: Columbia University Press, 2019).
- <sup>267</sup> Walsh, *Addicted to Courts*, 2011, 17; Garcia and Lucas, *Bridging the Gap*, 2021, 15; Drug Policy Alliance, *Drug Courts Are Not the Answer*, 2011, 11-12.
- <sup>268</sup> Walsh, *Addicted to Courts*, 2011, 24; Orr, Hall, Reimer, et al., *America's Problem-Solving Courts*, 2009, 29; and Drug Policy Alliance, *Drug Courts Are Not the Answer*, 2011, 14.

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- <sup>269</sup> Drug courts, mental health courts, and veterans' courts in Michigan are all prohibited from accepting anyone who is considered a "violent offender." Mich. Comp. Laws §§ 600.1064 (drug courts); 600.1093 (mental health courts); 600.1203 (veterans courts). "Violent offender" is defined as someone who is charged with or has pled guilty to an offense involving the death of or serious bodily injury to any individual, or any degree of criminal sexual conduct. Mich. Comp. Laws §§ 600.1060(g) (drug court definition); 600.1090(i) (mental health court definition, substituting "has been convicted of" for "has pled guilty to"); 600.1200(k) (veterans court definition).
- <sup>270</sup> Mich. Comp. Laws §§ 600.1066 & 600.1068.
- <sup>271</sup> Mich. Comp. Laws § 600.1093.
- <sup>272</sup> Mich. Comp. Laws §§ 600.1200(h); 600.1204; 600.1205.
- <sup>273</sup> For drug treatment court see Mich. Comp. Laws §§ 600.1068(1)(b) & 600.1076. For mental health court, see Mich. Comp. Laws §§ 600.1094(1)(a) & Section 600.1098. For veterans court, see Mich. Comp. Laws §§ 600.1205(1)(b) & Section 600.1209.
- <sup>274</sup> The only exception is if the court determines that requiring payment would be a substantial hardship or would interfere with the person's treatment. Mich. Comp. Laws §§ 600.1070(4) & 600.1074 (drug court); 600.1095(3) & 600.1097 (mental health court); 600.1206(4) & 600.1208 (veterans court).
- <sup>275</sup> Mich. Comp. Laws §§ 600.1074(2) & 600.1208(2); cf. Mich. Comp. Laws § 600.1097(2).
- <sup>276</sup> Data provided to Vera on August 1, 2022, from the Washtenaw County Trial Court. The comparison here is between treatment court participants still in the program as of 6/30/22 and everyone in the Trial Court with treatment-court eligible offenses filed in 2021.
- <sup>277</sup> Data provided to Vera on August 1, 2022, from the Washtenaw County Trial Court. This is based on the lead offenses of people currently enrolled in the treatment court compared to people charged with those same offenses in the trial court criminal docket.
- <sup>278</sup> Data provided to Vera on August 1, 2022, from the Washtenaw County Trial Court. The specific charge in Michigan is Operating While Intoxicated (OWI), Mich. Comp. Laws § 257.625, which appears often to be referred to as Operating Under the Influence of Liquor (OUIL).
- <sup>279</sup> Data provided to Vera on August 1, 2022, from the Washtenaw County Trial Court.
- <sup>280</sup> *Ibid.*
- <sup>281</sup> Data provided to Vera on August 8, 2022, from the 15<sup>th</sup> District Court. The data for the Mental Health Treatment Court is from 2014 to 2021, while the data for the Veterans Treatment Court is from 2012 to 2021.
- <sup>282</sup> Data provided to Vera on August 8, 2022, from the 15<sup>th</sup> District Court.
- <sup>283</sup> *Ibid.* These comparisons are based on the number of cases with recorded outcomes, which is slightly lower than the total number of people admitted, presumably because of people still in the program.
- <sup>284</sup> Data provided to Vera on August 8, 2022, from the 15<sup>th</sup> District Court. This seeming inconsistency is due to the fact that a larger number of white people left the program for other reasons, such as voluntary or other withdrawals or death.
- <sup>285</sup> Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-16, 2021, 6, n. 30.
- <sup>286</sup> O'Hear, "Rethinking Drug Courts," 2009, 491. This would appear to be consistent with the prosecutor's office's RJ policy, which does say that in some cases the victim may be the community. Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-16, 2021, 7.
- <sup>287</sup> See Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-16, 2021.
- <sup>288</sup> Washtenaw County, "Washtenaw County Earns Spot in Competitive 'Cities and Counties for Fines and Fee Justice' Cohort," press release (Ann Arbor, MI: Washtenaw County, August 3, 2022), <https://www.washtenaw.org/3674/FINE-AND-FEE-JUSTICE-COHORT>.
- <sup>289</sup> Gross, "The Effects of Net-Widening," 2010, 176; Orr, Hall, Reimer, et al., *America's Problem-Solving Courts*, 2009, 45.
- <sup>290</sup> Some funding requires mandatory drug testing, despite questions about the relative effectiveness and costs of this measure.
- <sup>291</sup> Ho, Carey, and Malsch, "Racial and Gender Disparities in Treatment Courts," 2018, 26.
- <sup>292</sup> Wolf, "Race, Bias, and Problem-Solving Courts," 2009, 36.
- <sup>293</sup> Ho, Carey, and Malsch, "Racial and Gender Disparities in Treatment Courts," 2018, 11, 25-29.
- <sup>294</sup> Mich. Comp. Laws § 771.14(1).
- <sup>295</sup> Michigan Department of Corrections (MDOC), Operating Procedure 06.01.140, Pre-Sentence Investigation and Report Preparation, effective January 17, 2022, § G.
- <sup>296</sup> *Ibid.*, § D.
- <sup>297</sup> *Ibid.*, §§ G-H.

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- <sup>298</sup> Representative from MDOC Field Operations Administration Region 9 office, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 1, 2022. See also, Equivant, *Practitioner's Guide to COMPAS Core* (Traverse City, MI: Northpointe, Inc., 2019), <https://www.equivant.com/wp-content/uploads/Practitioners-Guide-to-COMPAS-Core-040419.pdf>; and MDOC, *Administration and Use of COMPAS in the Presentence Investigation Report* (Lansing, MI: MDOC, Field Operations Administration, 2017), <https://www.michbar.org/file/news/releases/archives17/COMPAS-at-PSI-Manual-2-27-17-Combined.pdf>.
- <sup>299</sup> Email from representative from MDOC Field Operations Administration Region 9 office, to Alex Roth, Senior Program Associate, Vera Institute, July 15, 2022.
- <sup>300</sup> *Ibid.* These are based on the circumstances of the case, the impact on the victim, the person's prior criminal record, etc.
- <sup>301</sup> Representative from MDOC Field Operations Administration Region 9 office, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 1, 2022.
- <sup>302</sup> Email from representative from MDOC Field Operations Administration Region 9 office, to Alex Roth, Senior Program Associate, Vera Institute, July 15, 2022.
- <sup>303</sup> *Ibid.*
- <sup>304</sup> *Ibid.*
- <sup>305</sup> Office of the Auditor General, *Performance Audit of the Presentence Investigation Process* (Lansing, MI: Office of the Auditor General, 1997), 11, [https://audgen.michigan.gov/finalpdfs/97\\_98/r4711997.pdf](https://audgen.michigan.gov/finalpdfs/97_98/r4711997.pdf).
- <sup>306</sup> Vera and the WEP were unable to get any information from MDOC about whether it had implemented a continuous quality improvement process. The Michigan Auditor General's [website](#) does not list any follow-up to the 1997 audit nor any new audit of the PSI process among its lists of current work or completed projects.
- <sup>307</sup> Rory Monaghan and Kaitlyn Konefal, "Presentence Investigation Reports and Racial/Ethnic Disparities in Sentencing," *Crime & Delinquency* (published online April 10, 2022), 13-16, <https://journals.sagepub.com/doi/pdf/10.1177/00111287221077632>.
- <sup>308</sup> Michael Leiber, John Reitzel, and Kristin Mack, "Probation Officer Recommendations for Sentencing Relative to Judicial Practice: The Implications for African Americans," *Criminal Justice Policy Review* 22, no. 3 (2011), 301-329, [https://www.researchgate.net/profile/Michael-Leiber-2/publication/238432101\\_Probation\\_Officer\\_Recommendations\\_for\\_Sentencing\\_Relative\\_to\\_Judicial\\_Practice\\_The\\_Implications\\_for\\_African\\_Americans/links/55ae5aaf08ae98e661a6e26a/Probation-Officer-Recommendations-for-Sentencing-Relative-to-Judicial-Practice-The-Implications-for-African-Americans.pdf](https://www.researchgate.net/profile/Michael-Leiber-2/publication/238432101_Probation_Officer_Recommendations_for_Sentencing_Relative_to_Judicial_Practice_The_Implications_for_African_Americans/links/55ae5aaf08ae98e661a6e26a/Probation-Officer-Recommendations-for-Sentencing-Relative-to-Judicial-Practice-The-Implications-for-African-Americans.pdf).
- <sup>309</sup> Tina L. Freiburger and Carly M. Hilinski, "Probation Officers' Recommendations and Final Sentencing Outcomes," *Journal of Crime and Justice* 34, no. 1 (2011), 45-61, 53-57.
- <sup>310</sup> Denise Leifker and Lisa L. Sample, "Probation Recommendations and Sentences Received: The Association between the Two and the Factors That Affect Recommendations," *Criminal Justice Policy Review* 22, no. 4 (2011), 494-517, 511, <https://journals.sagepub.com/doi/abs/10.1177/0887403410388405>.
- <sup>311</sup> See, for example, Walker, Spohn, and DeLone, *The Color of Justice*, 2018; and Muhammad, Western, Negussie, and Backes, eds., *Reducing Racial Inequality in Crime and Justice*, 2022.
- <sup>312</sup> The Michigan Department of Corrections lists some of the factors used in determining risk scores. MDOC, *Administration and Use of COMPAS*, 2017, 17-18.
- <sup>313</sup> Kelly Hannah-Moffat and Paula Maurutto, "Re-contextualizing Pre-sentence Reports: Risk and Race." *Punishment & Society* 12, no. 3 (2010), 262-286.
- <sup>314</sup> *Ibid.*, 278.
- <sup>315</sup> Mich. Comp. Laws § 771.14(7); and MDOC Operating Procedure 06.01.140 § Z.
- <sup>316</sup> Fed. R. Crim. P. 32(e)(2), <https://uscode.house.gov/view.xhtml?path=/prelim@title18/title18a/node35/node92&edition=prelim>.
- <sup>317</sup> MDOC Operating Procedure 06.01.140 § I.
- <sup>318</sup> Conversation with representative from SCAO, September 2, 2022.
- <sup>319</sup> Washtenaw County, "Prosecutor Transparency Project," <https://www.washtenaw.org/3289/Prosecutor-Transparency-Project>.
- <sup>320</sup> In accordance with the requirements of Vera's Institutional Review Board and the Data Use Agreement between Vera and the trial court, only the research team at Vera has access to the raw dataset. Vera shared and discussed its approach and findings with the WEP.
- <sup>321</sup> Some cases listed in the text state that the person had served pretrial detention time, but it is not clear how "time served" was counted in the sentence length imposed. This analysis relies on the number of incarceration days listed, which may include time served as part of a sentence, but this could not be differentiated.
- <sup>322</sup> Bernard E. Harcourt, "Risk as a Proxy for Race: The Dangers of Risk Assessment," *Federal Sentencing Reporter* 27, no. 4 (2015), 237-243,

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[https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3568&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3568&context=faculty_scholarship). See also, Walker, Spohn, and DeLone, *The Color of Justice*, 2018; Muhammad, Western, Negussie, and Backes, eds., *Reducing Racial Inequality in Crime and Justice*, 2022.

<sup>323</sup> Although the death penalty no longer exists in Michigan, "capital felony" (coded as "FC" for data management purposes) is a term mostly used by the courts for classification to distinguish the most serious types of charges. It refers to charges where a life sentence is possible. See, for example, Mich. Ct. R. 8.117; and Michigan Supreme Court, State Court Administrative Office, *Michigan Trial Court Records Management Standards-Case Type Codes* (rev. May 2021),

[https://www.courts.michigan.gov/siteassets/court-administration/standardsguidelines/casfile/cf\\_casetypecodes.pdf](https://www.courts.michigan.gov/siteassets/court-administration/standardsguidelines/casfile/cf_casetypecodes.pdf). The capital felony category appears to be equivalent to Class A felonies in Michigan. See John T. Hammond, "The Top 50 Felonies," *Michigan Bar Journal*, March 2012, 31-32, <https://www.michbar.org/file/journal/pdf/pdf4article2007.pdf>.

<sup>324</sup> The Holmes Youthful Trainee Act, or HYTA, allows young adults aged 18-25 to have charges put in a deferred status. The person receives a sentence that usually includes probation but may also involve a period of incarceration, and their charges are dismissed and their record sealed if they successfully complete the terms. See Mich. Comp. Laws § 762.11 et seq.

<sup>325</sup> Commonly referred to as the "trial penalty," this is when people who reject a plea deal and exercise their constitutional right to have a trial receive a more severe sentence than what was offered in the plea deal. See, for example, Fair and Just Prosecution, *Issues at a Glance: Plea Bargaining* (New York: Fair and Just Prosecution, 2022), <https://fairandjustprosecution.org/wp-content/uploads/2022/02/Plea-Bargaining-Issue-Brief.pdf>. It should be noted, however, that research on the "trial penalty" usually looks at sentences after trials by judge or jury, while the findings here are limited to sentences after trials before a judge.

<sup>326</sup> *People v. Cobbs*, 443 Mich. 276, 283 (1993), <https://law.justia.com/cases/michigan/supreme-court/1993/91356-6.html>.

<sup>327</sup> Jonathan Jackson, Tasseli McKay, Leonidas Cheliotis, Ben Bradford, Adam Fine, and Rick Trinkner, "Centering Race in Procedural Justice Theory: Structural Racism and the Under- and Overpolicing Of Black Communities," *Law and Human Behavior* 47, no. 1 (2023), 68-82, <https://psycnet.apa.org/fulltext/2023-54964-006.pdf>; Mark W. Bennett and Victoria C. Plaut, "Looking Criminal and the Presumption of Dangerousness: Afrocentric Facial Features, Skin Tone, and Criminal Justice," *UC Davis Law Review* 51 (2017), 745-803, <https://northerndistrictpracticeprogram.org/wp-content/uploads/2020/10/BennettPlautfinal.pdf>; and Rachel E. Stein and Candace Griffith, "Resident and Police Perceptions of the Neighborhood: Implications for Community Policing," *Criminal Justice Policy Review* 28, no. 2 (2017), 139-154, <https://journals.sagepub.com/doi/10.1177/0887403415570630>.

<sup>328</sup> Harcourt, "Risk as a Proxy for Race: The Dangers of Risk Assessment," 2015, 239-240.

<sup>329</sup> Mich. Ct. R. 8.111, <https://casetext.com/rule/michigan-court-rules/michigan-court-rules/chapter-8-administrative-rules-of-court/subchapter-8100-general-administrative-orders/rule-8111-assignment-of-cases>.

<sup>330</sup> Court navigator programs are relatively new, and most have been implemented in civil courts. See Mary E. McClymont, *Nonlawyer Navigators in State Courts: An Emerging Consensus* (Washington DC: The Justice Lab at Georgetown Law Center, 2019), [https://www.ncsc.org/\\_data/assets/pdf\\_file/0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf](https://www.ncsc.org/_data/assets/pdf_file/0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf). However, some jurisdictions have started to implement these programs in criminal courts. See for example, Sarah Honosky, "10% of Buncombe Court Dates Are No-Shows; New Bilingual Court Navigator Aims to Help," *Asheville Citizen Times*, March 20, 2023, <https://www.citizen-times.com/story/news/local/2023/03/20/struggling-to-navigate-buncombe-courts-new-position-is-here-to-help/70020553007/>.

<sup>331</sup> *Miller v. Alabama*, 567 U.S. 460, 476 (2012), <https://supreme.justia.com/cases/federal/us/567/460/#tab-opinion-1970507>.

<sup>332</sup> The factors are: 1) age and immaturity; 2) family and home circumstances; 3) circumstances of the offense, including what role the child played in the crime and whether there was peer pressure involved; 4) the qualities of youth that are disadvantages in dealing with the justice system (e.g., challenges dealing with police or authority, or participation in court, including capacity for understanding); and the potential for rehabilitation. *Miller v. Alabama*, 567 U.S. at 476.

<sup>333</sup> Equal Justice Initiative, "Michigan Supreme Court Restricts Excessive Sentences for Youth," August 3, 2022, <https://eji.org/news/michigan-supreme-court-restricts-excessive-sentences-for-youth/>.

<sup>334</sup> Mich. Comp. Laws § 762.11.

<sup>335</sup> According to Vera's analysis of the Trial Court data, 68 percent of people under 25 with charges in the court were Black and 32 percent were white.



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- <sup>336</sup> Conversation with representative from MDOC Field Operations Administration Region 9 office, July 1, 2022.
- <sup>337</sup> MDOC Policy Directive 06.06.120, Probation Violation Process, effective February 1, 2005. § E. The Probation Violation Response Guide sets out options in four “ranges,” which contain numerous possible consequences that vary dramatically in severity, from a verbal warning, to extended time on probation, to new programs, to time in jail or prison. For new felony charges, allegations of threats or assault, absconding, or firearm possession, there are requirements to request revocation of probation and, in some cases, minimum incarceration sentences. MDOC Policy Directive 06.06.120, effective July 1, 2018.
- <sup>338</sup> See, for example, Harcourt, “Risk as a Proxy for Race: The Dangers of Risk Assessment,” 2015.
- <sup>339</sup> *Ibid.*; Walker, Spohn, and DeLone, *The Color of Justice*, 2018, 221-222.
- <sup>340</sup> Bruce Western, “Inside the Box: Safety, Health, and Isolation in Prison,” *Journal of Economic Perspectives*, 35, no. 4 (2021), 97-122, 100-104, <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.35.4.97>.
- <sup>341</sup> Prison Policy Initiative, “Recidivism and Reentry: What Makes People More or Less Likely to Succeed upon Release?” [https://www.prisonpolicy.org/research/recidivism\\_and\\_reentry/](https://www.prisonpolicy.org/research/recidivism_and_reentry/).
- <sup>342</sup> National Institute of Corrections, “Transition from Jail to Community,” <https://info.nicic.gov/tjc/>.
- <sup>343</sup> Amy L. Solomon, Jenny W.L. Osborne, Stefan F. LoBuglio, et al., *Life after Lockup: Improving Reentry from Jail to the Community* (Washington, DC: Urban Institute, 2008), <https://www.ojp.gov/pdffiles1/bja/220095.pdf>.
- <sup>344</sup> Baker, Mitchell, and Gordon, “Prison Visitation and Concerns about Reentry,” 2022, 1263-1284.
- <sup>345</sup> Governor Gretchen Whitmer and Heidi Washington, *Michigan Department of Corrections 2020 Statistical Report* (Lansing, MI: MDOC, 2021), F-4, <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Statistical-Reports/Statistical-Reports/2020-Statistical-Report.pdf?rev=a366713285f94f8abc26d91264a455ef&hash=A3B15FB45EBB682AD0AD331495758464>.
- <sup>346</sup> See, for example, Peter J. Martel, “The Effects of Mass Incarceration on Conditions of Confinement in Michigan’s Prisons,” *Michigan Bar Journal*, September 2017, 21, <https://www.michbar.org/file/barjournal/article/documents/pdf4article3203.pdf>; Bernadette Rabuy and Daniel Kopf, “Separation by Bars and Miles: Visitation in state prisons,” Prison Policy Initiative, October 20, 2015, <https://www.prisonpolicy.org/reports/prisonvisits.html>; and Baker, Mitchell, and Gordon, “Prison Visitation and Concerns about Reentry,” 2021, 1263-1284.
- <sup>347</sup> Raven C. Dismuke, Jennifer E. Copp, and Jennifer M. Brown, “An Examination of Racial and Ethnic Variation in the Effect of Prison Visitation on Recidivism,” *Crime & Delinquency* (2022), 19-22, <https://doi.org/10.1177/00111287221118021>.
- <sup>348</sup> Martel, “The Effects of Mass Incarceration on Conditions of Confinement in Michigan’s Prisons,” 2017, 21.
- <sup>349</sup> *Ibid.*
- <sup>350</sup> *Ibid.*
- <sup>351</sup> *Ibid.*, 22.
- <sup>352</sup> *Ibid.*, 21-22.
- <sup>353</sup> Chesa Boudin, Trevor Stutz, and Aaron Littman, “Prison Visitation Policies: A Fifty-State Survey,” *Yale Law & Policy Review* 32, no. 1 (2013), 149-189, 162, [https://law.yale.edu/sites/default/files/area/center/liman/document/prison\\_visitation\\_policies.pdf](https://law.yale.edu/sites/default/files/area/center/liman/document/prison_visitation_policies.pdf).
- <sup>354</sup> Katie M. Becker, “Racial Bias and Prison Discipline: A Study of North Carolina State Prisons,” *North Carolina Central University Law Review* 43, no. 3 (2022), 175-225, <https://cdn.givingcompass.org/wp-content/uploads/2022/06/06145352/SSRN-id4083852.pdf>; Kathrynne Young and Jessica Pearlman, “Racial Disparities in Lifer Parole Outcomes: The Hidden Role of Professional Evaluations,” *Law & Social Inquiry* 47, no. 3 (2022), 783-820, [https://www.researchgate.net/publication/356953113\\_Racial\\_Disparities\\_in\\_Lifer\\_Parole\\_Outcomes\\_The\\_Hidden\\_Role\\_of\\_Professional\\_Evaluations](https://www.researchgate.net/publication/356953113_Racial_Disparities_in_Lifer_Parole_Outcomes_The_Hidden_Role_of_Professional_Evaluations); and New York State Inspector General’s Office, *Racial Disparities in the Administration of Discipline in New York State Prisons* (Albany, NY: New York State Inspector General’s Office, 2022), 18-20, 23-24, <https://ig.ny.gov/system/files/documents/2022/12/oig-doccs-racial-disparities-report-12.1.22.pdf>.
- <sup>355</sup> Martel, “The Effects of Mass Incarceration on Conditions of Confinement in Michigan’s Prisons,” 2017, 22.
- <sup>356</sup> *Ibid.*
- <sup>357</sup> MDOC, “Michigan Department of Corrections Lowers Prisoner Phone Rates by Nearly 40%,” press release (Lansing, MI: MDOC, September 29, 2022), <https://www.michigan.gov/corrections/press-releases/2022/09/29/michigan-department-of-corrections-lowers-prisoner-phone-rates-by-nearly-40-percent#:~:text=The%20new%2C%20percent20reduced%20percent20rates%20percent20will.call%20per%20week%20to%20prisoners>; and Prison Phone Justice, “Rates and Kickbacks,” <https://www.prisonphonejustice.org/>.

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- <sup>360</sup> Washtenaw County Sheriff's Office, *2017 Annual Report* (Ann Arbor, MI: Washtenaw County Sheriff's Office, 2017), 7-8, <https://www.washtenaw.org/DocumentCenter/View/8403/2017-Annual-Report?bidId=>.
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- <sup>362</sup> *Ibid.*, 7.
- <sup>363</sup> Vera Institute of Justice, "Incarceration Trends: Washtenaw County, MI," database (New York: Vera Institute of Justice, last updated February 14, 2023), [https://trends.vera.org/state/MI/county/washtenaw\\_county](https://trends.vera.org/state/MI/county/washtenaw_county).
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- <sup>370</sup> Derrick Jackson, "Transition from Jail to Community: Reentry in Washtenaw County," presentation given at Community Education Series Session 4, Ann Arbor, Michigan, March 2, 2018, 17-20, <https://www.washtenaw.org/DocumentCenter/View/4840/CES-Session-4-PowerPoint-PDF?bidId=>.
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- <sup>372</sup> Spanier, "Reentry Redux," 2022.
- <sup>373</sup> Spanier, "Reentry Redux," 2022; and Washtenaw County, "\$1 Million Grant," 2019.
- <sup>374</sup> Spanier, "Reentry Redux," 2022; and Washtenaw County, "\$1 Million Grant," 2019.
- <sup>375</sup> Wendy Sawyer, "Since You Asked: How Many People Are Released from Each State's Prisons and Jails Each Year?" Prison Policy Initiative, August 25, 2022, <https://www.prisonpolicy.org/blog/2022/08/25/releasesbystate/>.
- <sup>376</sup> These numbers are based on Vera's Incarceration Trends dataset. For state prison populations by county, this dataset relies on the National Corrections Reporting Program (NCRP). For details, see Vera Institute of Justice, "About Incarceration Trends," <https://trends.vera.org/methodology/>. This data source lists the county of court commitment for people in state prison; this is likely but not necessarily also the county where the person resides or the crime took place. For concision, this report refers to Washtenaw residents in state prison, with the caveat that we cannot determine if every person is or was a county resident, but we assume that the vast majority are.
- <sup>377</sup> These numbers are from Vera's Incarceration Trends dataset, part of which is publicly available at <https://trends.vera.org/>. This analysis uses more detailed data that are on file with Vera. This dataset uses federal statistics and public websites. The analysis of prison trends in this report uses numbers for cases that originated in Washtenaw County.
- <sup>378</sup> Mike Murray, "\$7.6 Million Grant Will Provide Employment and Training Services to Support Returning Citizens and Michigan Employers," Michigan Department of Labor and Economic Opportunity, November 30, 2022, <https://www.michigan.gov/leo/news/2022/11/30/returning-citizens-grant>.
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- <sup>380</sup> MPRI, *Quarterly Status Report*, 2007, 3-4; Schrantz, DeBor, and Mauer, *Decarceration Strategies*, 2018, 19; and Duran, "Collaboration and Partnership in the Community," 2007, 23.

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<sup>381</sup> Michigan Prisoner Reentry Initiative, *The MPRI Model* (Lansing, MI: MPRI, 2006), 2, [https://www.michigan.gov/-/media/Project/Websites/corrections/assets/Folder8/THE\\_MPRI\\_MODEL\\_1005.pdf?rev=ce4269c8f7144c638b24ade292b3dc9f](https://www.michigan.gov/-/media/Project/Websites/corrections/assets/Folder8/THE_MPRI_MODEL_1005.pdf?rev=ce4269c8f7144c638b24ade292b3dc9f).

<sup>382</sup> *Ibid.*, 3.

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<sup>384</sup> *Ibid.*, 14-15.

<sup>385</sup> MDOC, *Michigan Prisoner Reentry: A Success Story* (Lansing, MI: MDOC, 2012), [https://www.michigan.gov/-/media/Project/Websites/corrections/publications/Folder3/The\\_Michigan\\_Prisoner\\_Reentry\\_Initiative\\_A\\_Success\\_Story.pdf?rev=6a9a420cfa394cbf85cba0ad094bb569](https://www.michigan.gov/-/media/Project/Websites/corrections/publications/Folder3/The_Michigan_Prisoner_Reentry_Initiative_A_Success_Story.pdf?rev=6a9a420cfa394cbf85cba0ad094bb569); and Schrantz, DeBor, and Mauer, *Decarceration Strategies*, 2018, 21.

<sup>386</sup> Duran, "Collaboration and Partnership in the Community," 2007, 23-24; MPRI, *2008 Progress Report* (Lansing, MI: MPRI, 2008), 20-21, <https://publicpolicy.com/wp-content/uploads/2017/04/2008-MPRI-Progress-Report.pdf>; MPRI, *Quarterly Status Report*, 2007, 5; MPRI, *2010 Progress Report* (Lansing, MI: MPRI, 2010), 21, [https://www.michigan.gov/-/media/Project/Websites/corrections/progserv/Folder1/MPRI\\_2010\\_Progress\\_Report.pdf?rev=93c25480d55a47f98fea282eef356a17](https://www.michigan.gov/-/media/Project/Websites/corrections/progserv/Folder1/MPRI_2010_Progress_Report.pdf?rev=93c25480d55a47f98fea282eef356a17); Conversation with former MPRI Community Coordinator for Washtenaw County, July 11, 2022; Conversation with former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, July 20, 2022; and Conversation with Dennis Schrantz, July 11, 2022.

<sup>387</sup> Schrantz, DeBor, and Mauer, *Decarceration Strategies*, 2018, 23; Conversation with former MPRI Community Coordinator for Washtenaw County, July 11, 2022; Conversation with former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, July 20, 2022.

<sup>388</sup> MDOC, *The Michigan Offender Success Model* (Lansing, MI: MDOC, 2016), [https://www.michigan.gov/-/media/Project/Websites/corrections/progserv/Folder2/Michigan\\_Prisoner\\_Reentry\\_Model\\_052012.pdf?rev=2879990d51294924b178a5618dcd2dd3](https://www.michigan.gov/-/media/Project/Websites/corrections/progserv/Folder2/Michigan_Prisoner_Reentry_Model_052012.pdf?rev=2879990d51294924b178a5618dcd2dd3); and Conversation with coordinator for OS for Region 9, July 22, 2022.

<sup>389</sup> MDOC, *The Michigan Offender Success Model*, 2016, 2.

<sup>390</sup> *Ibid.*

<sup>391</sup> It appears that OS may only use one TAP, which is presumably updated at different stages, rather than the four different TAPs used in MPRI. MDOC, *The Michigan Offender Success Model*, 2016, 2-8.

<sup>392</sup> TV6 News Team, "MDOC: Michigan's Recidivism Rate Continues to Decline," TV6, February 16, 2021, <https://www.uppermichiganssource.com/2021/02/16/mdoc-michigans-recidivism-rate-continues-to-decline/>.

<sup>393</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022; Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022.

<sup>394</sup> Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022.

<sup>395</sup> *Ibid.*

<sup>396</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022; and Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022.

<sup>397</sup> Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022.

<sup>398</sup> Coordinator for Offender Success for Region 9, conversation with Alex Roth, Senior Program Associate, Vera Institute July 22, 2022.

<sup>399</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022; Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022; and Coordinator for Offender Success for Region 9, conversation with Alex Roth, Senior Program Associate, Vera Institute July 22, 2022.

<sup>400</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022.

<sup>401</sup> Former MDOC senior administrator, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022; and Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022.

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<sup>402</sup> Coordinator for Offender Success for Region 9, conversation with Alex Roth, Senior Program Associate, Vera Institute July 22, 2022.

<sup>403</sup> Ibid.

<sup>404</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022; and Former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 20, 2022.

<sup>405</sup> Former MPRI Community Coordinator for Washtenaw County, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022.

<sup>406</sup> Ibid.

<sup>407</sup> Coordinator for Offender Success for Region 9, conversation with Alex Roth, Senior Program Associate, Vera Institute July 22, 2022.

<sup>408</sup> For example, in FY2008, Washtenaw County received \$480,000 from MDOC for service provision, but was also able to get \$294,000 in private funding, for a total budget for services of \$774,000. MDOC also provided an additional \$150,000 for administrative and programmatic expenses, bringing the total funding from MDOC to \$630,000 and the total overall funding to \$924,000. MDOC, *Washtenaw County MPRI Community Comprehensive Prisoner Reentry Plan, Fiscal Year 2008* (Lansing, MI: Office of Offender Reentry, 2007), 123-124 [on file]. Former MDOC senior administrator, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 11, 2022.

<sup>409</sup> MDOC, *Offender Success Expenditures and Allocations Report* (Lansing, MI: MDOC, 2022), <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Legislative-Reports/2022/Offender-Success-Expenditures-and-Allocations-Report.pdf?rev=dc54c5d0ab8844ea9a89a6842834d282&hash=3AA1DA9B4B6ADD3264872D5AF64C3B0A>.

<sup>410</sup> \$924,000 for MPRI as opposed to \$418,514 for OS. See notes 408 and 409, supra.

<sup>411</sup> Duran, "Collaboration and Partnership in the Community," 2007, 23-24; MPRI, *2008 Progress Report*, 20-21; MPRI, *Quarterly Status Report*, 2007, 5; MPRI, *2010 Progress Report*, 21; Conversation with former MPRI Community Coordinator for Washtenaw County, July 11, 2022; Conversation with former community representative of the Local Steering Team and Advisory Council for MPRI in Washtenaw County, July 20, 2022; and Conversation with Dennis Schrantz, July 11, 2022.

<sup>412</sup> Mich. Comp. Laws §§ 791.234(11) & 791.235(1); for makeup of the parole board see Mich. Comp. Laws § 791.305.

<sup>413</sup> Mich. Admin. Code R 791.7715.

<sup>414</sup> Mich. Comp. Laws §791.233e; Mich. Admin. Code R 791.7716; Mich. Comp. Laws §791.234(1); MDOC Policy Directive 06.05.100, effective November 1, 2008; and Coordinator for Offender Success for Region 9, conversation with Alex Roth, Senior Program Associate, Vera Institute July 22, 2022.

<sup>415</sup> Compare Mich. Comp. Laws § 791.233e(7) with Mich. Admin. Code R 791.7716(5) and MDOC Policy Directive 06.05.100 § F.

<sup>416</sup> E. Ann Carson, *Prisoners in 2018* (Washington, DC: BJS, 2020), 36, <https://bjs.ojp.gov/content/pub/pdf/p18.pdf>; and Bureau of Justice Statistics, *Annual Parole Survey, 2018*, database (Ann Arbor, MI: Inter-university Consortium for Political and Social Research [ICPSR], October 28, 2021), <https://www.icpsr.umich.edu/web/ICPSR/studies/38058>.

<sup>417</sup> MDOC, *Parole/Probation Violators 2019 Annual Report* (Lansing, MI: MDOC, 2019), 3, <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Legislative-Reports/2020/Parole-Probation-Violators.pdf?rev=10285a865910492fb6deb0db858e6f13&hash=9E8B400A0C6B5E1E075E48CE7546FDE2>; MDOC, *Parole/Probation Violators 2020 Annual Report* (Lansing, MI: MDOC, 2020), 3, <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Legislative-Reports/2021/Parole-Probation-Violators.pdf?rev=12d7d369045444b7b4909ed33e751dd0&hash=735C79465BE1065CC447850A262DE8DE>; MDOC, *Parole/Probation Violators 2021 Annual Report* (Lansing, MI: MDOC, 2021), 3, <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Legislative-Reports/2022/Parole-Probation-Violators.pdf?rev=f755f06a5ed4441a8cceb2d7d73275e8&hash=C797416957F892F8AE260E58D3844F50>.

<sup>418</sup> Representative from MDOC Field Operations Administration Region 9 office, conversation with Alex Roth, Senior Program Associate, Vera Institute, July 1, 2022.

<sup>419</sup> Ibid.

<sup>420</sup> Ibid.

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<sup>421</sup> Mich. Comp. Laws § 791.208a(b) defines technical parole violations as “a violation of the terms of a parolee’s parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.” For statistics see MDOC, *Parole/Probation Violators 2019 Annual Report*, 2019, 3; MDOC, *Parole/Probation Violators 2020 Annual Report*, 2020, 3; and MDOC, *Parole/Probation Violators 2021 Annual Report*, 2021, 3.

<sup>422</sup> Bridget McCormack, “Let’s Move Criminal Justice Reforms Upstream: A Perspective from the Bench,” *SMU Law Review* 74, no. 3 (2021), 575-592, <https://scholar.smu.edu/cgi/viewcontent.cgi?article=4892&context=smulr>.

<sup>423</sup> J.J. Prescott and Sonja B. Starr, “Expungement of Criminal Convictions: An Empirical Study,” *Harvard Law Review* 133, no.8 (2020), 2460-2555, 2466, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3167&context=articles>.

<sup>424</sup> Mich. Comp. Laws §§ 780.621-780.624. For a list of the bills and their effects, see State Court Administrative Office (SCAO), *Michigan Clean Slate Legislation Overview* (Lansing, MI: SCAO, 2021), <https://www.courts.michigan.gov/4a8409/siteassets/court-administration/scao-communications/2021-01.pdf>.

<sup>425</sup> Safe & Just Michigan, *Frequently Asked Questions, Michigan’s Clean Slate Legislation* (Lansing, MI: Safe & Just Michigan, 2021), <https://www.michbar.org/file/programs/atj/pdfs/CleanSlateFAQs.pdf>; and SCAO, *Michigan Clean Slate Legislation Overview*, 2021.

<sup>426</sup> The felony convictions will be automatically expunged 10 years after sentencing or the person’s release from custody, whichever is later, and the misdemeanor convictions will be automatically expunged seven years after sentencing. Michigan Department of the Attorney General, “Expunging Convictions 2023 And Forward,” <https://www.michigan.gov/ag/initiatives/expungement-assistance/expunging-convictions-2023-and-forward#:~:text=April%20of%202023%20Moving%20Forward,an%20application%20will%20be%20established>.

<sup>427</sup> Mich. Comp. Laws §§ 712A.18e, 712A.18t, and MCL 712A.28. For a list of the bills and explainer see Michigan Center for Youth Justice, “Clean Slate for Kids,” <https://www.miyouthjustice.org/record-confidentiality-set-aside>.

<sup>428</sup> SCAO, *Frequently Asked Questions and Guidance Regarding the Clean Slate for Kids Legislation* (Lansing, MI: SCAO, 2021), <https://www.courts.michigan.gov/495922/siteassets/juvenile-temporary/documents-clean-slate/faq-cleanslatekids.pdf>; and Michigan Center for Youth Justice, “Clean Slate for Kids,” <https://www.miyouthjustice.org/record-confidentiality-set-aside>.

<sup>429</sup> SCAO, *FAQ Regarding the Clean Slate for Kids Legislation*, 2021; and Michigan Center for Youth Justice, “Clean Slate for Kids,” <https://www.miyouthjustice.org/record-confidentiality-set-aside>.

<sup>430</sup> Michigan Legal Help, “Self-Help Tools: I Have an Adult Criminal Conviction That I Would Like to Set Aside (Expunge),” <https://michiganlegalhelp.org/self-help-tools/crime-traffic-and-id/i-have-adult-criminal-conviction-i-would-set-aside-expunge>.

<sup>431</sup> McCormack, “Let’s Move Criminal Justice Reforms Upstream,” 2021, 584-586.

<sup>432</sup> For example, in the adult process, up to two felonies will now be automatically expunged after 10 years and up to four misdemeanors after seven years. However, people can apply to have up to three felonies expunged after seven years and an unlimited number of misdemeanors expunged after three years. So, by applying rather than waiting for the automatic process, people can have a greater number of offenses expunged sooner. See, Safe & Just Michigan, *FAQ, Michigan’s Clean Slate Legislation*, 2021; and Michigan Department of the Attorney General, “Expunging Convictions 2023 and Forward.”

<sup>433</sup> *Graham v. Florida*, 560 U.S. 48 (2010); and *Miller v. Alabama*, 567 U.S. 460 (2012). For an overview see generally Buck Willison, Mears, and Butts, “The U.S. Juvenile Justice Policy Landscape,” 2017.

<sup>434</sup> Mendel, *Why Youth Incarceration Fails*, 2022, 5-6.

<sup>435</sup> *Ibid.*, 22.

<sup>436</sup> Office of Juvenile Justice and Delinquency Prevention (OJJDP), “Working for Youth Justice and Safety,” <https://ojjdp.ojp.gov/>

<sup>437</sup> The summary paraphrases the key points made in Buck Willison, Mears, and Butts, “The U.S. Juvenile Justice Policy Landscape,” 2017.

<sup>438</sup> Michigan HB 4133 to 4136 & 4142; Michigan SB 84, 90, 93, & 99. For a list of these bills and analysis, see House Fiscal Agency, *Legislative Analysis: Raise the Age* (Lansing, MI: Michigan House of Representatives, 2019), <https://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-4133-67514053.pdf>. See also Michigan Center for Youth Justice, “Raise the Age,” <https://www.miyouthjustice.org/raise-the-age-archives>.

<sup>439</sup> S.P. Kubiak, T.T. Gilbert, J.P. Ryan, et al., *Overview of the Criminal Legal System in Michigan: Adults and Youth* (Detroit, MI: Wayne State University School of Social Work Center for Behavioral Health and Justice, 2021), 30, [https://behaviorhealthjustice.wayne.edu/data-landscape/mi-data-landscape\\_sept2021\\_cbhj\\_cadl.pdf](https://behaviorhealthjustice.wayne.edu/data-landscape/mi-data-landscape_sept2021_cbhj_cadl.pdf).

<sup>440</sup> *Ibid.*

<sup>441</sup> Michigan Center for Youth Justice, “Clean Slate for Kids,” <https://www.miyouthjustice.org/record-confidentiality-set-aside>.

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- <sup>443</sup> Michigan Task Force on Juvenile Justice Reform, *Report and Recommendations* (Lansing, MI: Michigan Task Force on Juvenile Justice Reform, 2022), 7-8, <https://www.documentcloud.org/documents/22111938-michigan-taskforce-on-juvenile-justice-reform-final-report19>.
- <sup>444</sup> Kubiak, Gilbert, Ryan, et al., *Overview of the Criminal Legal System in Michigan: Adults and Youth*, 2021, 38, figure 4.1.
- <sup>445</sup> *Ibid.*, 41-42, 44.
- <sup>446</sup> *Ibid.*, 45.
- <sup>447</sup> The Annie E. Casey Foundation, "What Are Status Offenses and Why Do They Matter?" The Annie E. Casey Foundation (blog), April 6, 2019, <https://www.aecf.org/blog/what-are-status-offenses-and-why-do-they-matter>.
- <sup>448</sup> Office of Juvenile Justice and Delinquency Prevention (OJJDP), *Status Offenders*, Literature Review (Washington, DC: OJJDP, 2015), 7, <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/status-offenders.pdf>; Mahsa Jafarian and Vidhya Ananthakrishnan, "Decriminalizing Adolescent Behavior," in *Just Kids: When Misbehaving Is a Crime* (New York: Vera Institute of Justice, 2017), <https://www.vera.org/when-misbehaving-is-a-crime#decriminalizing-adolescent-behavior>.
- <sup>449</sup> Congress.gov. "H.R.6964 - 115th Congress (2017-2018): Juvenile Justice Reform Act of 2018," December 21, 2018. <https://www.congress.gov/bill/115th-congress/house-bill/6964>.
- <sup>450</sup> The Michigan Committee on Juvenile Justice (MCJJ), *Michigan Guide to Compliance with Laws Governing the Placement of Juveniles in Secure Facilities* (Lansing, MI: MCJJ, 2009). <https://michigancommitteeonjuvenilejustice.com/wp-content/uploads/Michigan-Guide-to-Compliance-with-Laws-Governing-the-Placement-of-Juveniles-in-Secure-Facilities.pdf>. Even though this guidance predates the 2018 amendment, it covers the same issues.
- <sup>451</sup> Oralandar Brand-Williams, "Washtenaw Prosecutor Won't Charge Juveniles for Low-Level Crimes," *The Detroit News*, January 25, 2021, <https://www.detroitnews.com/story/news/local/michigan/2021/01/25/washtenaw-prosecutor-wont-charge-juveniles-low-level-crimes/6701793002/>; and Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-11: Policy Regarding Juvenile Charging (2021), <https://www.washtenaw.org/DocumentCenter/View/19298/Juvenile-Charging-Policy>.
- <sup>452</sup> OJJDP, *Status Offenders*, 2015, 3.
- <sup>453</sup> Mich. Comp. Laws § 722.823 (1)(b).
- <sup>454</sup> Rolf Loeber, David P. Farrington, and David Petechuk, *Child Delinquency: Early Intervention and Prevention* (Washington, DC: OJJDP, May 2003), 9-12, <https://www.ojp.gov/pdffiles1/ojjdp/186162.pdf>
- <sup>455</sup> Mich. Comp. Laws § 722.824.
- <sup>456</sup> Deborah J. Shaw and Gabrielle French, *Washtenaw County Trial Court Juvenile Division: 2017-2018 Report* (Ann Arbor, MI: Washtenaw County Courts, 2019), 12, <https://web.archive.org/web/20220614120633/https://www.washtenaw.org/ArchiveCenter/ViewFile/Item/941>.
- <sup>457</sup> Richard Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (Washington, DC: The Sentencing Project, 2022), 14, <https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>.
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- <sup>460</sup> Laurel Eckhouse, Kristian Lum, Cynthia Conti-Cook, et al., "Layers of Bias: A Unified Approach for Understanding Problems with Risk Assessment," *Criminal Justice and Behavior* 46, no. 2 (2019), 185-209.
- <sup>461</sup> Brandon Buskey and Andrea Woods, "Making Sense of Pretrial Risk Assessments," *The Champion*, June 2018, <https://www.nacdl.org/Article/June2018-MakingSenseofPretrialRiskAsses>.

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- <sup>462</sup> Faye S. Taxman, Michael S. Caudy, and April Pattavina, "Risk-Need-Responsivity (RNR): Leading towards Another Generation of the Model," in *Simulation Strategies To Reduce Recidivism*, edited by Faye S. Taxman and April Pattavina (New York: Springer, 2013), 285-307.
- <sup>463</sup> Functional Assessment Systems, "CAFAS," <https://www.fasoutcomes.com/Content.aspx?ContentID=12>.
- <sup>464</sup> This appears to be what the Michigan probate code calls a "consent calendar." The Probate Code (Mich. Comp. Laws § 712A.2f [1]) states: "If the court determines that formal jurisdiction should not be acquired over a juvenile, the court may proceed in an informal manner referred to as a consent calendar."
- <sup>465</sup> Vera provides technical assistance to one of these programs, My Brother's Keeper, through its Reshaping Prosecution team and its partnership with the Washtenaw County Prosecutor's Office. See the supplemental report for details.
- <sup>466</sup> Mahsa Jafarian and Vidhya Ananthkrishnan, *Just Kids: When Misbehaving Is a Crime* (New York: Vera Institute of Justice, 2017), <https://www.vera.org/when-misbehaving-is-a-crime#decriminalizing-adolescent-behavior>.
- <sup>467</sup> Michigan Task Force on Juvenile Justice Reform, *Report and Recommendations*, 2022.
- <sup>468</sup> Michigan Task Force on Juvenile Justice Reform, *Report and Recommendations*, 2022, 17. Macomb County Court has eliminated juvenile court fines and fees. See Associated Press, "Macomb County Circuit Court Ends Fines, Fees for Youth," *Detroit News*, June 6, 2021, <https://www.detroitnews.com/story/news/local/macomb-county/2021/06/06/court-fees-youth-macomb-county-circuit/116853402/>.
- <sup>469</sup> Washtenaw County did not submit data for 2015. Michigan Committee on Juvenile Justice, "Racial and Ethnic Disparities Data," database (Lansing, MI: Michigan Committee on Juvenile Justice), <https://data.michigancommitteeonjuvenilejustice.com/>.
- <sup>470</sup> Michigan Committee on Juvenile Justice, "Racial and Ethnic Disparities Data."
- <sup>471</sup> *Ibid.*
- <sup>472</sup> *Ibid.*
- <sup>473</sup> Statistical significance determined by chi-square analysis,  $p < 0.05$ ; full statistical results on file with Vera. For more information on the methodology and analysis for this section, please contact Prof. Joseph Ryan at the University of Michigan Child and Adolescent Data Lab.
- <sup>474</sup> U.S. Census Bureau, "ACS Summary File Sequence-Based Format (2005-2021)," database (Washington, DC: U.S. Census Bureau) (documents retrieved include 2016-2021 American Community Survey 5-year estimates), <https://www.census.gov/programs-surveys/acs/data/summary-file/sequence-based.2015.html#list-tab-LKN4L9A3VGA3S730XZ>; analysis by Vera on file.
- <sup>475</sup> This is based on a multivariate logistic regression,  $p < 0.05$ ; the model includes binary variables for charge class (felony or not), prior charges, age (under or over 15 years old), and prior child welfare system contact. Full statistical results on file with Vera. For more information on the methodology and analysis for this section, please contact Prof. Joseph Ryan at the University of Michigan Child and Adolescent Data Lab.
- <sup>476</sup> U.S. Census Bureau, "ACS Summary File Sequence-Based Format (2005-2021)," database; analysis by Vera on file.
- <sup>477</sup> Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*, 2022, 8-9.
- <sup>478</sup> Donna M. Bishop, "The Role of Race and Ethnicity in Juvenile Justice Processing," in *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice*, edited by Darnell F. Hawkins and Kimberly Kempf-Leonard (Chicago: University of Chicago Press, 2005), 23-82, 46. See also Donna M. Bishop, Michael Leiber, and Joseph Johnson, "Contexts of Decision Making in the Juvenile Justice System: An Organizational Approach to Understanding Minority Overrepresentation," *Youth Violence And Juvenile Justice* 8, no. 3 (2010), 213-233, [https://www.researchgate.net/publication/249634234\\_Contexts\\_of\\_Decision\\_Making\\_in\\_the\\_Juvenile\\_Justice\\_System\\_An\\_Organizational\\_Approach\\_to\\_Understanding\\_Minority\\_Overrepresentation](https://www.researchgate.net/publication/249634234_Contexts_of_Decision_Making_in_the_Juvenile_Justice_System_An_Organizational_Approach_to_Understanding_Minority_Overrepresentation); and Massachusetts Juvenile Justice Policy and Data Board (JJPAD), *Improving Access to Diversion and Community-Based Interventions for Justice Involved Youth* (Boston: JJPAD, 2019) <https://www.mass.gov/doc/improving-access-to-diversion-and-community-based-interventions-for-justice-involved-youth-0/download>.
- <sup>479</sup> Michigan Task Force on Juvenile Justice Reform, *Report and Recommendations*, 2022, 14-15.
- <sup>480</sup> *Ibid.*
- <sup>481</sup> John Choi, *(Re)Imagining Justice for Youth: Collaborative Review Process and Procedures* (Saint Paul, MN: Office of the Ramsey County Attorney, 2022), <https://www.ramseycounty.us/sites/default/files/County%20Attorney/5.24.22%20RJY%20Collaborative%20Review%20Process%20and%20Procedures-final.pdf>; <https://www.nacdl.org/Article/June2018-MakingSenseofPretrialRiskAsses>.
- <sup>482</sup> Alex R. Piquero, Michael T. Baglivio, and Kevin T. Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida across Race & Ethnicity* (Miami, FL: Fines and Fees Justice Center, 2023), 16-

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26, 35. [https://finesandfeesjusticecenter.org/content/uploads/2023/02/Piquero\\_et\\_al\\_Florida-juvenile-fees-study.pdf](https://finesandfeesjusticecenter.org/content/uploads/2023/02/Piquero_et_al_Florida-juvenile-fees-study.pdf).

<sup>483</sup> Washtenaw County, "Washtenaw County Earns Spot in Competitive 'Cities and Counties for Fines and Fee Justice' Cohort," press release (Ann Arbor, MI: Washtenaw County, August 3, 2022), <https://www.washtenaw.org/3674/FINE-AND-FEE-JUSTICE-COHORT>.

<sup>484</sup> Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*, 2022, 7-9.

<sup>485</sup> The terms and conditions of juvenile probation are completely up to the judge. The only consideration that appears to be mandatory is that the judge order the payment of the minimum state cost as outlined in the law as a condition of probation. See Mich Comp. Laws §712A.18 & 712A.18(b).

<sup>486</sup> The Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting It Right* (Memphis, TN: Annie E. Casey Foundation, 2018), <https://assets.aecf.org/m/resourcedoc/aecf-transformingjuvenileprobation-2018.pdf>.

<sup>487</sup> See generally Mendel, *Why Youth Incarceration Fails*, 2022.

<sup>488</sup> OJJDP, *Juvenile Residential Programs* (Washington, DC: OJJDP, 2019), 2-3, <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/juvenile-residential-programs.pdf>

<sup>489</sup> National Center for Juvenile Justice, "Easy Access to the Census of Juveniles in Residential Placement," database (Pittsburgh, PA: National Center for Juvenile Justice, 2021), <https://www.ojjdp.gov/ojstatbb/ezacjrp/>.

<sup>490</sup> See, for example, Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities, A Policy Brief* (Washington, DC: Justice Policy Institute, 2022), [https://justicepolicy.org/wp-content/uploads/2022/02/06-11\\_rep\\_dangersofdetention\\_jj.pdf](https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_jj.pdf)

<sup>491</sup> Holman and Ziedenberg, *The Dangers of Detention*, 2022, 11.

<sup>492</sup> Terri Gilbert, Sarah Phalen, and Mary King, *Locked Up Too Long: Justice-Impacted Young People Who Can't Go Home* (Ann Arbor, MI: The Michigan Center for Youth Justice, 2022), 9, [https://www.miyouthjustice.org/files/ugd/03cb01\\_1daf18b1c923498bac8bf6dbf550b26a.pdf](https://www.miyouthjustice.org/files/ugd/03cb01_1daf18b1c923498bac8bf6dbf550b26a.pdf).

<sup>493</sup> Denise C. Herz, Joseph P. Ryan, and Shay Bilchik "Challenges Facing Crossover Youth: An Examination of Juvenile Justice Decision-Making and Recidivism," *Family Court Review* 48, no. 2 (2010), 305-321, 305.

<sup>494</sup> Barbara Tatem Kelley and Paul A. Haskins, *Dual System Youth: At the Intersection of Child Maltreatment and Delinquency* (Washington, DC: National Institute of Justice, 2021), 2-3,

<https://www.ojp.gov/pdffiles1/nij/255646.pdf>; Denise C. Herz, Carly B. Dierkhising, Jessica Raitel, et al., "Dual System Youth and Their Pathways: A Comparison of Incidence, Characteristics and System Experiences Using Linked Administrative Data," *Journal of Youth and Adolescence* 48 (2019), 2432-2450, 2433-2434, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/dual-system-youth-and-their-pathways-comparison-incidence>; and Casey Family Programs, "Is There an Effective Model for Serving Youth Involved in Both the Child Welfare and Juvenile Justice Systems?" November 22, 2022, <https://www.casey.org/crossover-youth-practice-model/>.

<sup>495</sup> Casey Family Programs, "Is There an Effective Model for Serving Youth Involved in Both the Child Welfare and Juvenile Justice Systems?," 2022.

<sup>496</sup> Ibid.

<sup>497</sup> Casey Family Programs, "Is There an Effective Model for Serving Youth Involved in Both the Child Welfare and Juvenile Justice Systems?," 2022; and RFK National Resource Center for Juvenile Justice, "Dual Status Youth Reform: Resources," <https://rfknrcjj.org/resources/dual-status-youth/>.

<sup>498</sup> J.P. Ryan, *Is There a Link between Child Welfare and Disproportionate Minority Contact in Juvenile Justice?* (Chicago: MacArthur Foundation, 2011).

<sup>499</sup> Travis Riddle and Stacey Sinclair, "Racial Disparities in School-Based Disciplinary Actions Are Associated with County-Level Rates of Racial Bias," *Proceedings of the National Academy of Sciences* 116, no. 17 (2019), 8255-8260, 8255, <https://www.pnas.org/doi/pdf/10.1073/pnas.1808307116>; Albert J Ksinan, Alexander T Vazsonyi, Gabriela Ksinan Jiskrova, et al., "National Ethnic and Racial Disparities in Disciplinary Practices: A Contextual Analysis in American Secondary Schools," *Journal of School Psychology* 74 (2019), 106-125; and Jayanti Owens and Sara S. McLanahan, "Unpacking the Drivers of Racial Disparities in School Suspension and Expulsion," *Social Forces* 98, no. 4 (2020), 1548-1577, <https://fragilefamilies.princeton.edu/sites/g/files/toruqf2001/files/wp18-04-ff.pdf>.

<sup>500</sup> U.S. Government Accountability Office (GAO), *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities* (Washington, DC: GAO, 2018), 28, <https://www.gao.gov/assets/gao-18-258.pdf>.

<sup>501</sup> Denise C. Gottfredson, Scott Crosse, Zhiqun Tang, et al., "Effects of School Resource Officers on School Crime and Responses to School Crime," *Criminology & Public Policy* 19, no. 3 (2020), 905-940, [https://neighborsvt.org/wp-content/uploads/2020/09/Gottfredson-et-al\\_2020.pdf](https://neighborsvt.org/wp-content/uploads/2020/09/Gottfredson-et-al_2020.pdf).



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<sup>502</sup> Martin Slagter, "Ypsilanti Community Schools Opts to Remove Police from Buildings," MLive, July 27, 2020, <https://www.mlive.com/news/ann-arbor/2020/07/ypsilanti-community-schools-opts-to-remove-police-from-buildings.html>.

<sup>503</sup> Darcie Moran, "Washtenaw County Program to Alert Schools When Children Witness Trauma," MLive, March 4, 2018, <https://www.mlive.com/news/ann-arbor/2018/03/county-wide-program-to-alert-s.html>.

<sup>504</sup> Ryan King and Marc Schindler, "A Better Path Forward for Criminal Justice: Reconsidering Police in Schools," in *A Better Path Forward for Criminal Justice* (Washington, DC: Brookings Institute, 2021), [https://www.brookings.edu/wp-content/uploads/2021/04/4\\_Better-Path-Forward\\_Ch4\\_Reconsidering-Police-in-Schools.pdf](https://www.brookings.edu/wp-content/uploads/2021/04/4_Better-Path-Forward_Ch4_Reconsidering-Police-in-Schools.pdf).

<sup>505</sup> Conversation with a representative from the Washtenaw Intermediate School District (Community & School Partnerships), with Shahd Elbushra, Program Associate, Vera Institute, September 22, 2022.

<sup>506</sup> National Research Council, *Reforming Juvenile Justice: Developmental Approach* (Washington, DC: The National Academies Press, 2013), 3, 111-112, <https://nap.nationalacademies.org/catalog/14685/reforming-juvenile-justice-a-developmental-approach>.

<sup>507</sup> Youth.gov, "Prevention and Early Intervention," <https://youth.gov/youth-topics/juvenile-justice/prevention-and-early-intervention>.

<sup>508</sup> In a 2021 report commissioned by the Public Welfare Foundation and the Michigan Justice Fund, researchers noted that data is central to policy-making in the criminal justice arena when they wrote, "Before the state, counties and municipalities can move toward data driven decision-making, there exist significant barriers. These include: 1. Access to data. 2. Missing/incomplete data. 3. Inconsistent/varying data definitions. 4. Lack of data integration across systems. 5. Subjective decision-making. 6. Multi-layered systems. 7. Confidentiality. 8. Funding to develop local data solutions and staffing to support data collection and reporting." Sheryl Kubiak, Terri Gilbert, J.P. Ryan, et al., *Overview of the Criminal Legal System in Michigan: Adults and Youth* (Detroit, MI: Wayne State University School of Social Work, 2021), Addendum: Issues with Data in the Criminal/Legal System for Adults and Youths, [https://behaviorhealthjustice.wayne.edu/data-landscape/mi-data-landscape\\_sept2021\\_cbhj\\_cadl.pdf](https://behaviorhealthjustice.wayne.edu/data-landscape/mi-data-landscape_sept2021_cbhj_cadl.pdf).

<sup>509</sup> Washtenaw County, "Opportunity Index," database (Ann Arbor, Washtenaw County), <https://www.washtenaw.org/2480/Opportunity-Index>. The five budget principles are: outcome-oriented, equity, coordination, planning, measurement. Gregory Dill, *2019-2022-Preliminary Budget Summary* (Ann Arbor, MI: Washtenaw County Board of Commissioners, 2018), 13, <https://www.washtenaw.org/DocumentCenter/View/11250/2019-2022-Preliminary-Budget-Summary>.

<sup>510</sup> National Association of Counties, "Sharing Data across Justice and Behavioral Health Systems," presentation at NACo Annual Conference & Exposition, Denver, Colorado, July 24, 2022, <https://www.naco.org/resources/nacoann-livestreams/sharing-data-across-justice-and-behavioral-health-systems>; Department of Justice (DOJ), "Justice Department Establishes Initiative to Strengthen States' Use of Criminal Justice Data," press release (Washington, DC: DOJ, January 26, 2022), <https://www.justice.gov/opa/pr/justice-department-establishes-initiative-strengthen-states-use-criminal-justice-data>.

<sup>511</sup> Jane Wiseman, *Better Government through Data: Using the Allegheny County Human Services Data Warehouse to Design More Effective Results for Clients and the Public* (Boston: Institute for Excellence in Government, 2020), <https://scholar.harvard.edu/files/janewiseman/files/better-government-through-data-allegheny-co-dhs.pdf>.

<sup>512</sup> Ibid., 11.

<sup>513</sup> Multnomah County Local Public Safety Coordinating Council, *LPSCC Program Brief: Decision Support System-Justice (DSSJ)* (Portland, OR: Multnomah County LPSCC, 2011), [https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/lpscsc/documents/decision\\_support\\_system\\_brief.pdf](https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/lpscsc/documents/decision_support_system_brief.pdf).

<sup>514</sup> Integrating county data from different government units using a data warehouse provides the power to do the following: allow government units to measure outcomes, evaluate programs and interventions, allocate resources equitably, and address racial disparities; accurately measure return on investment; identify unmet needs that would go unnoticed when looking at limited data from one unit alone; secure more funding from state, federal, and philanthropic sources because the county has systemwide data to prove the need; drive policy; engage in outcomes oriented/performance-based contracting; inform allocation and budget decisions; perform community needs assessments; streamline grant reporting, planning, and development; engage in predictive analytics/forecasting; perform longitudinal studies of outcomes across the system, rather than focused on one agency (for example, one could use law enforcement data and probation data to understand how people arrested for a specific misdemeanor perform on probation as a way of understanding the effectiveness of that intervention); streamline workloads for employees and improve individual case management; and gauge staff caseload on new projects.

<sup>515</sup> The WEP Subcommittee has identified three organizations with skill sets that may support key aspects of the planning process: [Actionable Intelligence for Social Policy](#) provides training and technical assistance to support

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new data sharing collaborations. AISP has expertise to lead a data warehouse planning process. The University of Michigan has the technical expertise and capacity to create and house a data warehouse. The skills and expertise [Poverty Solutions](#) employed in creating Washtenaw County's [Opportunity Index](#) and the dashboard for the [Prosecutor Transparency Project](#) are similar to those needed to create and house the data warehouse and its dashboard. The [Michigan Founders Fund](#) is made up of technology and data entrepreneurs whose philanthropic giving is designed to create stronger, more inclusive communities across the state. A planning process to use technology to integrate cross-agency data with the goal of ensuring a more equitable criminal legal system in Washtenaw County seems to align with MFF's grantmaking.

<sup>516</sup> 435 U.S. 589, 597 (1978). For post-Nixon analysis, see Kat Albrecht and Kaitlyn Filip, "Public Records Aren't Public: Systemic Barriers to Measuring Court Functioning & Equity," *Criminal Justice Commons Publications* 41 (2022), 5 et seq., [https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1041&context=cj\\_facpub](https://scholarworks.gsu.edu/cgi/viewcontent.cgi?article=1041&context=cj_facpub).

<sup>517</sup> Shruti Lakshmanan, "U-M Partners with Washtenaw County Prosecutor Eli Savit on 'Prosecutor Transparency Project,'" press release (Ann Arbor, MI: University of Michigan, January 5, 2021), <https://poverty.umich.edu/2021/01/05/u-m-partners-with-washtenaw-county-prosecutor-eli-savit-on-prosecutor-transparency-project/>.

<sup>518</sup> ICPOC recommends that the City of Ann Arbor report the following: the date, time, duration and GIS location of all stops; the area to which the police officer was assigned at the time of the stop; the reason for the stop; the year, make, and model of the vehicle; the driver's perceived ethnicity and gender identity; the number and ethnicity of passengers, if any; any police action taken, including but not limited to whether a warning or citation was issued; specific citations, if issued; whether any occupant was frisked or searched; whether the vehicle was frisked or searched; whether consent to search was sought, and if so, whether it was provided; whether any occupant was arrested, and if so, any and all charges; whether the vehicle stop resulted in recovery of contraband, delineated by specific type; a unique identifying number of the officer; any other relevant information necessary for effective monitoring and oversight of traffic stops. The law enforcement agency shall not report the name, address, social security number, driver's license number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section.

<sup>519</sup> Abreu and Pinals, *Sequential Intercept Model Mapping Report for Washtenaw County, MI*, 2017.

<sup>520</sup> National Center for Youth Opportunity and Justice, *Critical Intervention Mapping and Strategic Planning* (Ann Arbor, MI: Washtenaw County Community Mental Health, 2019), <https://www.washtenaw.org/AgendaCenter/ViewFile/ArchivedAgenda/10182019-239> (see attachment 4).

<sup>521</sup> UChicago News, "University of Chicago Crime Lab Launches Community Safety Leadership Academies," University of Chicago, May 10, 2022, <https://news.uchicago.edu/story/university-chicago-crime-lab-launches-community-safety-leadership-academies>.

<sup>522</sup> Vera Institute of Justice, *911 Analysis: How Civilian Crisis Responders Can Divert Behavioral Health Calls from Police* (New York: Vera Institute of Justice, 2022), <https://www.vera.org/downloads/publications/911-analysis-civilian-crisis-responders.pdf>

<sup>523</sup> Marie Pryor, Philip Atiba Goff, Farhang Heydari, et al., *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities* (Los Angeles: Center for Policing Equity, 2020), 5, [https://policingequity.org/images/pdfs-doc/COPS-Guidebook\\_Final\\_Release\\_Version\\_2-compressed.pdf](https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf).

<sup>524</sup> Eastern Michigan University, "Southeast Michigan Criminal Justice Policy Research Project (SMART)," <https://www.emich.edu/smart-research-project/projects/index.php>.

<sup>525</sup> Chief Justice Bridget M. McCormack, "Statement from Chief Justice Bridget M. McCormack Regarding the Statewide Judicial Case Management System," Michigan Courts, February 9, 2022, <https://www.courts.michigan.gov/news-releases/2022/february/statement-from-chief-justice-bridget-m.-mccormack-regarding-the-statewide-judicial-case-management-system/>.

<sup>526</sup> See, for example, Allegheny County, PA, "Allegheny County Jail Population Management Dashboards," database (Pittsburgh, PA: Allegheny County), ([https://tableau.alleghenycounty.us/t/PublicSite/views/AC\\_JailPopulationManagement\\_Final/Home?iframeSizedToWindow=true&%3Aembed\\_code\\_version=3&%3Aembed=y&%3AloadOrderID=0&%3Adisplay\\_count=n&%3Adisplay\\_spinner=no&%3AshowAppBanner=false&%3Aorigin=viz\\_share\\_link&%3AshowVizHome=n](https://tableau.alleghenycounty.us/t/PublicSite/views/AC_JailPopulationManagement_Final/Home?iframeSizedToWindow=true&%3Aembed_code_version=3&%3Aembed=y&%3AloadOrderID=0&%3Adisplay_count=n&%3Adisplay_spinner=no&%3AshowAppBanner=false&%3Aorigin=viz_share_link&%3AshowVizHome=n)).

<sup>527</sup> Mich. Comp. Laws § 791.233e(4).

<sup>528</sup> Becker, "Racial Bias and Prison Discipline," 2022; Young and Pearlman, "Racial Disparities in Lifer Parole Outcomes," 2021, 11.

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<sup>529</sup> See Mich. Comp. Laws § 791.408. Although there is a Washtenaw Community Corrections Advisory Board (WCCCAB), which is a city-county board including the City of Ann Arbor, it is unclear if it is active. The Washtenaw County website does not include any information about the WCCCAB, while the WCCCAB page on Ann Arbor's website lists only one or two members and does not include most of the members who are required to be on such a board under Mich. Comp. Laws § 791.407, most notably the sheriff or his designee. Washtenaw County, "Other Boards & Commissions," <https://www.washtenaw.org/1770/Other-Boards-Commissions>; and City of Ann Arbor, "City of Ann Arbor Boards & Commissions," <https://a2gov.legistar.com/Page.aspx?M=O>.

<sup>530</sup> Representative from the Dispute Resolution Court, conversation with Alex Roth, Senior Program Associate, Vera Institute, September 6, 2022.

<sup>531</sup> Washtenaw County, "Washtenaw County Earns Spot in Competitive 'Cities and Counties for Fines and Fee Justice' Cohort," press release (Ann Arbor, MI: Washtenaw County, August 3, 2022), <https://www.washtenaw.org/3674/FINE-AND-FEE-JUSTICE-COHORT>

<sup>532</sup> Associated Press, "Macomb County Circuit Court Ends Fines, Fees for Youth," *The Detroit News*, June 6, 2021, <https://www.detroitnews.com/story/news/local/macomb-county/2021/06/06/court-fees-youth-macomb-county-circuit/116853402/>; and National Center for Youth Law, "NCYL Partners with MCYJ to Help End Juvenile Fines and Fees in Michigan," *youthlaw.org*, April 1, 2022, <https://youthlaw.org/news/ncyl-teams-mcyj-help-end-juvenile-fees-and-fines-michigan>.

<sup>533</sup> State of Michigan Department of Health and Human Services, *Children's Foster Care Manual FOM 722-06D*, <https://dhhs.michigan.gov/OLMWEB/EX/FO/Public/FOM/722-06D.pdf>.