

TRANSFORMATIVE JUSTICE: A Developmental Approach to System-Involved Emerging Adults

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DEFINITIONS

Emerging Adulthood: The phase of development between adolescence and adulthood, which encompasses the transition from a child who is dependent on parents or guardians for supervision and guidance, as well as emotional and financial support, into a fully mature, independent adult who engages as a productive and healthy member of society.

Similar terminology: “Young adults,” “Transition Age Youth”

Source: Harvard Kennedy School
www.hks.harvard.edu/youngadultjustice

INTRODUCTION

Emerging adults, ages 17-24, are a common, distinct and overrepresented population in the adult criminal justice system in Texas, posing challenges to appropriate service delivery for this age group. In 2012, emerging adults made up 10% of the U.S. population but comprised 29% of arrests,¹ and 21% of people admitted into adult prisons across the country.² Emerging adults of color are disproportionately incarcerated compared to their white counterparts; in 2012, the rate of incarceration either in state or federal prison, was more than 9 times greater for black males ages 18-19 than for white males of the same age, and nearly 3 times the rate for Hispanic men of the same age.³ In the same year, black males ages 20-24 were incarcerated at a rate almost 7 times greater than for whites of the same age, and nearly 2.5 times the rate for Hispanic men of the same age.⁴

Emerging adults make up only 11% of Texans, yet they account for nearly 30% of arrests.

U.S. Department of Justice,
Bureau of Justice Statistics (2014)

Recent advances in neurobiology and psychology research demonstrate that adolescent brain development continues into the mid-twenties, making emerging adults cognitively and emotionally different than older adults in their capacity to regulate their behavior.⁵ Like juveniles, emerging adults are also especially susceptible to behavior change, and individualized, community-based interventions structured to address their unique needs can set them on the right path.⁶

Without appropriate intervention, emerging adults are likely to deteriorate, resulting in a worsening of emotional and behavioral problems and an increased likelihood of making contact with law enforcement. Research has demonstrated that institutional confinement grounded in purely punitive principles has little effect on, and may even increase the likelihood of recidivism among emerging adults.⁷ Currently, over 75% of justice-involved young adults recidivate, the highest short-term recidivism rate of any age group;⁸ young adults sentenced to a term of probation are revoked at a rate three times higher than older adults.⁹

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U.S. Department of Justice,
Bureau of Justice Statistics (2014)

The vast majority of emerging adults who make contact with the criminal justice system can be better served in their communities, where services are cheaper and lead to better outcomes.¹⁰ For this reason, **the intervention model of choice for emerging adults is individualized treatment in the least restrictive community-based setting.**¹¹ However, Texas communities often lack appropriately coordinated alternatives to incarceration that divert emerging adults away from the deeper ends of the criminal justice system and into intensive multi-disciplinary services and supports structured to address their unique needs and the factors that contributed to their system involvement. **Given the overrepresentation of emerging adults in the criminal justice system, what can be done in Texas to integrate the justice and health and human services systems to more adequately meet the needs of this population in their home communities and reduce the likelihood of their incarceration?**

This report identifies the ways in which emerging adults differ from older adults and make them vulnerable

Author’s note: This report presents the findings of an original literature review using public reports and analyses on the behavioral health and criminal justice systems written by government agencies, advocate organizations, and research institutes. **For more information, please contact:** Elizabeth Henneke, Executive Director, ehenneke@lsja.org, or Alysia Welch, Director of Policy & Planning, awelch@lsja.org

justice system involvement, the intervention strategies that provide the best evidence available about what works in justice system response for emerging adults, and ultimately, outlines an approach for meeting the needs of emerging adults in their communities to produce positive health and public safety outcomes for all residents in Texas.

EMERGING ADULTS ARE DIFFERENT

Over the last 15 years, research has demonstrated that the brains of emerging adults and older adults are distinctly different in three areas, making them developmentally vulnerable to criminal behavior¹²:

Limited self-regulation, or the ability to control one's emotions and behavior in the moment in order to achieve longer-term gains.¹³ Self-regulation skills are especially weak for adolescents when the situation requires them to suppress a response to an emotional cue¹⁴;

Sensitivity to immediate rewards and peer influence and less consideration of potential costs.¹⁵ This age group inherently values peer approval above many other rewards, and their consequent fear of rejection influences their choices.¹⁶ Simply the presence of peers can influence behavior, accounting for the high rate of emerging adults committing crimes in groups.¹⁷

Narrow ability to make decisions requiring future orientation, including the ability to appreciate long-term consequences, postpone immediate gratification, and resist influences like emotion and peers.¹⁸

Emerging adults develop an accelerator long before they can steer and brake.

Ronald Dahl, MD pediatrician and developmental psychologist

Justice-Involved Emerging Adults Have Distinct Needs:

- Undiagnosed and untreated mental illness, trauma, and substance use or co-occurring disorders
- Chronic unemployment
- Homelessness and housing insecurity
- History of child protection and foster care system involvement
- Lack of basic academic skills
- Lack of work readiness skills

Studies suggest that these areas are associated with biological immaturity of the brain and with an imbalance of two developing brain systems. The brain system that influences pleasure-seeking and emotional reactivity develops more rapidly than the brain system that supports self-control, meaning emerging adults develop an accelerator long before they can steer and brake.¹⁹ The ability to self-regulate, to develop a greater sense of autonomy, and to appreciate long-term consequences develops as individuals enter full adulthood, making emerging adults distinctly different from older adults.

Based upon this research, the U.S. Supreme Court held in three seminal cases that adolescents have diminished culpability and an increased likelihood of being positively rehabilitated,²⁰ underscoring the importance of making intervention decisions for this population using the best evidence available about what works in justice system responses.²¹

Social Determinants of Health:

The conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life.

Source: World Health Organization
http://www.who.int/social_determinants/dh_definition/en/

WHAT DO JUSTICE-INVOLVED EMERGING ADULTS NEED?

Emerging adults in the criminal justice system have other distinct needs that can increase their risk of recidivism. In addition to brain development, young adults' involvement with the justice system is also intricately tied to their health outcomes: the majority has at least one diagnosable mental

health disorder, untreated and unrecognized trauma, and is more likely than other age groups to have substance use or co-occurring disorders.²²

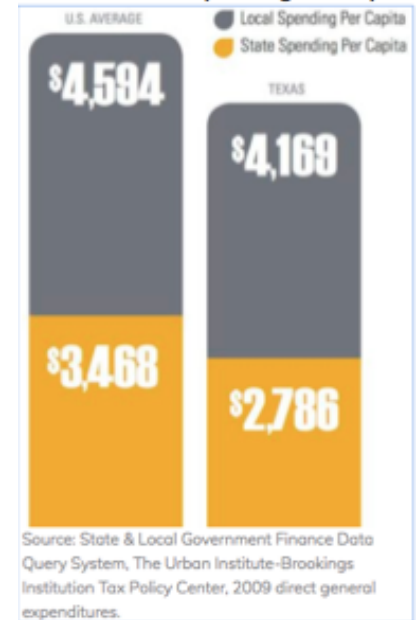
Compounding these health and developmental factors, justice-involved young adults face significant challenges, such as chronic unemployment,²³ homelessness and housing security,²⁴ involvement with the child protection and foster care systems,²⁵ and lack basic academic and work readiness skills,²⁶ which also further increase their risk for justice system-involvement.²⁷ In the public health field, these challenges are referred to as the social determinants of health and are also known as criminogenic risk factors in the criminology field. These areas impact all age groups, but are particularly challenging for justice-involved emerging adults. The multitude of needs among this age group span several social systems, suggesting the need for an integrated approach to service delivery to prevent future justice system involvement.

KEY FACTORS CONTRIBUTING TO EMERGING ADULTS' UNMET NEEDS

Inadequate public services

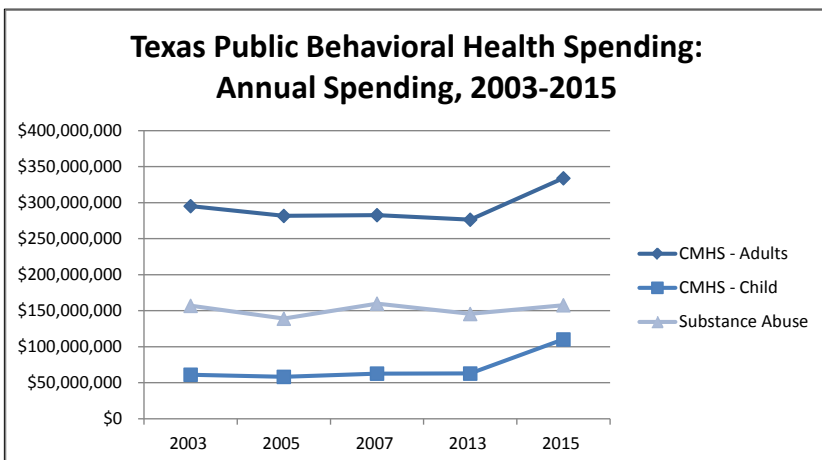
The State of Texas spends less per resident on public services than the U.S. average, and ranks 43rd in the nation on direct general spending per capita, for state and local government.²⁸ Both state and local governments provide public services, and, looking at the combined effort in **Figure 1**, Texas is a low-spending state. According to Episcopal Health Foundation, increased spending on services like public health, fire and ambulance, housing and community development, and libraries would likely lead to improved health outcomes for Texas counties.²⁹

Figure 1:
State and Local Spending Per Capita



An example of the relationship between public service spending and health outcomes is the historically flat funding level of community behavioral health services and the low utilization rate of these services. As the chart below indicates, between 2003 and 2013, the amount of funding spent on the state's public behavioral health system remained relatively similar per year.³⁰ Over the same period, the state's population growth and economic decline contributed to an increase in the number of adults needing to access public mental health services. However, absent an attendant funding increase to meet the demand,

the utilization rate of community behavioral health services declined. **According to the state's Department of State Health Services, in 2015, only 31% of people with a mental health diagnosis who qualify for public mental health services received treatment from the public behavior health system.**³¹ This rate suggests a vast majority of Texans with mental health needs are not receiving community-based treatment, and research shows young adults are more likely than their younger counterparts to access and use mental health services.



Of the total number of individuals receiving outpatient mental health services, 13% were teens, aged 12-17, and 10% were emerging adults.³² Among

those receiving inpatient or residential care, the gap was even greater: 38% of individuals accessing these services were teens and 18% were emerging adults.³³

Researchers predict that a 10% increase in per-capita spending on public services could improve a county's national health ranking by one to seven spots in just four years³⁴ by increasing the capacity, and therefore the accessibility, of services.

Limited social and economic opportunities

Across all measurements of social and economic opportunities for health, Texas ranks worse than the national average, suggesting communities lack opportunities for individuals to achieve positive health outcomes:

- **22% of children live in poverty compared to 20% children across the country.**³⁵ Poverty limits opportunities for quality housing, safe neighborhoods, healthy food, living wage jobs, and quality education. As poverty and related stress increases, health worsens.
- **19% of residents are uninsured, compared to the national average of 11% of residents.**³⁶ Health insurance helps individuals and families access primary care, specialists, and emergency care. Individuals without insurance are often diagnosed at later, less treatable stages of disease and at higher costs.
- **The teen birth rate in Texas is almost twice the national rate, 41 and 27 births per 1,000 females, ages 15-19, respectively.**³⁷ Teenage motherhood is more likely to occur in communities with fewer opportunities for education or jobs. Teen mothers are less likely to complete high school and face challenges to upward economic mobility and their children often have fewer social and economic supports and worse health outcomes.

Limited social and economic opportunities increase the risk of adverse health outcomes and the risk of justice system involvement.

THE UNMET NEEDS OF YOUNG ADULTS CONTRIBUTE TO JUSTICE INVOLVEMENT

Transitioning from an adolescent to an adult worker, parent, spouse, or household leader is a key to desistance from criminal activity.³⁸ The transition into adulthood is marked by several outcomes that are typically lacking in the justice-involved young adult population. These markers of instability correspond with distinct needs that contribute to young adults' high recidivism rates, including:

- **Education:** Justice-involved young adults tend to have low education levels (less than two-thirds has their high school diploma) and deficient literacy skills; many qualify for special education services, yet few existing educational programs structured to help individuals recover high school credits or earn a GED attract young adults.³⁹
- **Employment:** The general population of young adults has difficulty finding work because most have little or no job experience or vocational skill.⁴⁰ This is especially acute for justice-involved young adults, who often have less education and a public criminal record, limiting their earning power and their likelihood of establishing successful, conventional lifestyles.⁴¹
- **Behavioral health:** Almost 60 percent of people age 24 and younger show symptoms of drug abuse or dependence when they enter prison—the highest of any age bracket.⁴² According to the Substance Abuse and Mental Health Services Administration (SAMHSA), without appropriate evaluation and effective treatment services, individuals with a behavioral health diagnosis are likely to deteriorate, resulting in a worsening of emotional and behavioral problems and an increased likelihood of making contact with law enforcement.

- **Social environment:** Research shows that instability in a young person’s social environment increased the likelihood of their involvement with the justice system.⁴³ For example, young adults are disproportionately represented as victims of crime. People aged 18-20 and 21-24 experience rates of violent victimization of 33.9 and 26.9 per 100,000 respectively, which is much higher than for the total population (14.9 per 100,000).⁴⁴

The punitive approach to the adult criminal justice system is not currently equipped to meet these needs effectively. Justice involvement impedes the ability of young adults to complete their education, reducing their average lifetime earnings by nearly half of earnings of individuals who earned an associate degree and almost two-thirds less than those with a bachelor’s degree.⁴⁵ Compared to the general population, people who served time in prison will earn 10-30% less than their non-incarcerated counterparts, and will have a 30 percent reduction in wage growth.⁴⁶ As a result they, their families and their communities will have fewer resources over a period of decades.⁴⁷ Therefore, the needs of young adults are a result of the systemic depletion of resources needed to promote prosocial roles and resiliency that lead to desistance and improve public safety.

Moreover, the existing punitive approach of sanctioning individuals for an incident of misbehavior has not proven to increase public safety. **Research shows that increased criminal sanctions do not reduce recidivism, especially for young adults.**⁴⁸ A large longitudinal study of young adults convicted of a violent offense age 14–25 found no difference in recidivism rates among comparable youth from imprisonment instead of probation, or from longer terms of imprisonment.⁴⁹

On the other hand, changes in a young person’s social environment and community-based services following release both strongly correlated with drops in recidivism and improved health outcomes.⁵⁰ However, a siloed approach to service delivery between service systems present additional barriers to providing community-based services to young adults. Many public systems (e.g. education, health care, Medicaid coverage and child welfare) terminate or change conditions of care as youth transition to adulthood, limiting their access to services and networks needed to address their unmet needs.⁵¹ Additionally, a lack of coordination across service systems can result in duplication or gaps in services.⁵²

Therefore, criminal justice professionals have an important role in partnering with professionals in the public health field, which focuses on population health and on the environmental factors in a community that impact behavior. In fact, public health work and criminal justice reform intersect across multiple areas⁵³:

- Involvement in the justice system is a social determinant of health with multi-generational health impacts.
- Many people involved in the justice system face multiple health challenges, including mental illness, substance use, and trauma.
- Equity is an important public health value and goal, and the justice system disparately impacts marginalized and vulnerable communities (e.g. people of color, people living with low incomes, etc.).
- Societal conditions that lead to inequitable involvement in the justice system are the same conditions that lead to health inequities.
- Public health focuses on upstream prevention, reducing harm, restoring people to full physical, mental, and social health, and valuing life. These focus areas support working for transformations to every stage of justice system involvement.

For these reasons, diverting young adults away from the deeper ends of the criminal justice system and into community-based services and interventions should integrate the health and social service systems that interact with young adults before and after their involvement with the justice system to address the multitude of individual and systemic factors that increase criminogenic risk.

LIMITATIONS OF EXISTING JUSTICE SYSTEM PROCESS

Despite the prevailing evidence that shows community health investments have a positive approach to reducing recidivism, the standard criminal justice system framework provides few methods for integrating the multitude of social service systems to address the complex and varied needs among young adults. There are several factors inherent in the existing system that impede this type of integration:

- (1) **Lawyers are responsible for behavior change:** Prosecutors are the actors primarily responsible for setting out the “punishment” a person must serve in a criminal case and, as lawyers, prosecutors generally lack substantial training and expertise in behavioral health.⁵⁴ As such, prosecutors are not in a good position to identify those who might in fact be good candidates for inclusion in a community-health approach to behavior change. Even when prosecutors see indications of behavioral or cognitive disorders that might suggest that a response other than incarceration is appropriate, they may lack confidence in their observations, causing them to be too conservative in endorsing alternatives.⁵⁵
- (2) **Lack of team-based decision making process:** Without formalized programs, prosecutors alone have the responsibility of determining the appropriate disposition of the cases that are presented to them and likewise bear the responsibility for diverting an individual from the traditional path to prison if the person ultimately engages in future criminal activities.⁵⁶ Because one actor holds the bulk of the discretion in the justice system decision-making process, there are few access points for integrating public health and social service experts.
- (3) **Limited resources to promote integration:** While many diversion programs have achieved positive results among participants, such programs are not uniformly available and frequently suffer from a shortage of resources.⁵⁷ These programs are not given the attention and status of the mission of a prosecutor’s office, which is pursuing and obtaining criminal convictions, and as a result, diversion programs are not vested with the status of a legitimate, essential component of the criminal justice system and are not provided the resources necessary to achieve participants’ long-term treatment, support and recovery.⁵⁸ Without resources, programs lack the operational infrastructure needed to provide evidence-based practices with fidelity.

These factors increase the likelihood that young adults will be treated in an adult system that fails to recognize their developmental needs and support them in their home communities.

INNOVATIVE INTERVENTION MODELS

Recognizing the differences between emerging adults and their older adult counterparts, some jurisdictions across the country have attempted to address the developmental needs of justice-involved emerging adults. According to Pew Charitable Trust’s evidence-based policymaking framework, governments should conduct a three-step process to assess exiting programs to help determine the most effective method of appropriating resources in support of community health and safety:

- 1) **Program inventories** provide detailed lists of existing interventions provided by all or select government agencies in order to help officials/stakeholders better align resources with needs, avoid

duplication, and ensure that services reach the right clients.

- 2) **Program evaluations** reveal that some programs are much more likely than others to achieve desired outcomes. An evidence review categorizes programs by evidence of their effectiveness and enables government leaders to make more informed funding decisions and guide program monitoring and evaluation.
- 3) **Cost-benefit analyses** help policy makers identify, fund, and advocate for interventions likely to generate the highest returns on taxpayer investment.

The challenge for local and state governments in determining the most effective method of promoting emerging adult justice is that existing interventions are either very new or have operated on a small scale, so there is no study reaching

There is no study reaching conclusions about [existing programs'] results or cost-effectiveness.

Source:
Council for State Government

Existing Intervention Methods:

- Young Adult Courts
- Probation and Parole Programs
- District Attorney-led Programs
- Community-based partnerships

conclusions about their results or cost-effectiveness.⁵⁹ Most of the existing programs were developed based on personal interactions with emerging adults and observations and knowledge of the population.⁶⁰

At this early stage in the creation of developmentally appropriate interventions for justice-involved young adults, the first stage of Pew’s framework, “program inventories,” could provide the most robust analysis of best practices. Preliminary data tracking the outcomes of existing interventions for this age group demonstrate that the justice system can improve public safety by addressing their unique needs using the following intervention methods:

Young adult courts: Modeled on existing drug courts, young adult courts create a collaboration among probation, district attorneys, and defense counsel to provide intensive services and frequent contact through court hearings to monitor participant progress. Some programs provide reduced charges and/or expunge the records of participants that successfully complete the program.

- **Young Adult Court (YAC), San Francisco, California** is structured to improve justice outcomes for young adults charged with a felony offense through the use of community-based services provided through a structure of service phases, a system of sanctions and incentives, intensive case management support, and monitoring participant progress.
- **Project Engage, Austin, Texas:** A docket created especially for individuals aged 17-19 and charged with a misdemeanor offense. The docket aims to reduce the number of revocations, convictions and jail sentences by providing participants the additional support and structure of regular judicial oversight within a probation terms with maximum supervision and an emphases on school and/or work.
- **Second Chance Community Improvement Program (SCCIP), Dallas, Texas:** Diversion program for young people age 18–25 convicted of non-violent felony offenses. Program participants are required to complete GED, parenting and life skills classes over 6–12 months, and are eligible to have their offense expunged upon completion.
- **Denver Juvenile and District Drug Court, Denver, Colorado,** specially focuses on young adults involved with the adult criminal justice system. Case managers are trained in adolescent-based development and treatment strategies rooted in the belief that young adults cognitively function like adolescents and the court emphasizes non-jail sanctions.⁶¹
- **Young Adult Drug Court Collaborative, Pasco and Pinellas, Florida** is an interagency effort to tailor a treatment model to the distinct needs of young people age 18-26.⁶²

- **Young Adult Court, Bonneville and Jefferson, Idaho** for people aged 18-24. At sentencing, a judge may place a young person on probation while he or she completes the young adult court’s program, which lasts for two years and can accommodate 50 people.⁶³
- **St. Mary’s Parish Drug Court, Young Adult Program, St. Mary’s, Louisiana** for young people age 18-25. The program is designed to employ best-practice strategies to reduce crime and substance abuse among high-risk, high-need young adults using evidence-based interventions.⁶⁴
- **You Persons Track, St. Louis Adult Felony Drug Court, St. Louis, Missouri**, aimed at young people aged 17-22. The main components of the program’s holistic needs-based approach are alcohol and drug education, counseling and therapy, parenting classes, and employment training and placement.⁶⁵
- **Young Adult Court, Douglas, Nebraska** for young people under age 25 charged with a felony. The two-year program involves three phases, during which an array of life-skills classes, counseling, employment assistance, and other supports are available as needed. As participants progress through the program, the sentence is reduced to a misdemeanor. The program supports about 30 participants at a time.⁶⁶
- **Brooklyn Justice Initiatives, Kings, New York**, a diversion program for young adult misdemeanants age 16-22 within the Kings County court system. The program creates an alternative to incarceration involving service-oriented community supervision, including mental health and drug treatment, education, employment and job training.⁶⁷
- **King County Drug Diversion Court, King, Washington**, a designated young adult program for young people age 18-25. After 60 days in jail, participants are released to the community, where they must comply with a multi-phase program requiring attainment of long- and short-term goals.⁶⁸

Probation and parole programs: Overlapping with young adult specialty courts, probation and parole departments serve as the lead agency, providing case management and referring participants to individualized services. In addition to charges reduced and/or their records expunged, successful completion often results in a decrease in the length of participants’ probation supervision terms. Officers serve in a more supportive role, such as surrogate parents, life coaches, teachers or counselors.

- **Intensive Supervision Service (ISS), Columbia, South Carolina:** Available for young adults with no previous convictions, the program is structured to reduce recidivism, improve family and individual functioning, and ensure community safety. The model employs Intensive Supervision Officers to carry out a community supervision service for participants and an intensive aftercare programs for those who successfully complete the program. Officers identify community resources and services to address individual needs. After two years, only 13.5% of participants return to prison, including for new crimes and technical violations of parole.⁶⁹
- **Young Adult Diversion Program, Kalamazoo, Michigan**, for defendants age 17-20 charged with certain misdemeanors and without prior convictions. Defendants are placed on probation for 6-24 months, and avoid a criminal conviction if they successfully complete the program.⁷⁰

District Attorney-led programs: DAs are responsible for case management and supervision of participants, offering activities similar to those in young adult courts and probation-based programs.

- **Brooklyn Young Adult Initiative:** Through the initiative, the King County District Attorney’s Office created a dedicated prosecution unit in conjunction with the Brooklyn Young Adult Court. The DA offers participants alternative-sentencing options, including onsite services and referrals to community-based programs offering mental health counseling, drug treatment, education, employment assistance and job training.

Community-based partnerships: Programs that are managed and operated by community organizations rather than justice system stakeholders. These community organizations offer services to address the needs of participants without the monitoring or supervision of the justice system.

- **Roca, Inc.**, a nonprofit organization in Massachusetts that works with high-risk young adults age 17–24, developed an intervention model that involves two years of intensive street outreach, educational programming, pre-vocational training, cognitive-behavioral and life skills training, and employment support.⁷¹ The program involves another two years of less intensive, supportive follow-up.⁷² In FY15, Roca served over 650 high-risk young men; 93 percent were not rearrested in that year, and 92 percent had been employed for at least 90 days.⁷³
- **UTEC**, also in Massachusetts, employs a similar approach and developed several in-house social enterprises (e.g., a mattress recycling service, food services, woodworking). UTEC established contracts with local hotels and colleges to create employment opportunities for participants in a supportive setting. The social enterprises incentivize positive behavior. Participants that do not comply with program requirements are placed on temporary restrictions from the social enterprise opportunities. In FY17, UTEC served 136 young adults ages 17-25; 90 percent of young adults served were not arrested during the year.

Importantly, despite health-related needs driving emerging adults justice system involvement, none of the existing programs aim to provide a health-based alternative to incarceration for this age group.

BEST PRACTICE PRINCIPLES OF INTERVENTION

While outcomes and cost-effectiveness are unavailable, there are common elements among existing interventions that can provide an understanding of key principles for intervening with emerging adults when they make contact with the adult criminal justice system. These elements align with the methods proven successful in reducing recidivism.⁷⁴

Intensive, individualized case management: individualized services include education or vocational training, mental health and/or substance use recovery services, and assistance with housing and employment. Intensive refers to the level of oversight provided by the lead case manager. Most existing programs required frequent check-ins with program participants to ensure they achieve program goals.⁷⁵ However, **the individual or entity providing case management is a critical variable toward promoting sustainable behavior change.** Research shows that behavior change that is attached to one’s own values and reasons to change will last longer than change that is externally imposed.⁷⁶ Interpersonal interactions with service providers trained in specialized cognitive behavior techniques, such as motivational interviewing, play a major role in implementing this principle. Consequently, programs that employ probation or community supervision departments, trained to emphasize compliance monitoring, to serve as case managers may impede participants’ ability to achieve behavior change.⁷⁷

Risk-Needs-Responsivity structure: The most effective programs conform to the principles of risk, needs and responsivity.⁷⁸ The risk principle advises services and supervision be applied in direct proportion to an individual’s criminogenic risk, with lower-risk individuals receiving less-intensive interventions and higher-risk individuals receiving interventions of higher intensity.⁷⁹ The need principle promotes the administration of treatment and programming according to individuals’ assessed needs that are amenable to change, such as time spent with antisocial peers and truancy.⁸⁰ The responsivity principle states that interventions should be tailored to an individual’s learning style, level of motivation, abilities, and strengths so that services are delivered in a manner in which youth will be most receptive.⁸¹

By contrast, most programs structure their eligibility requirements to include individuals charged with misdemeanor, non-violent offenses and exclude high-risk, high-need individuals, who are often seen as not “ready” or “motivated” to change their behavior. However, because low-risk individuals often engage positively in the community and demonstrate progress under their own power, programs should instead align with RNR principles by allocating more resources and treatment to those at higher risk and likely to reoffend without intervention.⁸² Moreover, some individuals living with mental illness or other unmet cognitive needs may not exhibit typical indicia of remorse or may not at the time of arrest appear to be motivated to change.⁸³ To ensure fidelity to RNR principles, programs should use risk-needs assessment tools that are developmentally tailored to young adults.⁸⁴

Incentive-based behavior response system: Positive reinforcement coupled with a set of clear boundaries are effective in supporting sustainable behavior change.⁸⁵ Existing programs may offer reduced sentencing or probation, expunging criminal records, or a reduction in charges as an incentive for achieving successful program completion. However, programs also need to employ a rewards response system throughout program participation in order to incentivize participants to achieve their goals and promote prosocial interactions.⁸⁶

Specialized skill training with directed practice: This evidence-based principle suggests that cognitive-behavioral techniques (CBT) and “social learning” should become a central part of programming.⁸⁷ Stakeholders involved in participants’ criminal cases should receive specialized training in areas such as trauma, brain development, moral decision-making, and impulsivity among young adults. Training should include methods for employing these techniques beyond the boundaries of treatment to the everyday interaction between case managers, program administrators and participants, allowing staff to identify criminal thinking and antisocial behavior, redirect it, and promote prosocial behavior.⁸⁸

Engage ongoing support in natural communities through restorative justice: Research shows connecting individuals with prosocial activities in their own community promotes positive behavior.⁸⁹ An example of these activities include restorative justice and harm reduction initiatives in which participants are required to perform some type of reconciliation with individual victims or with the community. Programs should draw on local services and resources to respond to the needs of participants, promoting a local jurisdiction’s ability to sustain the program over time.

Measure processes and practices and provide outcome feedback: Only those interventions that are consistently tracked and evaluated can truly be proven successful, emphasizing the need of programs to collect data on an ongoing basis, conduct rigorous analysis of procedures and outcomes, and regularly manage performance by providing feedback according to evaluation outcomes. Existing programs share the common goal of reducing the likelihood of future justice system involvement among program participants and accordingly rely on recidivism rates as the primary method of measuring the success of the intervention, requiring internal data tracking systems. However, programs should track additional measures that evaluate the multitude of factors that lead to justice system involvement, including health outcomes and the social determinants of health.⁹⁰

RECOMMENDATION: COMMUNITY HEALTH ALTERNATIVE TO INCARCERATION FOR EMERGING ADULTS

Positive community safety and health outcomes for justice-involved young adults are associated with integrated program models.⁹¹ These outcomes include reduced criminal activity, fewer young adults at all points in the justice system, and improved integration of the justice system and community-based health and human services that promotes the efficient use of public resources.⁹²

To achieve these outcomes, local criminal justice systems could consider *establishing a formal diversionary option to the criminal justice system for young adults, aged 17-24, charged with a felony offense* that, in lieu of incarceration, provides participants community-based services through a localized, integrated program structured to support positive life outcomes, improving participants' health outcomes while simultaneously reducing their criminogenic risk and the likelihood of their continued justice system involvement.

Key elements of this type of process includes:

- Panel of experts to inform decision-making:** Many of the efforts that are necessary to achieve the outcomes of crime, recidivism, victimization and expenditure reduction includes a variety of agencies, organizations, and institutions involved with public health.⁹³ They encompass treatment for mental health, substance use, and unmet cognitive, intellectual, and physical health needs, as well as federal agencies and organizations, like Medicare and Medicaid, Veterans Affairs, Housing and Urban Development, and many more state and local organizations.⁹⁴ Therefore, a formal diversionary option for young adult should integrate the expertise of a variety of professionals to identify individuals appropriate for diversion and to develop and implement services structured to prevent involvement in the deeper ends of the criminal justice system. In place of the current system of prosecutors using their discretion to make diversion decisions according to imprecise criteria and evaluation, the proposed “panel of experts” would be a separate, quasi-independent entity designed and staffed by behavioral health experts and experts from social services (i.e. social workers, psychiatrists, psychologists, and other mental health, addiction, and neurocognitive professionals) that encompass the multitude of social determinants of health.
- Risk-Needs-Responsivity principles and predictive tools:** Case managers affiliated with a local non-profit community development corporation should conduct a needs assessment tool tailored to the unique developmental factors contributing to participants' behavior, ideally pre-indictment to reduce the likelihood of a participant to be compelled to take time served in jail over a more effective community-based intervention.⁹⁵ The assessment should be the most reliable diagnostic and predictive tool available to stakeholders.⁹⁶ The panel of experts would analyze the assessment results and communicate their recommendation for diversion to the criminal justice stakeholders (i.e. prosecutor, judge, etc.). The panelists then use the results to develop an individual care plan, structured with the supports and services needed to achieve the identified goals of behavioral health recovery, the development of prosocial roles and responsibilities, and a reduction in criminogenic risk.
- Community-based interventions:** Because treatment and services are most effective when they are provided in the least-restrictive environment, namely, communities and neighborhoods not jails or prisons, diversion and alternatives to incarceration for young adults should be structured through a public health lens that promotes community-based services.⁹⁷ Not only are community-based treatment and services for mental illness and substance use preferable from the perspective of behavioral health experts, but it has also been found to be more effective than treatment in an incarceration setting.⁹⁸ The panel of experts would be responsible for identifying a set of services and treatments that could meet the needs of participants and recommending those to the justice system stakeholders. The experts would also oversee participants' progress toward achieving the goals identified in their care plan and recommending adjustments as needed to promote participants' success in the program. Community-based services to which participants are diverted would also be interdisciplinary and separately funded from prosecuting authorities to ensure that

minimizing recidivism remains at the core of their mission.⁹⁹ Fully funded programs run by experts in the field using evidence-based programs and practices have the prospect of substantially lowering recidivism rates.¹⁰⁰

- **Outcome-driven:** This type of diversion process asks prosecutors to emphasize diversion for as many participants as possible, offering to expunge the records of those individuals that successfully achieve the desired outcomes and complete the program.¹⁰¹ However, prosecutors can also identify cases that are ineligible for diversion due to the nature or severity of the crime. In these cases, prosecutors may refer participants to the program during the pre-trial period, and the outcomes participants' achieve could be used to mitigate the case disposition. Prosecutors may consider deferred adjudication probation to participants or pursue a contested case, and the incentive for participants' success during the program would be a reduction in the sentence imposed if they are ultimately convicted. This process would incentivize prosecutors to include mitigating information in applying a reduced punishment for participants.
- **Ongoing evaluation:** This process would be coupled with an ongoing program evaluation conducted by a third-party research institute (i.e. a local academic institution, etc.). While recidivism is the primary method of measuring the success of any intervention affiliated with the criminal justice system, it is also important to track the outcomes of factors that moderate criminal behavior, including health outcomes and the impact of social determinants of health such as social bonds, education attainment, and employment.¹⁰² The anticipated outcomes will inform a new definition of public safety, one that is based on positive life outcomes of justice-involved emerging adults, such as achieving behavioral health goals and obtaining a job, rather than their failures (e.g. rates of arrest, reincarceration, and confinement).

Jurisdictions that employ these research-informed practices may be able to reduce the recidivism rates of justice-involved young adults while simultaneously promoting community health and safety.

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