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Title
Rehabilitation and Restoration: Effective Correctional Approaches for Recidivism Reduction and Their Application in Los Angeles County

Permalink
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Journal
UCLA Criminal Justice Law Review, 3(1)

Author
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Publication Date
2019-05-31

DOI
10.5070/CJ8.59670

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REHABILITATION AND RESTORATION:
Effective Correctional Approaches for Recidivism Reduction and Their Application in Los Angeles County

Kimberley Baker Guillemet

Abstract

Over the past several years, we have seen significant criminal justice reform efforts on a national level, the most sweeping of which have taken place in California. The impetus behind these changes has been the increased widespread understanding of the drivers of criminogenic behavior coupled with intentional and targeted efforts by lawmakers and the criminal justice system to attempt to reduce recidivism by addressing those drivers. At a local level, Los Angeles County has led the way in these efforts with the implementation of various collaborative programs and initiatives by the court system, local government and law enforcement.

By addressing criminogenic drivers, as opposed to focusing on retribution and incapacitation, the region has become smarter on crime. This approach facilitates both rehabilitation for the individual who committed a crime and restoration for the victims, thereby significantly and effectively reducing recidivism. In other words, this approach accomplishes the ultimate goal of improving public safety.

Acknowledgments

I wish to thank, for their invaluable inputs to this Article, The Los Angeles Superior Court, Current Leadership, including: Hon. Kevin Brazile Presiding Judge; Hon. Eric Taylor, Asst. Presiding Judge; Former Leadership, including Hon. Daniel Buckley, Former Presiding Judge; Hon. Carolyn Kuhl, Former Presiding Judge; Hon. David Wesley, Former Presiding Judge; Hon. Scott Gordon, Former Supervising Judge, Criminal Division; the Criminal Division, including Hon. Scott Ohta, Supervising Judge; Hon. Sergio Tapia, Asst. Supervising Judge; Hon. Mark Hanasono, Asst. Supervising Judge, Misdemeanors; Hon. Ma'ame Frimpong, Asst.

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Supervising Judge, Traffic. Additionally, I would like to thank, as substantive contributors to this Article, Hon. James Bianco, Mental Health Division; Hon. Karen Gauff, Criminal Division; Hon. Karla Kerlin, Criminal Division; Hon. Songhai Miguda-Armstead, Criminal Division; Hon. Patricia Titus, Criminal Division; Hon. Michael Tynan, Criminal Division; Hon. Peter Espinoza (ret.), Executive Director, Los Angeles County Department of Health Services, Office of Diversion and Reentry; Maiya Guillory, Program Manager, Office of Diversion and Reentry; Katie Camp, Program Manager, Los Angeles Mayor's Office of Economic Opportunity; and Emily Chin, Program Manager, Brilliant Corners. The time and insight contributed by all of these people were key to the execution of this Article.

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Introduction

At their core, all humans have the same fundamental emotional needs:

Restoration.
Forgiveness.
Renewal.
Mercy.
Redemption.
Healing.
Rehabilitation.
Reconciliation.
Love.
Wellness.
Wholeness.

Abraham Maslow, a well-known psychologist, famously categorized fundamental human needs as the following: in addition to physiological, or biological requirements for survival such as air, food, water, and shelter, humans also require safety, love and belonging, esteem, and self-actualization.[1] Without these needs being met, Maslow argued the human body cannot function optimally. For Maslow, physiological needs were the most important; all the other needs become secondary until these needs are met. For Maslow, the second level of needs included safety and security-related needs such as protection from the elements, security, order, law, stability, freedom from fear. Maslow's third level of human needs is social and involves feelings of belongingness. In his view, the need for interpersonal relationships, such as friendship, intimacy, trust, and acceptance, receiving and giving affection and love, affiliation with a group (family, friends, work) motivates behavior. At the next level were esteem needs which Maslow classified into two categories: (1) esteem for

1. A.H. Maslow, *A Theory of Human Motivation*. Psychol. Rev., 50(4), 370–96 (1943); (1954); see also Kendra Cherry, *The Five Levels of Maslow;s Hierarchy of Needs*, verywell mind (Nov. 11, 2018), https://www.verywellmind.com/what-is-maslows-hierarchy-of-needs-4136760 [https://perma.cc/A92J-XDKY].

oneself (such as dignity, achievement, mastery, and independence) and (2) the desire for reputation or respect from others (such as status and prestige). At the level of esteem needs, Maslow opined that the need for respect or reputation is most important for children and adolescents and precedes real self-esteem or dignity. Based on this theory, would thus follow that the development of actual dignity does not occur until one is more mature and further into adulthood. It is a more sophisticated need, the development of which one does not prioritize until one is developmentally able to fully engage in that process. Finally, Maslow determined that self-actualization needs, or realizing personal potential, self-fulfillment, seeking personal growth, ambition and success, were the least prioritized needs.[2] According to Maslow, some needs take precedence over others, beginning with the need for physical survival, which becomes the need that most strongly dominates and motivates our behavior. Once that level is fulfilled, we set our eyes on the next level up in the hierarchy until we reach the top.[3]

Not surprisingly, those who struggle with ensuring that their basic needs are met not only do not have the opportunity to strive toward self-actualization, but are often driven to engage in undesirable and, at times, criminogenic behavior in a desperate effort to meet those basic survival needs for themselves and their family members. With that basic understanding in mind, it logically follows that once people who are in desperate situations receive some reprieve, assistance, or help that satisfies their more basic needs, their willingness to engage in criminality to satisfy those needs decreases.

A 2014 study of 92,390 households and 162,940 persons examined the relationship between household income relative to the Federal Poverty Level (FPL) line and nonfatal violent victimization, which included rape, sexual assault, robbery, aggravated assault, and simple assault.[4] This wide-ranging study made the following two key findings: (1) for the period 2008–12, persons in poor households at or below the FPL had more than double the rate of violent victimization as persons in high-income households;[5] (2) persons in poor households had a significantly higher rate of violence involving a firearm compared to persons above the FPL.[6]

A 2012 study explored whether elimination of and/or decrease in receipt of public benefits would increase criminogenic behavior of former benefit recipients.[7] Specifically exploring the links between gender,

2. *Id.*
3. *Id.*
4. Erika Harrell et al., Household Poverty and Nonfatal Violent Victimization, 2008–2012, U.S. Dept. of Justice (Nov. 2014), https://www.bjs.gov/content/pub/pdf/hpnvv0812.pdf [https://perma.cc/RNH3-4FNG].
5. For persons in high-income households, the rate of victimization was 16.9 per 1,000, whereas the comparable rate for at or below the FPL was 39.8 per 1,000.
6. For those above the FPL, .8–2.5 of every 1,000 people were victims of a crime involving a firearm, whereas for those below the FPL, the comparable rate was 3.5.
7. Lindsay M. Monte, Dan A. Lewis, *Desperate or Deviant? Causes of Criminal*

welfare, and crime, the study considered whether the 1996 welfare reform legislation affected the criminality of welfare recipients.[8] As the study found, "financial hardship, in both the forms of unemployment and non-receipt of welfare, is significantly associated with an increased hazard of criminal behavior."[9]

Countless other studies provide support for the two mentioned above, and thus, it appears well-settled that there is a correlation between criminality and human desperation. However, the amount of weight we have placed on the correlation between criminality and human desperation has varied over time. Over the course of our country's history, we have seen the social pendulum swing between the elevation of one correctional philosophy over another as certain approaches have gone in and out of vogue.[10]

Over the past several years, tremendous criminal justice reform efforts undertaken on both the federal and state levels have prioritized rehabilitation and restoration. As recently as 2014, the Federal Bureau of Prisons developed a specific focus on employing evidence-based rehabilitation strategies, which touch virtually every aspect of the federal prison system, from an inmate's initial intake to his or her return to the community.[11] The reforms address core behavioral issues that result in criminality, with the goal of reducing the likelihood that inmates recidivate.[12] As a result, The Justice Department determined that these reform efforts created safer prisons and safer streets.[13]

In California, there has been sweeping criminal justice reform undertaken over the past decade, and during this time frame, overall crime rates have decreased to levels not seen since the 1960s.[14,15] The impetus behind these changes has been the increased widespread understanding of the drivers of criminogenic behavior and the intentional decision by lawmakers to attempt to reduce recidivism by addressing those drivers. At a local level, Los Angeles County has led the way in these efforts with the implementation of various programs and initiatives by the Los Angeles County Board of Supervisors, the Los Angeles County Superior

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Behavior among TANF Recipients, Poverty and Public Policy Vol. 3 (Sep. 2011).

8. *Id.*
9. *Id.*
10. The traditional correctional philosophies are deterrence, retribution, incapacitation, rehabilitation and most recently restoration or restorative justice.
11. *Prison Reform: Reducing Recidivism by Strengthening the Federal Bureau of Prisons*, U.S. Department of Justice, https://www.justice.gov/archives/prison-reform [https://perma.cc/VH28-B8RM].
12. *Id.*
13. *Id.*
14. Tim Arango, *In California, Criminal Justice Reform Offers a Lesson for the Nation*, N.Y. Times, Jan. 21, 2019, https://www.nytimes.com/2019/01/21/us/california-incarceration-reduction-penalties.html [https://perma.cc/E8HG-Y45Z].
15. However, it should be noted that certain categories of crime, such as theft have ticked up for reasons not fully known. Various parties are beginning the process of exploring this discrepancy. *Id.*

Court, the Los Angeles County Department of Health Services–Office of Diversion and Reentry, the Los Angeles County District Attorney's Office, the Los Angeles County Department of Probation, the Los Angeles City Attorney's Office, the Los Angeles Public Defender's Office, the Los Angeles Mayor's Office, as well as local law enforcement entities.

In addressing the criminogenic drivers rather than focusing on retribution and incapacitation, Los Angeles has become smarter on crime, especially as it pertains to individuals who were experiencing certain criminogenic drivers at the time of the commission of their commitment offense. The reason for this is two-fold. First, in a county as large as Los Angeles, we lack the sheer capacity to incarcerate all offenders for long periods of time. Thus, while for certain extremely serious and violent offenders, it is important to prioritize incapacitation of the offenders, for individuals for whom we can identify certain factors that have directly impacted their criminality, incapacitation through incarceration is not the most effective or sustainable model for our region. Second, and most importantly, addressing criminogenic drivers in a meaningful way facilitates both rehabilitation for the offender and restoration for the victims thereby significantly and effectively reducing recidivism. In other words, it accomplishes the ultimate goal of improving public safety.

I. Effective Approaches to Recidivism Reduction by the Court

A. *Los Angeles Superior Court's Community Collaborative Courts*[16]

The Los Angeles County Superior Court has taken a proactive approach to addressing the needs of vulnerable populations through the establishment of the Community Collaborative Courts.[17] Launched in December 2015,[18] these problem-solving courts focus on hearing matters involving individuals charged with a crime who are at-risk or vulnerable to recidivism due to their underlying issues. The participants include populations such as veterans, individuals with mental illness, those

16. It is important to note there are community collaborative courts in locations throughout the state. *See* Judicial Council of California, *Collaborative Justice Courts Fact Sheet*, July 2018, https://www.courts.ca.gov/documents/CollaborativeCourts_factsheet.pdf [https://perma.cc/6MMS-U6PG]. In fact, California currently has more than 425 collaborative courts statewide. *Id.* However, Los Angeles County has the greatest number of problem-solving courts in the state. *Id.* For the purposes of this Article, the efforts specific to Los Angeles County only will be discussed.

17. *Los Angeles Creates a New Kind of Court*, Cal. Cts. Newsroom (March 11, 2016), https://newsroom.courts.ca.gov/news/los-angeles-creates-a-new-kind-of-court [https://perma.cc/F5UF-YU48].

18. The Community Collaborative Courts were implemented under the leadership of then Presiding Judge Carolyn Kuhl. Prior to that, the previous Presiding Judge, David Wesley, the founder the Los Angeles Superior Court Teen Court Program, had laid ground work for the adult collaborative court implementation in Los Angeles County. The collaborative courts continued to thrive under the later leadership of Presiding Judge Daniel Buckley, and current Presiding Judge Kevin Brazile.

experiencing chronic homelessness,[19] individuals with substance abuse issues, sex trafficking victims, and at-risk youth who have aged out of the foster-care system.[20] Participants are charged with felony offenses or facing pending felony probation violations, and for many of these individuals, the Community Collaborative Court is the final alternative to prison.[21]

The process begins by referral or recommendation for referral to the Community Collaborative Court program by one of the parties. Referred individuals are then screened by the Probation Department for their suitability. The Department of Health Services will also screen referrals if mental illness is suspected.[22] If deemed appropriate for the Community Collaborative Court Program, the participant is placed on probation for three-to-five years and then supervised by the Probation Department for the term of probation.[23]

A treatment program is developed by a multidisciplinary team of justice partners comprised of the District Attorney's Office, public defenders, the Sheriff, the Probation Department, the Department of Mental Health, the Department of Health Services, the Department of Veterans Affairs, the Board of Supervisors, the Los Angeles City Attorney, and the Los Angeles Police Department. This team of actors takes a collaborative, nonadversarial approach to resolution and treatment to ultimately develop a treatment program that will be tailored to meet the participant's individual needs. Participation in the treatment program is a condition of the participant's probation. Programming can include

19. It is important to note that in 2001, a Homeless Court was established in the Los Angeles Superior Court under the leadership of Judge Michael Tynan. Dalondo Moultrie, *Homeless Court Gives a Clean Slate and a Fresh Start: Small-time 'quality of life' citations are forgiven to help the poor make progress toward solving their problems*, November 09, 2001, http://articles.latimes.com/2001/nov/09/local/me-2052 [https://perma.cc/LZQ3-3JES]. Though that specific program is no longer in existence in its original iteration, the work still continues under the umbrella of the Community Collaborative Court with Judge Tynan continuing to preside over these types of cases. In addition, similar work continues through programs such as the City Attorney Office's homeless response program, named the Homeless Engagement and Response Team (HEART) Program, which operates the Los Angeles County Homeless Court Citation Clinic. The HEART Program offers individuals experiencing homelessness or at risk of experiencing homelessness the opportunity to resolve eligible infraction-level offenses by completing community obligation hours at approved service provider agencies rather than paying fines that they often cannot afford. Source: Interview with Hon. Songhai Miguda-Armstead, Los Angeles Superior Court, Los Angeles, CA, March 14, 2019 (Judge Armstead lead efforts to establish homeless response intervention efforts that were the precursor to the HEART Program); *see also* Community Justice Initiative, HEART Program, *available at* https://communityjusticeinitiative.wordpress.com/heart.
20. *Los Angeles Creates a New Kind of Court*, *supra* note 17.
21. *Treatment Courts*, L.A. Cty. Pub. Def. (last visited March 1, 2019), https://pubdef.lacounty.gov/treatment-courts [https://perma.cc/GV5P-2R5F].
22. *Id.*
23. *Id.*

residential treatment, sober-living with outpatient treatment, and community aftercare. For those with mental illness, the Department of Health Services may place the person in a residential mental health program or into a Full Service Partnership if the person has outpatient status. The participant is required to participate in the terms of his or her treatment program and is monitored by the court with regular court appearances to monitor progress. Upon successful completion of the Community Collaborative Court Program, the participant may earn a dismissal under Penal Code section 1203.4.[24]

The Community Collaborative Court is currently heard in four Los Angeles County courthouses—Central, Van Nuys, Compton, and Long Beach.[25] Qualifying cases from all over the county are routed to the four judges presiding over the Community Collaborative Courtrooms in the four abovementioned courthouses.[26] While recidivism-related data is currently unavailable for the Community Collaborative Courts, by all available accounts, it has been a very successful program.

B. *Los Angeles County Second Chance Women's Reentry Court*

The Los Angeles County Women's Second Chance Reentry Court is an alternative sentencing/diversion program originally developed by the Los Angeles Department of Public Health in collaboration with the Los Angeles County Superior Court, the Los Angeles County's District Attorney's Office, the Public Defender's Office, the Department of Probation, the Department of Public Health's Substance Abuse and Prevention Control Program, and the Countywide Criminal Justice Coordination Committee.[27] The program is geared toward women, including those with children, charged with nonserious, nonviolent or non-sex offender felony crimes or probation violations. As an alternative to incarceration, these women are enrolled in an intensive residential program followed by outpatient treatment.

The program is a specialized drug court model that provides evidence-based, gender-responsive, trauma informed, and culturally competent treatment. For example, the program provides mental health and substance abuse treatment, housing assistance intensive supervision, positive reinforcement, appropriate court-supervised sanctions, employment resources, and family reunification services to address the issues of

24. *Los Angeles Creates a New Kind of Court*, *supra* note 17.
25. Interview with the Hon. Karen Gauff (judge presiding over Community Collaborative Court at Compton Courthouse), Los Angeles Superior Court, Los Angeles, California, February 27, 2019.
26. *Id.*
27. *Second Chance Women's Re-Entry Court in Los Angeles County Supports Recovery and Reduces Recidivism*, L.A. Cty. Dep't of Pub. Health (Aug. 31, 2015), http://publichealth.lacounty.gov/phcommon/public/media/mediapubhpdetail.cfm?prid=1344 [https://perma.cc/U9FF-EEHC] [hereinafter *Women's Re-Entry Court*].

substance use disorder, mental illness, and criminal activity.[28] Treatment is designed to break the cycle of substance abuse and crime and to positively impact the children of women offenders who are at high risk of continuing intergenerational patterns of drug abuse, criminal behaviors, and neglectful parenting.[29]

This program was initially developed as a pilot program in 2007 and has since provided services for several hundred women with histories of substance abuse, mental health, or trauma.[30]

Participants are referred by one or more members of the criminal justice partner team, which includes their attorney, a deputy District Attorney, and the judge presiding over their matter.[31] The Los Angeles Public Defenders Office and Department of Public Health report that:

> Participants are placed on probation for [3] years and enrolled in an intensive 6-month minimum residential program followed by up to [12] months of outpatient treatment, and then with an additional 6 months of aftercare services. Women may bring with them into the residential treatment program up to 2 children 12 years of age or younger. Child development specialists work directly with the children and interface with the Department of Children and Family Services regarding reunification plans, where appropriate, thereby positively impacting the next generation. Any participants who are mothers are permitted to bring their children to the residential treatment facility with them, when appropriate. This benefits both the mother and child in that it avoids placement of the minor children through the Department of Children and Family Services, an experience that is often traumatizing for children. Participants who successfully complete the program and graduate can petition the court for early termination of probation and dismissal.[32]

While the statewide average recidivism rate for women hovers at approximately 50 percent, the recidivism rate for participants in the Women's Reentry Court is just 18 percent.[33] Thus, the Women's Reentry Court has been highly successful as evidenced by this very low recidivism rate.

C. *Los Angeles County Drug Court*

Originally launched in 1994, the Los Angeles County Drug Court Program diverts nonviolent drug offenders with chronic substance abuse disorders out of the local jail and state prison systems and into treatment.[34] The program began as a pilot at the Clara Shortridge Foltz

28. *Id.*
29. *Treatment Courts*, *supra* note 21.
30. *Women's Re-Entry Court*, *supra* note 27.
31. *Id.*
32. *Id.*
33. *Health and Public Safety Impacts of Sustaining a Women's Jail Diversion Program in Los Angeles County*, L.A. Cty. Dep't of Pub. Health (Aug. 18, 2015), http://lahealthaction.org/library/womenjail.PDF [https://perma.cc/748B-DQTG].
34. Countywide Crim. Just. Coordination Comm., Los Angeles County Drug Court Program Annual Report FY 2009–10 (2010), http://ccjcc.lacounty.gov/LinkClick.aspx?fileticket=zU_B4pdzg1s= [https://perma.cc/ED6K-WUVN].

Criminal Justice Center in Downtown Los Angeles, under the leadership of Judge Michael Tynan.[35] It has since grown to twelve adult drug courts, two juvenile drug courts, and four specialized court programs based on the drug court model in Los Angeles County.[36]

In order to be eligible to participate in this program, a defendant must have a current felony[37] drug possession or use charge, no history of serious or violent offenses and a demonstrated substance abuse issue.[38] Like other treatment courts, drug courts employ a nonadversarial, collaborative approach and offer an alternative to incarceration to offenders dealing with drug abuse issues. Each drug court also employs the use of a multidisciplinary team comprised of judicial officers, defense counsel, the prosecution, probation, and community-based treatment providers, and each drug court program offers treatment and recovery services based on participants' severity of addiction and treatment needs.[39]

Once a participant has been accepted into the Drug Court program, the participant is placed on probation for three-to-five years.[40] Treatment begins with placement in a county jail treatment pod for 104 days.[41] The participant is then placed in either residential treatment or a sober living environment for sixty days followed by outpatient treatment. Upon the completion of the Drug Court-mandated program, the participant will earn a charge reduction and/or dismissal.[42]

The Drug Court Program has been highly successful and has been used as a model for other collaborative court programs throughout the county.[43] The county oversight committee for the program reported:

> Drug Court graduates have a 5-year recidivism rate of approximately 30 [percent]. This means that over 70 [percent] of those that successfully complete the program remain conviction-free in the 5 years following their graduation. This percentage has been relatively consistent since the Drug Court Program began, is comparable to rates for drug courts nationwide, and reflect the effectiveness of the drug court model. The rate is also significantly lower than

35. *Id.*
36. *Id.*
37. *Criminal Justice Substance Use Disorder Treatment*, Shields For Families (last visited), https://www.shieldsforfamilies.org/criminal-justice-substance-abuse-treatment [https://perma.cc/Y22N-U7DV]. While the court was designed to address the needs of individuals charged with felony-level drug possession charges, Drug Court-community partners indicate that they "receive referrals from DCFS, GR, Probation and Parole. Eligible . . . referrals must have been arrested for a non-violent felony, a misdemeanor drug related charge or being under the influence of drugs."
38. *Id.*
39. *Id.*
40. *Treatment Courts*, *supra* note 21.
41. *Id.*
42. *Id.*
43. Interview with the Hon. Patricia Titus (judge presiding over Drug Court at Inglewood Courthouse), Los Angeles Superior Court, Los Angeles, California, April 29, 2019.

recidivism rates for similar offenders who do not participate in a drug court program.[44]

D. *Los Angeles County Veterans Court*

The Veterans Court, modeled after the Drug Court Program, is an alternative sentencing court for veterans charged with felonies or felony probation violations. Launched in 2010, as a collaboration among the Los Angeles County Superior Court, District Attorney's Office, Public Defender's Office, Alternate Public Defender's Office, Office of Public Counsel and the Veterans Administration, this eighteen-month program provides individually tailored reintegration, case management and treatment plans that promote sobriety, recovery, stability, social responsibility, family unity, self-reliance, and reduced recidivism.[45,46] The program combines intensive supervision, mandatory drug testing, positive reinforcement, appropriate sanctions and court-supervised treatment to address veteran-specific issues.[47]

In order to be eligible for this program, an individual must have been enlisted in any military branch, eligible to receive services through the Veterans Administration, entered a plea of guilty on a pending criminal matter, and be experiencing Post Traumatic Stress Disorder, Traumatic Brain Injury, Military Sexual Trauma, substance or other diagnosed disorders.[48]

An individual may be referred to the program through a variety of channels, including participating agencies, privately retained defense counsel, and other justice partners. Much like the Drug Court and other treatment courts, after initial referral the candidate is screened for eligibility and suitability by the Veterans Court team and a treatment provider identified by the Veterans Administration. Treatment is selected by the Veterans Administration and approved by the judge presiding over the Veterans Court, and Veterans Administration benefits cover all expenses of the selected program.[49]

Program participants are placed on probation for three-to-five years on specific terms and conditions, including ordered participation in the treatment program. In addition, the Veterans Administration closely supervises the veteran and presents regular progress reports to the Veterans Court. The Court sets appearances as often as necessary to monitor

44. Countywide Crim. Just. Coordination Comm., Los Angeles County Drug Court Program Annual Report FY 2009–10 (2010), http://ccjcc.lacounty.gov/LinkClick.aspx?fileticket=zU_B4pdzg1s= [https://perma.cc/ED6K-WUVN].
45. *'Veterans Court' helps Los Angeles' ex-soldiers find the right path after being arrested*, L.A. Daily News, https://www.dailynews.com/2012/10/15/veterans-court-helps-los-angeles-ex-soldiers-find-the-right-path-after-being-arrested [https://perma.cc/8WV2-HQR3].
46. *Treatment Courts*, *supra* note 21.
47. *Id.*
48. *Veterans Treatment Courts*, Cal. Courts, The Judicial Branch Of Cal., https://www.courts.ca.gov/11181.htm [https://perma.cc/G8Y8-K4VZ].
49. *Treatment Courts*, *supra* note 21.

the participants' progress and to ensure compliance with the goals of the program. Veterans who successfully complete the program can petition the court for early termination of probation and dismissal.[50]

While there is no data currently available on the recidivism rates of the Los Angeles County Veterans Court, a similarly-modeled Veterans Court in San Diego boasted a recidivism rate of just 4.7 percent over two years.[51] Based on current trends, it is expected that the recidivism rate for Veterans Court participants will be aligned with the figures reported in San Diego County.

E. *Los Angeles County Superior Court Co-Occurring Disorders Court*

Originally launched in 2007, the Co-Occurring Disorders Court focuses on individuals who suffer from both a mental illness and a substance abuse issue which, taken in concert, cause them to engage in criminogenic behavior at a higher frequency. Like other treatment programs, the program utilizes the drug court model and provides integrated intensive mental health treatment, substance abuse treatment, and other needed services, historically targeting individuals who are experiencing homelessness.[52]

Criminal charges must involve Proposition 36 eligible charges (Cal. Pen. Code Sec. 1210) and/or nonviolent felonies, however an individual who has committed a nonviolent misdemeanor can be accepted if the misdemeanor is connected to a felony or if the individual is on felony probation. Participants must be between the ages of twenty-six and fifty-nine.[53]

Individuals are referred to the program through counsel or other justice partners. If legally and clinically eligible, participants accepted into the program are placed in ninety days of intensive residential mental health treatment followed by three-to-six months of mental health treatment in sober living. Participants who successfully complete the program and graduate can petition the court for early termination of probation, dismissal, and expungement.[54]

F. *Los Angeles County Mental Health Diversion Court*

Signed into law on July 27, 2018, Assembly Bill 1810 grants discretionary diversion for mental health disorders to individuals who can meet

50. *Id.*
51. Paul Freese, *Combat; Consequences; Solutions California Veterans Treatment Courts and Penal Code 1170.9*, https://www.americanbar.org/content/dam/aba/administrative/healthlaw/04_legal_interventions_to_address_homelessness_among_veterans_freese.authcheckdam.pdf [https://perma.cc/6Q94-GENP].
52. Countywide Crim. Just. Coordination Comm., Los Angeles County Drug Court Program Annual Report FY 2009–10 (2010), http://ccjcc.lacounty.gov/LinkClick.aspx?fileticket=zU_B4pdzg1s= [https://perma.cc/ED6K-WUVN].
53. *Id.*
54. *Treatment Courts*, *supra* note 21.

specified criteria. The new law is codified in Penal Code Sections 1001.35 and 1001.36. Under Penal Code Sections 1001.36(a) and (b) granting of pretrial diversion is discretionary with the Court if all of the following requirements are met: (1) the defendant suffers from a qualifying mental disorder; (2) the defendant's mental disorder played a significant role in the commission of the charged offense; (3) the defendant's symptoms motivating the criminal behavior would respond to mental health treatment in the opinion of a qualified mental health expert; (4) the defendant consents to diversion and waives the right to a speedy trial (unless the defendant has been found incompetent to stand trial); (5) the defendant agrees to comply with treatment; and (6) the court is satisfied that the defendant will not pose an unreasonable risk of danger to public safety as defined in Penal Code Section 1170.18, if treated in the community. The Court may consider the opinions of the district attorney, the defense, or a qualified mental health expert. The Court may also consider the defendant's violence and criminal history, the current charged offense, and any other factors that the court deems appropriate.[55]

The Los Angeles Superior Court will soon launch a new Department of State Hospitals Diversion which is a grant-funded program for Mental Health Diversion that will include treatment funding and program placement. This program will be for individuals experiencing homelessness who have one of three mental health disorders (schizophrenia, schizoaffective disorder, or bipolar disorder).[56]

II. Los Angeles County Office of Diversion and Reentry Court-Based Programs

Established in 2015 at the direction of the Los Angeles County Board of Supervisors, the Los Angeles County Office of Diversion and Reentry's mission is to develop and implement countywide criminal justice diversion for persons with mental health and/or substance use disorders and provide reentry support services to vulnerable justice-involved populations.[57] The goals of the office include reducing the number of inmates with mental health and/or substance use disorders in the Los Angeles County jails, reducing recidivism, and improving the health outcomes of justice involved populations who have the most serious underlying health needs.[58]

55. Aleida K. Wahn, *California's New Mental Health Diversion Law: Criminal Offenders Receive Treatment Instead of Prosecution*, Aleida K. Wahn (Sept. 10, 2018), http://www.aleidalaw.com/californias-new-mental-health-diversion-law-criminal-offenders-receive-treatment [https://perma.cc/TME8-724X].
56. Interview with the Hon. Karla Kerlin, Judge presiding over the Mental Health Diversion Court, Los Angeles Superior Court, Los Angeles, California, (February 28, 2019).
57. Los Angeles County Health Services, Office of Diversion and Reentry Quarterly Report (July-Sept. 2018).
58. *Id.*; Interview with the Hon. Peter Espinoza (ret.), Executive Director of the Office of Diversion and Reentry, Los Angeles, California, (February 8, 2019).

The Office has been quite successful in the various tasks it has undertaken, which range from programming and intervention for individuals involved in the criminal justice system at any point in the criminal justice timeline, including prearrest diversion through post-release community support. The office's significant and successful expansion, as discussed in further detail below, in a relatively short period of time is due to its leadership and staffing. The executive director is a retired jurist who formerly presided over Los Angeles County Superior Court's Criminal Division.[59] This global perspective of the criminal justice system frames each endeavor undertaken by the office.[60] In addition, the office is staffed by a multidisciplinary and well-rounded team of professionals who vary in expertise and experience ranging from the legal, clinical, community-organizing, housing, and homelessness prevention fields. The depth of knowledge of these advocates ensures that the needs of the whole person are taken into account when the programs are developed and implemented.

A. *Office of Diversion and Reentry Misdemeanor Incompetent to Stand Trial Community Based Restoration*

The Misdemeanor Incompetent to Stand Trial (MIST) Community Based Restoration program diverts individuals facing misdemeanor charges who are found incompetent to stand trial at some point during their criminal court proceedings into community-based settings to be restored to competency.[61] Once a doubt is declared as to competency by either the defendant's counsel or the court pursuant to Penal Code Section 1368, criminal proceedings are suspended and the individual is referred to the Mental Health Department of the Los Angeles County Superior Court.[62]

The presiding bench officer in the department receiving the referral is tasked with determining whether the defendant is competent and, if not, to oversee the defendant's psychiatric treatment and competency restoration.[63] The defendant will generally be seen by a forensic psychiatrist who will produce a report on the person's competence. At that point,

59. The current head of the office, the Hon. Peter Espinoza (ret.) is a former supervising judge of the criminal division of the Los Angeles Superior Court.
60. Los Angeles County Superior Court leadership, including the Hon. James Brandlin, former Supervising Judge over the Criminal Division, the Hon. Scott Gordon, former Supervising Judge over the Criminal Division, and the Hon. Sam Ohta, current Supervising Judge over the Criminal Division were key thought partners in the collaboration of the court with the Office of Diversion and Reentry.
61. Quarterly Report, *supra* note 57.
62. The Los Angeles Superior Court's Mental Health Department is quite robust. It includes experienced bench officers, dedicated to the needs of the mental health population, a cadre of psychological and forensic professionals and dedicated attorneys trained in competency and treatment issues.
63. Hon. James Bianco and Hon. Robert Harrison, *Los Angeles Mental Health Department Bench Officer Training Manual* (2018).

the report is taken into evidence and the court will rule on whether the defendant is incompetent to stand trial. If found competent, the defendant will be ordered immediately back to the referring criminal court, but, if the defendant is determined to be incompetent to stand trial, he or she will be committed to a treatment program with restoration services.[64]

Misdemeanor defendants in custody are immediately committed to the Penal Code Section 1370.01 MIST program in the jail. Out of custody misdemeanor defendants will be committed through the Office of Diversion and Reentry's MIST Program court linkage for community treatment and restoration services, including permanent supportive housing and intensive case management.[65] The court, in its oversight capacity, orders these individuals back for progress reports and other court hearings.

Since the launch of the Office of Diversion and Reentry's MIST program in October of 2016, 846 clients have been removed from jail and connected to community based treatment, including community outpatient or inpatient programs, the Institutes for Mental Disease, and supportive housing programs.[66]

B. *Office of Diversion and Reentry Felony Incompetent to Stand Trial Community Based Restoration*

Procedurally, the initial stages of referral for determination of incompetence to stand trial for individuals charged with felonies follow the same procedure outlined above for the MIST Program. Once found incompetent to stand trial after referral to the Mental Health Department, eligible individuals charged with felonies are calendared for a placement recommendation from the designee of the Department of State Hospitals.

In July 2018, the Office of Diversion and Reentry launched the Felony Incompetent to Stand Trial Community Based Restoration (FIST-CBR) program to divert individuals facing felony charges who are found incompetent to stand trial into community-based settings with the goal of restoring the individual to competency. An alternative to placement in state hospitals, FIST-CBR is a collaboration with the Department of State Hospitals to reduce placement time for inmates on the State Hospital waitlist.[67]

From July to September of 2018, forty-seven clients were removed from jail and connected to community based treatment, including through Penal Code Section 1370 (a)(1)(G), which allows those on the list who have become competent to be adjudicated and diverted to housing and care in the community.[68]

64. *Id.*
65. Quarterly Report, *supra* note 57.
66. *Id.*
67. *Id.*
68. *Id.*

C. *Office of Diversion and Reentry Permanent Supportive Housing Program*

Launched in August 2016 in collaboration with the Los Angeles Superior Court, the Office of Diversion and Reentry's Permanent Supportive Housing Program is a permanent supportive housing and treatment program that serves individuals who are incarcerated in the Los Angeles County jail system, are homeless, and have a serious mental disorder.[69] Lawyers and other justice partners can refer individuals to the program. In order to be eligible, individuals must have a pending felony case or misdemeanor case attached to a felony matter. Currently, there are three courtrooms designated to hear these matters within Los Angeles County—two in Foltz Justice Center in downtown Los Angeles and one in Compton Courthouse.[70]

Participants are connected to interim housing upon release and continue on to permanent supportive housing. Since August 2016, 1,415 homeless individuals involved in the criminal justice system have been served by Office of Diversion and Reentry's Housing Program.[71] Due to the success and high demand of the program throughout the county, it will soon be expanded to additional court sites.[72]

D. *Office of Diversion and Reentry Maternal Health Diversion Program*

Under the directive of the Los Angeles County Board of Supervisors, and in collaboration with the Los Angeles Superior Court, the Office of Diversion and Reentry has prioritized diverting pregnant women from the jails to the community with supportive services and housing provided by the Office of Diversion and Reentry.[73] The program was officially launched in April 2018, and as of September 2018, 30 pregnant women had been diverted from LA County jails. A majority of these pregnant women were routed to specialized interim housing settings that allow women to remain with their children until they can move into permanent supportive housing.[74]

In sum, as evidenced by the above-described programs, both Los Angeles County Superior Court specifically, as well as the entirety of the California State Court, are working to implement opportunities for diversion and rehabilitation. These programs address the underlying drivers of criminogenic behavior, thus providing individuals the opportunity to successfully reenter their communities and live law-abiding lives.

69. *Id.*
70. Interview with the Hon. Karla Kerlin, *supra* note 56.
71. Quarterly Report, *supra* note 57.
72. Interview with the Hon. Karla Kerlin, *supra* note 56.
73. Quarterly Report, *supra* note 57.
74. *Id.*

III. Impact of Problem-Solving Courts

From an anecdotal perspective, the majority of cases where there is diversion enjoy good outcomes; certainly much higher percentages of people who are diverted with rehabilitative and reentry support successfully reenter their communities than do people who are placed on summary or general probation where the structure is not as conducive to the rehabilitative focus. Indeed, there is strong evidence that adult problem-solving courts facilitate positive outcomes. For example, as the Center for Justice Innovation found:

> There is strong evidence that adult drug courts reduce substance misuse and reoffending. They are particularly effective with offenders who present a higher risk of reoffending . . .

The evidence on family treatment courts and family drug and alcohol courts is good. It suggests that they are effective in reducing parental substance misuse and can reduce the number of children permanently removed from their families.

The evidence on mental health courts is good. High-quality international evidence suggests that mental health courts are likely to reduce reoffending, although they may not directly impact offenders' mental health.

The evidence on the impact of problem-solving domestic violence courts on outcomes for victims, such as victim safety and satisfaction, is good. The evidence on their ability to reduce the frequency and seriousness of a perpetrator reoffending is promising.[75]

The judicial system receives many benefits from specialized courts. Both lawyers and judges can focus solely on their legal specialties, making cases more efficient. Specialized treatment courts are also more efficient in that they remove cases that would take more time and attention from the general criminal court. There are also benefits to the participants in that they appear before judges and a multidisciplinary team that have a greater understanding of their issues and are able to offer defendants more and better-suited options for resolution.[76]

Diversion does require a suspension of the adversarial approach to representation by the attorneys, which can often require adjustment and mental shift; especially on the part of the defense where they must counsel their clients to waive their rights to the traditional process in order to avail themselves of the opportunities in the treatment courts. However, it is important to keep in mind that these safeguards and procedures are put in place to ensure that individuals charged with crimes receive fair treatment throughout the course of their criminal process

75. *What Are Problem-Solving Courts?*, Ctr. for Just. Innovation, http://justiceinnovation.org/portfolio/what-are-problem-solving-courts (last visited Mar 9, 2019) [https://perma.cc/BF2Z-XP33].

76. Chris Burke, *Advantages & Disadvantages of Specialized Courts*, Legal Beagle (June 20, 2017), https://legalbeagle.com/8398649-advantages-disadvantages-specialized-courts.html. [https://perma.cc/PVC2-6A7T]

from pre-arraignment through disposition. With the diversion opportunities available through problem-solving courts, individuals who are charged with crimes are often able to have their criminal proceedings suspended in some cases or have their cases dismissed all together in others upon successful completion of their court-ordered programming. For most, the eradication of one's criminal record coupled with receipt of rehabilitative and supportive services that facilitate successful reentry, reconnection with family and an upwardly mobile and healthy life are worth the sacrifice.

IV. Effective Approaches to Recidivism Reduction in the Community

The recent reforms that are taking place within the Los Angeles County Court system in conjunction with the Officer of Diversion and Reentry and other justice partners have resulted in the diversion of thousands of high-need and vulnerable individuals out of the criminal justice system and have provided these individuals with much-needed resources and support. Many of the resources provided to individuals participating in these various court-ordered programs will end or taper off once the participant is no longer under court supervision. Once a person reaches this point in their journey, it is extremely important that the community to which they return is receptive to individuals with past criminal justice history and has ample resources and opportunities to support their successful reentry.

Community advocates have correctly made the case for the importance of continuity of care post-release.[77] Through anecdotal accounts, community members have observed that they have seen formerly incarcerated individuals with behavioral health needs released back into the community with their mental health or substance abuse needs inadequately or completely unaddressed. Specifically, in situations where individuals had received some treatment while incarcerated, they noted instances where there was no treatment continuity post-release. Community advocates also observe that there are limited providers that offer accessible wrap-around services for those with substance abuse disorders and mental illness. While receiving behavioral health treatment is important, there is significant need for programming in the community that treats the needs of the population as a whole and is not one-sided. Specifically, if healthcare is addressed, but an individual has no access to other wrap-around services such as familial reunification, housing, jobs, education, and social engagement support, an individual's health will decline despite access to healthcare treatment.

77. Prop. 47 Report On Recommendations For Proposition 47 Funding, 2016, Mark Ghaly, M.D., Kimberley Guillemet, Esq., Nicole Rommero, Esq.; *see* Los Angeles County Board of Supervisors Meeting Transcript, 60–67 (July 19, 2016), http://file.lacounty.gov/SDSInter/bos/sop/transcripts/246988_071916C.pdf. [https://perma.cc/6JE6-SVXL].

In order to effectively and sustainably decrease recidivism and improve public safety, our institutions must acknowledge major criminogenic drivers and their impact on criminal behavior and must address them in a meaningful way. It is well-settled that there are several key areas that have been identified as the preeminent barriers to reentry for justice-involved individuals. These areas are employment, housing, behavioral health (substance abuse and mental health treatment), family reunification and prosocial relationships/mentors.[78] Due to the multitude of barriers that reentering individuals must overcome postincarceration, a multifaceted, multidisciplinary approach is imperative to facilitate successful reentry and reduce recidivism in a meaningful and lasting manner that provides continuity of care after participation in collaborative or treatment court programs.

A. *Behavioral Health*

Behavioral health is often a significant need of individuals with criminal history. It is well-settled that the behavioral health needs of those engaged in criminal behavior must be effectively addressed in order to realize positive outcomes in crime rates and recidivism. When individuals have unaddressed mental health needs, they often attempt to self-medicate through drug and alcohol abuse.

When behavioral health needs are left unaddressed, generational cycles of dysfunction develop. Indeed, a study has reflected that when individuals are released from incarceration back into the community with untreated or inadequately treated behavioral health needs, most will return to a life of drug and alcohol use and crime, typically committing as many as 100 offenses annually, often to support a substance use disorder.[79] Conversely, when convicted individuals with substance use disorders complete substance use disorder treatment during and post incarceration, they recidivate at a rate 37 percent lower than those who do not participate in treatment programs.[80] Moreover, when convicted individuals with mental health disorders receive adequate mental health treatment, they recidivate at a rate 80 percent lower than those who do not.

A study found that people in U.S. prisons and jails are three-to-five times more likely to experience serious psychological distress than

78. *See* LeAnn Duran et al., Council of State Gov'ts Justice Ctr., *Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness* (September 2013) https://csgjusticecenter.org/wp-content/uploads/2013/09/Final.Reentry-and-Employment.pp_.pdf [https://perma.cc/EVW2-Z4AG].

79. Jeremy Coid *et al.*, *Patients Discharged from Medium Secure Forensic Psychiatry Services: Reconvictions and Risk Factors*, Brit. J. Psychiatry, 190, 223–229 (2007), http://bjp.rcpsych.org/content/190/3/223.long. [https://perma.cc/2EVU-U5TF].

80. Gordon Hinkle & Peggy Bengs, *Substance Abuse Programs Reduce Recidivism*, Corrections (Oct 8, 2009), http://www.corrections.com/news/article/22508-substance-abuse-programs-reduce-recidivism [https://perma.cc/FVS2-36X7].

the general adult population.[81] In fact, 64 percent of inmates across the country have mental health issues.[82] There are several components of reentry programs that have been proven to successfully reduce recidivism, including enrolling individuals in services immediately after release from prison or jail, providing immersive cognitive-behavioral therapy (CBT) to medium to high risk offenders,[83] utilizing risk/needs assessments to focus resources on identified criminogenic factors,[84] and using peer/mentor-based models of support.[85] Specifically, cognitive behavioral therapy has been shown to reduce recidivism by between 25 to 50 percent.[86]

Locally, there have been efforts to infuse behavioral health into community-based reentry programming. Programs that have focused on these components have seen very positive results. The Office of Diversion and Reentry has implemented a Reentry-Intensive Case Management Program that provides case management, systems navigation for criminal justice-involved clients with mental health or substance abuse disorders. The program served more than 1,800 clients by the latter part of 2018.[87]

B. *Employment*

Lack of employment and underemployment persist as two of the most significant hurdles that individuals with criminal records face. Studies have shown that up to 70 percent of formerly incarcerated individuals identify employment as their biggest hurdle to successful reentry.[88] A

81. CSG Justice Center Staff, *Reentry Essentials: Addressing Mental Health Needs Among People in the Criminal Justice System*, Nat'l Reentry Resource Ctr. (May 2, 2018), https://csgjusticecenter.org/nrrc/posts/reentry-essentials-addressing-mental-health-needs-among-people-in-the-criminal-justice-system [https://perma.cc/CXG6-YFCD].
82. Craig Haney *et al.*, *Justice That Heals: Promoting Behavioral Health, Safeguarding the Public, and Ending Our Overreliance on Jails* (June 15, 2016), https://law.stanford.edu/wp-content/uploads/2016/06/Justice-That-Heal.pdf.
83. Mark Lipsey et al., *Effects of Cognitive-Behavioral Programs for Criminal Offenders*, Campbell Systematic Revs., 6 (2007), https://campbellcollaboration.org/media/k2/attachments/1028_R.pdf [https://perma.cc/9M6D-RELE].
84. Meghan Guevara et al., Crime and Justice Institute, *Implementing Evidence-Based Policy and Practice in Community Corrections*, National Institute of Corrections (Second Edition) (Oct. 2009), https://www.cpoc.org/sites/main/files/file-attachments/community_corrections_boxset_oct09.pdf [https://perma.cc/P464-DRH8].
85. Mark Lipsey *et al.*, *supra* note 83.
86. Christine Gerchow, *Evaluating the Impact of Two Cognitive Behavioral Therapy Programs on Recidivism in Chronic Juvenile Offenders* (Spring 2015) (unpublished PhD dissertation, University of California, Berkeley), *available at* http://digitalassets.lib.berkeley.edu/etd/ucb/text/Gerchow_berkeley_0028E_15243.pdf.
87. Interview with Maiya Guillory, Program Manager, Office of Diversion and Reentry, Los Angeles, CA, February 21, 2019.
88. Christer Visher *et al.*, *Employment after Prison: A Longitudinal Study of Releasees in Three States*, Urb. Inst. Just. Pol'y Ctr. (Oct. 2008), https://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF [https://perma.cc/9B7W-BA69].

recent study estimated that 70 to 80 percent of formerly incarcerated individuals are unemployed at any given time.[89] Moreover, others estimate that formerly incarcerated individuals suffer a 10 to 30 percent reduction in earnings and employment in comparison to their noncriminal justice involved counterparts.[90] As employers remain resistant to hiring individuals with criminal backgrounds, with up to 80 percent of those in the Los Angeles-area acknowledging an unwillingness to hire individuals with past criminal justice involvement,[91] their unwillingness to hire lends credence to the narrative that formerly incarcerated people are incapable of securing and retaining mainstream employment. Individuals with past criminal justice history internalize this hesitation, which has a chilling effect on their efforts to seek and apply for employment and often leads to engagement in choices that result in reincarceration. This is problematic because statistics demonstrate that post-incarceration employment is a major factor in preventing formerly incarcerated individuals from recidivating. While the state recidivism rate is over 65 percent, when formerly incarcerated individuals are paired with jobs soon after release, the recidivism rate plummets to between 3.3 and 8 percent.[92]

There are various efforts being undertaken in the Los Angeles region to support formerly incarcerated individuals in their search for employment. The Los Angeles Mayor's Office currently offers a program in conjunction with the California Department of Transportation that employs individuals on some form of post-release supervision shortly after release from incarceration.[93] This transitional work opportunity allows individuals to gain some manner of stability, secure housing, and means to support themselves while they search for permanent employment. Since its launch in October 2016, the program has employed over 1,200 people, and over 60 percent have exited the program to outside employment.[94]

89. Scott Wardell, *Unlocking America's Incarcerated Workforce*, Hiring Success J. (Apr. 2018), https://www.smartrecruiters.com/blog/unlocking-americas-incarcerated-workforce-shelley-winner [https://perma.cc/9B7W-BA69].
90. Harry J. Holzer *et al.*, *Employment Barriers Facing Ex-Offenders*, Urb. Inst. Reentry Roundtable (May 19–20, 2003), https://www.urban.org/sites/default/files/publication/59416/410855-Employment-Barriers-Facing-Ex-Offenders.PDF [https://perma.cc/MEM4-3LZ6].
91. *Id.*
92. Peter Cove & Lee Bowes, *Immediate Access to Employment Reduces Recidivism*, Real Clear Politics (Jun. 11, 2015), https://www.realclearpolitics.com/authors/peter_cove [https://perma.cc/Z5BL-Z3WD].
93. *New Roads to Second Chances' Connects Hundreds of Formerly Incarcerated Angelenos to Employment Opportunities*, LAMAYOR.ORG (Aug. 8, 2017), https://www.lamayor.org/%E2%80%98new-roads-second-chances%E2%80%99-connects-hundreds-formerly-incarcerated-angelenos-employment [https://perma.cc/R5ZJ-J8X7].
94. Interview with Katie R. Camp, Employment Program Manager, Los Angeles Mayor's Office, Los Angeles, California, February 22, 2019.

The Office of Diversion and Reentry launched the INVEST program in January 2018, in collaboration with the Probation Department and the County Department of Workforce Development Aging and Community Services (WDACS). This program provides adult felony probationers a path to living wage employment through individualized employment support services and training. The INVEST program offers career development planning, training, and support to clients from two colocated Probation Officers and two INVEST-dedicated AJCC staff in six WDACS American Job Centers of California (AJCC). As of September 2018, 234 individuals have enrolled. Once at capacity, the program anticipates serving 600 clients per year.[95]

C. *Housing and Combating Homelessness*

Formerly incarcerated individuals are at a significantly higher risk of homelessness. Research has demonstrated a link between homelessness, housing instability, and increased rates of recidivism. Incarceration and homelessness are mutual risk factors for each other. Research has shown that formerly incarcerated people are most likely to be homeless in the period shortly after their release.[96] People who have been to prison just once experience homelessness at a rate nearly seven times higher than the general public. Individuals who have been incarcerated more than once have rates thirteen times higher than the general public. In other words, people who have been incarcerated multiple times are twice as likely to be homeless as those who are returning from their first prison term.[97] Studies estimate that up to 50 percent of formerly incarcerated individuals are homeless.[98] Homelessness is 7.5 to 11.3 times more prevalent among formerly incarcerated individuals than it is in the general population.[99]

Stable housing provides the foundation for successful reentry by allowing previously incarcerated individuals to focus on employment, treatment, and complying with conditions of supervision. One study demonstrated that when individuals are connected with permanent supportive housing when they exit jail or prison, they become less likely to be rearrested and 61 percent less likely to be reincarcerated than the comparison group.[100] In addition, for individuals who are receiving

95. Quarterly Report, *supra* note 57.
96. Lucius Couloute, *Nowhere to Go: Homelessness among formerly incarcerated people*, Prison Pol'y Initiative (Aug. 2018), https://www.prisonpolicy.org/reports/housing.html [https://perma.cc/MNM8-6MXQ].
97. *Id.*
98. Sarah Knopf-Amelung, *Incarceration & Homelessness: A Revolving Door of Risk*, In Focus, (Nat'l HCH Council, Nashville, TN), Nov. 2013, https://www.nhchc.org/wp-content/uploads/2011/09/infocus_incarceration_nov2013.pdf [https://perma.cc/5PDA-QTDC]
99. Greg Greenberg et al., *Jail incarceration, homelessness, and mental health: a national study*, Nat'l Ctr. For Biotechnology Info. (Feb. 2008), https://www.ncbi.nlm.nih.gov/pubmed/18245159 [https://perma.cc/J7J9-SKNH].
100. Elayne Weiss, *Why housing matters in criminal justice reform*, Nat'l Low Income

behavioral health support, homelessness poses a significant barrier to seeking and remaining in treatment. Thus, even the most effective behavioral health intervention will be rendered ineffective if the participant is not placed in stable housing.

Programs such as those undertaken by the Office of Diversion of Reentry hone in on the provision of housing and the above-referenced data supports the efficacy of this approach. Another specific example includes the Law Enforcement Assisted Diversion program. Law Enforcement Assisted Diversion (LEAD) is a community diversion program that aims to reduce recidivism and increase public safety. The program provides individuals at high risk of recidivism for narcotics and/or prostitution offenses with housing, mental health and substance use treatment, and supportive services. Since its launch in 2017, 204 individuals have been referred, 88 percent of them homeless upon referral, 109 participants have been enrolled and ten are in the process of enrollment. Currently twenty-two participants have been placed in interim housing and seventeen have been moved into permanent housing.[101]

D. *Education*

The average recidivism rate in California is 65 percent, but a study by Emory University found that individuals with past criminal justice history who complete some high school courses have recidivism rates of approximately 55 percent. Vocational training cut recidivism to approximately 30 percent. An associate degree drops the rate to 13.7 percent. A bachelor's degree reduces it to 5.6 percent. A master's brings recidivism to 0 percent.[102]

There are ongoing efforts being undertaken to engage individuals with criminal justice involvement with the pursuit of education. Many criminal justice-involved individuals have been previously dissuaded from pursuing education based on various discouraging experiences throughout their lives; however, when they attempt education and realize that it is attainable, many find success and opportunities for upward mobility.

The Los Angeles Superior Court and the Office of Diversion and Reentry has implemented a College Bridge Program, formerly referred to as the Court to College Program with Cerritos College. Once individuals successfully complete their assigned course of education, they can apply for dismissal of their criminal charges.[103]

Housing Coal. (last visited Mar. 5, 2019), https://static1.squarespace.com/static/57a0c10346c3c4c4a2f46b9d/t/580a365f03596e9f6d59e217/1477064289730/Why+housing+matters+for+criminal+justice+reform_NLIHC2016.pptx.pdf [https://perma.cc/6V2Z-PCHA].

101. Quarterly Report, *supra* note 57.

102. *Media FAQ Statistics: Education for prisoners is proven to reduce recidivism*, PrisonEducation.com (last visited Mar. 5, 2019), https://prisoneducation.com/media-faq-statistics [https://perma.cc/WS9Y-LQ2D].

103. Interview with Hon. Peter Espinoza, Maiya Guillory, Office of Diversion and Reentry, Los Angeles, CA, February 8, 2019.

E. *Family Reunification*

Strength of family ties are extremely influential and can even counteract the detriments of asocial behavior or mental health challenges. Family ties are heavily linked to social capital that allows employment attainment.

Ultimately, an approach that wraps around individuals and provides continuity from their period of incarceration through and after their release is needed for lasting recidivism reduction. This approach focuses on helping people heal so that they will not recidivate (thereby increasing public safety) and also return to their communities whole so that they can avoid future incarceration and reconnect with their families. When people return, they should return with the skills and support they need to thrive.

V. Recommendations

The evidence demonstrates that among the most effective approaches to reducing recidivism and increasing public safety is focusing on rehabilitation and restoration. We have seen tremendous development of available options in this space over the past several years. Based on the evidence reviewed and discussed in this Article, it is imperative that in order to realize sustainable and long term success in our rehabilitative efforts, we must do the following: set goals, understand the individuality of defendants, fund necessary efforts, appreciate and elevate the work being done, consider our metrics of success, take in input from those affected, and, ultimately, stay the course.

A. *Set a Collective Goal*

Because of the nature of the criminal justice system, the parties are placed in an adversarial position, and the judge is essentially a referee or mediator in those proceedings. In taking a problem-solving approach to courts, it is important that a collective intention is set by everyone involved. This may seem initially counterintuitive to the parties because they are taught to zealously represent their clients' interests and collaboration is generally not encouraged in the traditional legal setting. However, because these courts are focused on supporting vulnerable individuals who have made poor decisions because of life circumstances, the adversarial mindset must be suspended. All parties involved in the collaborative courts and reentry opportunities should state at the top of the enterprise what they expect to accomplish and what their goals are globally for the program, as well as specifically for each individual defendant. Parties should from the outset of the enterprise set a collective intention of rehabilitation and a goal to improve outcomes for the individual participants, as well as to make our communities safer.

B. Understand That These are People, Not Systems

The Los Angeles County Superior Court system is the largest court system in the country. The volume of cases that moves through our particular court exceeds that of some states in our union. With that understanding, we must appreciate that we have had to develop a system that is conducive to processing a high volume of cases while ensuring individual constitutional and other rights are met and upheld. However, in the context of a problem-solving or collaborative court or program, there must be a balance between efficiency and individualism. While the vulnerable groups targeted for help in these programs generally tend to be placed into several large categories, each person's story and experience is different. Each person has nuances and life experiences that set them apart from the person or case before them. When approaching these programs from that perspective, it helps to support an understanding that sometimes things will not proceed seamlessly and that the program has to be forgiving in that regard. Sometimes, individuals falter in their sobriety, decisionmaking and in other areas. All the bench officers that I have had the privilege of observing and speaking with who preside over problem-solving courts are consistent in their expression of the importance of relating to and supporting the individual. They manage their courts with efficiency but also with grace. This is imperative to success in these programs.

C. *Properly Fund and Support these Endeavors*

When the Los Angeles County Superior Court launched its first community collaborative court, it did so with no additional funding. The leadership of the court at that time understood the importance of this endeavor and made the decision to move forward with implementation without being provided any additional resources. Of course, it has been to the benefit of not just the participants in these programs but to our region as a whole that the leadership of the court in its wisdom elected to do so. However, because there were no additional funds set aside or provided from other sources to implement the collaborative courts, it required everyone involved from the bench officers to court staff to the advocates to pull from existing resources, time and goodwill to make the program successful. Since then, with the new collaboration with the Office of Diversion and Reentry and other partners, there has been funding provided for some of the newer collaborative court programs. This allows for more robust staffing and resources, including the provision of housing where appropriate. The financial commitment of the Los Angeles County Board of Supervisors, the County Department of Health Services, the Office of Diversion and Reentry, the court system and other grant-based funding sources to fund these endeavors should be applauded. Moving forward, there should be consideration for the provision of sustainable funding for these types of court programs so that they can exist in every county in the state at the scale needed by that particular region.

D. *Appreciate the Amount of Labor and Effort Involved*

Collaborative courts reap great rewards, but they are not for the faint of heart. The bench officers, advocates on both sides of the bar, multidisciplinary team members from probation, behavioral health providers, housing providers, etc., all log countless hours in the execution of their duties for these programs. While they may have a specific amount of time allocated officially to complete their duties related to these programs, in reality, they are often working longer-than-normal hours to ensure these programs are successful. In light of that, it is imperative that there be proper time and resource allocation and accommodation made for individuals engaged in this work so that they can fully engage in what is required of them for these programs to be successful.

E. *Elevate the Import of This Work*

Traditionally in the legal criminal justice system, there are certain benchmarks of success that exist. Over time, there has been set a hierarchy of professional experiences and accomplishments that has been deemed more impressive or coveted than others. All players in the system have a role in this dynamic. In addition, the legal system by its very nature is very focused on procedure, outcomes and process. This is very important because it ensures that individuals' rights are protected. However, in order to facilitate full investment in these collaborative and problem-solving endeavors, we must wholly and actually believe in the importance of them. When these programs are discussed and considered for resources at the legislative, executive and administrative levels, it has to be with the understanding of the dire need of their existence and how they are really doing life-saving and life-changing work, not just for the singular participant before the court but for their children,their children's children and for their communities.

F. *Be Mindful in Setting Measures of Success*

Tracking numbers of participants served, recidivism rates, employment rates, etc. are all very useful measures of success and they should be recorded. However, in this context there are often nonquantifiable measures of success that are apparent in the human experience of the participant. It is difficult to quantify the magnitude of a restored parent–child relationship after abrupt and traumatic separation. It is difficult to measure the impact of being able to sleep in one's own bed, take regular showers and put on clean clothes every day for a person who has been living on the street in the throes of mental illness and substance abuse for decades. It is impossible to quantify the peace one feels when they are safe after years of abuse, physical, verbal, sexual and otherwise. It is hard to express the impact of human kindness on a person who has been ignored, neglected and marginalized by society for the majority of their life. However, these experiences are what change people. These experiences

are what help people stick with programming when it's hard. These experiences should be accounted for whenever success is being measured.

G. *Incorporate Input From Community Members With Lived Experience*

The most successful reentry-related programs incorporate the perspective of individuals with lived experience and are implemented in collaboration with the community. To the latter point, though the scope of this Article was limited to the implementation of problem-solving courts and reentry programs from the perspective of the judicial system, the importance of the role that community-based organizations, community advocates, and the community in general plays in the successful execution of these programs cannot be underscored. Each and every program with a community placement or treatment component relies heavily on the partnership of such organizations.

As it pertains to the incorporation of individuals with lived experience, the reason for this is obvious. People who have lived through an experience are in the best position to provide guidance as to what works and what does not. Over the years, we have seen greater appreciation for this concept in our penal institutions as they have started to permit individuals with past criminal justice history to return to penal institutions to provide programming and support to inmates. Of course, this is occurring slowly and generally on a case-by-case basis, but it is occurring. There is no one better to train a person on how to successfully navigate an experience than a person who has successfully navigated that same experience themselves.

In all other walks of life, we extol the importance of mentorship and guidance. Seldom do you meet a professional in the legal field, medical field, law enforcement, education, technology industry, entertainment, or any other industry who has not connected with and been counseled by a more senior professional in their field. If someone is new to an experience it is impossible for them to know how to successfully navigate it. This is why people who are first-generation college students and first-generation professional students have a more difficult time successfully navigating the terrain of academia. They haven't seen it done before.

In the case of successful reentry, if we assume that many people who are engaged in a life of criminality have seen generational examples of criminal behavior in their family, it is clear that the model that they have been shown is not of successful reentry. To the contrary, they have seen models of refined and sophisticated criminal behavior. They have seen examples of self-destructive behavior and abuse of self and others. Thus, if we as a society expect them to engage in successful reentry and exhibit prosocial conduct, we have to provide means of moral support and guidance to facilitate it.

H. *Do Not Grow Weary in Well-Doing*

The successful execution of these types of programs is not easy because we are dealing with humans on every side, but when it comes to this particular work, we are dealing with humans with extreme vulnerabilities and challenges. There are times when people do not perform well; when despite the court's and the team's best efforts, a person gives up, relapses or recommits crime. However, we must not let not perfect be the enemy of what is good. We know from decades of toiling, research, and experience that when you have people with the right intentions and willingness to work coupled with the understanding of evidence-based practices, that the good outcomes will outweigh the bad.