Lower-Level Enforcement, Racial Disparities, & Alternatives to Arrest:
A Review of Research and Practice from 1970 to 2021

Becca Cadoff, Kristyn Jones, Erica Bond, Preeti Chauhan, & Michael Rempel

DATA COLLABORATIVE FOR JUSTICE
AT **JOHN JAY COLLEGE**

STRENGTH IN NUMBERS

JOHN JAY COLLEGE OF CRIMINAL JUSTICE

Table of Contents

Executive Summary

Alternatives to arrest are a means of lessening the deleterious effects of exposure to the criminal legal system. Current alternative to arrest policies focus primarily on lower-level offenses such as misdemeanors, which constitute the bulk of police enforcement practices and criminal caseloads in the United States.

With funding from Arnold Ventures, the Data Collaborative for Justice reviewed policy, practice and research to-date concerning five key models:

1. Citations involving releasing people to appear in court on their own at a later date in lieu of a traditional arrest in which police officers take the individual into custody.

2. Diversion programs involving pre-arrest social service participation where a case is never booked if individuals complete their diversion obligation.

3. Legalization (in which particular conduct becomes permissible under the law) and **decriminalization** (in which conduct remains illegal but is moved to the civil legal system).

4. Police-involved crisis response models that can either involve trained officers acting alone or in tandem with mental health professionals to respond to people in mental health crisis without resorting to an arrest (e.g., by sending a person to treatment or services).

5. Non-police response models in which social workers, paramedics, or other non-police agencies respond to certain calls for service or criminalized conduct without the presence of law enforcement.

Research on any one model is limited. Although key themes and findings are outlined below, alternatives to arrest are in a growth period, and future research is likely to add clarity as well as, potentially, revise our understanding of what works and why.

- **Overall Prevalence of Alternatives to Arrest:** Citations and pre-arrest diversion practices are used in jurisdictions across the country. Some research, however, points to a significant role of police officer discretion in the numbers or proportions of technically eligible cases that actually receive a citation or diversion option. In recent years, an increasing number of jurisdictions are decriminalizing and legalizing certain offenses (particularly marijuana), either through state or local law or by implementing new non-police response models.

- **Impact on Traditional Arrest:** As intended, studies confirm that citation, diversion, decriminalization, legalization all significantly reduce the prevalence of traditional criminal arrests, though the magnitude of this effect varies widely by jurisdiction.

- **Additional Diversion Program Impacts:** Research indicates that diversion tends to reduce recidivism and produce cost savings for criminal justice agencies (that do not have to expend resources processing as many lower-level cases in court). LEAD, the most studied diversion model, has also been found to produce improvements in housing, employment, income, and reductions in substance use. Started in Seattle in 2011 and initially focused on people engaged in substance use and prostitution offenses, LEAD has since expanded to more than 50 jurisdictions across the country.

Participants often receive services related to housing, employment, legal advocacy, medical and mental health care, and substance use treatment.

- **Mixed Research on Police-Involved Crisis Models:** Results to-date are both limited and mixed on these models.

- **Limited Research on Non-Police Models:** Research on non-police response models is promising but nascent—focusing mainly on program operations, not outcomes. Supported by process evaluation findings to-date, these models offer the potential to reduce unnecessary police involvement in crisis events or other nonviolent events, potentially allowing law enforcement to spend more time investigating serious crimes. To-date, a single rigorous impact evaluation detected a 34% reduction in low-level crimes targeted by a Denver program.

- **Racial Disparities:** There is little research on how alternatives to arrest impact racial disparities in arrest. The majority of this literature has focused on marijuana decriminalization and legalization. These results find that marijuana reforms reduced absolute numbers of arrests more for Black people than white people. However, decriminalization has generally shown an *increase* in relative racial disparities (among people who continue to be subject to a civil legal process), while legalization has shown *reductions* in racial disparities.

An increasing number of jurisdictions are implementing criminal justice reforms that seek to lighten the footprint of the criminal legal system. These reforms often come with the goal of moving towards racial and economic justice, particularly in light of the increasing number of high-profile cases of murders by police across the United States. However, it is unclear whether these alternatives are reducing racial disparities (except in the case of marijuana legalization). Further, these reforms are often accompanied by officer discretion, and little is known as to whether this discretion exacerbates existing disparities.

In general, research on alternatives to arrest is sorely behind practice. There is a need for national scans on the use of alternative models as well as implementation and outcome studies. The report concludes with a series of research recommendations that can inform both science and practice.

Chapter 1. Introduction

Lower-level enforcement—primarily misdemeanor arrests—make up the bulk of law enforcement activity across the United States. Annually, misdemeanors account for 10 million cases filed each year and 80% of state court dockets (Natapoff, 2018). On average, misdemeanor arrests are four times more common than felony arrests (Lum & Vovak, 2018).

Misdemeanor or lesser charges can encompass *public disorder* (e.g., trespass, loitering, disorderly conduct, public urination, or prostitution), *crimes of poverty* (e.g., petit larceny or nonpayment of mass transit fares), *minor criminal mischief* (e.g., graffiti), and *small quantities of drug possession* (often marijuana), as well as *simple assault* (Chauhan, et al., 2018). Such offenses do not generally involve serious threats or harm to persons or damage to property (e.g., Cadoff, Chauhan, & Bond, 2020; Rodriguez, Rempel, & Butcher, 2022). They are typically punishable by jail sentences of no greater than one year, though they often do not result in any incarceration at all.

Counter-Productive Effects of Low-Level Enforcement

In the 1980s and 1990s, some experts theorized that aggressive enforcement of lower-level offenses can prevent both future low-level misconduct and more serious crime (Kelling & Wilson, 1982). Yet the research base is mixed on this relationship and when effects are found, they are modest at best (Braga, Welsh, & Schnell, 2015; Harcourt & Ludwig, 2016; Messner et al., 2007; Rosenfeld, Fornango, & Rengifo, 2007). Since the 1990s, research indicates that other factors have contributed to falling crime, such as policing technologies like CompStat (a data-driven method of allocating police resources); increased economic and employment opportunities in nearly all communities; the introduction of other state and local criminal legal system policies, and changing demographic patterns (Chauhan, 2011; Roeder, Eisen, & Bowling, 2015).

However, there are harms of lower-level enforcement, and research to-date offers more support for these harms than benefits. Scholars have argued that the experience of an arrest for a low-level offense and the subsequent subjection to a tedious court proceeding (potentially including multiple court dates, missed work, and loss of income) constitutes a form of punishment, even for individuals whose cases receive a favorable outcome (Kohler-Hausmann, 2018). Additionally, enforcement of lower-level offenses disproportionately impacts communities of color, contributing to racial inequality across systems (Natapoff, 2018).

Research indicates that lower-level enforcement may also yield long-term collateral consequences, while adversely impacting public safety and exacerbating racial disparities.

- **Collateral Consequences:** For those whose arrests result in incarceration—many of whom take a plea deal, even if innocent (Blume & Helm, 2014)—the negative consequences of incarceration stay with them long after release (Craigie, Grawert, & Kimble, 2020; Haney, 2002; Western, 2002), and incarceration's harms extend to the individual's children (Geller et al., 2012; Kopak & Smith-Ruiz, 2016), and communities (Hatzenbuehler et al., 2015).

- **Mixed or Negative Effects on Safety:** Research in Boston found that *not prosecuting* violent misdemeanors reduced the future re-arrest rate by 60% over two years (Agan, Doleac & Harvey, 2021). Other research found that diverting cases to services, after the point of arrest but before court involvement, can reduce recidivism though the magnitude varies (Dalve & Cadoff, 2019; Arora & Bencsick, 2021; Collins, Lonczack, & Clifasefi. 2017).

- **Racially Disproportionate Impact:** Lower-level arrests have had a disproportionate impact on communities of color. Research continually shows that young men of color (Black and Latino men, in particular) are arrested for lower-level offenses at disproportionately high rates (e.g., Butcher & Rempel, 2022; Cadoff, Chauhan, & Bond, 2020; Lofstrom et al., 2018; Scrivener et al., 2020). This is despite evidence that Black and Latino individuals are no more likely to take part in criminalized activities as their white (and/or female) counterparts (e.g., Lum & Isaac, 2016).

Five Types of Alternatives to Arrest Models

Alternatives to arrest are a means of lessening the negative impacts of exposure to the criminal legal system. Instead of making a custodial arrest (i.e., arrest the person and take them into custody), alternatives to arrest involve "off-ramps" (Tallon et al., 2018).

In this paper, we focus on five different models: (1) citations; (2) pre-arrest diversion; (3) legalization and decriminalization; (4) police-involved crisis response; and (5) non-police response models.

1. **Citations in Lieu of Arrest:** Citations refer to an officer's ability to issue a written notice to appear in court instead of making an arrest. Citations are typically a matter of state law (i.e., some charges are eligible for it and other charges aren't). In other literature (or everyday practice), they are also sometimes referred to as summonses, notices, or tickets.

2. **Pre-Arrest Diversion:** Diversion programs typically involve an officer referring people to a social service program in lieu of arrest, or at least holding an arrest in abeyance while waiting to see if the assigned diversion is completed. Generally, successful completion results in no criminal record and no requirement of a court appearance—making diversion an attractive option for limiting legal system contact, while still holding people accountable through the required diversion participation.

There is a growing field of prosecutor-led diversion, often involving an arrest and referral to services after an initial arraignment in court (Lowry & Kerodal, 2019; Rempel, et al., 2018). However, this report is exclusively concerned with alternatives to arrest that short-circuit criminal legal involvement before prosecution in court.

3. **Legalization and Decriminalization:** These efforts, respectively, involve reclassifying illegal into legal behavior (legalization; especially common with marijuana use) or retaining a behavior's illegal status but reducing exposure to arrest by moving it to the civil system (decriminalization).

4. **Police-Involved Crisis Response:** These models include policing strategies for responding to people in an acute crisis, typically relating to mental health. They can either involve police responding to a crisis alone or as part of a team that also includes mental health professionals.

5. **Non-Police Response Models:** These models shift traditional law enforcement activities to other responders entirely. The most prominent models are: (1) non-police crisis response models, where experts like paramedics or social workers respond to specific categories of calls for service; and (2) creation of new or expansion of existing emergency response agencies, wherein 911 calls are directed to an agency outside the usual police or fire departments. **Rather than a criminal legal system response, non-police response models often focus on community safety from the perspective of public health or social service delivery systems.**

About the Current Report

Our work is informed by a research review and a series of meetings and roundtables that the Data Collaborative for Justice (DCJ) hosted with academics, law enforcement leaders, government leaders, and service providers. To narrow our scope, we exclude:

- **Prosecutor-led Diversion** (defined above) or any other diversion that does not begin until after the prosecutor is involved or the court process is underway.

- **Deflection,** defined as proactive community outreach prior to any actual misconduct (sometimes by police officers, and sometimes by others) to identify people in need of services and connect them to mental health or social services (Treatment Alternatives for Safe Communities, 2018).

- **Juvenile Justice Initiatives,** given that the juvenile criminal legal system is distinct from the adult system, and because additional and different factors impact decisions around juvenile misconduct (Champion, 2001; Feld, 2017).

- **Traffic Enforcement,** which is qualitatively different from low-level arrests (Wu & Lum, 2019).

- **International programs and policies,** because laws and law enforcement culture in the U.S. is likely to be distinct from that in other countries.

First, we describe different alternative to arrest initiatives (Chapter 2). Next, we synthesize research regarding their potential efficacy in reducing arrest, recidivism, or racial disparities (Chapter 3). After discussing additional considerations in the literature (Chapter 4), we conclude with recommendations for research and policy (Chapter 5).

Chapter 2 - Alternative to Arrest Policy and Practice

A. Citations in Lieu of Arrest

Citations have been in use since at least the 1960s (Berger, 1972). **Citations refer to an officer's ability to issue a written notice to appear in criminal court at a future date, rather than holding the person in custody until their first court appearance (i.e., a "custodial" arrest).** This section discusses criminal citations, as contrasted with civil citations (discussed below, section D). In some jurisdictions, citations are referred to as notices to appear, tickets, summonses, cite-and-release, desk appearance tickets, or violations. Details regarding eligibility criteria, implementation, and terminologies for citations vary.

Eligibility. Typically, citations function as a matter of state law and therefore have potential for broad impact on reducing custodial arrests. States typically limit eligibility based on charge severity (i.e., misdemeanor or felony). Nationwide, the most common charges for which citations are issued are theft (59%) and disorderly conduct (38%; International Association of Chiefs of Police [IACP], 2016). However, within eligible criteria, states often carve out exclusions, which may be based on charge type (e.g., assault) and circumstance (e.g., domestic violence; National Conference of State Legislatures [NCSL], 2018).

As of 2018, 36 states and Washington, DC, only allow citations for misdemeanor offenses (NCSL, 2018). In eight states, the law allows citations for misdemeanors and a limited number of felonies. In six states, the law permits citations for both misdemeanor and felony offenses.

Recently, some states have expanded their citation eligibility criteria, in a movement toward minimizing the impact of the criminal legal system. For example, in 2020, New York moved to make citations mandatory for most misdemeanors and for the less serious felonies (Class E), of five classes (New York S.1509/A.2009, 2019). In 2021, Michigan legislation went into effect that expanded the existing eligible misdemeanor offenses (Michigan Public Act 393 of 2020; Jackson, 2021).[1]

The Role of Police Discretion. Based on their department's policies, police officers often exercise discretion on whether to issue a citation within the statutory eligibility criteria (81% of departments; IACP, 2016). For example, many states have a "presumption" of citation, meaning that citation is the default except when legislatively set circumstances would require a custodial arrest such as if the officer believes the person is unlikely to appear in court in the absence of a custodial arrest.[2] The most common reasons for officers to deny a citation when otherwise eligible are when the citable person: (1) has an outstanding warrant (72%), (2) poses a danger to self or others (69%), or (3) has a history of not appearing to court (61%; IACP, 2016).

Police departments, researchers, and civil rights groups have expressed concerns over whether **discretion might contribute to racial disparities** through net-widening (e.g., issuing citations for "low level offenses that would have otherwise resulted in a verbal warning or some other informal practice" [Kopak, 2020b, p.222]; IACP, 2016).

Pairing of Citations with Diversion. In some jurisdictions, citations are issued only with additional requirements. For example, in 2013, Leon County, FL became one of the first counties in the state to launch an Adult Civil Citation program, following the success of a similar program for juveniles (Kopak, 2020b). Individuals are eligible if they were arrested for an array of charges including disorderly

conduct, trespassing, drug and alcohol possession, and assault/battery (Kopak & Frost, 2017). This program requires completion of individualized programming (based on an assessment at program intake) that may include counseling, educational classes, and/or community service. Participants must also test negative for substance use during their time in the program (Kopak, 2020b).

Concerns about Citations. Law enforcement agencies have raised concerns raised regarding citations (IACP, 2016), including:

- **Court Attendance:** Whether cited persons would appear in court for their arraignment.

- **Informed Decision-Making:** Whether officers have sufficient access, in the field, to a person's criminal history to make an informed decision about whether to issue a citation or make an arrest.

- **Data Collection:** Whether departments could track who had been issued citations and whether citations would be a part of a person's formal criminal history (in some jurisdictions, citations do not appear on a person's criminal record). Since officers often rely on the number of prior system contacts a person has had to inform their decision-making, departments worry that the exclusion of citations in criminal history would not provide comprehensive information on prior contact.

B. Point-of-Arrest Diversion

In lieu of arrest, point-of-arrest diversion programs involve law enforcement diverting people into social service programs, some of which seek to address the underlying problems that may be driving criminalized conduct.

Point-of-arrest diversion generally falls into three categories: (1) charge-specific diversion; (2) broad eligibility diversion; and 3) issue-specific diversion.

- **Charge-Specific Diversion:** These programs define eligibility based on a specific charge or a set of charges. For example, Seattle's original conception of the Law Enforcement Assisted Diversion (LEAD) program limits eligibility to people who are arrested for controlled substances or prostitution charges (Collins, Lonczak, & Clifasefi, 2017).

- **Broad Eligibility Programs:** These programs offer diversion for offenses that range broadly. For example, the Pre-Arrest Diversion program in Pinellas County, FL lists seven charges that may be diverted; these charges are varied and include shoplifting, substance use, and low-level assault (Gaultieri, 2016).

- **Issue-Specific Diversion:** These programs attempt to address the underlying need(s) that are driving legal system involvement. While there may be charge-or criminal history-specific exclusions, a wide range of charges are generally eligible, and the point is to treat individual needs (e.g., for mental health treatment), rather than tailor programming to an offense type (e.g., Tallon et al., 2018). For example, people with underlying poverty-related issues may be arrested on charges ranging from shoplifting to disorderly conduct to prostitution; regardless of the charge, these individuals may benefit from food assistance, housing and/or employment services.

National Landscape of Diversion. One study examined the prevalence of arrest diversion programs (Tallon et al., 2018). This study surveyed 2,135 police departments, asking questions about whether they operated diversion programs, what kinds of programs they operated, and how long these programs had been in existence. Of the responding departments (N=1,489), about a third implemented some type of diversion (34%), while 21% operated formal diversion programs. To screen people for diversion eligibility, 11% of departments used formal risk assessment tools. In 65% of reported diversion programs, successful completion resulted in no arrest record, while in 76% of programs non-completion meant the case moved forward to prosecution.

Most programs focused on juveniles (89% of agencies operated juvenile diversion programs). Some focused on people with mental health conditions (in 41% of agencies). The most common social service needs of participants were substance use treatment (65%), mental health treatment (53%), and education (40%), and the most common social service referrals were to mental health or substance use treatment (62% each).

The most studied diversion model is LEAD. It was started in Seattle in 2011 and has since expanded to more than 50 jurisdictions across the country (LEAD Bureau, 2020). Originally, the program focused on people engaged in substance use and prostitution offenses, diverting them to case management for social services rather than prosecuting and incarcerating them (Collins, Lonczak, & Clifasefi, 2017). Participants often received services related to housing, employment, legal advocacy, medical and mental health care, and substance use treatment.

Over the years since LEAD's introduction in Seattle, and accelerated by the COVID-19 pandemic, police referrals now account for a small percentage of Seattle LEAD's program intakes (K. Beckett, personal communication, 2021). Thus, Seattle LEAD is now more focused on street-based outreach by service providers, providing ongoing supportive housing, and participating in a collective impact consortium model of community organizations. In effect, this means that LEAD is now also a growing service delivery model that does not necessarily involve a threat of arrest.

Other alternative to arrest programs exist as well. For example, a marijuana-specific diversion program operates in the Houston area (Sanchez et al., 2020); a small program for a variety of offenses in Eau Claire, Wisconsin (Callister & Braaten, 2016); and a prostitution-specific diversion program in Phoenix, AZ (Roe-Sepowitz et al., 2014).[3]

C. Legalization and Decriminalization

Like citations, legalization and decriminalization policies are statutory efforts to limit arrestable offenses and/or eliminate criminal penalties from certain offenses. These policies exist at both the state and local level. These terms are most often used to describe marijuana reform policies (Marijuana Policy Project, 2021).

- **Legalization:** This involves removing all penalties—criminal and civil—from specified offenses, making the given behavior legal.

- **Decriminalization:** This means that an offense may still have a penalty, but the penalty is civil rather than criminal. The benefits include: (1) foregoing the potential of a criminal warrant being issued if the person fails to appear; and (2) eliminating the possibility of a criminal record.

In the context of marijuana reform, legalization is typically applied to both possession and supply (e.g., commercial sale) and often only allows for personal use by adults (Plunk et al., 2019). In contrast, decriminalization most often applies to offenses related to marijuana possession and individual use by both youth and adults (Pacula et al., 2005).

However, some jurisdictions, like New York City, have decriminalized other low-level offenses beyond marijuana, including littering, public urination, and noise violations (Mulligan et al., 2018a, 2018b). Additionally, some states have considered decriminalization and/or legalization of additional controlled substances (Drug Policy Alliance, 2022). As of February 1, 2021, Oregon became the first state to decriminalize possession of controlled substances for personal use (Selsky, 2021). In addition to reducing arrests, this policy, Drug Decriminalization and Addiction Treatment Initiative (2020) seeks to connect individuals who use substances with expanded access to treatment and recovery services. The policy also seeks to reduce racial disparities, and Oregon's Criminal Justice Commission (2020) predicts that it will reduce racial disparities in drug arrests by 95%.

D. Police-Involved Crisis Response

Crisis response models involve police interactions with people in acute crises, most commonly mental health episodes, though they can also encompass substance use and other volatile situations. These models seek to connect individuals to appropriate care, when needed. Crisis responses typical fall along a spectrum (Figure 1):

•   **Police Respond to Crisis Alone:** Often, under these models, officers receive specialized training regarding mental health and substance use; the trained units are referred to as Crisis Intervention Teams (CIT). These models often include collaborations with community service providers for treatment referrals, but police are the primary responders to calls for service.

•   **Co-Responder Team Models:** Under these models, mental health clinicians, paramedics, or social workers respond together with police officers.

•   **Non-Police Models:** Here, *trained professionals* respond (e.g., in teams such as "mobile crisis units") without police involvement (see section E).

Figure 1. Spectrum of Police Involvement in Crisis Response Models
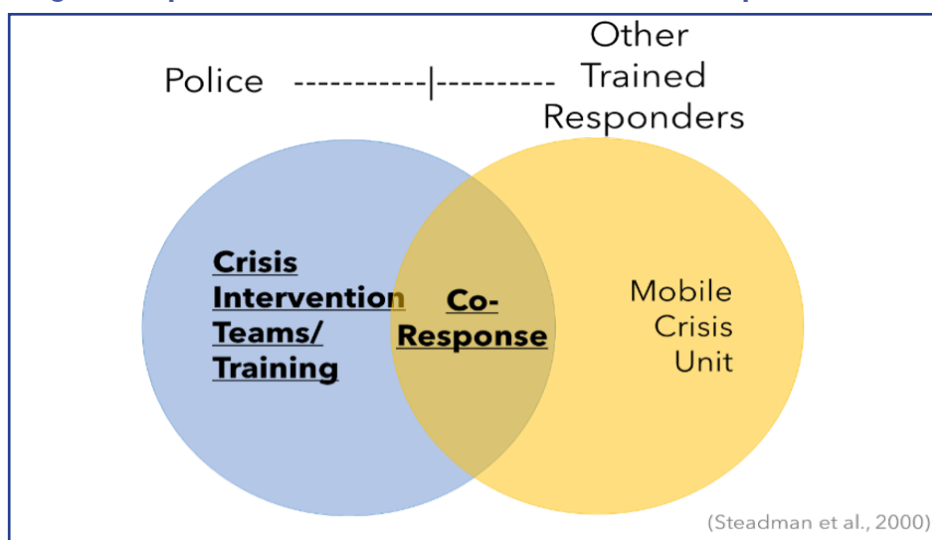
The most widely used police-involved crisis response model is the Memphis Model. In the 1980s, following the police killing of a man in a mental health crisis, the Memphis police department developed a crisis intervention team (CIT) training to help officers safely respond to mental health crisis calls (Bratina et al., 2020). Since then, the CIT model has expanded and been replicated across the country.

Co-response models operate similarly, although in addition to police officers, a professional trained in emergency response (e.g., paramedic, social worker, mental health counselor) is embedded in the police team and responds to emergencies with the officers (Steadman et al., 2000). Alternatively, third-party teams can be co-dispatched, along with the police, to respond to calls for service. In co-response models, police have the authority to arrest, but the goal is for the other trained professional to deescalate in lieu of arrest (Steadman et al., 2000).

E. Non-Police Models: Crisis Response and New Emergency Response Agencies

Non-police models move entire segments of police work away from police departments. These models are intended to reduce (1) persons' unnecessary entanglement with the legal system; and (2) police-involved violent responses to community calls for service.

Non-police models focus on crisis events or non-criminal and/or non-violent events. The models are operated by private, third-party response teams (e.g., run through a non-profit) or entirely new government departments or agencies. In these models, other trained professionals, such as social workers, mental health clinicians, and paramedics, are the primary responders for service calls. The kinds of requests for service to which these professionals respond tend to be community concerns that have fallen to police, over time, because no other public agency exists to respond to them; but these requests do not necessarily involve behaviors that require law enforcement (e.g., security concerns or criminalized behaviors).

Promising initiatives exist around the country, including the following three examples.

- **CAHOOTS:** CAHOOTS (Crisis Assistance Helping Out on the Streets) was founded in Eugene, OR in the late 1960s as a response to deinstitutionalization and increased homelessness and substance use (T. Black, personal communication, 2021). When the local community created a crisis phone hotline, crisis line workers realized they needed to develop a mobile program that could be dispatched to the physical location of the crises. The model now allows police dispatchers to radio for a paramedic-crisis worker team, staffed by a local mental health service provider in lieu of calling for a law enforcement team (Beck, Reuland, & Pope, 2020). Alternatively, police who arrive at a scene can request CAHOOTS assistance if they believe non-officers may better able resolve a situation. When needed, CAHOOTS can offer direct transport to detox and can accompany people who need emergency room transport. According to CAHOOTS program leaders, the non-police-based nature of the program enhances trust in a community with a historic mistrust of law enforcement.

- **CoLEAD/JustCARE:** Seattle's CoLEAD model evolved from the city's LEAD program in response to recent needs resulting from the COVID-19 pandemic. The model is a housing-first and harm-reduction approach that connects people with extensive criminal histories and acute mental health crises to medical care, access to food, and other basic needs—with minimal (or zero) law-enforcement involvement (K. Beckett, personal communication, 2021). To appropriately allocate more limited resources during the pandemic, a racial justice model was designed whereby services

were prioritized for people who (1) had extensive criminal legal system histories, (2) had acute and serious mental health concerns, and (3) were people of color. CoLEAD eventually joined a larger consortium of organizations, called JustCARE, working to provide housing and support to individuals and communities experiencing homelessness and related issues (e.g., business and housed-person concerns about local homeless encampments).

- **Albuquerque Community Safety:** In 2021, Albuquerque, NM launched the Albuquerque Community Safety (ACS) department to works alongside police and fire emergency response units. Responders include social workers, peer specialists, and other trained clinicians and counselors. The equal status of ACS to existing police and fire department has meant that when crises arise, ACS input is considered as relevant as the more typical response agencies. For example, if an emergency arises, the mayor convenes the fire chief, police chief, and ACS director to determine an emergency action plan. In situations where there is no violence or need for fire safety services, ACS can propose a first-response plan that typically includes de-escalation, community engagement, and other non-threatening actions, with fire and police involved only as back-up.

Currently, ACS handles calls for mental and behavioral health related calls, homelessness, addiction, protest response, and responding to abandoned vehicles. The city plans to have ACS also respond to minor traffic accidents where there are no injuries, further reducing unnecessary police contact with the public.

Chapter 3 - Alternative to Arrest Research Findings

In 2021, DCJ conducted a wide-ranging literature search on alternatives to arrest to understand the impacts of alternatives on lower-level enforcement (see Methodology in Appendix). The search focused on the following topics:

- **Instant Case Outcomes:** Any immediate decrease in arrests or convictions.[4]

- **Recidivism:** Any reduction in future/subsequent arrests (recidivism).

- **Process Evaluation:** Information about program operations and participant characteristics.

- **Officer Perceptions:** Views of the given initiative(s) among police officers.

Overall, our review provides some evidence that:

- *As intended, <u>citation</u>, <u>decriminalization</u>, and <u>legalization</u> significantly reduce the prevalence of traditional criminal arrests.*

- *<u>Diversion</u> programs tend to reduce arrest on the instant case, reduce recidivism, and produce cost savings to criminal justice agencies.*

- *Results are mixed to regarding effects of <u>police-involved crisis response</u> programs.*

- *Research on non-police models has produced positive process findings regarding their ability to reduce unnecessary police activity on low-level matters, along with an early impact evaluation pointing to crime reductions resulting from a Denver program.*

We also focused on the ways in which alternatives to arrest exist within the racially disproportionate impacts of the criminal legal system.

A. Citations

New Haven Study. One of the earliest studies of citations examined a field-citation policy implemented by the New Haven, CT, police department in 1968 (Berger, 1972). The policy sought to decrease the number of people held on bail for misdemeanor offenses. The policy excluded people accused of weapons or sex offenses, or when there was a perceived immediate danger. Officers also retained discretion to arrest on other grounds, for example if they believed the person was unlikely to appear in court. *Approximately 1,200 citations were issued in the first year of the policy, representing about 10.8% of annual misdemeanor arrest volume.*

Charlotte Study. Another early study involved a randomized trial of citation versus arrest for spouse abuse cases in Charlotte, NC (Hirschel & Dean, 1995). Officers could override a citation if they thought an arrest was necessary for the safety of involved individuals. *Of 305 cases, failure to appear rates were higher for people issued citations than those arrested.[5] On the other hand, citations were more cost effective and saved $71.93 per case relative to arrests.*

Indiana Study. In an anonymized county in Indiana, a court ordered the county to reduce its local jail population by issuing more citations (Baumer & Adams, 2006). Police were required to issue citations for seven nonviolent misdemeanors, including marijuana possession, prostitution, and shoplifting. The study examined how the policy changed the use of arrests and citations by comparing their volume and proportion during the same eights month pre- and post-policy implementation.[6] *Under the new policy, citations more than doubled (from 926 to 1,942), while arrests declined by over 60% (2,166 to 814).*

Florida Studies. Researchers conducted a series of studies on a hybrid citation-diversion program in Leon County, FL (Kopak & Frost, 2017; Kopak, 2019; Kopak, 2020a; Kopak, 2020b). Key findings included: (1) Participants are likely to complete the diversion program, resulting in a civil citation in lieu of arrest (completion rates were 91%, 84%, and 84% again in three studies); and (2) In the study involving a matched comparison group (Kopak, 2020b), there were no significant differences in re-arrest rates. *Taken together, these findings indicate that while the model does not necessarily reduce recidivism, it reduces current contact with the system (no formal arrest or court appearance) and potential future contact with the system (no risk of criminal warrants), at no risk of increasing arrests in the future* (Kopak, 2020b).

B. Diversion

Law Enforcement Assisted Diversion (LEAD). Three studies focused on Seattle LEAD, and additional studies focused on replications in San Francisco, CA and Santa Fe, NM; results pointed to LEAD's ability to reduce both arrests (via diversion on the instant case) and recidivism.[7] Research also showed improvements regarding participants' housing, employment, income, and substance use, as well as cost savings to both the legal and social service systems.

• **Reduced Arrests**: LEAD programs reduce arrests on the instant case by definition; they offer police an "off-ramp" (Tallon et al., 2018) to connect people with services in lieu of arrest. However, *research also suggests that LEAD programs do not impact large numbers of people. Annual volume across five cities was only 133 in Los Angeles, 129 in San Francisco, 43 in Albany (NY), 35 in Seattle, and 35 in Santa Fe* (Collins, Lonczak, & Clifasefi, 2017; LEAD Santa Fe, 2018; Malm, Perrone, & Magana, 2020). For example, in Albany, NY (a city of under 100,000 people but with a violent crime rate of 813 per year), only 43 people were involved over the year studied (Worden & McLean, 2018). The Albany study suggests that officer buy-in and discretion can sometimes result in fewer people diverted to arrest alternatives (Worden & McLean, 2018).

• **Reduced Recidivism:** Shown below, studies show that compared with individuals processed via traditional systems, LEAD participants were less likely to be re-arrested (e.g., Collins, Lonczak, & Clifasefi, 2017 [Seattle]). Studies also found that LEAD participation lowered the likelihood of both: (1) felony re-arrests (Collins, Lonczak, & Clifasefi, 2019 [Seattle]); Malm, Perrone, & Magana, 2020 [San Francisco]); and (2) misdemeanor re-arrests (Malm, Perrone, & Magana, 2020 [San Francisco]).

Table 3.1. Participant and Comparison New Arrests, LEAD Evaluations

Seattle, WA[1]		
	% of LEAD Group	% of Comparison
New Arrest within 6 Months	36%	59%
New Arrest within 12 Months	58%	80%
New Felony Arrest in 12 Months	20%	31%
San Francisco, CA (6-Months)[2]		
	% of LEAD Group	% of Comparison
New Felony Arrest	14%	39%
New Misdemeanor Arrest	8%	46%
[1] Collins, Lonczak, & Clifasefi, 2017; [2] Malm, Perrone, & Magana, 2020.		

- Housing, Employment, Income, and Drug Use: Embedded in LEAD program designs are connections to social services. Two studies (Clifasefi, Lonczak, & Collins, 2017 [Seattle]; Denman, 2018 [Santa Fe]) both found that LEAD participation led to:
  > *Improved housing.[8]*
  > *Improved employment.*
  > *Increased income through employment and/or connection to benefits.*
  > *Lower drug use* (only studied in Denman, 2018).

- **Costs Associated with Processing Cases and Incarcerating People:** Collins and colleagues (2019) found that LEAD produced cost savings, calculated based on the costs to staff the courts and pay attorneys: LEAD participants showed a reduction in legal costs following participation by $2,100 per person per year (compared to non-participants who increased in costs of about $5,961). Other studies, comparing costs to LEAD and comparison participants, found similar cost savings in San Francisco (Malm, Perrone, & Magana, 2020) and Santa Fe (LEAD Santa Fe, 2018). Further, one study found that compared to traditional case processing, LEAD participants were less likely to be jailed, spent less time incarcerated if jailed, and were less likely to be sentenced to prison (Collins, Lonczak, & Clifasefi, 2019), avoiding significant costs of housing people in custody.

Research on Additional Diversion Programs. A few studies found that other types of diversion programs also successfully diverted people from arrest on the instant case (Sanchez et al., 2020; Callister & Braaten, 2016; Roe-Sepowitz et al., 2014), and resulted in fewer re-arrests (Callister & Braaten, 2016). These programs focused on diversion for marijuana (Sanchez et al., 2020) and prostitution (Roe-Sepowitz et al., 2014).

Table 3.2. Additional Diversion Programs: Completion and New Arrest

Eau Claire County, WI[1]		
	N/% of Diverted Group	N/% of Comparison
Number in each group	247	223
New arrest	21.1%	37.7%
Phoenix, AZ[2]		
	N/% of Diverted Group	N/% of Comparison
Number in each group	43	42
Program completion	32%	45%
New arrest	14%	12%
[1] Callister & Braaten, 2016; [2] Roe-Sepowitz et al., 2014.		

An additional study examined a New York City model in which the police make an arrest but, with the prosecutor's consent, police then divert the case. It found that 95% avoided prosecution versus none in the comparison group (Dalve & Cadoff, 2019).

C. Legalization and Decriminalization

Marijuana Reforms. Research conducted on the impact of marijuana reforms goes back to the 1970s. Although one study found that states that reformed their marijuana laws in the 1970s did not necessarily have lower arrest rates (Pacula, 2005), another study found that marijuana reform did, in fact, lower arrests (Single, 1989).[9]

More recent research indicates that decriminalizing and/or legalizing marijuana can be consistently effective in reducing marijuana-related arrests, though the magnitude of the effects varies.

- **Legalization of Marijuana:** *Legalization generally resulted in sizeable reductions in arrest.* In California, legalization resulted in a 46% reduction in arrests (Jones et al., 2022) – the smallest reduction among such studies. The largest reduction was in Oregon, where the arrest rate decreased by 91% (Oregon Public Health Division, 2016). In between those were Washington, where the arrest rate decreased by 87% (Firth et al., 2020). Additionally, two studies examining Colorado's 2012 legalization policy, each of which use different sampling time periods, found reductions in arrests of different sizes: a 90% reduction from 2010 to 2015 (Gettman, 2015), and a 68% reduction from 2012 to 2019 (Reed, 2021).

- **Decriminalization of Marijuana:** *Decriminalization also generally reduced arrests.* An analysis in five states found that arrests decreased by 78% following decriminalization (Grucza et al., 2018). In another cross-state study, researchers found that the arrest rate decreased by 131 per 100,000 with the implementation of marijuana reform (Plunk et al., 2019). In other jurisdictions, the decrease was less dramatic, a study examining decriminalization in Philadelphia showed that the policy reduced arrests by 35% overall (43% for possession, and 16% for sales and manufacturing; Tran et al., 2020).

Despite relatively clear evidence that marijuana reforms decrease marijuana arrests, *at least one study found evidence of net widening*, or the phenomenon of bringing more people into formal legal systems, under the lesser penalties, than when penalties were stricter. Kozlowski et al. (2019) found that following marijuana decriminalization, although *arrests* decreased, *overall* enforcement of marijuana possession increased, via a 1,031% increase in citations.

Other Decriminalization Reforms. The New York City policy of decriminalizing a handful of lower-level offenses (other than marijuana) by moving them from the criminal court to civil court (Criminal Justice Reform Act, CJRA) resulted in *an estimated 123,000 fewer criminal citations issued* (Tomascak et al., 2020).[10] Because the policy allows for criminal citations to be written in certain instances, it is worth noting that 13% of eligible offenses still resulted in criminal citations.

D. Police-Involved Crisis Response

Police-Led Models. Several studies about police-led crisis response provide descriptive analyses, often of the proportion of incidents handled by police-led crisis models that resulted in arrest. These studies show that in general, *a small percent of instances involving police-led crisis response result in arrest:*

- **Two percent** (Steadman et al., 2000 [Memphis, TN]);

- **Three percent,** on average across multiple years, ranging from zero arrests (2005) to seven percent of instances (2001) (Franz & Borum, 2010 [five counties in FL]).

- **One percent** (Bratina et al., 2020 [four counties in FL]).

However, these studies do not provide any other arrest rates for comparison. They do not provide the overall arrest rate of the department, nor do they provide the arrest rate of officers handling similar incidents who are not part of specialized response units. Therefore, although these studies show low incidences of arrests, the lack of comparison and contextual data makes it hard to evaluate whether these low arrest rates are typical or whether they are, indeed, lower than they would have been for comparable cases.

Further, studies that do evaluate arrest rates using comparison groups have yielded mixed findings. One study found that officers with training were 47% less likely to make an arrest (13% arrest rate for trained officers vs. 24% for untrained officers; Compton et al., 2014 [six police departments in GA]). However, two studies (in Akron, OH and Chicago, IL) found no statistically significant difference in arrest rates between trained and untrained officers (Watson et al., 2010; Teller et al., 2016).[11]

Co-Responder Models. *Research on co-responder models also provides limited and inconclusive insights.* One study found that the overall arrest rate of a co-responder model in Boston was 0.8% (Morabito et al., 2018); yet, it's unclear what the arrest rate would have been without the model on otherwise similar cases. Another study found an arrest rate of 13%, which was higher than two other models studied in the same paper (2% arrest rate for police-led response and 5% for a non-police response model (Steadman et al., 2000).[12]

Despite these inconclusive findings on whether these models reduced arrest, one study (Scott, 2000) found that due to a lower average cost of psychiatric hospitalization for cases involving *the co-response team, the co-response model reduced the average cost per case by 23% (from $1,963 for typical police response to $1,520 for the co-response model).*

E. Non-Police Response Models

Research on non-police response models is nascent, though the small literature to-date has produced an array of promising process evaluation findings, alongside a promising impact evaluation of a Denver program.

Suitable Calls for Service. For the most part, research to-date has focused on program operations, not impacts. For instance, an internal study of 911 calls helped a program in Atlanta, GA (the Policing Alternatives and Diversion [PAD] initiative) identify which calls might be appropriate for diversion from law enforcement. Results showed that the most common calls for service included basic needs (e.g., people living on streets or engaging in survival activities), mental health concerns, public health concerns, public indecency, and public disturbance (M. Macias, 2021, personal communication).

Indications that Police Were Not Required. Most non-police response models offer mechanisms whereby the first responders can call for police backup if necessary. However, first responders requested backup in just 2% of CAHOOTS incidents (Skiles, 2020). The low reliance on police suggests that specially trained first responders are appropriate for the cases they are handling. Echoing this theme, 93% of calls eventually chosen for PAD response were, at first, assigned the lowest-priority response time by dispatchers, suggesting that most calls were not emergencies (M. Macias, 2021, personal communication).

Following from such findings, non-police models appear capable of reducing "unnecessary" police activity. For example, an analysis of CAHOOTS as first responders estimates a reduction in police activity by five to eight percent (Skiles, 2020), which "allow[s] police to spend more time on crime-related matters" (Beck, Reuland, & Pope, 2020). Related, analyses of CAHOOTS estimate savings of up to $2.2 million in police and law enforcement labor.[13]

Of note, 988 a national wide suicide and crisis hotline was launched in July 2022 by the Federal government. The goal is to provide connect people to trained crisis counselors and divert mental health related crisis calls away from 911. Research is underway to evaluate this hotline (e.g., American Psychological Association, 2023).

Positive Impact Evaluation. In 2022, researchers at Stamford University released a valid quasi-experimental evaluation of Denver's Support Team Assistance Response (STAR) model in Denver, finding that it reduced targeted low-level crimes by 34%, while there was no change on more serious crimes that the program did not target (Dee & Pyne 2022). Combined with the broadly positive process findings noted above, the research on non-police models is promising, even if rigorous impact research remains limited.

Participant and Community Perceptions. A process evaluation of JustCARE found that participants and community members were pleased with the program and its ability to be flexible and responsive to changing environmental situations (e.g., COVID-19; Beckett et al., 2021). Among measurable outcomes described above, participants reported that the program provided privacy and dignity to marginalized people (Beckett et al., 2021).

F. Racial Disparities

There is a dearth of literature examining the impact that alternatives to arrest can have on reducing racial disparities in the criminal legal system, apart from an examination of marijuana reform policies. **Notably, we found no studies that assessed for any change in racial disparities on a systematic scale, for example, examining patterns in *remaining* arrests following the introduction of an arrest alternative initiative**. However, some studies' findings provide initial insights, albeit quite limited, regarding racial disparities.

Results from a study of the New Haven civil citation program found that *young people and Black women received citations at a higher rate (7%) than would have been expected given this group's typical arrest rate (2%*; Berger, 1972). This suggests, on one hand, that citations may be *displacing* custodial arrests, or on the other, that citations may have resulted in net-widening (arising in cases where no arrest would previously have been made). The study does not provide sufficient detail to interpret these findings.

A pair of studies demonstrate the continuation of racial disparities after the introduction of an alternative to arrest initiative. In these studies, Black and Latinx individual were less likely than others to complete a marijuana diversion program (Sanchez et al., 2020) and Black individuals were more likely than others to be re-arrested after receiving a civil citation (Kopak, 2020b). Yet, a complete interpretation is difficult, absent a rigorous analysis of racial disparities in re-arrest rates or other outcomes under the prior business-as-usual model (i.e., whether disparities in re-arrest or other outcomes shrank or widened relative to prior outcomes).

Last, there is a substantial literature on the association between marijuana reforms and racial disparities in marijuana-related arrests. To start, several studies have found racial disparities in marijuana enforcement, overall (ACLU, 2013; ACLU, 2020). Then, following a decrease in arrests from 2010 to 2018, the disparity in arrest rates for marijuana possession remained such that Black people were 3.64 times more likely than white people to be arrested for marijuana possession in 2018 (ACLU, 2020). These disparities are particularly problematic given research that shows comparable rates of marijuana use (Substance Abuse and Mental Health Services Administration, 2015).

Further, studies focused on *decriminalization* generally show that absolute arrest rates for marijuana possession dropped more for Black people than for white people but that **the Black-white disparity increased**, in Philadelphia, PA, New York City, NY, Louisville, KY, and Prince George's County, MD (Jones et al., 2021; Tran et al., 2020). However, disparities in arrests for marijuana possession decreased after *legalization* in Los Angeles, CA and Oregon; and after a move to civil citations in Prince George's County (Jones et al., 2022; Oregon's Public Health Division, 2016) but not in Washington state (Firth et al., 2019).

Thus, marijuana reforms are not sufficient to eliminate the racial disparities in arrest rates for marijuana possession. And while there is evidence suggesting that legalization, compared to decriminalization, is associated with decreased racial disparities, we cannot ascertain whether this is a result of legalization because these states also started out with lower racial disparities before their reforms (ACLU, 2020).

Chapter 4. Additional Considerations

Throughout our review of practice and research, we encountered additional considerations worth flagging:

- **Incomplete data collection and reporting.**

- **Limitations in police officer buy-in and discretion.**

- **Impact of alternatives to arrest on crime rates.**

A. Incomplete Data Collection and Reporting

While we know enforcement of lower-level offenses constitutes the bulk of arrests (Natapoff, 2018), available data is limited and fragmented. One reason has to do with the fractured nature of policing, which includes separate agencies at each local (city, county) and state level (Jacobson, 2005). In practice, data is collected by each individual law enforcement agency—often in the contexts of budget cuts and aging technology—rather than data that is systematically collected for analysis over time and across jurisdictions. Some states (e.g., Florida, California, and New York) have taken steps to require local jurisdictions to report data on arrests and/or race, with varying degrees of success (see, e.g., CA AB 1331; NY S.1830-C/A.10609; Pantazi, 2021). [14]

Even when data is collected, it is not always used to understand local practices. A survey of local law enforcement agencies found that less than 20% of agencies monitored, tracked, studied, or evaluated the use of citations in lieu of arrests (IACP, 2016).

At the federal level, no national repository of lower-level enforcement data exists.[15] The Federal Bureau of Investigation (FBI) consolidates state arrest data through its Uniform Crime Reporting (UCR) initiatives, and over 4,000 departments participate in these initiatives. However, participation is voluntary, and there are significant limits in the resulting data. The Summary Reporting System (SRS), which has been used since the 1920s,[16] only collects data on 30 arrest categories, many of which are felonies (thereby severely limiting its use in understanding lower-level arrests and/or alternative to arrests). The newer National Incident-Based Reporting System (NIBRS), which was implemented in the 1980s (FBI, 2020), includes 62 categories of offenses (encompassing more misdemeanors), but still does not capture all low-level enforcement.

Recently, Arnold Ventures (AV) convened a roundtable of experts to discuss criminal legal system infrastructure improvements (Arnold Ventures, 2021). The group recommended creating a National Commission on Criminal Justice Data Modernization, focused on improving data collection and dissemination at all levels of government. Such changes could vastly improve what is known about lower-level enforcement and associated racial disparities.

B. Limitations of Police Officer Buy-In and Discretion

The success of alternative to arrest programs often relies on officer buy-in, given the significant discretion officers often retain on whether to divert or issue citations. Illustrating the role of such limits, Worden and McLean (2018) found that a LEAD program in Albany, NY only diverted 43 of 500 eligible

cases. Based on process interviews, police officers largely indicated that they did not agree with or support the program and, thus, did not refer cases. Similarly, an evaluation of San Francisco's LEAD program found that lack of officer buy-in was a significant enough challenge that it ultimately led to the program's termination (Magana, Perrone, & Malm, 2021).

However, other research identifies strategies for organizing alternative to arrest initiatives that can facilitate police officer participation. Findings from multiple studies found that when an alternative to arrest followed a straightforward and efficient process, officers were more likely to opt for the alternative rather than make an arrest (Barberi & Taxman, 2019; Compton et al., 2014; Steadman et al., 2000). A case study of three crisis response programs showed that having a single, centralized crisis drop off location with a quick handoff for officers makes it more likely for officers to bring someone to a crisis center (Compton et al., 2014).[17] As part of this literature review, we spoke to a number of police chiefs who also indicated that when they shortened the departmental forms for diversion, officers made more referrals (anonymous, 2020, personal communication).

Another variable is the incentive structure within law enforcement agencies. When officers are more likely to receive promotions based on how many people they arrest, this works against the goals of alternatives to arrest (Shiner, 2015). Conversely, thoughtful reconsideration of departmental performance metrics could improve alternatives to arrest implementation (Kozlowski et al, 2019). For example, police departments could formally include numbers of citations issued in lieu of custodial arrest, or individuals diverted, as officer productivity measures.

Lastly, research shows that although departments implement arrest alternatives from the top of department hierarchies, officers' immediate supervisors tend to heavily influence their everyday decisions (Mummolo, 2018). Therefore, gaining middle management's support for alternatives could increase line officers' discretion to divert rather than arrest.

C. Impact of Alternatives to Arrest on Crime Rates

Several studies have examined whether the alternative handling of select offenses increases or decreases **overall crime rates**, with mixed results. These studies have primarily examined marijuana legalization. One study found that following the legalization of recreational marijuana in Oregon, serious property and violent crimes increased (Wu et al., 2021). However, other studies found an association between marijuana reforms and lower rates of property crime and sexual assault (CO, WA; Lu et al., 2021). These contrasting findings could be explained by other state policies and/or changes in local law enforcement environments that may have been unrelated to legalization policies.

Regarding charge **displacement** (arresting a person for a different, low-level offense in the face of legalization), one study found that, following marijuana decriminalization, there were increases in arrests in traffic offenses and driving under the influence, but no increases in felony offenses (Prince Georges County, MD; Kozlowski et al., 2019).

Last, research to-date offers some evidence that police officers reallocate resources to solve serious crimes. For example, following marijuana legalization in Colorado, there were improvements in clearance rates (the rate of actually making arrests on reported crimes) for most crime types; and following legalization in Washington, clearance rates rose for violent crimes and burglary (Makin et al., 2019). These results indicate that officers may reprioritize activities and resources, previously devoted to marijuana offense enforcement, toward solving serious crimes.

Chapter 5. Discussion and Recommendations

Our review of relevant research and practices points to several broad themes regarding alternatives to arrest.

- **Researchers, practitioners, and policymakers should continue to document lower-level enforcement and racial disparities**. Research indicates that lower-level arrests make up a large proportion of law enforcement overall. But even amid declining rates of misdemeanor arrests, racial disparities remain. However, the literature documenting alternatives to arrest and racial disparities is limited. While it is a clear that the nation's enforcement of low-level offenses is rife with racial disparities, there is remarkably little research to-date on the impact of alternative to arrest initiatives in mitigating disparities.

- **Researchers should continue to build the empirical knowledge base with respect to the practices and impacts of alternatives to arrest.** What policies, programs, and initiatives exist, and what are the specific details regarding eligibility? How do these programs operate with respect to replacing arrests, and what is the makeup of the remaining arrests? Research must also broaden the measured outcomes beyond arrest and subsequent legal system involvement. Because alternatives to arrest often intersect with mental health, housing, physical health, education, and other systems, impacts of alternatives must also include measures in these systems.

- **Policymakers should scale and continue to study existing programs that show promise.** Nearly all of the initiatives studied thus far limit eligibility to small numbers of people (legalization schemes excluded). To better understand the impacts of alternatives to arrest, policymakers and practitioners should work together to scale promising new initiatives that show promise but that, thus far, have only impacted limited numbers of people, such as localized diversion programs or some of the non-police models discussed in this paper.

Through initiatives such as the 2022 Safer Communities Act, increased federal resources should be available to support precisely the types of programs (and research on their effectiveness) discussed in this report, especially non-responder models focused on people needing mental health services.

Below, we offer a handful of research questions and suggestions for future research, specific to each type of alternative to arrest.

Citations. Given the limited research on citations, the even more limited research on racial disparities, and the potentially divergent findings regarding disparities, future research should focus on:

- The ways that **different legal frameworks** impact citations and arrests. Do jurisdictions with more discretion built into their statutes see citations used more or less than jurisdictions that require citations? How does discretion impact racial disparities in citations? In places where citations replace arrests, how do racial disparities shift in arrests?

- **Impact on public safety.** Besides the immediate effects of citations on arrest and re-arrest, there is no research about how using citations (i.e., a "lighter touch" response) may indirectly impact other aspects of community safety, such as crime rates or community perceptions of law enforcement. Future research should explore broader conceptions of public safety and trust in the criminal legal system in the context of citations.

- **Diversion.** Research on diversion programs is limited, particularly when considering that over 50 jurisdictions are now operating LEAD programs, and dozens of others are planning to launch LEAD or are operating other diversion initiatives. Further, there is even less research on non-LEAD models of diversion, and almost no research on the impact of diversion on racial disparities. Future research should study:

- **Varied diversion programs.** What are the impacts of diversion models other than LEAD on arrests and racial disparities? Given that diversion programs are charge-specific, issue-specific, or broad, how do these frameworks differ in their impacts? Which diversion models are the most promising for reducing arrests and disparities?

- **Going-to-Scale:** Can diversion programs be scaled to impact larger numbers of people and arrests? Most diversion programs serve small numbers of people, meaning their abilities to keep people out of the traditional legal system process may be limited.

- **Impacts on public safety.** Diversion offers an alternative to public safety theories that center lower-level policing as necessary to keeping communities safe (e.g., Kelling & Wilson, 1982). With generally positive results, most research on diversion has focused on individual-level recidivism (i.e., are participants arrested again?). Less research has investigated the impact of diversion programs on broader community safety indicators, such as overall crime rates or violent crime rates.

Decriminalization and Legalization. When jurisdictions implement these policies, most notably regarding marijuana possession, arrest rates have decreased for Black and white people, alike. However, the relative disparities in arrest rates often remain unchanged or are sometimes exacerbated following decriminalization, but not legalization. Future research might consider:

- How might police performance metrics and incentives influence officer enforcement practices, such that overall enforcement of marijuana increases following decriminalization policy?

- How might exclusionary criteria in marijuana policy (regarding both possession and sale/distribution) contribute to racial disparities in police enforcement?

- How might police discretion contribute to racial disparities in police enforcement?

Police-Involved Crisis Response Models. Research on the impact of crisis response models on arrests is inconclusive. Some studies show that CIT training may reduce arrests, other studies show no difference between CIT trained and untrained officers. The evidence is limited to a few studies.[18] Future research on crisis response should center on continuing to understand:

- **Racial disparities.** No studies of crisis response investigated the impact of these initiatives on racial disparities in arrests. Future research must seek to understand whether racial disparities in arrests can be reduced with crisis response models.

- **Relative impact of crisis response models.** Only one study compared the relative impacts of varying crisis response models. Research is needed to illuminate the most promising models, the mechanisms by which these models are successful, and whether there are certain environments where one model is preferable to another.

Non-Police Models. Last, there is a growing number of non-police response models across the country. Although there is little systematic information on their prevalence, program operations, and impact of reducing police contact and racial disparities, process findings reviewed in this study are broadly promising, as is a rigorous impact study of the Denver STAR program (Dee & Pyne 2022).

Besides research that seeks to replicate the Denver impact study, future research could include an assessment of the prevalence of these models and the types of service they provide through a **national scan** of the number and types of non-police models across the country. For example, researchers could distribute surveys to police departments or local governments about their use of non-police response models. These surveys should include questions about the types of services provided, eligibility criteria, level of officer and dispatcher discretion, the number of people served and their demographics, and the community's perception of the alternative.

Implementation Recommendations for Non-Police Models. While research on non-police models is limited, the examples of CAHOOTS, CoLEAD/JustCARE, and ACS provide important lessons for other jurisdictions seeking to implement non-police models. Further, these lessons can be extended to police departments that seek to establish police-based alternative to arrest initiatives.

- **Engage with the community** before and during initiative implementation. All programs were based on community needs and desire, rather than a top-down approach. Communication with the community improved trust and positively impacted the ongoing success of these initiatives.

- **Identify community needs and design programs to fill those gaps.** The non-police models described here filled a need that existed in their communities and designed their programs to fill those needs. For example, in Seattle, temporary and long-term supportive housing existed, but there were no mid-term housing options to keep people safe and sheltered while meeting immediate needs. Thus, CoLEAD/JustCARE's program directly responded to the gap in local housing services.

- **Collaborate with existing stakeholders and establish ongoing lines of communication.** CAHOOTS, CoLEAD/JustCARE, and ACS all maintain constant communication with existing police and other emergency response providers. Representatives from each program emphasized how important this communication was to ensuring the success of their respective programs.

Importantly, these lessons can apply to police-led alternatives to arrest, as well. Various police-led initiatives involved police-community relations, understanding community needs, and communication and collaboration with community stakeholders. Future implementation could further elevate the importance of these principles.

Lastly, for both police-involved and non-police models, a critical question is how these models impact police officers: Do they spend their time differently, potentially shifting job functions and enforcement activities towards serious crime? How else do their enforcement practices change? And do non-police models result in fewer instances of use of force or complaints against police by residents?

Conclusion

Understanding practice and research about lower-level enforcement, racial disparities, and alternatives to arrest are critical to advancing safety and helping law enforcement implement better policies. The empirical literature would be bolstered by the above suggestions. Researchers, policy makers, practitioners, and officials should ensure that data about enforcement, disparities, and alternatives are collected, research is pursued, results are disseminated, and findings and recommendations are implemented. Better research can lead toward building safer and more vibrant communities for all.

Appendix

We began our research review by searching major academic databases (EBSCO Complete and Premier, ProQuest, Scorpus, PsychINFO) for titles, abstracts, and articles that included the words "arrest," "alternative," and "diversion" (or similar terms). As described in Chapter 1, we excluded articles about deflection or pre-arrest diversion, juvenile diversion, traffic enforcement, and international initiatives.

Our initial search yielded about 1,000 unique studies. Based on a review of titles, we selected about 500 for further review. Next, we conducted an abstract review; articles that were deemed potentially relevant were kept for further review. Our last phase of review was to skim the remaining articles with a focus on program selection, methods, and outcomes; articles that seemed relevant were flagged for full read-throughs. At each stage, if the article was potentially relevant, it was retained for further review (i.e., our inclusion criteria allowed us to review more articles in greater depth).

In addition to our initial search terms, we scanned the literature reviews and reference lists of each article we encountered. We also kept track of authors who published research on alternatives to arrests and searched their publication histories for additional articles. Additionally, we reviewed article titles from major, peer reviewed journals that publish research relating to the criminal legal system (e.g., Justice Quarterly, Criminology, Journal of Criminal Justice, Policing, Police Quarterly, Journal of Experimental Criminology, Criminology and Public Policy, Journal of Contemporary Criminal Justice).

We also used Google search to identify relevant "grey" literature (i.e., studies not published in peer-reviewed outlets). Our Google search strategy included the same terms. We also reviewed relevant organizations and research groups that are known to produce research about arrests and the criminal legal system, for example: the American Civil Liberties Union, the Brennan Center, the Center for Court Innovation, RAND Corporation, the U.S. Department of Justice's Office of Justice Programs, Center for Evidence-Based Policing, the Center for Police Research and Policy, Mathematica, the Police Executive Research Forum, the Police Foundation, the Urban Institute, and the Vera Institute.

Our search was conducted in the calendar year 2020. We ultimately included:

- Three studies about the citations in lieu of arrest.

- Four studies about a hybrid civil citation-diversion program in Florida.

- Three studies about the LEAD arrest diversion program in Seattle, and five studies about LEAD replication programs.

- Three studies about unique diversion programs.

- A relatively robust literature regarding marijuana policy reform.

- One study about an emerging non-police model that evolved out of a LEAD program.

References

ACLU (2013). The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests. New York, NY: American Civil Liberties Union Foundation.

ACLU (2020). A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform. New York, NY: American Civil Liberties Union.

Agan, A. Y., Doleac, J. L., & Harvey, A. (2021). Misdemeanor Prosecution. NBER Working Paper 28600. Cambridge, MA: National Bureau of Economic Research. https://www.nber.org/system/files/working_papers/w28600/w28600.pdf

American Psychological Association. (2023). New Report Calls for Research on 988 Crisis Line Effectiveness, Caller Demographics, and More. https://www.psychiatry.org/News-room/APA-Blogs/More-Research-Needed-on-988-Crisis-Line

Arnold Ventures. (2021). Campaign for Criminal Justice Data Modernization: Recommendations from an Expert Roundtable. Hosted by Arnold Ventures. https://craftmediabucket.s3.amazonaws.com/uploads/AV-CJ-Data-Report-v7-1.pdf.

Arora, A. & Bencsik, P. (2021). Policing Substance Use: Chicago's Treatment Program for Narcotics Arrests. Chicago, Il. https://www.sjsu.edu/economics/docs/events_ppe/Bencsik_PolicingSubstanceUse10152021.pdf.

Barberi, D., & Taxman, F. S. (2019). Diversion and Alternatives to arrest: A Qualitative Understanding of Police and Substance Users' Perspectives. Journal of Drug Issues, 49(4), 703-717.

Baumer, T. & Adams. (2006). Controlling a Jail Population by Partially Closing a Front Door: An Evaluation of a 'Summons in Lieu of Arrest' Policy. The Prison Journal 86: 3: 386-402.

Beck, J., Reuland, M., & Pope, L. (2020). Case Study: CAHOOTS, Eugene, Oregon. Vera Institute of Justice. https://www.vera.org/behavioral-health-crisis-alternatives/cahoots.

Beckett, K., Brydolf-Horowitz, M., Collins, D., Goldberg, A., Knaphus-Soran, E. & Turner, A. (2021). JustCARE: The Development and Impact of a Multi-Faceted Collective Impact Model. CoLEAD. https://coleadteam.org/wp-content/uploads/2021/07/JustCARE-Report_7-12-21.pdf.

Berger, M. (1972). Police Field Citations in New Haven. Wisconsin Law Review, 2, 382-417.

Blume, J.H. & Helm, R.K. (2014). The Unexonerated Factually Innocent Defendants Who Plead Guilty. Cornell Law Faculty Working Papers 113. https://scholarship.law.cornell.edu/clsops_papers/113

Braga, A. A., Welsh, B. C., & Schnell, C. (2015). Can Policing Disorder Reduce Crime? A Systematic Review and Meta-analysis. Journal of Research in Crime and Delinquency, 52(4), 567-588. https://doi.org/10.1177/0022427815576576.

Bratina, M. P., Carrero, K. M., Kim, B., & Merlo, A. V. (2020). Crisis Intervention Team Training: When Police Encounter Persons with Mental Illness. Police Practice and Research, 21(3), 279–296. https://doi.org/10.1080/15614263.2018.1484290.

Butcher, F. & Rempel, M. (2022). Racial Disparities in Misdemeanor Justice: Data for New York City, 2019-2020. New York, NY: Center for Court Innovation. https://www.innovatingjustice.org/sites/default/files/media/document/2022/NYC_Misdemeanor_Justice_Data_Report_NYC.pdf.

Cadoff, B., Chauhan, P., & Bond, E. (2020). Misdemeanor Enforcement Trends across Seven U.S. Jurisdictions. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/misdemeanors/misdemeanor-enforcement-trends-across-seven-u-s-jurisdictions/.

California Assembly Bill (2019). No. 1331. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1331.

Callister, S., & Braaten, A. (2016). An Evaluation of the Eau Claire County Pre-Charge Diversion Program as Measured by Three Year Recidivism Rates. https://www.co.eau-claire.wi.us/home/showdocument?id=10918.

Champion, D. J. (2001). The Juvenile Justice System: Delinquency, Processing, and the Law. Upper Saddle River, NJ: Prentice Hall.

Chapman, M., Swan, H., Karon, S., Yarmosky, E., Steverman, S., Kaur, P. & Smith, D. (2020). A Guidebook to Reimianing America's Crisis Response Systems: A Decision-Making Framework for Responding to Vulnerable Populations in Crisis. https://www.abtassociates.com/files/Projects/PDFs/2020/reimagining-crisis-response_20200911-final.pdf.

Chauhan, P. (2011). A Review of the Research Literature on the New York City Crime Decline. New York, NY: John Jay College of Criminal Justice. http://johnjay.jjay.cuny.edu/files/web_images/Chauhan_A_Review_of_the_Research_Literature_on_the_NYC_Crime_Decline.pdf.

Chauhan, P., Tomascak, S., Cuevas, C., Hood, Q. O., & Lu, O. (2018). Trends in Arrests for Misdemeanor Charges in New York City, 1993-2016. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/misdemeanors/trends-in-arrests-for-misdemeanor-charges-in-new-york-city-1993-2016/.

Clifasefi, S. L., Lonczak, H. S., & Collins, S. E. (2017). Seattle's Law Enforcement Assisted Diversion (LEAD) program: Within-Subjects Changes on Housing, Employment, and Income/Benefits Outcomes and Associations with Recidivism. Crime & Delinquency 63(4): 429–445.

Collins, S. E., Lonczak, H. S., & Clifasefi, S. L. (2017). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Recidivism Outcomes. Evaluation and Program Planning, 64, 49-56.

Collins, S. & Lonczak, H. & Clifasefi, S. (2019). Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Criminal Justice and Legal System Utilization and Costs. Journal of Experimental Criminology 15.

Compton, M. T., Bakeman, R., Broussard, B., Hankerson-Dyson, D., Husbands, L., Krishan, S., Stewart Hutto, T., D'Orio, B. M., Oliva, J. R., Thompson, N. J., & Watson, A. C. (2014). The Police-Based Crisis Intervention Team (CIT) Model: II. Effects on Level of Force and Resolution, Referral, and Arrest. Psychiatric Services 65 (4): 523-529.

Craigie, T., Grawert, A., & Kimble, C. (2020). Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality. New York, NY: Brennan Center for Justice: https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal.

Dalve, K. & Cadoff, B. (2019). Project Reset: An Evaluation of a Pre-Arraignment Diversion Program in New York City. New York, NY: Center for Court Innovation. https://www.courtinnovation.org/publications/projectreset-evaluation.

Dee, T. S. & Pyne, J. (2022). A Community Response Approach to Mental Health and Substance Abuse Crises Reduced Crime. Science Advances 8: 23. https://www.science.org/doi/10.1126/sciadv.abm2106.

Denman, K. (2018). Evaluation of Santa Fe's LEAD Program: The Client Perspective. https://lead-santafe.org/wp-content/uploads/2018/10/LEAD-Final-Client-Interview-Summary.pdf.

Drug Decriminalization and Addiction Treatment Initiative. (2020). Oregon Secretary of State, "Oregon Secretary of State Elections Division Initiative, Referendum, and Referral Search for 2020." https://egov.sos.state.or.us/elec/web_irr_search.search_form.

Drug Policy Alliance. (2022). State-by-State Laws. Available at: https://drugpolicy.org/decrim/laws.

FBI.gov. (2020). Five Things to Know About NIBRS. https://www.fbi.gov/news/stories/five-things-to-know-about-nibrs-112520

Feld, B. C. (2017). The Evolution of the Juvenile Court. New York University Press.

Firth, C. L., Hajat, A., Dilley, J. A., Braun, M., & Maher, J. E. (2020). Implications of Cannabis Legalization on Juvenile Justice Outcomes and Racial Disparities. American Journal of Preventive Medicine, 58(4), 562–569. DOI: https://doi.org/10.1016/j.amepre.2019.11.019

Franz, S., & Borum, R. (2011). Crisis Intervention Teams May Prevent Arrests of People with Mental Illnesses. Police Practice and Research 12, 265-272.

Geller, A., Cooper, C. E., Garfinkel, I., Schwartz-Soicher, O., & Mincy, R. B. (2012). Beyond Absenteeism: Father Incarceration and Child Development. Demography, 49(1), 49–76. http://www.jstor.org/stable/41408219.

Gettman, J. (2015). Marijuana Arrests in Colorado After the Passage of Amendment 64. New York, NY: Drug Policy Alliance.

Gualtieri, B. (2016). Pre-Arrest Diversion Programs: The Future of Policing. National Police Foundation. https://www.policefoundation.org/pre-arrest-diversion-programs-the-future-of-policing/

Grucza, R. A., Vuolo, M., Krauss, M. J., Plunk, A. D., Agrawal, A., Chaloupka, F. J., & Bierut, L. J. (2018). Cannabis Decriminalization: A Study of Recent Policy Change in Five U.S. States. International Journal of Drug Policy, 59, 67–75. Scopus. https://doi.org/10.1016/j.drugpo.2018.06.016.

Haney, C. (2002). The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment. Urban Institute. https://www.urban.org/sites/default/files/publication/60676/410624-The-Psychological-Impact-of-Incarceration.PDF.

Harcourt, B. E. & Ludwig, J. (2006). Broken Windows: New Evidence from New York City and a Five-City Social Experiment. University of Chicago Law Review 73: 1: 271-320. https://chicagounbound.uchicago.edu/uclrev/vol73/iss1/14/.

Hatzenbuehler, M. L., Keyes, K., Hamilton, A., Uddin, M., & Galea, S. (2015). The Collateral Damage of Mass Incarceration: Risk of Psychiatric Morbidity Among Nonincarcerated Residents of High-Incarceration Neighborhoods. American Journal of Public Health, 105(1), 138–143. https://doi.org/10.2105/AJPH.2014.302184

Hirschel, J. D., & Dean, C. W. (1995). The Relative Cost-Effectiveness of Citation and Arrest. Journal of Criminal Justice 23(1), 1-12.

International Association of Chiefs of Police. (2016). Citation in Lieu of Arrest. Examining Law Enforcement's Use of Citation Across the United States. Alexandria, VA: The International Association of Chiefs of Police.

Jacobson, M. (2005). Downsizing Prisons: How to Reduce Crime and End Mass Incarceration. New York University Press.

Jackson, A. (2021, April 1). Change in Law Could Lead to Fewer Misdemeanor Arrests in Michigan. Detroit Free Press. https://www.freep.com/story/news/local/michigan/2021/04/01/michigan-misdemeanor-tickets-fewer-arrests/7052257002/.

Jones, K., Agboh, D., Patten, M., Chauhan, P. (2022). An Examination of Racial Disparities in Misdemeanor Marijuana Possession Arrests Following Reforms in Four U.S. Jurisdictions. Journal of Drug Policy Analysis. https://doi.org/10.1515/jdpa-2021-0008

Justice Research and Statistics Association. (2021a). Statistical Analytics Centers (SACS). https://www.jrsa.org/sac/index.html.

Justice Research and Statistics Association. (2021b). Our History. https://www.jrsa.org/about/history.html.

Kelling, G. L. & Wilson, J. Q. (1982). Broken Windows: The Police and Neighborhood Safety. The Atlantic (March 1982). https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/.

Kohler-Hausmann, I. (2018). Misdemeanorland: Criminal Courts and Social Control in an Age of Broken Windows Policing. Princeton University Press.

Kopak, A. M. (2019). An Initial Assessment of Leon County Florida's Pre-Arrest Adult Civil Citation Program. Journal of Behavioral Health Sciences & Research 177-186.

Kopak, A. M. (2020a). Behavioral Health Indicators and Time-to-Rearrest in an Adult Pre-arrest Diversion Program. Behavioral Science Law, 38, 66-76.

Kopak, A. M. (2020b) A Matched-Samples Comparison of Pre-Arrest and Post-Booking Diversion Programs in Florida's Second Judicial District. Justice Evaluation Journal 3(2): 200-226.

Kopak, A. M., & Frost, G. A. (2017). Correlates of Program Success and Recidivism Among Participants in an Adult Pre-Arrest Diversion Program. American Journal of Criminal Justice 42: 727-745.

Kopak, A. M., & Smith-Ruiz, D. (2016). Criminal Justice Involvement, Drug Use, and Depression Among African American Children of Incarcerated Parents. Race and Justice, 6(2), 89–116. https://doi.org/10.1177/2153368715586633

Kozlowski, M., Glazener, E., Mitchell, J. A., Lynch, J. P., & Smith, J. (2019). Decriminalization and Depenalization of Marijuana Possession: A Case Study of Enforcement Outcomes in Prince George's County. Criminology, Criminal Justice, Law, & Society 20(2): 109-127.

LEAD Bureau. (2020). Advancing Criminal Justice Reform in 2021. https://www.leadbureau.org/

LEAD Santa Fe. (2018). Evaluation of LEAD Santa Fe: A Summary Report of Findings of a 3-Year Pilot Period. http://lead-santafe.dreamhosteres.com/impact.

Lofstrom, M., Martin, B., Goss, J., Hayes, J., & Raphael, S. (2018). New Insights into California Arrests: Trends, Disparities, and County Differences. San Francisco, CA: Public Policy Institute of California.

Lowry, M. & Kerodal, A. (2019). Prosecutor-Led Diversion: A National Survey. New York, NY: Center for Court Innovation. https://www.courtinnovation.org/sites/default/files/media/document/2019/prosecutor-led_diversion.pdf.

Lu, R., Stohr, M. K., Makin, D., Snyder, J., & Lovrich, N. (2021). The Cannabis Effect on Crime: Time-Series Analysis of Crime in Colorado and Washington State. Justice Quarterly 38(4): 565-595.

Lum, K. & Isaac, W. (2016). To Predict and Serve? Significance 13(5): 14–19.
Lum, C., & Vovak, H. (2018). Variability in the Use of Misdemeanor Arrests by Police Agencies from 1990 to 2013: An Application of Group-Based Trajectory Modeling. Criminal Justice Policy Review 29(6-7): 536-560.

Magaña, E., Perrone, D. & Malm, A. (2021). A Process Evaluation of San Francisco's Law Enforcement Assisted Diversion program. Criminal Justice Policy Review 33(4). DOI: 10.1177/08874034211033328

Makin, D. A., Willits, D. W., Wu, G., DuBois, K. O., Lu, R., Stohr, M. K., Koslicki, W., Stanton, D., Hemmens, C., Snyder, J., & Lovrich, N. P. (2019). Marijuana Legalization and Crime Clearance Rates: Testing Proponent Assertions in Colorado and Washington State. Police Quarterly 22(1): 31-55.

Malm, A., Perrone, D., Magana, E. (2020). Law Enforcement Assisted Diversion (LEAD) External Evaluation. https://www.bscc.ca.gov/wp-content/uploads/CSULB-LEAD-REPORT-TO-LEGISLATURE-1-15-2020.pdf.

Marijuana Policy Project. (2021). About. www.mpp.org.

Messner, S. F., Galea, S., Tardiff, K. J., Tracy, M., Bucciarelli, A., Piper, T. M., Frye, V., & Vlahov, D. (2007). Policing, Drugs, and the Homicide Decline in New York City of the 1990s. Criminology 45: 2: 385-414.

Michigan Public Act 393 of 2020. http://legislature.mi.gov/doc.aspx?2020-SB-1046

Morabito, M.S., Savage, J., Sneider, L., Wallace, K. (2018). Police Response to People with Mental Illnesses in a Major US city: The Boston Experience with the Co-Responder Model. Victims & Offenders 13(8) 1093-1105.

Mulligan, K., Fera. A. G., Cuevas, C., Grimsley, E., & Chauhan, P. (2018a). The Criminal Justice Reform Act Evaluation: Trends in Criminal Summonses Pre-Implementation, 2003-2016. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/citations/the-criminal-justice-reform-act-evaluation-trends-in-criminal-summonses-pre-implementation-2003-2016/.

Mulligan, K., Cuevas, C., Grimsley, E., & Chauhan, P. (2018b). The Criminal Justice Reform Act Evaluation: Post-Implementation Changes in Summons Issuance and Outcomes. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/work/citations/the-criminal-justice-reform-act-evaluation-post-implementation-changes-in-summons-issuance-and-outcomes/.

Mummolo, J. (2018). Modern Police Tactics, Police-Citizen Interactions, and the Prospects for Reform. The Journal of Politics 80(1): 1-15.

Natapoff, A. (2018). Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal. Basic Books.

National Conference on State Legislatures. (2018). Citation in Lieu of Arrest. https://www.ncsl.org/Documents/Citation_in_Lieu_of_Arrest2018.pdf.

New York State Unified Court System. (n.d.). OCA-STAT DASHBOARD. https://app.powerbigov.us/

New York S.1509/A.2009. https://legislation.nysenate.gov/pdf/bills/2019/S1509C.

New York S.1830-C/A-10609. https://www.nysenate.gov/legislation/bills/2019/s1830.

Oregon Criminal Justice Commission. (2020). IP 44 Racial and Ethnic Impact Statement: Supplemental Document. Available at: https://www.theskanner.com/images/stories/2020/August/IP44-REI-Statement-Supplement.pdf.

Oregon Public Health Division. (2016). Marijuana Report: Marijuana Use, Attitudes and Health Effects in Oregon, December 2016. Portland, OR: Oregon Health Authority.

Pacula, R. L., MacCoun, R., Reuter, P., Chriqui, J., Kilmer, B., Harris, K., Paoli, L., & Schäfer, C. (2005). What Does it Mean to Decriminalize Marijuana? A Cross-National Empirical Examination. In Advances in Health Economics and Health Services Research (Vol. 16, pp. 347–369). Emerald (MCB UP). https://doi.org/10.1016/S0731-2199(05)16017-8.

Pantazi, A. (2021, August 24). Florida Was Going to be a Beacon of Criminal Justice Transparency. Instead, it's Almost 3 years Behind Schedule. The Tributary. https://jaxtrib.org/2021/08/24/florida-was-going-to-be-a-beacon-of-criminal-justice-transparency-instead-its-almost-3-years-behind-schedule/

Plunk, A. D., Peglow, S. L., Harrell, P. T., & Grucza, R. A. (2019). Youth and Adult Arrests for Cannabis Possession after Decriminalization and Legalization of Cannabis. JAMA Pediatrics, 173(8): 763–769. Scopus. https://www.policedatainitiative.org/.

Reed, J. (2021). Impacts of Marijuana Legalization in Colorado: A report pursuant to C.R.S. 24-33.4-516. Rempel, M., Labriola, M., Hunt, P., Davis, R. C., Reich, W., & Cherney, S. (2018). NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness. Association of Prosecuting Attorneys, Center for Court Innovation, Police Foundation, & Rand Corporation. https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial_Diversion_Overview_ProvRel.pdf.

Rodriguez, K., Rempel, M., & Butcher, F. (2022). Reducing Racial Disparities and Overcriminalization: Legislative Options for Reforming Misdemeanor Justice in New York. New York, NY: Center for Court Innovation. https://www.courtinnovation.org/sites/default/files/media/document/2022/Misdemeanor_NY_Legislation_0.pdf.

Roeder, O., Eisen, L.B., & Bowling, J. (2015). What Caused the Crime Decline? New York, NY: Brennan Center for Justice. https://www.brennancenter.org/our-work/research-reports/what-caused-crime-decline

Roe-Sepowitz, D.E., Gallagher, J., Hickle, K.E., Loubert, M.P., Tutelman, J. (2014). Project ROSE: An arrest alternative for victims of sex trafficking and prostitution. Journal of Offender Rehabilitation 53: 57-74.

Rosenfeld, R., Fornango, R. & Rengifo, A. F. (2007). The Impact of Order Maintenance Policing on New York City Homicide and Robbery rates: 1988-2001. Criminology, 45, 355-384.

Sanchez, H. F., Orr, M. F., Wang, A., Cano, M. A., Vaughan, E. L., Harvey, L. M., Essa, S., Torbati, A., Clark, U. S., Fagundes, C. P., & de Dios, M. A. (2020). Racial and Gender Inequities in the Implementation of a Cannabis Criminal Justice Diversion Program in a Large and Diverse Metropolitan County of the USA. Drug and Alcohol Dependence 216: 1-7.

Scott, R. L. (2000). Evaluation of a Mobile Crisis Program: Effectiveness, Efficiency, and Consumer Satisfaction. Psychiatric Services 51(9): 1153-1156.

Scrivener, L., Meizlish, A., Bond, E., Chauhan, P. (2020). Tracking Enforcement Trends in New York City: 2003-2018. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/wp-content/uploads/2020/09/2020_08_31_Enforcement.pdf.

Selsky, A. (2021, February 1). Oregon 1st State to Decriminalize Possession of Drugs. AP News.

Shiner, M. (2015). Drug Policy Reform and the Reclassification of Cannabis in England and Wales: A Cautionary Tale. International Journal of Drug Policy 26(7): 696-704.

Single, E. W. (1989). The Impact of Marijuana Decriminalization: An Update. Journal of Public Health Policy 10(4): 456–466. https://doi.org/10.2307/3342518.

Skiles, R. (2020). CAHOOTS Program Analysis. Eugene Police Department. https://www.eugene-or.gov/DocumentCenter/View/56717/CAHOOTS-Program-Analysis.

Steadman, H. J., Dean, M. W., Borum, R., & Morrissey, J. P. (2000). Comparing Outcomes of Major Models of Police Response. Psychiatric Services 51(5): 645-649.

Substance Abuse and Mental Health Services Administration (2015). Center for Behavioral Health Statistics and Quality, National Survey on Drug Use and Health.
Tallon, J. A., Labriola, M., & Spadafore, J. (2018). Creating Off-Ramps: A National Review of Police-Led Diversion Programs. New York, NY: Center for Court Innovation. https://www.innovatingjustice.org/publications/creating-ramps-national-review-police-led-diversion-programs.

Teller, J. L., Munetz, M. R., Gil, K. M., & Ritter, C. (2006). Crisis Intervention Team Training for Police Officers Responding to Mental Disturbance Calls. Psychiatric Services (Washington, D.C.), 57(2), 232–237. https://doi.org/10.1176/appi.ps.57.2.232.

Tomascak, S., Grimsley, E., Mulligan, K., & Chauhan, P. (2020). Evaluating the Impact of New York City's Criminal Justice Reform Act: Summons Issuance and Outcomes in the 18 Months after Implementation. New York, NY: Data Collaborative for Justice. https://datacollaborativeforjustice.org/wp-content/uploads/2020/02/2020_CJRA_Report_3_Brief_FINAL-1.pdf

Tran, N. K., Goldstein, N. D., Purtle, J., Massey, P. M., Lankenau, S. E., Suder, J. S., & Tabb, L. P. (2020). The Heterogeneous Effect of Marijuana Decriminalization Policy on Arrest Rates in Philadelphia, Pennsylvania, 2009–2018. Drug and Alcohol Dependence, 212, 108058. https://doi.org/10.1016/j.drugalcdep.2020.108058.

Treatment Alternatives for Safer Communities. (2018). Law Enforcement and First Responder Deflection Services. https://www.tasc.org/tascweb/tertiary_page.aspx?id=139&title=TASC-Deflection-Services.

Watson, A. C., Ottati, V. C., Morabito, M., Draine, J., Kerr, A. N., & Angell, B. (2010). Outcomes of Police Contacts with Persons with Mental Illness: The Impact of CIT. Administration and Policy in Mental Health, 37(4), 302–317. https://doi.org/10.1007/s10488-009-0236-9.

Western, B. (2002). The Impact of Incarceration on Wage Mobility and Inequality. American Sociological Review, 67(4), 526-546. https://doi.org/10.2307/3088944

Worden, R. & McLean, S. J. (2018). Discretion and Diversion in Albany's LEAD Program. Criminal Justice Policy Review 29(6-7): 584-610.

Wu, G., Wen, M., & Wilson, F. A. (2021). Impact of Recreational Marijuana Legalization on Crime: Evidence from Oregon. Journal of Criminal Justice 72, 1-11.

Wu, X., Lum, C. (2019). The Practice of Proactive Traffic Stops. Policing: An International Journal. 43(2), 229-246.

Endnotes

1 Previously, citations were only an option for misdemeanors punishable by up to 93 days in jail; the new law allows citations for most misdemeanors violations that carry a penalty of up to one year in jail (Michigan Public Act 393 of 2020).

2 Statutes without a presumption clause (those which allow for citation rather than explicitly list it as the preferred outcome) typically result in greater discretion because officers have more opportunity not to issue a citation.

3 Although not within the scope of this paper, a variety of other police-involved diversion programs exist nationwide. For example, Project Reset, in New York City, NY, is operated as a joint project between the New York Police Department, local prosecutors' offices, and a third-party program provider that offers psychosocial education (e.g., Dalve & Cadoff, 2019). Although this program provides the opportunity for the person's criminal record to be sealed, the person still experiences a formal custodial arrest and booking event, making it not a true alternative to arrest. However, early evaluations of this program's pilot program for juveniles indicate that it can reduce future arrests, and has the potential to impact nearly 1,000 individuals a year (Brooks Holiday et al., 2022).

4 Instant arrest refers to the arrest that made an individual eligible for a study. For example, in citations studies, instant arrest means the encounter that was converted to a citation or in the case of comparison groups, the arrest that made the person eligible to be part of the comparison group. Likewise, in diversion studies, instant arrest means the encounter that was diverted.

5 The authors operationalized failure to appear three ways, and the results are robust across operationalizations: Failure to appear at the final appearance (4.6% in the arrest group and 8.7% in the citation group), failure to appear at any appearance throughout the case (3.9% of the arrest group and 23.2% of the citation group), and no failure to appears (86.3% of the arrest group and 62.9% of the citation group).

6 This study also investigated whether the policy reduced the jail population. Results show that bed days were reduced by 6% during the study period. Further, failure to appear increased from 31.8% to 37.3% of cases. Additionally, the proportion of cases that resulted in dismissals increased, but only by two percentage points, from 50.6% to 52.9%.

7 Researchers also focused on LEAD programs in Los Angeles, CA (Malm et al., 2020) and Albany, NY (Worden & McLean, 2018). However, due to problems with data availability in Los Angeles and low program enrollment in Albany, these studies did not analyze any program outcomes.

8 Clifasefi and colleagues (2017) also found that more intensive case management results in greater improvements in housing status. However, increasing case management hours did not similarly increase improvements in employment or income.

9 In this study and a later study, Single (1989) and colleagues (2000) found cost savings associated with marijuana policy reforms.

10 The authors also found no evidence of net widening; both civil and criminal citations decreased

(Tomascak et al., 2020). Additionally, critics were skeptical that moving these offenses to civil court, where there is no threat of a warrant for non-appearance, would negatively impact appearance rates; however, the authors found no significant differences in appearance rates between the two venues (Tomascak et al., 2020).

11 Another set of two studies with imperfect methodologies investigated the idea of a "prevention rate" (Franz & Borum, 2010; Bratina et al., 2020). These studies asked officers to evaluate encounters where they did not make an arrest, based on knowledge and experience gained through their specialized crisis response trainings and units, and decide if they would have made an arrest absent the specialization. Officers recorded these perceptions via a form collected by their agencies. Researchers analyzed these forms and found that anywhere from 10% (2001; Franz & Borum, 2010) to 23% of arrests (2005; Franz & Borum, 2010) were prevented due to police-led crisis intervention response models.

12 A third study found that a co-response team arrest rate was 7%, compared with a status-quo police response arrest rate of 14%, but the difference in arrest rate was not statistically significant (DeKalb County, GA; Scott, 2000).

13 Director of Development Tim Black cautions that cost-saving analyses related to labor do not consider that many crisis response workers are relatively underpaid.

14 In Florida, a law passed in 2018 that was heralded as one of the most comprehensive criminal data transparency laws in the country (Pantazi, 2021). In California, the governor signed a bill in 2019 that went into effect in 2020 requiring additional data on arrests to be reported by agencies and disseminated publicly (CA AB 1331). In New York, the 2020 Police Statistics and Transparency Act (STAT Act) requires monthly reporting of misdemeanor arrests and violations, disaggregated by county and race (NY S.1830-C/A.10609). However, compliance with these laws has posed challenges. For example, in Florida, the agency responsible for compiling and publishing data under the 2018 law has been delayed due to challenges with data collection, standardizing data across different agencies, and building a data infrastructure to house the data (Pantazi, 2021). Additionally in New York, although the state administrative offices have reported the required information, because the data is released in aggregate, it is difficult to tease out nuances in arrests or to use this data to understand the impacts of arrest alternatives (New York State Unified Court System, n.d.).

15 The federal Bureau of Justice Statistics does fund and provide technical assistance to state-level Statistical Analysis Centers (SACs). SACs were started in the 1970s, and currently exist in 49 states, the District of Columbia, and the U.S. Virgin Islands (Justice Research and Statistics Association, 2021a). The "primary role" of SACs is to "collect, analyze, and disseminate policy-relevant data for state decision-makers" (Justice Research and Statistics Association, 2021b). However, BJS does not maintain reporting standards for SACs and therefore the data collected and reported is not consistent.

16 The SRS collects data from participating agencies on 30 categories of arrests and includes demographic information such as race/ethnicity. However, only one charge per incident is recorded (top charge), and only 30 categories of offenses are reported, many of which are felonies rather than lower-level offenses.

17 More specifically, findings from interviews with officers showed that officers valued being able to

drop a person off at a crisis center and be out the door in 15 minutes, compared to a previous process whereby they had to wait with the diverted person, sometimes for hours, and fill out long, complicated forms (Compton et al., 2014).

18 A report published by Abt Associates came to similar conclusions regarding the limited availability of rigorous research (Chapman et al., 2020).