

CUYAHOGA COUNTY CRIMINAL JUSTICE CHANGE EFFORTS

Summer 2022 Report of the Cleveland Foundation



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Foundation





ACKNOWLEDGEMENTS

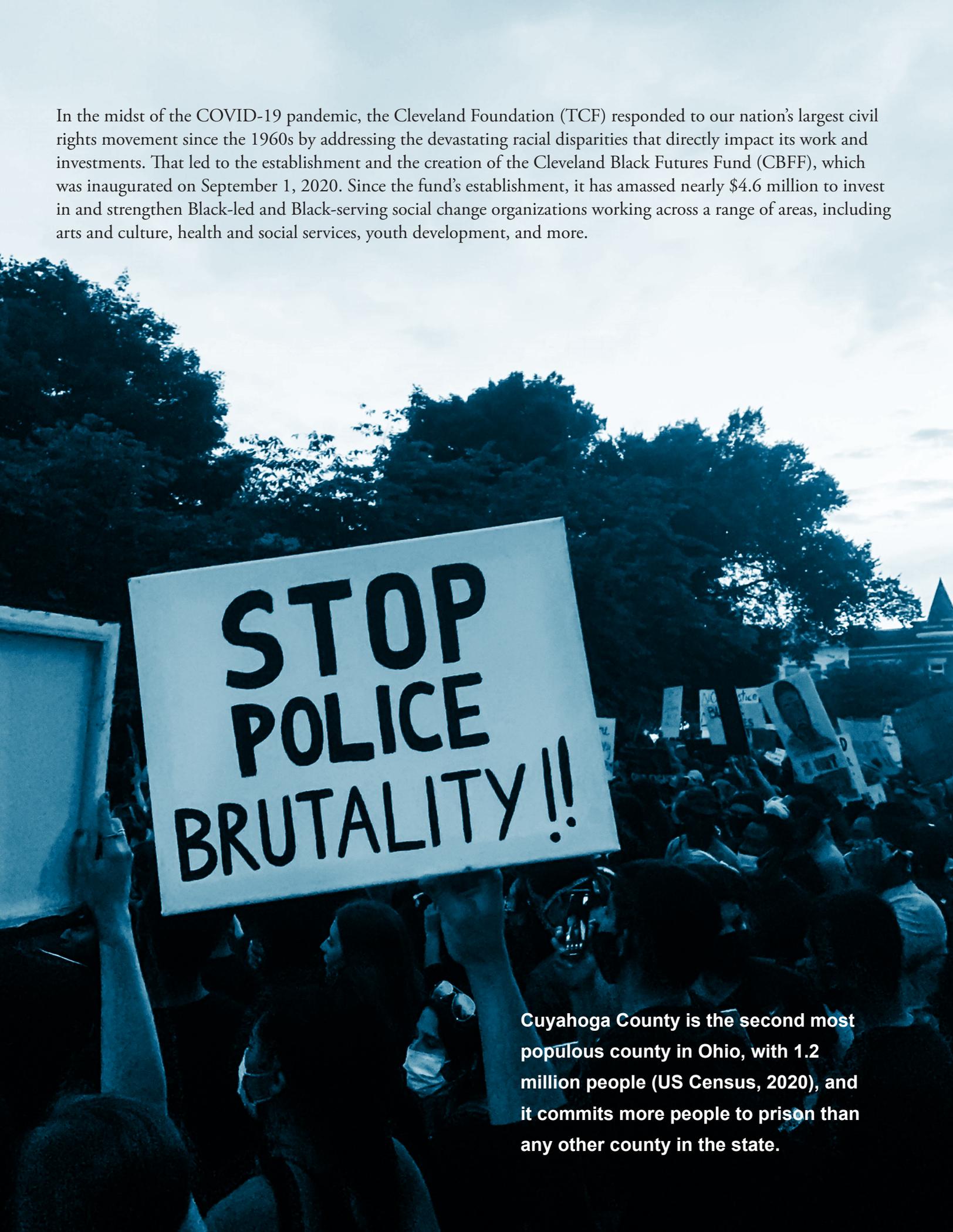
The Cleveland Foundation would like to thank the numerous people who helped to write and edit this report including Katrice Williams, Senior Criminal Justice Fellow, and Dr. Sarah Garlington, assistant researcher and editor. We would like to thank the dozens of individuals who gave up their time to be interviewed and who provided their feedback on current reforms happening within Cuyahoga County's criminal legal system. Without your participation, this report would not have been possible.

EXECUTIVE SUMMARY

In 2020, the murder of George Floyd by Minneapolis, Minnesota police officer Derek Chauvin sparked widespread protests and calls for change to police departments and criminal legal institutions across the country. This call was heard in Cleveland, Ohio, too, where demonstrations drew hundreds of supporters and protestors and inspired Cleveland's philanthropic leaders to reexamine their funding investments around racial justice and equity.



In the midst of the COVID-19 pandemic, the Cleveland Foundation (TCF) responded to our nation's largest civil rights movement since the 1960s by addressing the devastating racial disparities that directly impact its work and investments. That led to the establishment and the creation of the Cleveland Black Futures Fund (CBFF), which was inaugurated on September 1, 2020. Since the fund's establishment, it has amassed nearly \$4.6 million to invest in and strengthen Black-led and Black-serving social change organizations working across a range of areas, including arts and culture, health and social services, youth development, and more.

A large crowd of people is gathered for a protest. In the foreground, a person holds a large white sign with the text "STOP POLICE BRUTALITY!!" written in bold, black, hand-drawn letters. The crowd extends into the background, with many other people visible, some holding smaller signs. The scene is set outdoors with trees and a building visible in the distance. The overall image has a blue tint.

**STOP
POLICE
BRUTALITY!!**

Cuyahoga County is the second most populous county in Ohio, with 1.2 million people (US Census, 2020), and it commits more people to prison than any other county in the state.

In its second round of funding, the CBFF focused on providing technical assistance and support to Black-led organizations by enrolling dozens of leaders in learning cohorts to improve their fundraising, marketing and communications, capacity building, and leadership skills. The CBFF allowed TCF to focus on more Black-led and Black-serving organizations and consider its next steps in addressing racial injustice and inequity within the county's criminal justice system — a system that has disproportionately incarcerated men and women of color.

In this report, we examine the change efforts happening in various parts of Cuyahoga County's criminal legal system, so that TCF can make informed funding choices and investments. Hence, our starting point is to understand the purpose of Ohio's and Cuyahoga County's criminal legal systems and, second, the theories of change different stakeholders have or will employ(ed) to enact that purpose. Currently, Ohio defines the purpose of its criminal legal system as diminishing harm to its communities and protecting the public from future crime by considering the need for someone's incapacitation, deterrence, rehabilitation, and restitution (Ohio Revised Code § 2929.12). Yet, much of what happens in our legal system does not lead to rehabilitation for individuals accused of and convicted of causing individual or community harm. This is because the "deterrent" effects of incarceration do not always focus on the individual's restoration or equipping them with the skills and supports necessary to successfully reintegrate into society. While rehabilitation is often an underlying goal of our carceral institutions, incarceration fails on many fronts by incarcerating individuals for minor traffic violations and infractions, being unhoused, transient, or loitering, being victims of trauma (including victims of sex trafficking), or not exhibiting the "normal" behavior of someone who does not struggle with mental illness or addiction.

This report introduces and examines the feedback from stakeholders who are involved in change efforts around Cuyahoga County's criminal legal system and the issues they raised. These stakeholders include community grassroots organizers and advocates, service providers,

researchers, and government officials including judges, prosecutors, public defenders, and other staff.

The issues and concerns they raised vary but some common themes include:

1. **Bail Reform.** Ending cash bail has been a primary focus for the Ohio Supreme Court, the local courts, advocates, and others. For years, the community has known that bail should be used to guarantee someone's appearance in court, not hold them indefinitely in jail because they present a public safety risk - a risk that should be considered separately by judges. Yet, many people have an unaffordable bail amount, even one that is nominal and low, so they remain incarcerated.
2. **Mental Health and Substance Abuse Support and Awareness.** Over the past few decades many states have closed their mental health facilities and limited mental health service options for community members most in need. This has resulted in jails and prisons becoming the largest mental health providers for most states (Stringer, 2019) and the courts sentencing people with mental illness or addiction to prison institutions as there is often nowhere else to send them. Although there is a new Diversion Center and a mental health hospital opening soon, the need still outweighs the number of available facilities, trained staff, and resources.
3. **Data Transparency.** In Cuyahoga County, it is difficult to know the exact number of people who are incarcerated in the county jail and for what alleged offenses on any given day. It is even more difficult to assess without transparent information and data whether those individuals could be safely released back into the community or if incarceration is even necessary, particularly for people who are detained on a warrant for failing to appear in court on a traffic violation. Greater public transparency on pretrial and sentencing data, and data sharing among courts, can

produce a host of benefits including reserving incarceration only for the most serious offenses.

4. Reform of the Juvenile Detention System.

Today's youth have more complex challenges than their parents or previous generations due to social media, closer and more violent influences, and unaddressed mental health and community issues to name a few. Our society's response to delinquent or youthful behavior has been to incarcerate children, even with the increased number of diversion programs available in our community.

These themes are by no means exhaustive but they illustrate the complexity of the county's criminal legal system and the reliance upon incarceration to handle problems that do not have adequate community services. This report hopes to highlight the various ways numerous people are working toward reform and to feature ways the Cleveland Foundation, other foundations and interested donors and stakeholders can support these efforts.





INTRODUCTION

“This idea that you can do restorative justice when there is the threat of the whole system bearing down on you is not productive.”

- Kenza Kamal, Juvenile Justice Coalition

In the spring of 2020, the Cleveland Foundation (TCF) set out to address racial inequities and injustice in our community. This new trajectory included confronting the racial bias in our criminal justice system. Over 100 years ago, TCF commissioned a report on the state of criminal justice in the City of Cleveland, which culminated in a 782-page survey reviewing police, prosecutorial, and judicial practices throughout the city (*Fosdick et al.*, 1922). Unsurprisingly, they found many of the same problems that proliferate today, including significant disciplinary actions against police for misconduct, a lack of due process for criminal defendants, the ineffectiveness of monetary bail, and excessive, complicated steps in the criminal legal system. However, the report failed to account for community and stakeholders’ interest in changing that system to ensure fairness and justice. Understanding Cuyahoga County’s modern criminal legal landscape is imperative to build engagement with stakeholders already working toward systemic change within this space.

TCF began by hiring its first Senior Criminal Justice Fellow, Katrice Williams. Katrice has been tasked with helping TCF craft its first criminal justice grantmaking strategy. This strategy is being developed with the knowledge and expertise of an advisory committee of various criminal legal stakeholders, including those with direct lived experience in the criminal legal system, as well as others with advocacy, legal, data, research, community organizing, and philanthropic backgrounds. Prior to convening the advisory committee, Katrice sought to broaden TCF’s

knowledge of criminal legal reform efforts within Cuyahoga County, Ohio’s second most populous county and highest rate of incarceration in the state.

To start, TCF needed to know to what extent criminalization was used as the county’s primary law enforcement tool for handling antisocial behavior, knowing the full scale of the problem was necessary to make informed decisions to support community partners. Secondly, it was important to understand the various Cuyahoga County stakeholders working to reverse the effects of mass criminalization and institute better public safety measures, including implementing community-based alternatives to incarceration, ending wealth-based detention, and repealing laws that create additional legal barriers for individuals returning to the community from jail or prison. Finally, by understanding the landscape, TCF could work with the community and its partners to reform practices that over-criminalize behavior and institute better criminal justice policies that prioritize treating individuals in the community, rather than jails or prisons. While we received a wealth of information and feedback, the responses are by no means a complete picture of all the important work that is happening (and will happen) or a complete assessment of stakeholders’ successes and barriers to change. Further, this report is a starting point. Our survey and interviews will help us move forward with intentionality and respect for the work that has been done, is ongoing, and has yet to take flight. We look forward to sharing our findings with you.

REPORT

“There is a gap between the public wanting to see change and our policymakers not pushing for change.”

- James Hayes, Ohio Voice

To complete this report, we used a range of methods to gather information – a survey, interviews, and publicly available data. We limited the scope to focus on Cuyahoga County because the region’s population is concentrated here, as are its largest detention facilities. We began by utilizing current research and analytical literature to create a basic survey asking questions about ongoing activities in the community (see Appendix A). The electronic survey was shared with known stakeholders, as well as on various listservs relevant to criminal justice work. A total of 42 individuals representing 41 organizations completed the survey. From this initial data collection, we then completed in-depth, qualitative interviews using a snowball sampling method. We began with those survey respondents who indicated willingness to complete an interview, then contacted key decision-makers in the community, asked for recommendations from stakeholders, and sought out individuals from organizations that were identified in other interviews. Fifty-five interviews were conducted with a range of criminal legal stakeholders, from the Cuyahoga County Court of Common Pleas, the Juvenile Detention Center and suburban municipal court judges, former and current prosecutors, criminal defense attorneys and public defenders, employees in pretrial, probation, and parole services, data researchers and legal professors, grassroots and state community organizers focusing on decarceration, and a range of individuals working in policy, advocacy, gun violence prevention, and more. (See Appendix B for the list of individuals surveyed and interviewed.)

The analysis of the information gathered was primarily descriptive. We organized the responses for the surveys and interviews into organizational type categories:

Community grassroots, Service providers, Policy advocacy, Research, and Government. Certainly some organizations conduct activities that could fit into more than one category, but we focused on the primary mission of the organization when determining categorization. Understanding the work of these organizations and individuals requires some background context of the state of criminal justice in Northeast Ohio. In the next section, we provide a basic statistical picture of incarceration rates in our region and state, along with information about the current state of the judicial process garnered from interviewees, publicly available information, and Katrice’s legal expertise.



“Moving the horror [jail] to a nicer building is not going to address the problem in a meaningful way.”

- Evan O’Reilly, Cuyahoga County Jail Coalition

BACKGROUND

DEMOGRAPHIC CONTEXT

A review of recent incarceration numbers found that an alarming number of Ohio and Cuyahoga County residents, particularly juveniles, continue to be detained. In the Ohio adult prison system, there were 48,697 and 48,954 people incarcerated on January 1, 2020 and 2021, respectively, with another 29,631 people under the supervision of the Adult Parole Authority in 2021, including those on post-release control (Ohio Legislative Service Commission, 2020).

In November 2018, Ohio’s prison population stood at an all-time high of 51,273 people, or the 5th highest in the nation (as of 2018) (Ohio Legislative Service Commission, 2020). Further examination of the adult male prison population revealed that in 2021 Black men made up 46.3% of the male prison population, or 18,384 detainees. Yet, they are only 6.16% of Ohio’s overall adult population.¹ Comparatively, white men made up 50% of the male prison population, or 19,850 detainees (in 2021), and 39.2% of the state’s adult population. Likewise, there were 764 Black women detained in an Ohio prison in 2021, or 23% of the female prison population, but just 6.7% of the state population. Finally, there were 2,452 white women incarcerated in 2021, making up 74% of the

female prison population, and 40.7% of the state population. (Ohio Legislative Service Commission, 2020).

Cuyahoga County is the second most populous county in Ohio, with 1.2 million people (US Census, 2020), and it commits more people to prison than any other county in the state. In January 2020, Cuyahoga County committed 6,958 men and 324 women to prison, or 15.57% and 8.2% of the state’s men and female prison population, respectively (Ohio Department of Rehabilitation and Correction, 2020). Comparatively, Franklin County, which has a 1.3 million population (U.S. Census, 2020), committed 4,810 men and 275 women to Ohio’s men and women’s prison, respectively, or 10.8% and 7% of the state’s men and women’s prison population. Cuyahoga County’s jail population is less than Franklin’s. In November 2021, the Cuyahoga County jail held 1,630 people, compared with Franklin County, which held 1,914 people (Shaffer, 2021a).

Racial data on incarcerated youth is somewhat less opaque but still troubling. The Cuyahoga County Juvenile Detention Center publishes an annual report that provides information on staffing, all its diversionary programs and specialized dockets, rates for diversion success and detailed information on types of charges, and the race and gender of juveniles in diversion (Cuyahoga County Court of Common Pleas, 2020). However, in 2020 there were 113 youth subject to a bindover request from the County Prosecutor’s Office, the highest in the state (Cuyahoga County

¹ There were approximately 725,843 Black males living in Ohio, 784,874 Black women, 4,596,028 white men, and 4,759,185 white women, making up 6.16%, 6.7%, 39.2% and 40.7% of the Ohio adult population, respectively (Healthy Northeast Ohio, 2022). Compared to their respective populations, Black men and women make up a disproportionate amount of the adult prison system in Ohio.



JURISDICTION

In Cuyahoga County, there are currently 13 municipal courts, including Bedford, Berea, Cleveland, Cleveland Heights, East Cleveland, Euclid, Garfield Heights, Lakewood, Lyndhurst, Parma, Rocky River, Shaker Heights, and South Euclid, and one County Court of Common Pleas with 34 judges. There are also 18 mayor's courts that have been created by some municipalities like Brooklyn, Bratenahl, and Linndale, to hear traffic cases, violations of city ordinances, and minor misdemeanors. Mayor's courts are headed by elected mayors or appointed magistrates, not judges, and are funded by the city or the village.

The municipal courts' territorial jurisdiction extends to their city and surrounding cities that contract with the municipal court to handle their serious misdemeanor cases or to resolve traffic offenses. Municipal courts can hear misdemeanor cases, violations of local ordinances, traffic offenses, and civil cases involving personal injury, property damages, other tort and contract claims including landlord-tenant evictions, and small claims not exceeding \$15,000 (Russo, n.d.). The Cuyahoga Court of Common Pleas has territorial jurisdiction over the entire county and can hear a broader range of cases (Russo, n.d.). The county's Court of Common Pleas hears all felony cases, civil claims exceeding \$15,000, domestic relations, probate, appeals from most administrative agencies, and juvenile cases in a separate division known as the Juvenile Court. Within the County Court of Common Pleas' criminal division there are seven specialized criminal dockets, including reentry, mental health and developmental disabilities, and veterans courts, to divert certain individuals with particular needs from incarceration (Cuyahoga County Court of Common Pleas, 2022).

BAIL REFORM

Last year, the Ohio Supreme Court instituted a new court rule, Criminal Rule 46, requiring all 28 counties with more than one court to adopt the same bond schedule. A bond schedule is a list of bail amount

Court of Common Pleas, 2020). Hamilton County only bound over 17 youth to adult court (Hamilton County Juvenile Court, 2020). In 2019, Cuyahoga County recommended 161 youth be bound over to adult court, with 101 of those bindovers being discretionary and 60 mandatory. However, only 101 youth ultimately were transferred into the adult system. Comparatively, Franklin and Hamilton counties recommended 15 and 21 youth, respectively, with many other counties recommending none (Franklin County Court of Common Pleas, 2020). A Columbus Dispatch article noted that of the 209 Ohio youth bound over to adult court in 2019, 170 (81.3%) were Black (Young, 2022).

COURT SYSTEMS

In Ohio, the state's Constitution of 1851 established the Supreme Court and four levels of lower courts, including district courts of appeals, courts of common pleas, probate courts and justice courts. Justice courts have since been replaced with county courts, which have jurisdiction over municipalities not serviced by a municipal court. Most counties have one municipal court and one county court of common pleas with general jurisdiction. Cuyahoga County is an outlier from other counties, because it has multiple municipal courts, several county common pleas judges, and a separate juvenile court.



BAIL REFORM BONDS

“The municipal court funding streams are problematic. Bail reform will not be effective until the states support the local court systems and detach the local courts’ fundamental dependency on fines and fees. If municipal court budgets are dependent on the collection of fees, there will remain an incentive for courts to require defendants to post a monetary bond.”
- Anne Sweeney, Legal Aid Society of Cleveland

recommendations for different criminal charges (Justia, 2022). Previously, Cuyahoga County’s municipal courts had different cash bail amounts for the same degree of misdemeanor offenses, or had different presumptions for setting bail for felony offenses that carried similar potential penalties. For example, a DUI offense in one municipality could require a bail amount of \$1,000 for the first offense or personal bond in another jurisdiction, or as Retired Judge Patrick Carroll of Lakewood Municipal Court shared bond was set according to the offense level with no adjustment if someone posed less of a flight or safety risk. Previous bail schedules were problematic for another reason.

Some courts required defendants to post a high monetary bond, which was used as a down payment on future court fines or to raise funds for that city/ municipality. The bond payment would be applied to

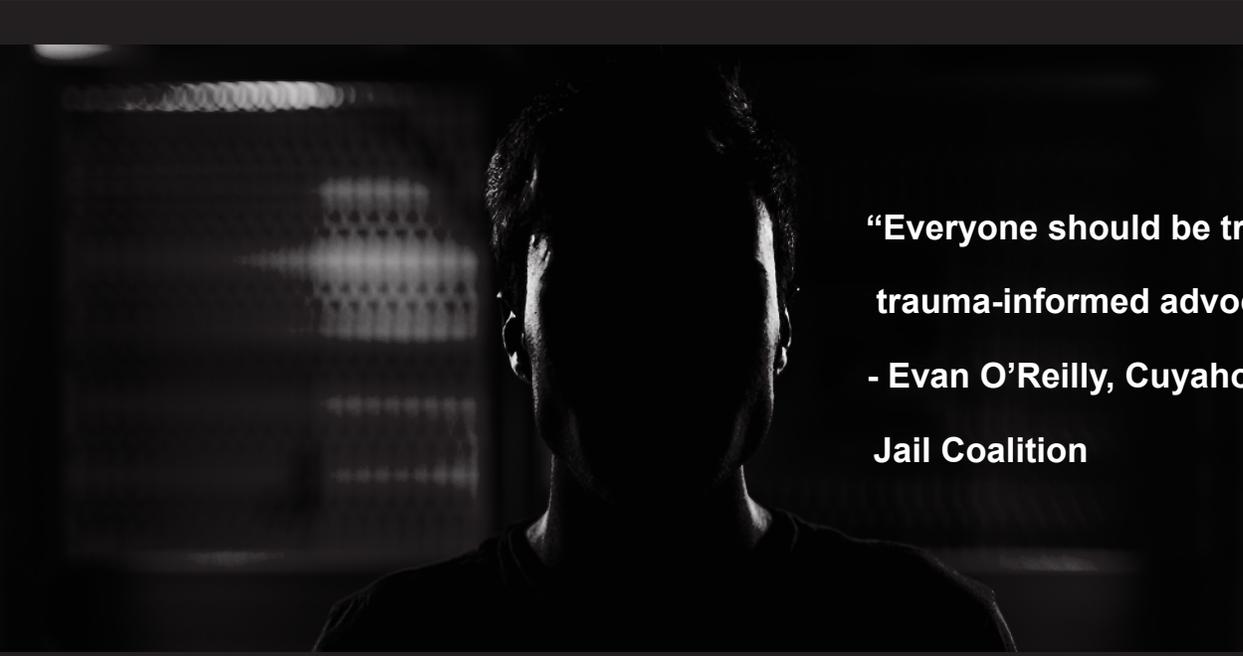
their future court costs, even if the defendant was later proven innocent. As a result, posted bail funds were improperly viewed by some jurisdictions as a revenue source. Depending on where the offense occurred, an individual charged with a misdemeanor for operating a vehicle under the influence (OVI) could be remanded to jail by one municipal court for their first or second offense, while someone else was released on an ankle monitor and ordered to complete drug and alcohol counseling, despite both criminal defendants having similar criminal backgrounds. With the Ohio Supreme Court rule change, each county’s residents gained continuity and equality on bail issues (Pretrial Release and Detention, 2022).

Municipal judges also have authority to set bail amounts and bond conditions for misdemeanor offenses, including instituting no contact orders or placing criminal defendants on ankle monitoring during the pretrial period.² They are responsible for establishing the first bond requirement for any person charged with a felony offense. After the first bond is set, felony defendants are transferred to the county jail, where they will await a second bond hearing with a common pleas judge, who can either accept the municipal court judge’s bond recommendation, modify the conditions required for the defendant’s release during the pretrial period, institute a higher monetary bail, or, in certain instances, order the defendant held without bond pending further review. When monetary bail is required by both a municipal and common pleas judge, an individual’s wait time in jail is longer, and this results in high pretrial populations. Because of this practice, the Ohio Supreme Court has made an effort to focus on bail reform.

² The pretrial period refers to the time between someone’s arrest and the final disposition of their case, such as charges being dismissed, the defendant accepting a plea agreement, entering a diversion program, or going to trial before a jury or judge. The pretrial period can last weeks or months depending on court administrative delays, attorneys filing court motions to continue a case, and other reasons. A person has not been convicted of a crime during the pretrial period and may be released from jail before trial without conditions or they can be required to post a certain monetary bail amount, be under court supervision with ankle monitoring, have a no contact order with a victim or a victim’s family, and/or submit to court-mandated behavioral and mental health counseling, or drug and alcohol counseling.

The Ohio Supreme Court focus on bail reform has been obvious for the last few years, as reflected in recommendations approved by and adopted by the 2019 Ohio Supreme Court Task Force to Examine the Ohio Bail System (Huffman, 2019), and as suggested in the 1999 Ohio Commission on Racial Fairness Report (Ohio Commission on Racial Fairness, 1999). There are wildly divergent opinions on how to ensure someone's appearance in court, whether through cash bail, bond sureties, personal bonds, remanding someone to jail, or a combination of other tools, including court monitoring and house arrest (Kohler-Hausmann, 2020). The bail system in the United States was originally designed to ensure a person's appearance in court, but many jurisdictions now use it to keep individuals in jail pretrial. According to Ohio Criminal Rule 46, when judges are setting cash bail they can only consider the seriousness of the pending criminal charges, someone's previous criminal history, and the likelihood someone will appear for trial (Pretrial Release and Detention, 2022). Recently, the Court clarified this rule in *Dubose v. McGuffey*, which held that judges cannot consider public safety as a risk factor when deciding whether or not a monetary cash bail is an appropriate condition, because bail is meant to facilitate release, not indefinite detention, and to ensure their appearance in court while the charges against them are being adjudicated (*Dubose v. McGuffey*, 2022).

The Dubose opinion contained a strong dissent, which argued that courts should be free, if not required, to take public safety risk into account when deciding whether a monetary bond is appropriate in any given case. Following the announcement of the opinion, the Court faced sharp opposition to its holding from some members of the Ohio General Assembly. The Legislature quickly introduced House Joint Resolution 2 and Senate Joint Resolution 5, in the Ohio House and Senate, respectively, which would require judges to consider public safety when setting cash bail. If passed by three-fifths of both houses, a constitutional amendment will appear on the ballot this fall (2022). If adopted by a majority of voters, the public safety factor will be added into the Ohio Constitution. This would explicitly override the Ohio Supreme Court's efforts to bring more equity into bail setting. One study found that using cash bail meant individuals who were incarcerated for just three days after cash bail was set had a 13% higher probability of being found guilty, compared to individuals who had been released with the least restrictive means (Digard & Swavola, 2019). Additionally, individuals who are incarcerated are less likely to have adequate access to their legal counsel and receive a fair trial, because they have less ability to gather evidence and develop a strong legal strategy with their legal counselor (Digard & Swavola, 2019). Constitutionalizing monetary bail would undo the work of municipal court judges who have adopted progressive practices that have kept more defendants from jail.



**“Everyone should be trained in
trauma-informed advocacy and care”
- Evan O’Reilly, Cuyahoga County
Jail Coalition**

As of April 8, 2022, there are three bail bills and two resolutions waiting for passage in the Ohio Legislature. Two bail bills, HB 315 and revised bill SB 182, would bring significant reform to wealth-based detention in Ohio, by ending cash bail and establishing a presumption for release for all criminal defendants unless they pose a flight risk or risk to public safety (Make bail changes, 2021-2022). However, one other bail bill, HB 607, would specifically require judges to consider a person's risk to public safety when setting a cash bail amount, instead of using non-financial means to assure a person poses no risk to the community, such as restrictions on travel or association or instituting a no-contact order between the accused and the alleged victim(s) (Add public safety, 2021-2022).

DATA

Many of the concerns raised in the interviews discussed in this report reference the need for more data and better access. All courts, law enforcement, and prosecutors can submit a query into the Law Enforcement Automated Data System (LEADS) criminal justice database, and criminal defense attorneys can obtain LEADS reports through the discovery process (NORIS, 2022). Generally, individuals with access to LEADS can see and report driving records, vehicle ownership, warrants, parole status, property damage and other specific entries (NORIS, 2022). To bring Ohio closer to one integrated data management system, which tracks post-sentencing outcomes, the Ohio Supreme Court worked closely with the Ohio Legislature to earmark \$800,000 for the Ohio Uniform Sentencing Database ("Uniform Database"). Many rural counties still handwrite their sentencing entries, while others have their own forms and case management systems. That makes it difficult to compare and align data, or understand why one judge sentenced in one way and someone else ruled more leniently, as discussed further in this report.

The courts' data management systems come at a cost. Currently, the majority of municipal courts use different data systems due to cost. Cleveland Municipal Court has adopted the Tyler Data Management System, which is used by Akron Municipal Court

and the Franklin County Common Pleas Court (Tyler Technologies, 2022). This will allow it to better coordinate with those jurisdictions. Separately, Garfield Heights has upgraded their website and fully digitized their municipal court records, unlike any other court in the region. Euclid Municipal Court wanted to adopt Tyler, but due to costs, had to use its second choice. It was noted by a number of judges that Ohio does not have an integrated data management system, which can lead to lags in information sharing, an understanding of criminal defendants' medical and mental health needs, or coordination of court-imposed sanctions for pretrial defendants or individuals navigating the post-conviction process. Without a coordinated system state-wide, judges, parole and probation officers, public defenders, and prosecutors waste days or weeks searching for information in multiple systems. If a person wanted to seal their criminal record in Ohio, their attorney would have to conduct both a criminal background check and records request in every jurisdiction where a person had a past conviction. To improve criminal record sealing or to get all the courts to speak fluidly to one another would cost millions of dollars.

FUNDING

A few other key elements of the 13 municipal courts in Cuyahoga County are useful to understand for background context. First is the Indigent Drivers Alcohol Treatment (IDAT) fund (MHA, 2022):

The IDAT fund "allows courts in Ohio to access necessary addiction treatment services for offenders convicted of operating a vehicle under the influence of alcohol or drugs (OVI) who are unable to pay for those services. In some circumstances, the funds may also be utilized for the use of an electronic, continuous alcohol monitoring device and for addiction treatment services for convicted non-OVI offenders when drugs or alcohol were determined to be a contributing factor to the crime" (MHA, 2022).



“Individuals needed neutral care that isn’t a probation officer or a court-appointed requirement . . . It’s terrifying to navigate the justice system alone. The amount of stimulation a person experiences before sitting in front of a judge is overwhelming”

- Sarah Hendrickson, MetroHealth Trauma Recovery Center

J. Carroll explained that every person convicted of a DUI must pay \$50 of their OVI fine (see ORC 4511.19(G)(1)(b)(iii)) and \$37.50 of their license reinstatement fee (see ORC 4511.191(F)(2)(c)) into the IDAT fund. Over time, the fund had become quite large, and courts have not been able to use it to fund mental health treatment services until now. The court controls its own fund and can use it for inpatient or intensive outpatient treatment. The Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board is the clearinghouse that directs a person to treatment and then requires the court to pay for the services (ADAMHS, 2022). In recent years, the number of referrals has become overwhelming and the ADAMHS Board placed the referral process back onto the municipal courts (MHA, 2022).

Second is the courts’ funding structure. According to the 2020 Ohio Judicial Conference Budget Resource Handbook, county and municipal courts are funded from three sources: the general funds of the state, county, and local governments, grant monies from public and private sources, and court costs paid by litigants or criminal defendants (Nicastro, 2020). Generally speaking, municipal and county courts have the most difficulty obtaining funding. In Cuyahoga County, the 12 suburban municipal courts receive little to no funding from the county and are largely

dependent on revenue allocations from their respective city governments, court fees charged to litigants, payments owed by misdemeanor criminal defendants, or special project funds like the IDAT. Municipal courts are still mandated by law to pay for judges’ liability insurance, staff salaries and health benefits, court building maintenance and repair, and defendants’ mental health evaluations and interpreters, among others (Nicastro, 2020). To cover these costs, many courts must rely upon court fines and fees and city allocations.

DIVERSION & PUBLIC DEFENSE

Most specialized diversion services, like mental health dockets, are only available to suburban residents who are accused of a felony crime and have their cases bound over to the county’s Court of Common Pleas. For example, to increase the number of services available to Garfield Heights residents, the Garfield Heights Municipal Court transfers cases involving a mental health diagnosis to Cleveland Municipal Court, because it receives federal funding for its drug and mental health courts. For individuals who are not eligible to be transferred, or due to a backlog of cases in Cleveland’s specialized mental health docket court, Garfield Heights has used funding from the IDAT fund to pay for mental health services and employed

the services of Recovery Resources and Murtis Taylor to help individuals navigate mental health services in the community. J. Carroll discussed the adoption of a standardized mental health assessment, which has allowed the courts to use the same standards and indicators for identifying mental illness.

The Cuyahoga County Public Defender's Office only provides legal services to defendants with cases in the county's Court of Common Pleas or Cleveland Municipal Court, because it receives state funding from the Ohio Public Defender's Office and the county. All other suburban municipal courts must contract with private attorneys to provide necessary legal services to indigent persons. Both Garfield Heights and Lakewood assign legal counselors from a court list and pay them \$40 per case and \$150 if the case has a preliminary hearing. East Cleveland Municipal Court will pay counsel \$300 to \$400 for a full-day or a half-day of service, with three attorneys rotating on each day. The caseload in East Cleveland can range from 5 to 45 cases on any given day. Euclid Municipal Court pays \$45/hour for out-of-court services, \$55/hour for in-court services, and a maximum of \$150 for any misdemeanor case. Felony cases are treated differently and, depending on the case, may receive less. All municipal courts, with the exception of Cleveland, will only provide legal representation to felony defendants at their initial hearing with the municipal judge. Legal services are then terminated when the case is transferred to the Court of Common Pleas. To continue the contractual relationship would cost each jurisdiction substantially. The same is true for providing pretrial services for felony defendants. For example, East Cleveland Municipal Court has a chief and deputy probation officer, but no pretrial services that are official or funded. That court has the ability to conduct pre-sentence investigations and some mental health evaluations prior to sentencing, but nothing substantive.

The Court of Common Pleas has the most comprehensive services for pretrial, mental health, diversion, and probation because it receives a combination of federal and state funding and a large allocation from the county budget. Within the

In January 2020, Cuyahoga County committed 6,958 men and 324 women to prison, or 15.57% and 8.2% of the state's men and female prison population, respectively (Ohio Department of Rehabilitation and Correction, 2020).

county jail, there are mental health assessments by MetroHealth Hospital staff, and the county court has more pretrial programs, including diversion, early intervention, intervention-in-lieu of conviction, and specialized court dockets, and more detailed reports from bond commissioners and pretrial services to county judges. These services dwarf what is available to the municipal courts, but by no means do they always operate with fluidity and completeness. As quoted from a presentation by J. Brennan Sheehan, the average length of stay in the county jail is still upwards of 20 days. The Court of Common Pleas and the Cleveland Municipal Court are piloting a centralized booking program for individuals accused of both misdemeanor and felony crimes, with the hopes of having more swift bond reviews, mental health and general needs assessments, and expedited processing of individuals who do not need to be in jail. In support of the centralized booking process, the Cuyahoga County Council approved \$2.4 million last fall to renovate one floor of the jail in the Justice Center and an additional \$825,000 for demolition and preparation work.

If successful, the new booking process could divert more individuals with mental illness to other community-based resources, an improvement over the county jail's prior leadership. Following the tenure of Ken Mills, the former jail director who was sentenced to nine months imprisonment for falsification of jail documents and dereliction of duty, the jail has moved to improve many of its mental health services (Shaffer, 2021b). Under Mills' leadership, mental health evaluations were either slow or never complete. Mills even intentionally reduced the number of corrections

officers in the mental health ward from eight to two officers, allowing some medical staff to be assaulted by detainees who were in a state of trauma or psychosis. Now there are more comprehensive assessments and significantly more trained mental health evaluators and nurses.

To alleviate the county's reliance on the county jail for the provision of mental health services, MetroHealth Hospital is building a 100-bed behavioral health hospital, which is scheduled to open in October 2022. The beds will help provide bed capacity on the east side because of the great need for mental health services.

Another resource to improve mental health services are jail liaisons. The jail liaison receives referrals either from the court or the court's probation officer(s). After receiving the referral, they complete an in-person assessment with the defendant in the municipal or county jail where they provide a case management plan and linkages to community-based providers. Once providers are notified that a community member is in need of assistance, it is up to the individual person and provider to form a client-provider relationship.

BINDOVER

Lastly, many stakeholders from all types of organizations identified concerns about the extent and harm of bindovers in Cuyahoga County—concerns discussed in depth further in the report. Bindover is the process by which youth charged with offenses that would be considered felony crimes for adults, but for the offender's status as a juvenile, are removed from the jurisdiction of the juvenile court. These individuals are treated as adults when determining criteria for granting diversion and/or other case dispositions. .

There are discretionary and mandatory bindovers. Discretionary bindovers apply to youth who are 14 to 16 years of age, have committed a higher-level felony, such as a felony one or two with a gun specification, and have been detained in the Cuyahoga County Juvenile Court Early Intervention Diversion Center ("Diversion Center") following a probable cause hearing (NAC, 2022). The probable cause hearing determines if there is sufficient evidence to charge

a youth with a crime and it determines a child's amendability to the juvenile system. Children found un-amenable to rehabilitation in the juvenile system are likely to be bound over to the adult court. There they risk the possibility of being found guilty of a felony and sentenced upon conviction to an adult jail or prison. Bindover is mandatory and automatic for youth who were between the ages of 16 and 18 when they committed a felony one or two, such as murder, aggravated murder, aggravated burglary or robbery with a weapon, or any attempt of one of these offenses.

Other factors may subject a youth to an automatic mandatory bindover. These factors include being between the ages of 16 and 18, or previous adjudication as an adult, no matter their age. Also included are whether a youth was sent to the Ohio Department of Youth Services (ODYS) previously; whether the youth has a lengthy arrest or criminal conviction record; or whether they have a pending case or warrant for any other high-level felony. Additionally, if a youth fled the police, if they have a writ of *capias* writ (i.e., there is an outstanding writ ordering the person's arrest), if the person ever failed to show up for court, even for a low-level offense, then they will be bound over. Some lower level felonies may result in a bind over, if a child is currently incarcerated at ODYS and picks up additional offenses, such as assaulting another youth or staff member, causing a riot or being accused of aggravated assault, or they are a threat to the detention facility's safety.



The overwhelming number of youth (972) who had an active case resided in Cleveland, with most living in Payne-Kirtland Park (80 youth), Central (67 youth), Old Brooklyn (58 youth) and Clark-Fulton (56 youth) neighborhoods (Cuyahoga County Court of Common Pleas, 2020).

The Cuyahoga County Prosecutor's Office indicates it has implemented changes in the past several years to divert more youth from the juvenile system and change its charging decisions in lower level cases. Starting in 2012, the prosecutor's office reached an agreement with the City of Cleveland to provide more diversion options for Cleveland youth, which were lacking compared to the nearby suburbs. In the last two years, youth assessments for diversion, competency to stand trial, and screenings for mental and behavioral health are completed before any charging decisions are made. Completing this assessment early can determine if a child is diverted from the criminal legal system, or if they will be charged as a delinquent or an adult. All assessments and screenings for diversion programs are now managed by the Diversion Center. The Diversion Center staff work with the prosecutor's office to determine, based upon a matrix formula, if a youth can be diverted (NAC, 2022). If a youth is flagged for having a mental illness, they will be referred for a more comprehensive behavioral health assessment.

However, based on a checklist, prosecutors will decide not to divert any youth who is accused of a felony one or two offense, especially one with a gun specification or suspected sex offense; anyone who is suspected of committing a lower-level felony and has been previously adjudicated as an adult or convicted of a prior felony; or a youth who is arrested and has either another pending case, which is active and awaiting adjudication or disposition, or is on community

control for another offense.³ The intention is to track them toward incarceration, because the conclusion is that they are unamendable to juvenile court rehabilitation efforts. This avoids allowing the youth to benefit from diversion services since they may face incarceration for one or more other offenses.

There is no information on how many youth who are assessed for a mental or cognitive disability are precluded from prosecution and if there are racial disparities in those assessments, particularly if more African American youth are still adjudicated delinquent, versus other races, when they have a mental or cognitive disability. Where there is very reliable and telling data is the number of youth per municipality that had a delinquent or unruly case in 2020. The overwhelming number of youth (972) who had an active case resided in Cleveland, with most living in Payne-Kirtland Park (80 youth), Central (67 youth), Old Brooklyn (58 youth) and Clark-Fulton (56 youth) neighborhoods (Cuyahoga County Court of Common Pleas, 2020). The suburban areas with the highest number of youth residents charged as unruly or delinquent were Euclid (129), Parma (119), Cleveland Heights (89), Maple Heights (78) and Garfield Heights (62). Berea (47) and Brookpark (4), which are predominantly white suburbs, had higher youth delinquency rates than either Shaker Heights (35) and Warrensville Heights (26), both of which have higher Black populations than their white suburban counterparts (US Census, 2020).⁴ In 2020, the number of cases that involved a third-degree felony or less and

³ Other criteria that determine if a child is held in detention are: the child's prior adjudications, their previous success with diversion services, and certain victim-oriented considerations that will prevent the youth's diversion, especially under Marsy's Law, which requires diversion to be denied if the victim opposes it or the victim is owed any restitution over \$100. Youth assessments can factor into whether diversion is appropriate.

⁴ Warrensville Heights, Ohio has 13,789 residents, 92% of whom are Black and 5.4% are White; Shaker Heights has 29,439 residents, 36.5% of whom are Black and 55% are White; Brookpark has 18,595 residents, 4.6% are Black and 86.7% of whom are White; and Berea has 18,545 residents, 8% are Black and 83.8% of whom are white (US Census, 2020).

were successfully diverted (e.g., the case is not formally charged) was 48%. In 2021, it's approximately 45%. Prosecutor Kyker stated that many reports submitted by police are diverted.

As told by the assistant prosecutor for Cuyahoga County, Brett Kyker, police departments have a lot of discretion in who they choose to divert by either not arresting youth for typical delinquent behavior or classifying the suspected crime as an initial misdemeanor or felony. Once they are arrested and brought to the Diversion Center, police discretion ends. A prosecution unit gathers initial information about the criminal charges, the youth's suspected involvement in the crime, crime scene and witness evidence, and the youth's criminal history, along with pending criminal delinquency or abuse and dependency cases. Charges are drafted, and the intake supervisor decides on three potential avenues: 1) making the case "official" by filing formal criminal charges—serving the child's family with a copy of the complaint and a summons to appear; 2)

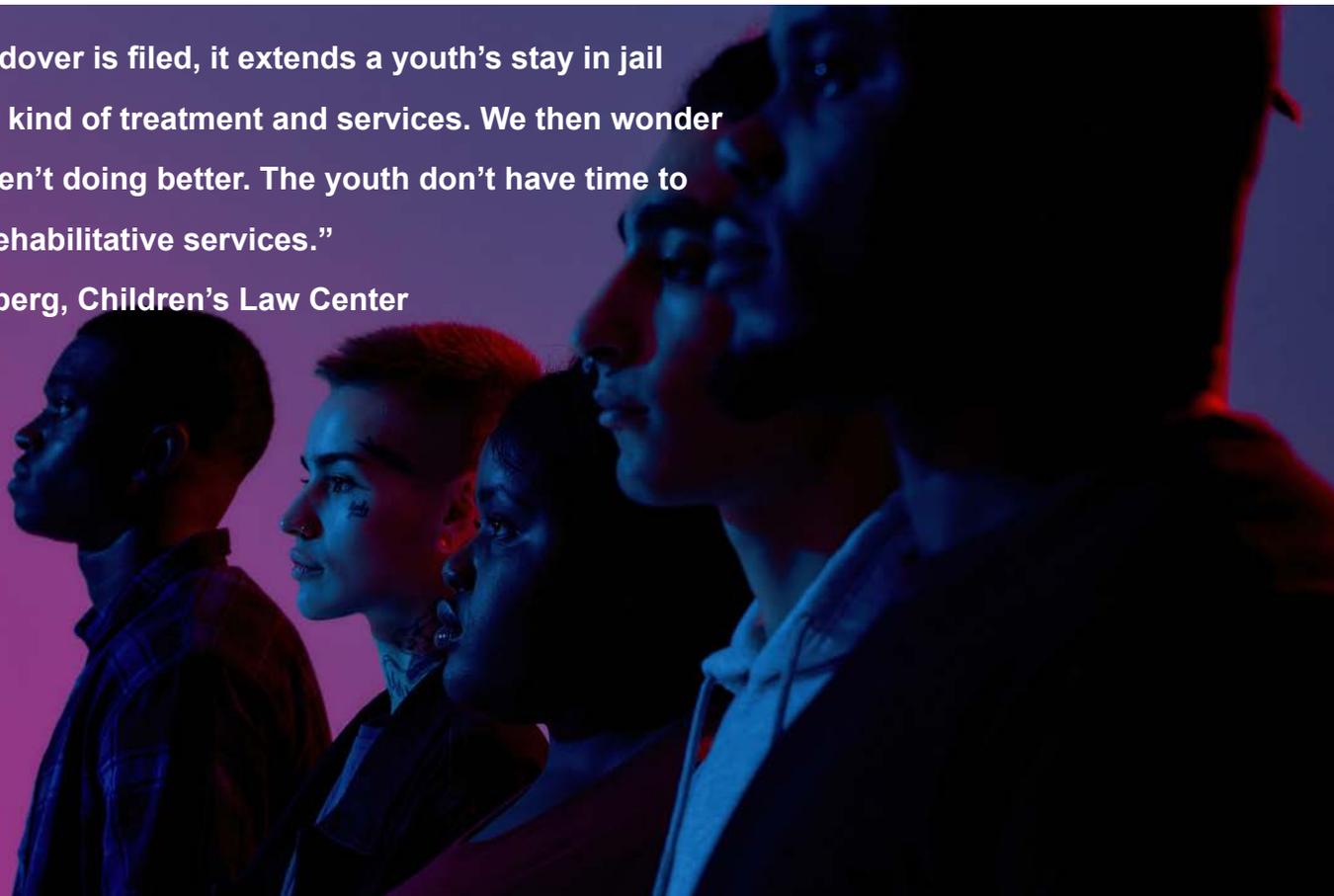
recommending the child for diversion after receiving input from the victim or police detective; or 3) marking the case as pending if there are questions about a youth's mental competency to stand trial.

Juveniles have fewer due process protections than adults. A single probable cause hearing will determine if they remain in custody, if they are amenable to rehabilitation in the juvenile system, if they should be bound over to the adult system, or if diversion is an option. The probable cause hearing can last twenty to thirty minutes and provides no recourse to a grand jury, who can determine whether the factual allegations support a criminal indictment. Grand juries do not exist in the juvenile system.

The complexities of the justice system can be seen as an initial barrier to reform, as mentioned by many interviewees below. We share these details to provide a foundation for understanding the concerns identified by stakeholders and to give insight into the many points of entry for change.

“When a bindover is filed, it extends a youth’s stay in jail without any kind of treatment and services. We then wonder why they aren’t doing better. The youth don’t have time to engage in rehabilitative services.”

- Leah Winsberg, Children’s Law Center



SURVEY

**“Legislation declaring racism a public health crisis in Ohio as a means to create greater investment in public health and a broader awareness campaign”
- Rebecca McMahon, Cleveland Metropolitan Bar Association**

Information gathering for the report began with a community survey. Forty-one organizations were represented in the completed surveys. Many of these organizations serve a range of roles in the community, but we defined the categorization based on core mission and activities. Responses represent five types of organizations: community grassroots (9), service providers (11), policy advocacy (13), research (2), and government (4). We also have survey responses from an independent journalist, representatives from a union, and a funding collaborative.

One key area of interest for this project was to understand the diversity of leadership in organizations involved in criminal justice reform in Northeast Ohio. We know from U.S. Census data that Cuyahoga County is 63.5% white, 36.5% Black Indigenous and People of Color (BIPOC), while the Cuyahoga County jail population is 73% Black. We asked survey respondents about racial/ethnic identity and gender pronouns (See Appendix A). Of the organizational categories, only the community grassroots had more BIPOC leaders (56%) than white. Thirty-eight percent of policy advocacy organizations have BIPOC leaders, and 18% of service provider respondents. All of the organizational categories either have a 1:1 ratio of women to men or more women than men. A few respondents chose not to answer.

We know that criminal justice systems are extensive and complex, with layers at the community and structural levels, including entry points, incarceration, and community reentry (Wood, 2020). Areas of organizational effort might address any of these layers. One goal of this project is to understand the landscape of change efforts in order to identify gaps.

We asked survey respondents to identify the areas of criminal justice in which their organization works. We sorted the responses by organizational category and prevalence. For example, community grassroots organizations mostly named bail/bond reform, behavioral/mental health reform or diversion, civic engagement, policy reform, and restorative justice as areas of criminal justice (CJ) work. Civic engagement, police reform, and the City of Cleveland consent decree were the most prevalent areas of work for policy advocacy organizations. Workforce development and reintegration initiatives were highest for service providers, and pre-trial diversion for government respondents.

Within these areas of work, organizations are implementing a range of strategies. We know that effective, large-scale change requires a variety of strategies addressing multiple levels of systems and engaging stakeholders from all parts of the systems. The landscape of CJ reform in Northeast Ohio includes the types of change efforts being used and what strategies might be neglected. Measuring the efficacy of a particular organization's strategies would be a next step but is beyond the scope of this report. Building the voice and power of directly impacted people was the most identified strategy of the community grassroots organizational respondents. Public or community education and policy and advocacy were most identified by policy advocacy organizations; building the voice and power of directly impacted people and policy and advocacy were most identified for service providers. Government respondents most identified public and community education, policy and advocacy, data collection, and program evaluation.

In addition to strategies and areas of work, the survey asked specifically about legislative efforts that organizations have undertaken in the last few years. For community grassroots and policy advocacy organizations, the most prevalent area of legislative effort was police or law enforcement reform. Bail or bond reform was the second most prevalent for community grassroots organizations (57%). Policy advocacy organizations identified bail or bond reform and reducing criminalization or criminal penalties created by local or state law as the two second most prevalent topics (36%). For service providers, one of the most prevalent legislative topics was collateral sanctions and reducing criminalization or criminal penalties created by local or state law (56%). Forty-four percent of service provider respondents identified pretrial diversion or detention reform, civic engagement for justice-involved individuals, and limiting expansion of registration requirements for justice-involved individuals.

Finally, as we have discussed, criminal justice reform is multi-layered and requires change efforts in many forms. We asked respondents to identify the top priorities they believe are necessary for reform in Northeast Ohio, whether related to strategy, practice, or structural change. The key themes across organizational types surveyed were juvenile justice reform, diversion or alternatives to incarceration, addressing basic needs, and policy reform.

Many organizations across the categories identified a range of concerns about the state of juvenile justice as well. A big emphasis was on early intervention with mental health and family support services, reducing surveillance of youth in the community and in schools (school-to-prison pipeline), and ending youth detention with a focus on diversion programs/alternatives to incarceration. Several community-grassroots and advocacy-legal organizations also named explicitly the need to end the youth bindover process. A few of these organizations also identified the significance of addressing the conditions of youth currently incarcerated.

Beyond juvenile justice, about a third of survey respondents identified diversion or alternatives to incarceration as a key priority. A few respondents also identified development of non-police crises and de-escalation resources as key. About 25% of respondents identified addressing basic needs associated with poverty as a key priority to criminal justice reform, for youth and adults. These include housing, healthcare, and employment. Some organizational respondents identified meeting basic needs as key to preventing justice involvement, and some focused on reentry efforts to support individuals post-incarceration. Other priorities to address prevention and post-incarceration strategies include a range of policy reforms, including police reform. About 25% of respondents named bail and/or pretrial reform as a priority, 10% ending collateral sanctions, and 10% sentencing reform generally and/or specific to drug-related offenses.

“The youth were going back into homes that had levels of toxicity that were counterproductive to their development and growth. Others were homeless. They need healthy environments for them to transition in.”

- Fred Ward, Khnemu Foundation & Building Freedom Ohio



INTERVIEWS

“Many white activists want to support migrant workers and immigrant communities but they create nonprofits that are founded on “white saviorism.””

**- Chrissy Stonebraker-Martinez,
InterReligious Task Force on Central
America**

COMMUNITY GRASSROOTS ORGANIZATIONS

PRIORITIES

- Decriminalizing juvenile justice
- Meeting basic needs (housing, childcare, transportation, health)
- Re-entry support
- Trauma-informed, restorative justice instead of punitive strategies
- Bail reform
- Police accountability

CHALLENGES

- Income inequality & access to resources
- Funding allocation of scarce resources
- Lifting up voices of most impacted
- Lack of trust, transparency, & accountability

LOOKING FORWARD

- Foster care to prison pipeline
- Restorative justice
- Civic engagement
- Reentry support

The following organizations and individuals that focus on reforming the criminal legal system through grassroots or direct organizing and community mobilization were interviewed as part of our environmental scan: Kareem Henton and Latonya Goldsby co-directors from Black Lives Matter (BLM) Cleveland, Antonio McMullen with Changeseekers (MyCom), Deb Kline from Cleveland Jobs with Justice, David Lima with a Showing Up for Racial Justice Northeast Ohio (SURJ NEO) and the City of Cleveland’s Police Review Board, Evan O’Reilly from the Cuyahoga County Jail Coalition, Chrissy Stonebraker-Martinez from the Inter-Religious Taskforce on Central America, Kenza Kamal from the Juvenile Justice Coalition (JJC), Fred Ward from the Khnemu Foundation and Ohio Organizing Collaborative (OOC), Rachael Collyer from the OOC, Emma Keeshin from SURJ NEO, James Hayes with Ohio Voice, Avery Martens from SURJ Ohio and the Transformative Justice Network, and community members Dave and Jacqueline Patterson. In total, thirteen community-grassroots organizational representatives were interviewed, along with several community members involved in direct organizing, based on information from the survey, our contacts in the community, and recommendations from others.

Interviewees demonstrated an incredible depth of knowledge regarding the complexity of Northeast Ohio’s CJ landscape. They have been actively engaged in change efforts for more than 20 years in both paid and unpaid roles, and they have family members who have been directly impacted by police violence. We

asked these stakeholders about their work on justice and legal reform in Northeast Ohio and the priorities they see as necessary for systemic change. We have organized their responses into priorities, challenges, and next steps for achieving this change.

Priorities

Interviewees identified a range of priorities for transforming a criminal legal system fettered with racial inequity and bias—from lessening individuals’ contact with the system to direct services to policy reform to systemic change. While prevention is inextricable from service provision and organizational change or from systemic shifts, one core priority named by multiple stakeholders was preventing youth-police interactions altogether. Decreasing the frequency of youths’ interactions with police would reduce the range of harms they encounter within the juvenile justice system. Interviewees had very informed, nuanced ideas for direct service programming and policy changes that would prevent youths’ and adults’ engagement with the criminal justice system.

People identified service provision as necessary for meeting individuals’ basic needs, including safe housing, childcare, transportation, and support for self-sufficiency post-incarceration. We know from research that access to resources is one of the primary factors in varying crime rates from community to community (Anser et al., 2020). Concrete activities such as record sealing clinics, voter registration, and voter turnout also have a big impact on whether adults can successfully reintegrate into the community. Furthermore, interviewees prioritized shifting the service provision framework that is excessively punitive. For example, many individuals who are released from prison have parole requirements that include seeking employment, paying child support arrearages, attending anger management or drug and alcohol counseling, maintaining appointments with mental health and behavioral health specialists, and more. Separately, individuals who participate in specialized court dockets rather than going to jail or prison can have court-mandated requirements around treatment, counseling, and restitution. If the requirements of such dockets are not met, it could result in a person’s incarceration. A less punitive approach could consist of the criminal legal system removing mandated



Berea (47) and Brookpark (4), which are predominantly white suburbs, had higher youth delinquency rates than either Shaker Heights (35) and Warrensville Heights (26), both of which have higher Black populations than their white suburban counterparts (US Census, 2020).

requirements and allowing individuals to work directly with restorative justice facilitators across a variety of environments, ranging from schools to detention facilities to courts. These facilitators would be completely independent from the criminal legal process and would not include a formal role in the justice system. Research has shown that individuals benefit from more community-based support. When they have less contact with the legal system, they have better outcomes (Bazemore & Stinchcomb, 2004; Fox, 2012; Kubek et al., 2020; Mahoney, 2019). Additionally, trauma-informed advocacy training should be available for everyone involved. One interviewee also suggested increased engagement in schools through the teaching of civic engagement and voting rights.

Inseparable from these service provision priorities are the policy changes needed to support reform in the short term and facilitate substantive change in the long term. Many of those interviewed emphasized ending juvenile bindovers as an urgent imperative. As previously mentioned, the bindover process involves transferring minors (14+ years old) from juvenile to adult court. Additional suggested priorities related to juvenile justice ranged from ending juvenile detention full stop (including budget reductions for detention centers and prisons), to creating alternative programming for those involved in the juvenile justice system. One stakeholder maintained, at the very least, that our community should address the harmful conditions now existing in the county's juvenile detention facilities. Those conditions were detailed in

the Center for Children's Law and Policy Report of 2018 (Center for Children's Law and Policy, 2018), and were exacerbated by the ongoing pandemic. Among several concerns the report mentioned were that staffing and the over reliance on overtime hindered the Cuyahoga County Juvenile Detention Center's ability to adequately supervise youth in a humane manner. Inadequate staffing in the years before and during the COVID-19 pandemic led to instances of youth unrest that were often mislabeled as rioting. In August 2021, one such "riot" at the JDC occurred because youth were held in their cells for extended hours, had insufficient programming, and were unable to make phone calls due to staffing issues (Richmond, 2021).

Recommended reforms included more resources for diversion programs (including diversion dockets) and extensive bail reform. Currently, judges have a range of bail options, from allowing criminal defendants to be released on their own recognizance, to being remanded to custody as they await trial if they pose a flight or safety risk (determined by the judge). Even a minimum of three days of pretrial detention may result in an individual suffering a loss of housing, employment, custody of their children, worsening mental and behavioral health outcomes, and recidivism (Meitl & Morris, 2019; Walker & Herting, 2020).

Police accountability was mentioned generally, and two specific areas of reform stood out. One interviewee recommended reconfiguring police responsibility so that interactions with the general public are limited—"take traffic out of the hands of the police," change emergency protocols, and deploy care responders on mental health calls to decrease the potential harm to those in crisis. Second, more transparency and accountability are needed regarding police use of force incidents, with oversight separate from police systems.

Some of these concrete service and policy recommendations dig at the roots of the problems of the criminal justice system in Northeast Ohio. Interviewees named explicitly the systemic shifts required to make these changes possible and advocated for radical decision making, such as closing all juvenile

detention facilities, ending youth incarceration, and prison abolition. To achieve prison abolition or youth incarceration, a nuanced analysis of the impact of the criminal justice framework and its link to other community concerns such as child welfare systems is needed. How can we understand the school to prison pipeline or the foster care to prison pipeline (Krinsky, 2010; Muñiz, 2021)? Community members see the connections to criminal justice and need the resources and support to make the connections more visible.

In the discussion of restorative justice mentioned above, respondents emphasized the need for leadership to happen outside of the justice system—trust in restorative processes will not come if they are operating within the carceral system. Relatedly, interviewees talked about reconfiguring police responsibilities to significantly decrease the contact between police and the public. Public safety should be redefined outside a criminal justice framework so that community members can get support when needed without involving the police. This requires creating crisis support alternatives but also significantly shifting our understanding of the role of police and the resources we attach to criminal justice systems.

Community organizers also addressed the capacity gaps of change-making efforts. Many identified the need to shift resources to grassroots organizing from large, established organizations, while also emphasizing that fighting over scarce resources is part of the larger problem of prioritizing criminalization over other public safety strategies. More resources are required to train youth and those with direct experience of the criminal justice system in leadership and organizational skills, with a commitment to long term support beyond one-time training. Creating paid staff positions would help organizations rely less on volunteers and give opportunities for community members to earn a living wage for their work. Interviewees also identified the need for data collection and program evaluation of services Black community members access.

Respondents talked in different ways about relationship-building among organizations and communities invested in systemic criminal justice change. Some of this is compromised by the competition for resources and by legitimate fear of further marginalization. Strengthening the “fabric” or “ecosystem” of change work could engage community members around specific issues while also educating and linking them to larger, longer term efforts.



Challenges

An overall challenge underlying many of these concerns is income inequality and community members' access to basic needs like safe housing, especially for those who have been disproportionately impacted by the justice system.

Everyone named funding as a challenge. Interviewees expressed anger and frustration with the allocation of resources to programs and institutions that are not working, including building a new jail. An activist speaking on behalf of the Juvenile Justice Coalition stated the juvenile detention centers should be abolished, restorative justice implemented outside of the carceral system, and age-appropriate interventions implemented. However, implementing these kinds of changes without funding, or when funding is being directed to carceral systems, would be difficult. Many community organizers also identified the challenge of scarce resources for capacity building and long term support of local and formerly incarcerated community members as organizers and leaders. Without support for capacity building, change efforts are stuck in crisis or response mode with few resources for planning or base building. This also creates challenges for coalitions because of the few resources to do skills sharing and relationship building to prevent working in silos.

In changemaking efforts, respondents identified the need for those who have been directly impacted by the criminal justice system to have a political organizing home. This could address the challenge of needing leadership development and long term capacity building led by community members who are formerly incarcerated and their family members. Another related challenge is the lack of paid organizers who are specifically focusing on the school-to-prison pipeline. How can the change efforts be understood as an ecosystem to facilitate cooperative efforts, identify gaps, and shift power?

Interviewees named a range of ways the lack of trust, transparency, and accountability in the justice systems increase the harm and make change difficult. From

the gerrymandering of state voting districts to police guarding city council meetings, stakeholders showed how a lack of trust makes systemic change necessary rather than reform. Furthermore, the lack of access to data and program evaluations are barriers to educating the community about the problem and making changes. And the lack of accountability of the police and other parts of the system for harm caused reflects decision makers' unwillingness to engage in substantive change. Interviewees gave the conditions in the Cuyahoga County Jail and in the Juvenile Detention Center as key examples of extensive harm perpetrated when no one in positions of power takes steps to redress the impact.

Looking forward

The organizations represented in these interviews are actively engaged in addressing these challenges and priorities. Many of them identified efforts that they were unable to undertake because of a lack of resources, whether staff, funding, or data. Some of these are discussed above, and we summarize others here. For example, two immediate topics BLM Cleveland wants to address are how sales tax (the revenue source for the new jail) will affect homeownership in the city, specifically Black homeownership, and how the child welfare system is linked to incarceration (foster care to prison pipeline: Williams et al., 2021). Multiple interviewees discussed hopes for restorative justice programs outside of the criminal justice system, safe housing programs, and curriculum development for at-risk youth and general civic engagement. Looking forward, community organizers have goals that get at the roots of social change. Goals include ending youth confinement in all forms, developing young people into community leaders, and more ballot initiatives as a way to engage the public. Deeper still, goals include addressing the legacy of redlining and ongoing gentrification, the extreme disparity in infant mortality rates, and the quality of life for people impacted by the criminal justice system.

SERVICE PROVIDER ORGANIZATIONS

PRIORITIES

- Needs of the populations served by the organizations
- Data access & transparency
- Trauma-informed, comprehensive training for justice system
- Bail reform
- Community input

CHALLENGES

- Resources: staff, funding
- System barriers: judicial discretion, types of sentencing, collateral consequences
- Bias in policing & sentencing
- Reentry barriers
- High rates of poverty & racial disparities in housing & unemployment

LOOKING FORWARD

- Community involvement in decision making
- Decreasing collateral sanctions
- Collecting relevant data
- Trauma-informed programming

In understanding the landscape of criminal justice reform in Northeast Ohio, organizations providing direct services to individuals and communities most impacted by arrest and incarceration have a particular perspective on the current state and future of the work. A full survey of all service providers in the region is beyond the scope of this report, but the organizations interviewed represent a range of positions and populations. Towards Employment (Jill Rizika) addresses post-incarceration workforce development needs, and True Freedom Ministries (Mike Swiger) focuses on substance use and housing needs, along with a variety of supportive programming for skills training during and post-incarceration. Writers-in-Residence (Zachary Thomas) focuses on writing and storytelling for incarcerated youth, and the Cleveland Mediation Center (Danielle Cosgrove and Kirby Broadnax) provides family mediation services along with reentry support around homelessness and building restorative justice resources. The Metrohealth Trauma Recovery Center (Sarah Hendrickson) is oriented to addressing the social determinants of health and training all relevant personnel in trauma-informed practices, along with the direct services provided by Recovery Resources (Seona Goerndt, Sandra Sims, Annette Amistadi, Jean Evans). We also include a conversation with Mary Crowley at The Fountainhouse in New York for insight into other community programming.

Priorities

Most of these service providers oriented their work in a larger ecosystem of change regarding the criminal justice system. They identified the need for more access to and transparency around data, more comprehensive training for court, jail, and prison staff, bail reform, and a cultural shift to be more trauma-informed. The day-to-day services they provide focus on reentry needs such as employment, housing, addiction support, and family reunification. Some services are oriented to address the psychosocial needs of crime victims and people entering the court system. All of the organizations emphasized the need for community input and support for those who are most impacted by



the criminal justice system to tell their stories without increasing their vulnerability.

Challenges

The challenges service providers identified reflect their priorities as well as their views of the larger criminal justice system. Many organizations need more resources (staff and funding) to make their services comprehensive or to expand and address other needs. Other challenges include specific ways the justice system works—judicial discretion in various decision making processes, types of sentencing⁵ (“flat sentencing”, gun-related charges), and collateral consequences for people with a criminal record. The relationship building necessary for networking with decision makers at all levels was identified as a challenge because of the constant changes of who is in each role. Structural challenges that the service providers identified included ongoing and historical bias in policing and sentencing and limited opportunities for work and housing for individuals with a criminal record. Service providers also named the lack of understanding of restorative justice and trauma overall as a major barrier in making changes to the criminal justice system. However, other challenges were largely systemic.

One of the primary challenges for the region is the high rate of poverty and the concomitant problems. Cuyahoga County’s percentage of the population living below the federal poverty line is 18.1%, higher than the national average of 13.1% and Ohio’s average of

⁵ Trial judges have a range of sentencing options depending on the level and severity of the offense, and whether Ohio law permits them to consider certain mitigating factors like self-defense claims, the victim’s negligence or recklessness in an accident, a defendant’s diminished cognitive or mental capability, age, or other circumstances. Sentencing can include fines, probation, short-term incarceration, suspended sentences, serving a minimum or mandatory prison sentence, or diversion that will result in the defendant’s charges being dismissed if they complete certain conditions like paying all court fines and fees and/or victim restitution, completion of drug and alcohol counseling or community service, and not being re-arrested or convicted of a new offense.

14.5%, and Cleveland’s percentage is 34.6 % (Office of Research, 2020). Beyond this, children of color experience much higher rates of poverty than white children, 27-39% compared to 10-17% (Office of Research, 2020). We also know that this disparity is seen in the child welfare system. In 2021, of the children in out of home care (under the auspices of Cuyahoga County Division of Children and Family Services), 61% were Black and 25% were white (Weiskittel, 2022). From the total weekly count of children in state custody, we know this represents more than 1,000 Black children.⁶ Research increasingly shows that involvement with the child welfare system can “compound disadvantage” for Black youth, increasing the likelihood that children will experience adverse outcomes over their lifetime (Dettlaff, Boyd, Slack, & Berger, 2020, p. 254).

Affordable housing affects children as well: “Cleveland public schools recorded 2,271 homeless students in 2020. 263 were staying in local shelters and 2,008 were doubled up with family or friends” (NEOCH, 2021, p. 2). Northeast Ohio lacks sufficient affordable housing units to meet the needs of individuals and families living and working in poverty. In the state of Ohio overall, 29% of renters are “extremely low income” (NEOCH, 2021, p. 2). Housing instability directly impacts other areas of a person’s life, and experiencing homelessness significantly increases the likelihood of interacting with the police and being arrested (Baxter et al., 2019; Mitchell, Clark, & Guenther, 2017).

Racial/ethnic disparities also impact unemployment in the region. In the Northeast Ohio Workforce Development Plan: 2021 - 2025, unemployment is rated high for the region as a whole, with job losses particularly large for people of color (Ohio Means Jobs, 2021). The barriers identified in this plan reflect concerns identified by interviewees; people seeking jobs will encounter difficulties around racial bias, ex-offender history, disability, transportation, and

⁶ On the week of 4/11/22, the total count of children in the custody of Cuyahoga County Division of Children and Family Services/Health and Human Services was 2466. This number is updated weekly on the agency website (HHS, 2022).

substance abuse (Ohio Means Jobs, 2021). These are in addition to a larger concern about the mismatch of skills needed by employers and the background or training of many job seekers. All of this, from regional poverty, poor child welfare, housing instability, and barriers to employment contribute significantly to which Cuyahoga County residents will experience incarceration and which will be successful.

Looking forward

Many service providers highlighted their focus on community involvement in programming, planning, and decision-making—especially the participation of those with direct experience of the criminal justice system: “Ensuring those with direct lived experience are at the table and are a part of any convening or collaboration, including people with mental illness” (Mary Crowley, Fountain House). Service providers identified this as a strategy for engaging and supporting

people post-incarceration who experience collateral consequences to reduce recidivism, and to improve programming overall. Concrete policy goals include decreasing collateral sanctions, restraining the parole board’s purview only to what the person did during incarceration, and collecting more data about individuals’ experiences in the justice system.

More broadly, the Metrohealth Trauma Recovery Center aims to develop trauma-informed, neutral care that is not a probation officer or a court-appointed requirement that accounts for how overwhelming navigating the court system can be. This would also be part of building programs that reflect an understanding of how trauma impacts capacity for interacting with police and other systems and addressing basic needs.

“Identify where we can pressure local officials and use our clout to push reforms that we’re paying organizations to push. We can go further in Cuyahoga County if philanthropic organizations used their leveraging power for carceral transformation.”
- Melekte Melaku, ACLU of Ohio



POLICY ADVOCACY ORGANIZATIONS

PRIORITIES

- Decrease involvement with criminal justice system
- Improve quality of criminal justice system processes
- Address collateral sanctions
- Decrease the financial burden created by justice involvement
- Juvenile bindover
- Judicial accountability, including prosecutorial practices

CHALLENGES

- Inequities & lack of transparency re: functioning of the system
- Individual's lack of financial resources
- Problematic funding streams that support the system

LOOKING FORWARD

- Debt-based driver's license suspension rates
- Transitional housing models
- Public safety programming options
- Community ownership of change efforts
- Decriminalization of low-level, non-violent offenses
- Addressing systemic bias

Cotter, Anne Sweeney), the Northeast Ohio Coalition for the Homeless (NEOCH) (Chloe Sudduth), the Ohio Innocence Project (Pierce Reed), Partnership for a Safer Cleveland (Jenni Bartholomew), Enterprise Community Partners (Jenny Eppich, Emily Hansen), Schubert Center for Child Studies (Gabriella Celeste), the Cleveland Metropolitan Bar Association (Becky McMahon, Pegah Zardoost), ACLU of Ohio (Melekte Melaku, Gary Daniels), and the Children's Law Center (Leah Winsberg). Each organizational representative discussed the criminal justice work they are currently engaged in, barriers they face (and have faced), and their goals moving forward.

Priorities

Generally, policy and advocacy organizations are focused on using legislative changes to decrease individuals' engagement with the justice system, change policing practices, improve the quality of processes within the criminal legal system, and to address the legal barriers people experience when they have a criminal record. For example, NEOCH has prioritized creating alternatives to policing, so that unhoused individuals are less frequently targeted by aggressive police seizures of their property and persons, or physically assaulted when they are removed from places they legally can occupy. Other organizations are addressing housing instability as a strategy to prevent residents' interactions with the criminal justice system. Cuyahoga County does not track the number of individuals returning to the community from prison and how many could benefit from housing services, or the total that are without housing. This lack of data is one of many points that advocates have said is frustrating about advocating for change; it is difficult to know how much money to direct to housing or employment services for the returned citizen population if we do not know the scale of the problem.

Some of the other key system changes that organizations are focused on include the financial burden created by justice system involvement—reforming wealth-based detention practices implemented through monetary bail, eliminating the cost of pretrial monitoring, preventing incarceration

We interviewed 9 organizations who primarily focus on policy and advocacy to bring about change within Northeast Ohio's criminal legal system. While many organizations are involved in legislative action, most center law and policy as their change methodology, including: the Legal Aid Society of Cleveland (Colleen

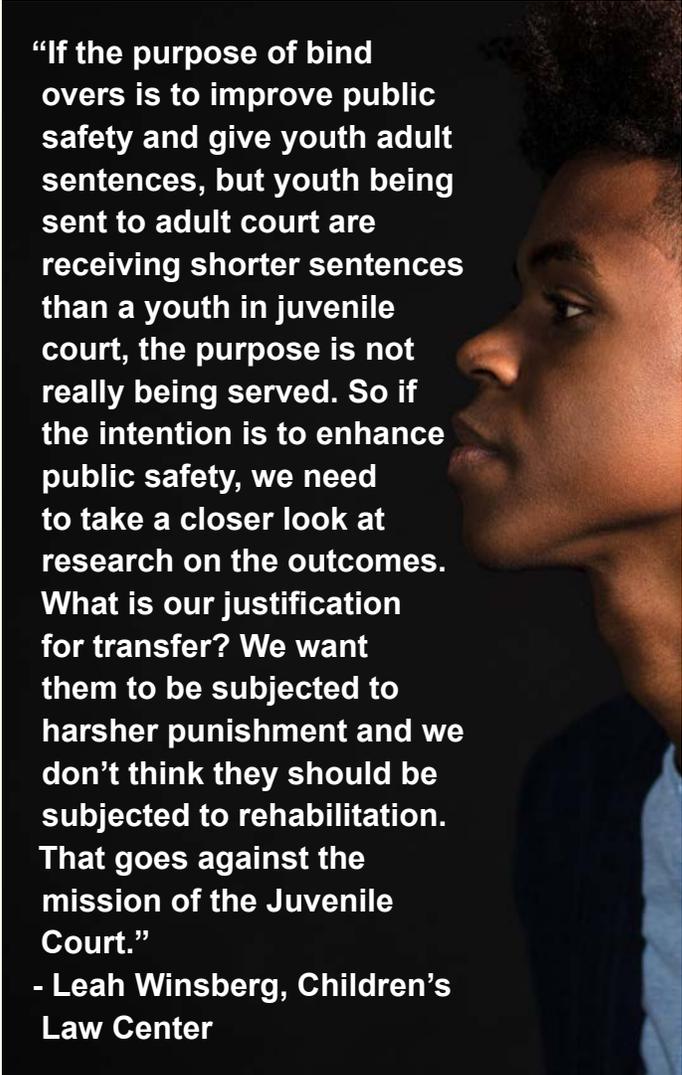
for non-payment of civil fines or child support, and ending incarceration for certain non-criminal driving offenses, including driving without a license, car insurance or an updated car registration. Apart from focusing on wealth-based detention, organizations have addressed juvenile bindover, judicial accountability, prosecutorial practices and misconduct, and post-conviction relief, especially if someone has been wrongfully convicted.

Finally, other priorities address the barriers people experience when they are involved with the justice system and what occurs afterwards. These might be related to the financial costs associated with paying parole or probation fees, repaying restitution and other court costs, especially if those costs are a barrier to sealing an eligible criminal record, obtaining an occupational license, or difficulties obtaining housing and employment with a criminal record. One such organization, the Ohio Innocence Project, focuses exclusively on freeing wrongly convicted and imprisoned individuals, specializing in cases related to sexual assault, murder, or particularly harsh sentences that result in longer prison times.

Challenges

The challenges to reform identified by the policy and advocacy representatives are similar to those identified by grassroots organizations, with more specifics about the internal functioning of the justice system. For example, an interviewee from Legal Aid discussed the unfair process for challenging fines in the Mayor's Courts, and the Ohio Innocence Project pointed out that there is no requirement in Ohio that during custodial investigations the police must audio/video record the interrogation. The Children's Law Center reported that there is no check on the Prosecutor's decision to initiate a bindover against a juvenile, such as a disinterested third party (like a grand jury) to second guess the Prosecutor's reasoning for recommending a youth be tried in adult court.

Other challenges are precipitated by an individual's ability to pay. A person's lack of financial resources can affect whether they can pay a traffic ticket, reinstate a suspended license, or afford legal counsel after being accused of a crime. With respect to traffic violations, a person's failure to pay a traffic ticket may not only lead to their driver's license being suspended, but their car registration being blocked from renewal by the Ohio Bureau of Motor Vehicles. To remove a driver's license block, a driver will have to pay additional fees which can run into thousands of dollars. Much worse, anyone who has been accused of a crime, whether or not they are innocent, not only must pay for legal counsel but any associated court costs and fees. Nonpayment of these fees or parole costs can lead to someone's reincarceration, as well. Additionally, unpaid court fees can be reported to a credit bureau after a certain period of time and negatively impact a person's credit rating,



“If the purpose of bindovers is to improve public safety and give youth adult sentences, but youth being sent to adult court are receiving shorter sentences than a youth in juvenile court, the purpose is not really being served. So if the intention is to enhance public safety, we need to take a closer look at research on the outcomes. What is our justification for transfer? We want them to be subjected to harsher punishment and we don't think they should be subjected to rehabilitation. That goes against the mission of the Juvenile Court.”

- Leah Winsberg, Children's Law Center

eventually impacting their ability to borrow money, rent, buy a home, apply for a job, and more.

Inherent flaws in the judicial system were also identified as big challenges. For example, the municipal courts' funding streams are problematic, as discussed in the background section. While fees assessed against litigants can be a significant court revenue source, it cannot be the only source (Nicastro, 2020). However, "significant" is not defined in the ORC and many courts throughout the state clearly receive a high proportion of their budget from fees. For example, South Euclid collected \$638,829 in court fines and fees and license suspension fees, as compared to \$780,954 in municipal appropriations ([South Euclid, 2020](#)). Comparatively, in 2020, Cleveland Heights had a court operating budget of \$1,078,321, and collected a total of [\\$1,254,937 in actual revenues](#) from law enforcement forfeitures and court fines and fees (Himmelein, 2020). It is unclear what proportion of Cleveland Heights' collected fines and forfeiture revenue went to the city's general fund versus amounts owed to individuals and other municipalities with contracting agreements with the court. Even with these revenue sources, both sets of data show that when fines are unpaid, court budgets can suffer. Subsequently, more aggressive collections will likely result in the issuance of bench warrants to have court fines repaid, leading to higher incarceration rates despite a court bench card issued by the Ohio Supreme Court in March 2022 indicating that neither court fines nor fees should be used to generate revenues and individuals should only be incarcerated for non-payment of fines after judges have assessed their ability to pay and found their non-payment is willful. When individuals are incarcerated for unpaid court fines, bail becomes important for securing their release. However, most people lack the ability to cover a \$1,000 emergency, let alone post modest bail.

As discussed in the background section, there are two bail reform bills, [HB 315](#) and [SB 182](#), in the Ohio Legislature (Make Bail Changes, 2021). Bail reform will be most effective with the Ohio Legislature and Governor's support, but in lieu of the bills passing municipal and county courts must consider bail reform locally. Bail reform would entail local courts

detaching justice from their dependency on fines and fees. If municipal court budgets are dependent on the collection of fees, there will remain an incentive for courts to require defendants to post a monetary bond. Yet, this was only one concern. The Ohio Innocence Project identified bias and intentional misconduct by police, prosecutors, judges, and defense attorneys as another cause of poor judicial outcomes for criminal defendants. Other times, there are defense attorneys acting in good faith but have no training to take on forensic experts or are overwhelmed with cases.

Some of these challenges are endemic in the juvenile justice system too. There is broad prosecutorial discretion in Cuyahoga County regarding bindover filings and no uniform definition of diversion either between municipalities in the county or in Ohio generally. With the pandemic, many of the activities to engage juveniles while in confinement and have more out-of-cell time were stopped with little to no discussion of resuming them. Walk-throughs that were performed by the Children's Law Center and the Schubert Center for Child Studies at the Cuyahoga County Juvenile Detention Center to ensure youth had adequate remedial and out-of-cell time activity were stopped abruptly. There are ongoing staff retention and training issues, along with a lack of age-appropriate programming and therapeutic staff. The Schubert Center interviewee discussed the lack of timely hearings or disposition for youth (in violation of the right to a speedy trial), with some juveniles waiting a year or more: "It prejudices children to have delays in their trial because years later when they are in front of an adult or juvenile judge or a jury, they've grown up in detention before they've had a chance to present their case. The mitigating factors of youth that could inform their defense are no longer applicable" (Celeste, personal communication, 2021). The Diversion Center is meant for short stays (90 days or less) and does not provide crisis management services, meaning youth with an extended stay because of a bindover order are inadequately served. Children are far less equipped than adults to be confined indefinitely and without contact with friends or family.

Moving forward

These policy/advocacy organizations have a range of specific, concrete goals along with broad structural changes they are working toward. Many organizations are focused on data collection and program evaluation—debt-based driver’s license suspension rates and related demographics, transitional housing models for specific populations and needs, and evidence-based public safety programming. With this information and models implemented in other communities, such as CAHOOTS, which is a behavioral health crisis intervention program that decreases interactions with the police (White Bird Clinic, 2020), organizations are working towards shifting funds from police budgets to mobile crisis intervention and other alternatives. This type of information is also useful to organizations building programs to address housing and other basic needs. Many of the organizations are focused on engaging the community in defining gaps, target areas, and barriers they face, through focus groups, interviews, and other means. Having data analysis to provide to community members will help to build community ownership of the change efforts.

Goals also include legislation that would prevent landlords from discriminating against people with a criminal record, require law enforcement agencies to record custodial investigations, revise the federal compensation statute for people wrongfully convicted in federal court, forbid law enforcement agents from using deception with a juvenile, reforming bail structures, and implement uniform police training and hiring practices for all municipalities, villages, and townships. Ending the death penalty in Ohio is named explicitly by the Ohio Innocence Project; this is related to other organizations’ goals for addressing biased policies as we know the death penalty disproportionately impacts Black communities. The Criminal Justice Omnibus Bill was also identified by the ACLU as an upcoming priority (Alliance for Safety and Justice, 2022). Overarching, structural goals include decriminalization of low-level, non-violent offenses and addressing misogyny and racist systems. The concrete programmatic and legislative goals above are necessary to these structural changes, and the organizations interviewed repeatedly prioritized a community orientation.



RESEARCH ORGANIZATIONS

PRIORITIES

- Improving the depth, scope, & availability of data collected
- How criminal justice partners keep & store data
- Linking data from various sources
- Examine issues such as racial bias & the impact of social forces on reentry success
- Engagement with those most affected by the criminal justice system
- Debt peonage

CHALLENGES

- Availability, quality, & effective use of data
- Use of funding by police districts & courts
- Public misconceptions about how the system works
- Individual financial debt created by incarceration

LOOKING FORWARD

- Collaborative work—increasing multi-disciplinary teams, community partnerships, those currently incarcerated, & programs inside the prison
- Utilizing assessments & collecting data for interpersonal violence cases
- Collecting & analyzing data about implicit bias
- Increasing data collection re: juvenile bindover discretionary processes
- Unified felony criminal system
- Civilian review of internal prison activity
- Creation of anti-racial profiling legislation

We interviewed six academics engaged in research and data analysis about various components of the criminal justice system in Northeast Ohio: Rachel Lovell, Wendy Regoeczi, and Bob Triozzi at Cleveland State University and Tim Black and Ayesha Hardaway at Case Western Reserve University. Finally, the interview with Brandon Garrett at Duke University's Wilson Center for Science and Justice provided significant background information for understanding challenges in the internal functioning of the court systems.

Priorities

Key priorities varied based on each researcher's position and interests, but the range provides a comprehensive picture of ongoing research and program development. All of the interviewees are invested in improving the depth, scope, and availability of data collected about the criminal justice system in Northeast Ohio. This includes how criminal justice partners keep and store data, how existing data is used (such as the Shot Spotter data)⁷, linking data from various sources (for example, hospital and Medical Examiner's office), and increasing the sophistication of data analyses to examine issues such as racial bias and the impact of social forces on reentry success. Many of the stakeholders play a role in program design and evaluation in the region. For example, Dr. Lovell leads research on sexual assault initiatives and produced a report on feasibility of multi-task force for sex crimes. Dr. Regoeczi is part of the New Homicide Commission that reviews three levels of intervention—law enforcement, service providers, and community—using a range of data sources. The Ohio Collaborative Police Advisory Board was established based on the work of Dr. Dunn and his direct engagement with police departments around issues of recruitment and hiring, ticketing patterns, and racial bias. Dr. Dunn continues to serve on the Board and push forward

⁷ More information on the ShotSpotter surveillance system: <https://www.muckrock.com/foi/cleveland-327/cleveland-shotspotter-contract-cleveland-police-department-125837/>; <https://www.shotspotter.com/>

efforts to establish statewide minimum standards on policing.

In addition to recommendations coming out of program evaluation and data analysis, other priorities include engagement with those most affected by the criminal justice system. Law students under the supervision of Professor Triozzi observe hearings, meet with defendants, and make recommendations about bond reductions. Dr. Black worked with colleagues to develop and implement a curriculum in the Community Based Correctional Facility (CBCF) to address reentry concerns. His ongoing work focuses on the debt accumulated while individuals are incarcerated and the concept of “debt peonage” (Prior, 2021).

Challenges

Interviewees identified a range of complex challenges that connect to others identified in other organizational categories as well. The availability, quality, and effective use of data was a major issue that people discussed. For example, police departments collect and categorize data on their own terms and do not necessarily share that data with other agencies. The lack of a robust database makes prosecutorial and investigative decision-making difficult because of the missing information about suspects and evidence. The lack of coordinated data stems from limited resources but also from political relationships and long standing conflicts among agencies and decision-makers. One person reinforced that we also do not see successes because of the ineffective data collection, such as declines in re-arrests for non-cash bail and the impact of misdemeanor release reforms.

One interviewee named the problem of funding—much of police funding goes to police overtime pay, with few resources to support specialized units or task forces. Police districts have varying levels of funding for specialized units, such as those for domestic violence. This significantly impacts the districts’ case process and prosecution. Lack of resources also comes into play when managing communication about rules and



processes to the general public. Public misconceptions about different types of bail and barriers to accessing hearings, treatment, or other services could be addressed by increasing resources that support clear, regular communication.

Another challenge named by Dr. Black is the excess financial debt that increases the barriers created by time spent incarcerated, a concern identified by other stakeholders as well. People who are incarcerated are charged a range of fees for access to phone calls, goods, and services, and they may also accumulate fines in and out of incarceration. Child support and motor vehicle debt compound court costs and restitution costs. We know from research and other interviewees that racial and income disparities are huge challenges to reforming the criminal justice system, and Dr.

Dunn provided specific data analysis about the disproportionate numbers of Black individuals stopped for traffic violations: “Blacks in Cleveland were 38% of the driving population and accounted for 79% of citations for driving under a suspended license” (personal communication, 2021).

Looking forward

Many goals focus on collaborative work—increasing multi-disciplinary teams and community partnerships. Other collaborations could involve those currently incarcerated and those currently implementing programs inside the prison to build relationships with organizations and systems. This would support the sharing of data and other resources, and it could increase transparency and positive relationships. Other goals center around data—the need for (legally) collecting and analyzing DNA, utilizing assessments and collecting data for interpersonal violence cases, collecting and analyzing data about implicit bias, and increasing data collection re: juvenile bindover discretionary processes.

Some specific goals include reforming existing systems, including a centralized place for felony booking and initial appearances at the County Jail, meaning all municipal police departments would bring people accused of felonies to the jail. This would include a unified felony criminal system. Reforms might also include mandating a review of every gun fatality and changing the victim compensation program at the state level. Additional resources for public defenders to be present at every hearing would ensure due process and fair hearings.

Other goals get more at the roots of the problem: addressing the political problems with political solutions, utilizing think tanks, civilian review of internal prison activity, and creation of anti-racial profiling legislation.



GOVERNMENT REPRESENTATIVES

PRIORITIES

- Bail & bond reform
- Ohio Uniform Sentencing Database
- Increasing access to mental health & substance use support services
- Utilizing technology to increase access—videoconferencing, data management, criminal records, etc.

CHALLENGES

- Racial & income disparities
- Lack of consistent data collection & integration
- Sustainability of court funding
- Lack of comprehensive mental health support services
- Lack of legal services for indigent defendants & pretrial services
- Reliance on incarceration as the primary safety tool
- Conditions of confinement: adult & juvenile

LOOKING FORWARD

- Improve data sharing & integration to increase transparency for stakeholder assessment
- Increase resources for community-based diversion & mental health support
- Address barriers to reintegration
- Address due process challenges

The functioning of the court system is complex. We provided some background earlier in this report to provide context as a whole as well as the interviews. Due to the numerous courts in Cuyahoga County and the different reform efforts underway from the Ohio Supreme Court to the local level, it was important to interview a number of stakeholders to preview the breadth of their work. There were interviews with

Ohio Supreme Court Justice, Michael Donnelly, Ohio Eighth District Appellate Court Judge Emmanuella Groves, Cuyahoga County Court of Common Pleas Judge John Russo, and several county pretrial and probation staff, five municipal court judges, J. Michelle Earley (Cleveland), J. William Dawson (East Cleveland), J. Patrick Gallagher (Euclid), J. Deborah Nicastro (Garfield Heights), J. Patrick “Pat” Carroll (Lakewood), two juvenile court judges, Administrative Judge Thomas O’Malley and J. Michael Ryan, Cuyahoga County Public Defenders, Lead Public Defender Cullen Sweeney, and Public Defenders Sam Amata and Tye Russell, current and former prosecutors Acqueelah Jordan (City of Cleveland Chief Prosecutor), Brett Kyker (Cuyahoga County Assistant Prosecutor in the Criminal Division and Juvenile Division Chief), and Brian Radigan (former Cuyahoga County Prosecutor), and Legal Aid of Cleveland staff, Colleen Cotter, Executive Director, and Ann Sweeney, Managing Attorney. In addition, we spoke to Nailah Byrd, the Clerk of Courts for Cuyahoga County. In this role she is responsible for all applicable court documents and records pertaining to the Common Pleas Court’s General and Domestic Relations Divisions and the Court of Appeals, Eighth Appellate District.

Interviewees identified a number of efforts from bond and bail reform, diverting individuals with mental illness away from jail and prison, funding more mental health and substance abuse services through the courts, coordinating jail intake between the municipal court and supporting central booking at the county jail, and more. They identified numerous legal system priorities, challenges, and opportunities.

Priorities

The Ohio Supreme Court

The Ohio Supreme Court has been working for the past several years to reform bail in Ohio. The lack of consistency and predictability in bond setting had significantly different impacts on county residents. The rule change with Criminal Rule 46, brought

consistency to the felony bond setting process, too (Pretrial Release and Detention, 2022). When each county's courts adopted the same bond schedule, this significantly helped criminal defendants and their attorneys predict whether they could or might be released during the pretrial process. However, there was still a lack of transparency in the process because each court maintains a separate data management system.

While all courts, law enforcement, and prosecutors can submit a query into the Law Enforcement Automated Data System (LEADS) criminal justice database, and criminal defense attorneys can obtain LEADS reports through the discovery process, this database does not permit the courts to share all data (NORIS, 2022). Key data can be absent from the LEADS database⁸ such as detailed information about a defendant's mental health or substance abuse history, their possible diminished cognitive or mental capacity, and past victimization. This information would be beneficial to courts that want to ensure parity in sentencing or coordinate pretrial release conditions, so that the criminal defendant is not unduly burdened by court-mandated restrictions and receives the appropriate social services.

The Court is currently working on implementing the Ohio Uniform Sentencing Database that will aid Ohio courts in reporting sentencing outcomes and standardize the information that each judge enters into their post-sentencing journal entry, allowing that information to be uploaded to a single database. Over time, the state's courts will be able to see sentencing ranges for similarly situated defendants, including racial disparities, and eliminate the differences in court entries between counties. Still, full adoption of the database is not state-mandated but voluntary for each court, and the information will be stripped of judges' names. The public will have to rely on their local jurisdictions to report how judges have typically sentenced each criminal defendant, or submit a Freedom of Information Act (FOIA) request to see that information. Finally, the database is prospective

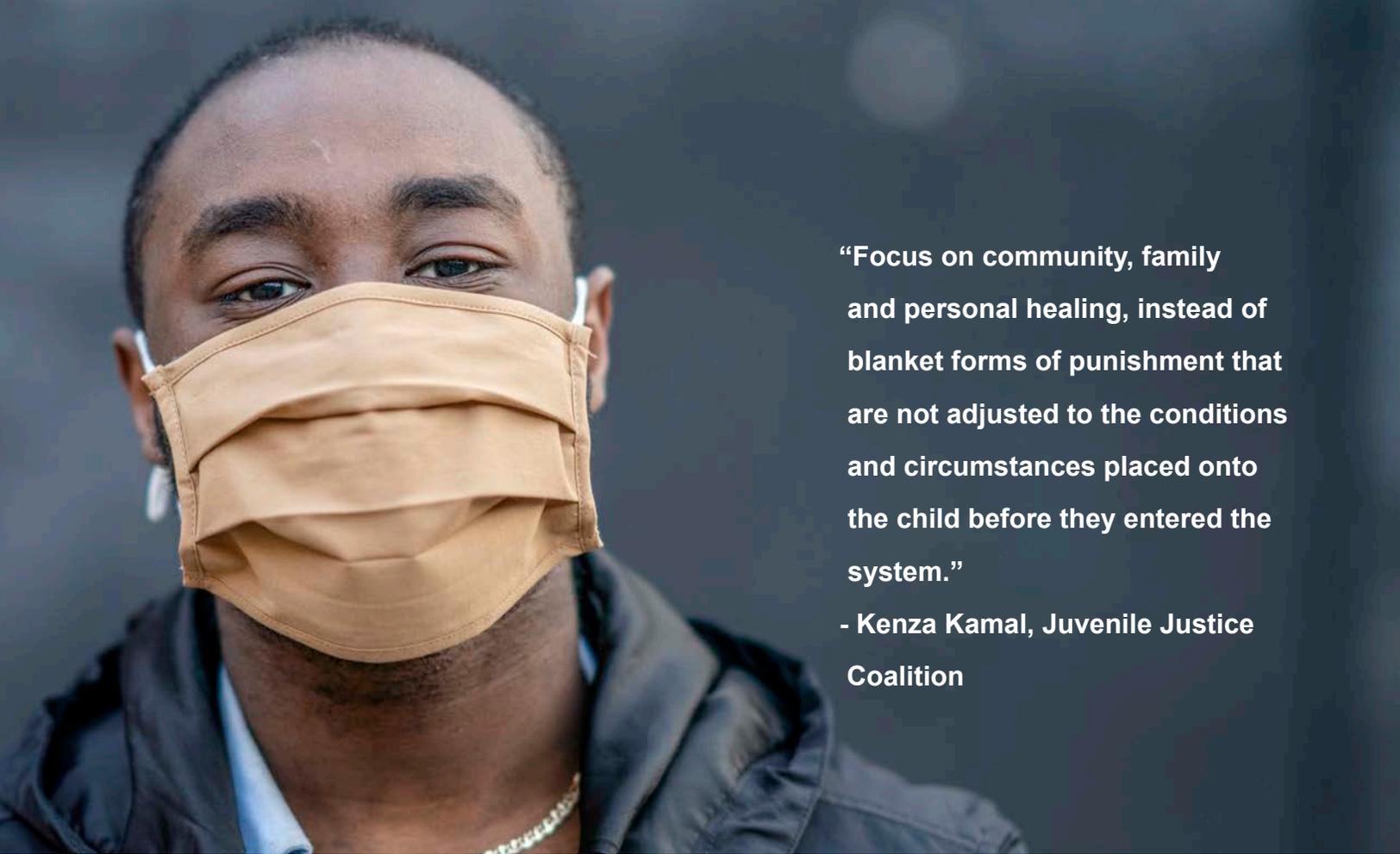
⁸ It is important to note that the Cuyahoga County Court of Common Pleas uses the Current Research Information System (CRIS), reported by: J. Nicastro, Garfield Heights Municipal Court.

and would require additional funding to include decades of past sentencing data from all 88 counties, including the hiring of legal experts to scan in paper forms or conform old data to the new standardized form. Notwithstanding this challenge, the uniform sentencing database is a step in the right direction and some courts, like the Cleveland Municipal Court, are taking steps to upgrade their data management systems to better communicate with other jurisdictions. Cleveland will be adopting the Tyler data management system, which will allow it to better communicate with the Akron city courts and Franklin County Courts, which use the same system.

The Thirteen Municipal Courts in Cuyahoga County

The municipal courts, to a greater or lesser degree, depending on available funding and courts' budget allocations from municipal funds, have prioritized a number of initiatives:

- Bail & Bond Reform, including:
 - » Presumption of release, exclusive of individuals who have violated a no-contact order or are accused of domestic violence, menacing, or stalking;
 - » Employing risk assessment tools to determine someone's likelihood for reappearing in court; and
 - » Prioritizing detained pretrial defendants for court hearings, and providing earned credit for every day they are in jail.
- Using the Indigent Drivers Alcohol Treatment (IDAT) fund to finance the cost of mental health services for criminal defendants who cannot afford them;
- Increasing services to individuals with either or both mental illness and substance abuse issues and standardizing mental health assessment forms;
- Making courtrooms more accessible through videoconferencing;



“Focus on community, family and personal healing, instead of blanket forms of punishment that are not adjusted to the conditions and circumstances placed onto the child before they entered the system.”

- Kenza Kamal, Juvenile Justice Coalition

- Implementing technological upgrades to their court data management systems or digitizing all criminal records; and
- Coordinating mental health services between Garfield Heights Municipal Court and Cleveland Municipal Court.

Bail and bond reform has been a prominent priority for the county’s municipal courts, as it has been statewide. While the Ohio Legislature has either stalled on amending the practice of cash bail or made assertive efforts to constitutionalize it, much to the detriment of thousands of Ohioans who are indefinitely incarcerated in several county jails, a few municipal court judges have adopted progressive practices to reduce their jails’ populations.

The Euclid Municipal Court has tripled use of its first-offender diversion program since it began in January 2018. J. Patrick Gallagher shared that in addition to diverting first-time criminal defendants to alternative programs, his court has adopted a presumption of personal bond except for individuals accused of

menacing by stalking, stalking or domestic violence. (J. Patrick Gallagher, Euclid Municipal Court, noted that 99% of criminal defendants, who are accused of misdemeanor crimes, are released on a personal bond.) Likewise, Garfield Heights Municipal Court releases 90 percent of misdemeanor defendants, except for those accused of domestic violence, violating a civil no-contact order, stalking, or menacing by stalking.

Several judges acknowledged the use, or non-adoption of, risk assessments. In Cleveland Municipal Court, risk assessments are used by judges to help them determine whether a defendant should or should not be released from jail. J. Michelle Earley noted that she does not use the risk assessment score in isolation, instead she considers the reasons for a person’s missed court dates and the nature of their pending criminal charges. Another non-judicial interviewee said that the risk assessment is usually abandoned by Common Pleas Judges, when a felony criminal defendant is bound over to the county court. Other courts do not use a risk assessment but their discretion.

Both Euclid and East Cleveland Municipal Courts consider a person's past criminal history, current history, employment, and connections with the community. Whether a risk assessment or a judge's personal experience is the best indicator for determining if a criminal defendant should be released, is up for debate. National data have indicated that risk assessments can be racially biased toward African American criminal defendants, when they are not paired with other reform efforts (Arnold Ventures, 2019). And a lack of a criminal sentencing database, operating in real-time, can lead to judges making flawed decisions, because they are unable to compare their conclusions with other courts or see how judges have handled similarly situated defendants in the pretrial phase.

Lastly, municipal courts have aimed to improve their docket management practices by reviewing new cases at least six to seven days a week. Due to the volume of new arrests, more people are being detained in local and county jails. That has necessitated courts increasing their docket review hours to determine if individuals should be released or remanded to jail. Cleveland Municipal Court reviews new cases seven days a week, and is now a part of the pilot project, along with the Cuyahoga Court of Common Pleas, to adopt centralized booking.⁹ Likewise, Garfield Heights reviews new arrests six days a week so that bond hearings occur within 24 to 48 hours of an arrest. All courts have been required when binding a felony defendant to county court to schedule a county hearing within four business days after the municipal court's initial hearing to ensure timeliness of pretrial and arraignment hearings.

⁹ A Plain Dealer article described central booking as follows: "Central booking is meant to expedite the court process by getting crime suspects in contact with lawyers more quickly and allowing for quicker reviews of charges by prosecutors. It also would allow for early [pre-trial assessments](#) intended to ensure suspects are given the least restrictive bonds possible and appear at later court dates." See Astolfi, C. (2021, April 14). "Central booking facility for Cuyahoga County jail wins [county] council approval," The Plain Dealer, accessed at: <https://www.cleveland.com/news/2021/04/central-booking-facility-for-cuyahoga-county-jail-wins-council-approval.html>

The Cuyahoga County Court of Common Pleas and Pretrial Services in the County Jail

The Common Pleas Court has the most comprehensive services for pretrial, mental health, diversion, and probation. Now, MetroHealth Hospital has hired more staff and aims to conduct mental health screening within four hours of someone's admission after the new central booking unit is complete, which was one of the recommendations in the 2019 Ohio Department of Rehabilitation and Corrections Report (Ohio Department of Rehabilitation and Correction, 2020).

Aside from improved jail services, the Common Pleas Court has established a new Violence Intervention Docket, operated by Administrative Judge Brennan Sheehan, in partnership with Sarah Hendrickson, Director of the Metrohealth Trauma Recovery Center (MTRC). All defendants participating in the docket have been indicted on gun-related charges but are offered an opportunity to have their criminal conviction dismissed if they complete the requirements of the program. Some of the intensive services they receive are trauma counseling and mental health support through HOPE Trauma Recovery Center. With a portion of the grant, MTRC is evaluating the efficacy and effectiveness of the program. The research is establishing an evidence baseline which can be used to track future success.

Specialized dockets like the violence prevention docket have been praised for offering criminal defendants a second chance and engaging them in intensive services for a period of 12 to 18 months, services that they would not have received if they remained in the community. However, some individuals can be re-traumatized when they are required to participate in a specialized docket, particularly if they were not the person in direct possession of a gun, but were charged as co-conspirators (McKenna & Holtfreter, 2021; Tayeh, R., 2014). Re-traumatization and stress can occur when a person, who has no prior history of violence or criminal record, except for the underlying arrest, must participate in programming and intensive services to maintain their freedom.

The Juvenile Court

The prosecutors and public defenders who were interviewed for the environmental scan were asked about the juvenile detention system in Cuyahoga County, specifically the process for binding youth over to the adult court. According to the Cuyahoga County Prosecutor's Office, it has implemented changes in the past several years to divert more youth from the juvenile system and change its charging decisions in lower level cases. All assessments and screenings for diversion programs are now managed by the Diversion Center, which was built in 2019.

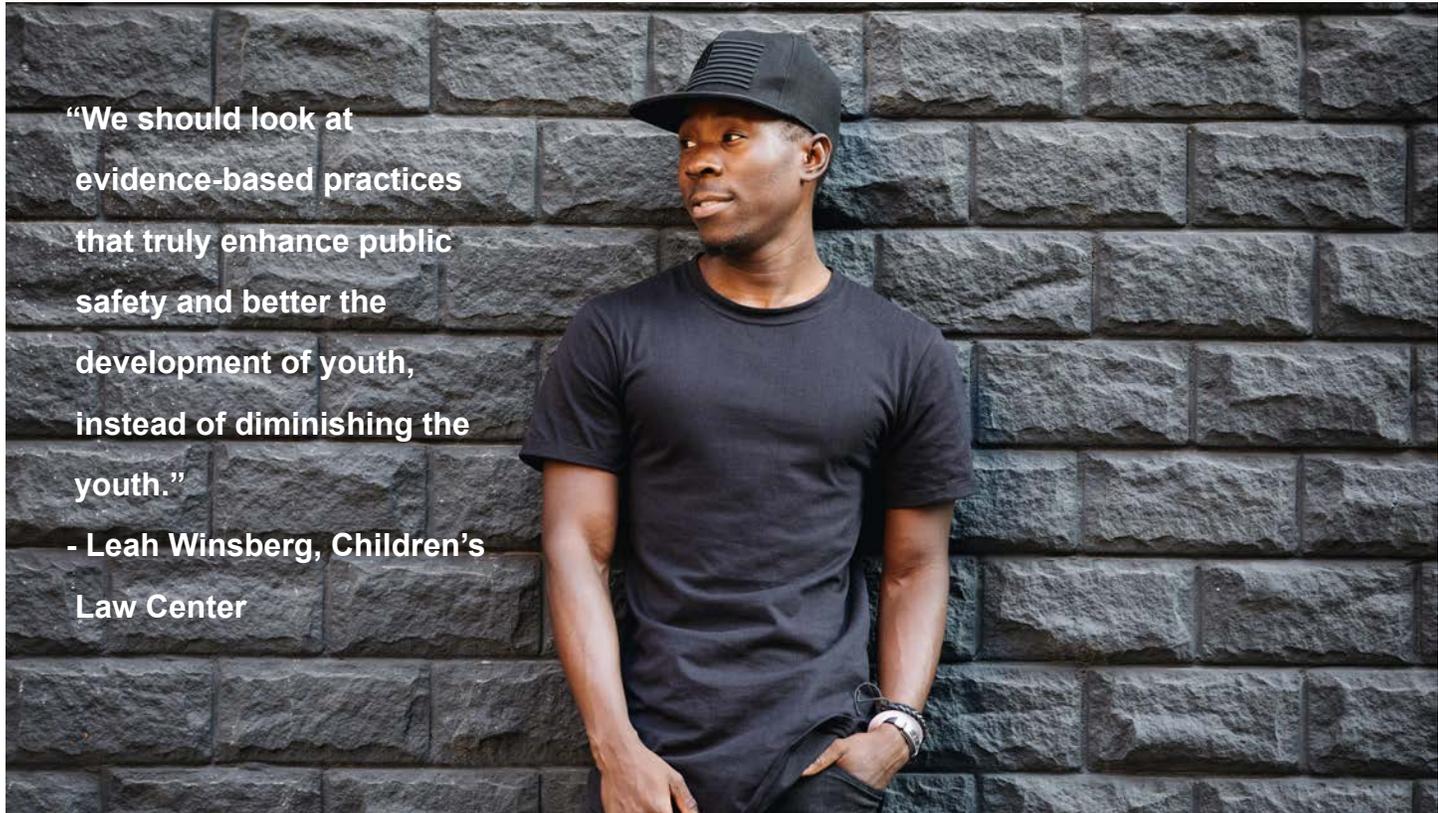
The Juvenile Court's reentry docket was identified as a success by the Juvenile Division judges and county prosecutors. Prior to the Reentry Court's establishment, it was up to each judge to divert youth. Currently, every youth who was previously committed to ODYS and is returned to the community on parole or early judicial release will go to reentry court. Depending on the youth, they are required to attend a weekly meeting with either the Reentry Court magistrate or J. Michael Ryan. The youth and their

family must also sign a unified case plan that requires them to go to school, acquire a GED (if necessary), be employed, or, if they are on a mental health docket, to continue mental health counseling. The court provides the youth with incentives if they meet certain benchmarks, per the unified case plan.

Challenges

The Ohio Supreme Court

The Ohio Uniform Sentencing Database is a positive step toward observing racial and income disparities in criminal sentencing, but as of now, judges are not required to buy-in to the new system; it is completely voluntary. All 88 Ohio counties have their own method of recording sentencing data, with many still maintaining paper records and failing to track key data that would allow judges to maintain consistency in sentencing. When judges lack access to a statewide database that would allow them to see how they have sentenced in the past, or how other judges have handled similar cases, they can hand down



“We should look at evidence-based practices that truly enhance public safety and better the development of youth, instead of diminishing the youth.”

- Leah Winsberg, Children's Law Center

punishments that are outside of the state's norm. It can also prevent a judge from recommending diversion and non-carceral tools. However, some judges have been slow to adopt the tool because they are fearful the information could be used against them at election time. More so, the database will not include a specific judge's name, preventing the public from seeing what criteria judges use to make their sentencing decisions. Some courts provide all opinions online, but without a separate tool to independently analyze each case, a task that would require tens of thousands of dollars, it is nearly impossible to develop a reliable sentencing database.

Cuyahoga County's Thirteen Municipal Courts

There are many factors in examining the county's 13 municipal courts. All are funded by different municipal budgets, and none have access to county funding to support their sustainability. The one exception is the Cleveland Municipal Court, which sits in the Justice Center with the Cuyahoga County Court of Common Pleas, and shares its jail services. As told by a few interviewees, from a variety of sectors, Cuyahoga County missed the opportunity to merge into one court system in the 1990s and share resources. Instead, each system chose to maintain its own court, and a few contract with surrounding municipalities who want to use its court system for adjudicating misdemeanors, city ordinance violations, and traffic offenses. As it stands today, availability of monetary resources was listed as the number one factor for courts' ability to provide well-paid and effective court-appointed counsel to criminal defendants, mental health supports, diversion programs, and specialized dockets, and participate in data sharing and integration. All courts, including Cleveland Municipal Court, receive a budgetary allocation from their municipal governments. Even with some cities being wealthier than others, they still struggle with funding because of their cities' relative tax base and other priorities, including staffing their law enforcement departments.

Apart from receiving municipal funding, each court has access to the state Indigent Driver Alcohol

Treatment (IDAT) fund (MHA, 2022). Without this funding many indigent criminal defendants with a mental health diagnosis could not seek treatment due to the expensive nature of behavioral health services. This leads to another serious problem that many judges face: how to handle individuals with minimal to mild mental illnesses that are not eligible for in-patient treatment, but whose illness was a contributing factor to their delinquency. Each court must pay at least \$1,000, out of their municipal-allocated court resources, for a psychiatrist to conduct a mental health evaluation of a defendant appearing in their court. Once that individual has been diagnosed, only those with mild to severe illness are ultimately recommended for treatment due to funding and bed availability. In Garfield Heights, J. Deborah Nicastro estimated that 70 percent of defendants have some form of mental illness, primarily depression, which may not have been the reason for their crime but is a barrier to their rehabilitation. Even those with comorbid mental health and substance abuse issues may have difficulty getting help because the available spaces for individuals with a dual diagnosis is limited, too.

Judges Nicastro and Carroll, of Lakewood Court, noted that the suburban courts often compete with one another to recommend people for in-patient treatment because individuals accused of felony crimes are prioritized over individuals charged with misdemeanors. If there was a centralized database for placements, it would be easier to know bed availability and more efficiently place defendants for mental health or substance abuse treatment. This problem does not rest entirely on the courts which have become a de facto mental health services referral system. The county at-large does not have enough bed space, treatment facilities, and services to handle the volume of people in crisis or with a mental health illness. By default, it relies on its jails and prisons to provide mental and behavioral health services when mental health facilities are overwhelmed. By not treating everyone on the spectrum of mental health disorders, the county and its cities are enacting artificial barriers to individuals' rehabilitation by not investing in the key areas most needed by residents.

Apart from mental health, data integration was identified as another serious concern. Currently, all 88 counties, and municipal courts within those counties, maintain their own court records and data management systems with little to no funding or guidance from the state that they merge key presentencing, plea bargaining, criminal arrest, and history information into one uniform database. The Ohio Supreme Court requires each judge to input certain sentencing data into a shared system and is working to standardize sentencing entries through a uniform database, but to-date every municipal and county court operates independently. This has unaddressed consequences. For instance, jurisdictions do not always share or know whether another court has completed and shared information regarding someone's mental health diagnosis and treatment plan. These factors would greatly aid judges in making pretrial decisions and identifying necessary supports for individuals who struggle to obtain them.

An integrated system could even provide for better communication with defendants. When a defendant changes addresses or has a wrong address with a court or the Ohio Bureau of Motor Vehicles, people can miss warnings of an impending license suspension, necessary court appearances about outstanding warrants, owed court fines and fees, child support hearings, or impending civil litigation, which could result in wage garnishment or driving-related consequences. Further, an integrated data management system could provide judges with important information about a person's parole or probation requirements, so other judges can choose to modify their sanctions or run them concurrently, making it easier for a defendant to satisfy both courts if they have cases in more than one jurisdiction. J. Gallagher from Euclid Municipal Court mentioned that every judge has access to the Ohio Court Network database. Yet, that database only includes case numbers, arrests, and pending cases with dispositions. The included information is limited to what any one person inputs and fails to include mental health history. He went on to mention that he tries to include detailed information in his journal entries, so that it would be available to other judges, but overall

this is not enough. He priced the best CMS, which was ironically Tyler Odyssey, and found that it would cost the court upwards of \$1 million to fully adopt it (Tyler Technologies, 2022). If they were able to adopt Tyler, they would be on the same management system as Cleveland, Akron, and Franklin County, making collaboration easier.

Other underfunded services in the suburban municipal courts were legal services for indigent defendants and general pretrial services. Every suburban municipal judge said that public defenders are not available in their court, and pretrial services in municipal courts are only available for misdemeanor cases. To extend them to felony defendants would be costly and imprudent when the felony defendant ultimately falls under the county's jurisdiction. Adding felony defendants onto each court's pretrial services caseload would not be advisable either. Each court has anywhere from one to three pretrial and probation services staff, with a caseload ranging from 150 to 200 cases per officer. Judge Tom Gallagher of Euclid Court opined that combining the county's pretrial services, including GPS monitoring, risk assessment tools, and supervision services, would help everyone, including felony defendants, return to their jobs and families more quickly while they await trial. This would only be meaningful if the county could manage its costs, without decreasing the quality of its case management services. In the past, the municipal judges had a conversation with the Court of Common Pleas Administrative Judge, Brennan Sheehan, about combining pretrial services. This conversation and others, have resulted in the building of a centralized booking center at the jail, with Cleveland Municipal Court and the Common Pleas Court trying out the model first.

While there are challenges to having numerous municipal courts, there are some benefits. Individuals accused of misdemeanor crimes experience more expediency and individualization in the judicial process, and depending on the court, a faster recognition of their mental illness because judges can take more time with each defendant. However, having so many courts that are strained for financial resources

does not necessarily mean that individuals have greater access to services. Creating more systems alignment through an integrated data system for both the courts and the courts and mental health services, would decrease the community's reliance on the judicial systems to serve their residents.

Cuyahoga County Jail & Cuyahoga County Court of Common Pleas

Some of the challenges of the jail have already been alluded to. They include the jail's staffing issues, maintaining a humane space, decreasing reliance on incarceration as the primary safety tool, so the jail is not overcrowded, and diverting individuals to community-based alternatives. Other challenges are related to diversion opportunities. In early 2021, the county opened the Diversion Center for the purpose of diverting individuals with mental illness to a community-based option. Law enforcement officers from every municipality in Cuyahoga County can decide to divert individuals with mental illness to the center if they have been accused of a nonviolent crime and are in crisis. It was a safe alternative to jail.

The center was initially underutilized because Cleveland police officers were required to consult with the city's prosecutor before using the center. Now, even after Mayor Justin Bibb amended the city's policy to allow police officers to divert individuals, it remains at subcapacity. There is speculation that many people with mental illness are not being diverted either because they are ineligible for diversion, due to suspicion they have committed a violent crime, or because they have a detainer for their arrest by another jurisdiction. Without more data from all the county's police departments, including those operating under authorizing agreements in the city of Cleveland, about the number of residents with mental illness they encounter, arrest, or divert, it is hard to know if capacity at the Diversion Center could be increased with training more police officers or through other policies. Data from the courts and the county jail would be useful, as well, to know how many individuals with mental illness could potentially be diverted.

For those who cannot be transferred to the Diversion Center, and are committed to jail, they have access to improved mental health services. This is a positive step but it does not recognize that the physicality of the jail can exacerbate their illness. Individuals who are suffering from severe psychiatric disorders, or even milder illnesses like depression or PTSD, have worse outcomes when they are physically isolated, placed in solitary confinement for long periods of time, and lack stimulation (DeVeaux, 2013). Those who do not have a mental disability can nevertheless be traumatized and show signs of stress and depression if they are in overcrowded pods, receive inhumane treatment, or are detained for long periods in pretrial incarceration (Piper & Berle, 2019). One interviewee mentioned that there is a gap between the number of jail liaisons and individuals needing medical referrals and system navigation assistance. The liaisons visit the jail when they receive notice from the county or the suburban municipal courts that individuals with mental illness need assessment and referrals, but the support does not include follow-up visits to ensure clients access services when they are released.

Like the suburban municipal courts, the Court of Common Pleas struggles to share data with either the local courts or others across the state. There should be a public-facing criminal justice database that allows for the public and judges to track progress on certain goals including decreased jail population, leveraging of community-based options to incarceration, parity in pretrial release, plea bargaining, and sentencing, and equal access to specialized dockets. While the Ohio Uniform Sentencing Database will allow judges to track their sentencing practices with others across the state, the public will not see how judges individually measure with others across the state, and it is not retrospective, meaning the public cannot see sentencing disparities, in terms of race and income, from the past. Overall, having a state database is an excellent step in the right direction. The Court of Common Pleas and other stakeholders focusing on local criminal reforms should agree that any justice data are public data, and making the data transparent is beneficial to everyone.

The Cuyahoga County Juvenile Court

Juvenile bindovers and conditions of confinement were repeated concerns of several interviewees, along with the disproportionate arrest, detention, and lack of diversion for African American boys, and law enforcement practices relating to the handling of youth arrests. As mentioned in the background section, data are available about the number of youth detained per municipality. However, information is not reported that would provide analysis such as the race/ethnicity of the youth arrested, detained, and/or charged. Without this kind of data analysis, it is difficult to know the extent of racial bias in arrest and charging decisions. For example, police may react more favorably toward white youth than Black youth, and police may initially charge Black youth, particularly boys, more harshly than their counterparts. Racial differences may be different in and between municipalities too. We need more context about the nature and quality of youth contact with various systems, and if two similarly-situated youths, both suspected of a robbery, but of different races, were treated the same at the time of arrest and ultimately had the same experiences once they were involved in the system.

When considering which children are eligible for diversion, prosecutors prefer youth who are newer to the system, and children with few prior adjudications demonstrating serious criminal conduct, like lower-level misdemeanors, including simple assaults, criminal trespass, and disorderly conduct, or specific felonies that encompass receiving stolen property and vandalism. It is commendable that youth accused of these behaviors are diverted. Notwithstanding diversion efforts, the criminalizing of certain behaviors could itself be eliminated. For example, the more appropriate response to vandalism could include community service, not incarceration.

Looking Forward

Court officials identified many goals related to the priorities and concerns they discussed in the interviews. First, we need to improve data sharing and integration to increase transparency of criminal justice data for stakeholder assessment. Without transparent data it is difficult to know whether improvement has been made or permanent change has occurred. Second, community-based diversion programs and practices need to be resourced in order to offer lasting rehabilitation and to move toward further decriminalizing behaviors. This could include increasing mental health funding for system navigators and case managers to ensure residents connected with the community providers and other service referrals were successful. Referrals are only valuable if there are existing community resources capable of addressing the need. Next, we need to reduce barriers to reintegration, particularly around housing. Housing laws, shortages of housing vouchers, long waitlists for forensic or group home housing, and the stigma of a criminal conviction make it difficult for those with criminal convictions and/or mental illness to find safe and affordable homes.

The justice system process itself requires reform to insure due process. Due process issues exacerbate outcomes for adults and youth in pretrial detention. Increased access to counsel is needed, including better compensation for counsel and more attorneys engaged in the system. The pretrial period for adults accused of a felony offense should be shortened to prevent job, housing, and family disruptions; they could wait at least 48 hours for their initial arraignment with a municipal judge, and then another 48 to 72 hours before they appear before the Court of Common Pleas. As mentioned by many of the interviewees, not just the court stakeholders, juvenile justice reform is a significant goal for the region. The juvenile system needs increased due process requirements, more efforts to decriminalize a range of behaviors, and greater efforts to support the developmental needs of youth.

CONCLUSIONS

“Ballot initiatives are a way to engage communities that don’t engage in voting and are distrustful of the political process and politicians. However, educating communities with these initiatives will let them know how to engage the system in a positive way.”

- James Hayes, Ohio Voice

The environmental scan showed a plethora of problems and challenges within Cuyahoga County’s criminal legal system but a comparative number of reform and change efforts. As the Cleveland Foundation works to partner with change agents in this space, it seeks to do so with intentionality, collaborative effort, and informed decision making. “Its first step is this landscape assessment is developing an initial grantmaking strategy (with partners) and making a commitment in this space for years to come. Secondly, it recognizes that this work is best led and organized by individuals, families, and communities with direct lived experience. We are merely partners, helpers, conveners, and supporters, not the leaders, as this report readily acknowledges.

The foremost, and perhaps most important, step is recognizing that improving our local justice system will require a much heavier lift that is guided by collaboration and a commitment to change, not reform. Reform seeks to increase the efficiency of how quickly individuals are processed through the criminal legal system, while change charges our community with ensuring they are never captured in it. Mass incarceration should not be our first and only response to poverty, mental illness, substance abuse, and, at the most extreme, violence. When we invest in the people and our community, we make an investment that is not exclusively built on hope or dreams, but on sustainability, racial, economic and social justice, fundamental equality, and community prosperity, because everyone needs a fair chance to thrive.

Reform seeks to increase the efficiency of how quickly individuals are processed through the criminal legal system, while change charges our community with ensuring they are never captured in it.



GLOSSARY

- **ADAMHS Board:** “The Alcohol, Drug Addiction and Mental Health Services (ADAMHS) Board of Cuyahoga County is responsible for the planning, funding and monitoring of public mental health and addiction treatment and recovery services delivered to the residents of Cuyahoga County. Under Ohio law, the ADAMHS Board is one of 50 Boards coordinating the public mental health and addiction treatment and recovery system in Ohio. The Board is a quasi-independent part of county government, governed by a volunteer Board of Directors. The Board contracts with provider agencies to deliver services that assist clients on the road to recovery.” (<https://www.adamhsc.org/about-us>)
- **Adjudicate:** a formal court decision that resolves a dispute or closes a criminal case.
- **Bail (cash, monetary):** money paid to the court so that an individual will be released from jail after their initial arrest, and it is refunded if the individual attends the court hearing regarding the arrest charge.
- **Bond:** an agreement by a criminal defendant, or someone on their behalf, to appear for trial and all court appearances by paying a sum of money to bondsman or bail bond company that co-signs an agreement to ensure the person’s appearance in court. A bail bondsman will charge a defendant a fee in return for guaranteeing their partial or full bond payment to the court. If the defendant fails to appear, the bail bond company accepts liability and the defendant will forfeit their monetary bail or other collateral, such as a house deed or car title, for failing to appear. The court may also issue a personal recognizance bond, which does not require a defendant to pay any sum of money, if they make their court appearances, or stipulate other bond conditions, such as court supervision, regular alcohol and drug tests, mental or behavioral health counseling, drug and alcohol counseling and similar conditions of release during the pretrial period.
- **Bond revocation:** A person failing to make their court appearance(s) can have their bond revoked and be remanded to jail until their case is adjudicated.
- **Bindover:** a juvenile court judge transfers a youth’s case to adult court to be tried and sentenced as an adult.
- **Centralized booking facility:** The new booking facility at Cuyahoga County jail would be located at the front of the jail’s sally ports (front doors), the location where police drop off criminal suspects they have arrested. Under the new centralized booking facility, police officers would have room to complete their reports; there would be a private area to conduct medical screenings and a place for attorneys to meet privately with their clients; a separate review process for city and county prosecutors of the Cleveland Municipal Court and Cuyahoga County Court of Common Pleas can review cases; and more.
- **Collateral sanctions:** legal and social penalties that persons with criminal convictions experience, such as individuals with a drug-related felony conviction

being denied Supplemental Nutrition Assistance Program (SNAP) benefits or access to public housing.

- **Community control:** an individual who is convicted of a crime is not sentenced to incarceration but monitored in the community using a range of means including possible electronic monitoring (term may be used interchangeably with probation).
- **Consent decree (specifically for Cleveland):** “The City of Cleveland and DOJ entered into a Consent Decree, or Settlement Agreement, which requires the Cleveland Division of Police to make a number of fundamental changes to its policies, practices and procedures to address these issues [identified in 2014 DOJ investigation]. A federal judge oversees and enforces the Consent Decree to ensure that the City of Cleveland and CDP complies with the changes outlined in the document.” (<https://clepc.org/resources/consent-decree/>)
- **Court-imposed sanctions:** an additional fine or consequence for not following court-imposed rules or mandates.
- **Criminal defendant:** an individual being suspected of and charged with a crime.
- **Criminal indictment:** formal notice that an individual is being charged with a crime.
- **Disposition:** final outcome of an arrest (i.e., convicted or acquitted).
- **Diversion services:** most often a court-ordered program in which participation means avoiding jail and/or a criminal conviction, and is usually offered to first-time offenders or individuals suffering from a cognitive disability or substance use or mental health related issues.
- **Grand jury:** a special and secretive jury that determines whether a charge brought by a prosecutor is supported by sufficient legal proof to indict someone from a crime and take them to trial or before a trier of fact, such as a judge.
- **Indigent:** someone lacking basic resources such as food, shelter, transportation, etc. and usually cannot afford an attorney.
- **Litigants:** two or more parties involved in a court case, aside from the attorneys and judges.
- **Mental health assessment:** a process of determining the mental health needs of an individual and is performed by a qualified mental health professional, often utilizing a standard measurement tool.
- **Mental health docket:** part of the court system in which a judge hears multiple cases that have been determined to meet specific diversion criteria.
- **No contact order:** a court order prohibiting a person from being in physical or verbal contact with each other.
- **Pretrial period:** the time between when someone is arrested and their case is adjudicated including if their case is dismissed, they are found innocent or are convicted for a crime.
- **Remand:** a judge orders an individual charged with a crime into custody, i.e. jail.
- **Warrant:** a judge’s order that authorizes the police to arrest someone.

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APPENDIX A: SURVEY QUESTIONS

THE CLEVELAND FOUNDATION CRIMINAL JUSTICE ENVIRONMENTAL SCAN SURVEY

The Cleveland Foundation (TCF) is partnering with numerous stakeholders to create a new criminal justice reform strategy. This strategy will be a guide for how we and our partners can work together with the community to bring about meaningful change in the criminal and legal systems of the Greater Cleveland area. Bringing about change requires us to know the myriad of existing efforts, initiatives, and campaigns currently underway in our neighborhoods. To better understand these efforts, we are conducting an environmental scan of individuals, civic and elected leaders, public and private agencies and organizations, partnerships, and coalitions, both state and local, operating in this space.

We know that many local people and organizations have worked on various aspects of criminal justice reform over the years. We want to learn from these efforts, and where the Foundation can lend its support to existing and/or new activities and strategies.

We would like you or your organization to participate in this scan by answering a few questions below. The results of the scan will be summarized in a short report in 2022, and it will greatly assist us in understanding the criminal justice landscape. If you have any questions or comments, or know anyone else who should receive this survey, please contact Katrice Williams at kwilliams@clevefdn.org.

Sample Fields of collected data below:

- Organization (please mark N/A if you are not affiliated with a specific organization)
- First & Last Name
- What are your preferred pronouns? (Select all that apply)
- He/His/HIs
- She/Her/Hers
- They/Them/Theirs
- Ze/Hir/Hirs
- Ze/Zir/Zirs
- Prefer to Self-Describe
- Prefer not to answer

In addition to tracking criminal justice efforts, we are trying to identify how many organizations, coalitions, and partnerships are led by people of color, or by people representing other minority and ethnic groups. If you feel comfortable, could you answer the race/ethnicity demographic below? (Select all that apply)

- Asian (Chinese, Japanese, Korean, Vietnamese, Cambodian or other Southeast Asian)
- Asian Indian / Pakistani / Bangladeshi or other Subcontinent Asian
- Black / African / Caribbean
- Caucasian / White
- Indigenous People (Native American or Alaskan Native)
- Latinx (Latin American Descent)
- North African or Middle Eastern
- Pacific Islander (Native Hawaiian, Samoan, Chamorro)
- Two or More Races
- Other

How would you describe you or your organization? (Select all that apply)

- Community or Grassroots Advocate/Organization
- Civic Leader
- Religious or Faith-Based Leader or Organization
- Researcher and/or Professor at a Higher Institution of Learning
- Public Employee, Elected Official or Publicly Funded Agency or Organization
- Criminal or Legal Advocate, Defense Attorney, Prosecutor, Judge or Judicial Employee
- Corrections or Community Supervision Employee, Agency or Organization
- Grant-maker or Philanthropic Organization
- Other Non-profit (e.g. 501(c)(3), 501(c)(4))

How would you describe you or your organization's current efforts related to transforming the criminal and legal systems in Cuyahoga County? (Long answer text)

What areas of criminal justice and legal transformation have you focused on or work in? (Please check all that apply.)

- Advocacy for Persons Required to Register as part of post-Criminal Sentencing
- Advocacy for Individual Criminal Defendants
- Bail or Bond Reform
- Behavioral or Mental Health Reform or Diversion Programs
- Civic or Community Engagement
- Changing Prosecutorial Practices
- Community Supervision Reform or Reduction
- Criminal Sentencing and Reform
- The Consent Decree - Cleveland Community Police Commission
- Decarceration
- Decriminalization
- Developing Alternatives to Violence
- Harm Reduction
- Housing Relocation or Housing Discrimination for Formerly Incarcerated Persons
- Immigration Enforcement and Detention Reform
- Juvenile Justice

- Leadership Development and Capacity Building (ex. Leadership Development for Residents)
- Mass Incarceration Reform and/or Incarceration Reduction Initiatives
- Police Reform and Accountability
- Pre-trial Diversion and Detention
- Reducing Collateral Consequences for Justice-Involved Individuals
- Reduction of Fines and Fees leading to Incarceration
- Reintegration Initiatives and Advocacy
- Repeal of Death Penalty
- Restorative Justice and/or Detainee Rehabilitation
- Victim Advocacy
- Violence Reduction and Alternatives to Violence
- Workforce Development for Directly Impacted People or Returning Citizens
- Other

What strategies would you say you or your organization has used to further change in the criminal justice and legal systems? (Please check all that apply.)

- Public or Community Education
- Community (or Grassroots) Organizing
- Building the Power and Voice of Directly Impacted People (e.g. Leadership Training, Community Engagement)
- Policy & Advocacy
- Legislative Reform
- Ballot Initiatives
- Issue Campaigns
- Policy Research
- Identifying Evidence-Based Practices
- Data Collection, Evaluation, and Analysis
- Program Evaluation and Research
- Litigation and Monitoring
- Building Organizational Capacity and Infrastructure
- Other

What legislative efforts have you or your organization, agency, or coalition focused on in the last three to five years? (Please check all that apply.)

- Abolition of the Death Penalty
- Bail or Bond Reform
- Civic Engagement for Justice-Involved Individuals (or Others)
- Collateral Sanctions
- Drug Legalization or Reform
- Involuntary Confinement or Commitment
- Firearms Regulations
- Human Trafficking and Related Criminal Penalties
- Limiting Expansion of Registration Requirements for Justice-Involved Individuals
- Pretrial Diversion or Detention
- Police or Law Enforcement Reform
- Reducing Criminalization or Criminal Penalties created by Local or State Law

APPENDIX B: LIST OF PARTICIPANTS

COMMUNITY GRASSROOTS	
Cynthia Brown	Heartbeat Movement Inc.
Rachael Collyer	Ohio Organizing Collaborative
Latonya Goldsby	Black Lives Matter Cleveland
Raymond Greene	The Freedom BLOC
James Hayes	Ohio Voice
Kareem Henton	Black Lives Matter Cleveland
Kenza Kamal	Juvenile Justice Coalition
Emma Keeshin	Showing Up for Racial Justice NE Ohio
Deb Kline	Cleveland Jobs with Justice
David Lima	City of Cleveland Police Review Board; Showing Up for Racial Justice NE Ohio
Gilder Malone	Community Against Violence!
Avery Martens	Showing Up for Racial Justice Ohio, Ohio Transformative Justice Network
Antonio McMullen	Changeseekers
Mai Moore	EYEJ: Empowering Youth, Exploring Justice
Ossie Neal	Spread the Love Foundation
Thomas Nobbe	Greater Cleveland Congregations
Evan O'Reilly	Cuyahoga County Jail Coalition
Dave Patterson	
Chrissy Stonebraker-Martinez	Inter-Religious Taskforce on Central America
Fred Ward	Khnemu Foundation; Ohio Organizing Collaborative

SERVICE PROVIDERS	
Kirby Broadnax	Cleveland Mediation Center
Danielle Cosgrove	Cleveland Mediation Center
Mary Crowley	The Fountainhouse
Devi Davis	The Bail Project
Paul Fitzpatrick	CleveLawn Ohio
Margie Glick	Lutheran Metropolitan Ministry
Larry Heller	Northern Ohio Recovery Association
Sarah Hendrickson	MetroHeath Trauma Recovery Center
Cait Kennedy	unBail
Jennifer Lasky	Edna House for Women
Jill Rizika	Towards Employment
Michael Sering	Lutheran Metropolitan Ministry
Jill Smialek	Cuyahoga County Witness Victim Services
Mike Swiger	True Freedom Ministries
Zachary Thomas	Writers-in-Residence

POLICY ADVOCACY	
Laurie Albright	Greater Cleveland Congregations; ACLU NEO Action Team
Jenni Bartholomew	Partnership for a Safer Cleveland
Crystal Bryant	NAACP
Gabriella Celeste	Schubert Center for Child Studies
Colleen Cotter	Legal Aid Society of Cleveland
Gary Daniels	ACLU of Ohio
Jenny Eppich	Enterprise Community Partners
Emily Hansen	Enterprise Community Partners
Elizabeth Hopkins	ACLU of Ohio Foundation
Jennifer Johnson	Canopy Child Advocacy Center
Piet van Lier	Policy Matters Ohio
Becky McMahan	Cleveland Metropolitan Bar Association
Melekte Melaku	ACLU of Ohio
Chris Mignogna	NAMI of Greater Cleveland
Kirsti Mouncey	Collaborative to End Human Trafficking
Sarah Polly	CWRU Kramer Law Clinic
Pierce Reed	Ohio Innocence Project
Megan Rochford	NAMI Greater Cleveland
Jocelyn Rosnick	ACLU of Ohio

POLICY ADVOCACY	
Chloe Sudduth	Northeast Ohio Coalition for the Homeless
Anne Sweeney	Legal Aid Society of Cleveland
Kim Welter	Ohio Health Modernization Movement (OHMM) Statewide Coalition
Leah Winsberg	Children's Law Center
Pegah Zardoost	Cleveland Metropolitan Bar Association

GOVERNMENT	
Sara Andrews	Ohio Sentencing Commission
Joseph Arnett	Alcohol, Drug Addiction, and Mental Health Services (ADAMHS) Board
Carroll Ballard	Alcohol, Drug Addiction, and Mental Health Services (ADAMHS) Board
Simeon Best	Cuyahoga County Office of Reentry
Jennifer Boswell	Ohio Dept of Youth Services
Armond Budish	Cuyahoga County Executive's Office
Brandy Carney	Cuyahoga County Executive's Office
Bridget Gibbons	Cuyahoga Juvenile Detention Center
Jason Goodrick	Cleveland Community Police Commission
Blaine Griffin	Cleveland City Council
Jami Harris	Cuyahoga County Library Aspire Greater Cleveland
Aqueelah Jordan	City of Cleveland Prosecutor's Office
Lewis Katz	Cleveland Community Police Commission
Brandon Kutz	Fourth District Commander
Charmin Leon	Cleveland Community Police Commission, Black Shield Representative
David Weiss	Shaker Heights Mayor

RESEARCH	
Erika Anthony	Ohio Transformation Fund
Douglas Berman	Drug Enforcement and Policy Center at Ohio State University
Tim Black	Case Western Reserve University, Sociology
Ken Brickman	Center for Employment Opportunities
Rachel Dissell	Independent journalist
Ronnie Dunn	Cleveland State University, Sociology
Brandon Garrett	Duke University, School of Law
Ayesha Hardaway	Case Western Reserve University, Social Justice Institute
David Hussey	Begun Center for Violence Prevention Research & Education
Charmin Leon	Center for Policing Equity
Rachel Lovell	Cleveland State University, Criminology
Wendy Regoeczi	Cleveland State University, Department of Criminology, Anthropology, and Sociology
Timothy Sommerfelt	Cleveland Association of Rescue Employees
Bob Triozzi	Cleveland State University, Cleveland-Marshall College of Law
Neil Williams	Duke University, Wilson Center for Science and Justice



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