

A person is shown in silhouette, standing behind vertical metal bars that represent jail cells. The person's head is bowed, and their hands are near their face, suggesting a state of despair or contemplation. The entire scene is overlaid with a semi-transparent blue filter.

# JAIL ALTERNATIVES

in the United States

Annually in the United States, 4.9 million people are arrested and jailed, with nearly 1.5 million in prison. Prison and jail populations in some jurisdictions are decreasing slowly at best, but continue to grow in many states.

In 2008, the Pew Center on the States released a study stating that 1 in every 100 Adults in the U.S. was incarcerated in a prison or jail. The report confirmed what corrections officials already knew—that incarceration rates were unsustainable and alternative methods of rehabilitating offenders and ensuring public safety were going to become essential.

Since then, countless reforms across the country have passed in an effort to slow the growing number of people behind bars in the US. These changes range from bail reforms to jail closings to diversion programs.

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## Criminal Justice Reform

In the last few years, this effort has fallen into the larger Criminal Justice Reform agenda, one that is receiving bipartisan support at local, state, and the Federal level. While changes to mass incarceration have been a huge talking point over the last few years, some fear that rather than actual improvement, these populations will inadvertently shift to areas with fewer resources or programs, such as community supervision, that lack the ability to implement services to help rehabilitate people and keep them out of jail.

These fears are not unfounded. Although progress was made, not every state has adopted reforms, and in those states that have, reforms have been inconsistently adopted within each state. As a result, progress is unevenly distributed across and between states, and with the lack of unified policies and practices, the definition of “success” varies substantially, varies substantially and is difficult to measure.



# Measuring Progress: Rural vs Urban Jails

While urban jail populations have declined by 18% since 2013, that decrease slowed from 2016 to 2017, when state and federal prison populations only dropped 1.2% overall.

In sharp contrast, rural jail populations have increased by 27% since 2013. One example of this rural jail phenomenon can be found in the Hamblen County Jail in Morristown, Tennessee. *The New York Times* took an in-depth look at the program in an article titled “A Cesspool of a Dungeon: The Surging Population in Rural Jails.”

## *Profile: The Hamblen County (New Jersey) Jail*

The Hamblen County Jail itself has 255 beds and houses roughly 439 inmates. According to Jacob Kang-Brown, a senior research associate at the Vera Institute of Justice, “In the big city, you get a ticket and a trip to the clinic. But in a smaller area, you might get three months in jail.” This seems to be because smaller, rural jurisdictions lack the infrastructure and funding to start and maintain the type of treatment options and diversion programs that are making substantial headway in larger jurisdictions. Moreover, many small cities and rural areas have failed to embrace efforts to make it easier for nonviolent offenders to get on with their lives.

Defense lawyers in Hamblen County proposed a pilot program for pretrial supervision similar to those in nearby cities, which would allow low-risk defendants to avoid posting bail and to avoid jail altogether even if convicted. However, judges rejected the proposal due to fears that defendants would flee rather than choose to appear in court.

***In sharp contrast, rural jail populations have increased by 27% since 2013.***



# Bail Reform and Diversion Programs

In the most recent trend in Criminal Justice Reform efforts, some states have made progress. New York and California have both passed bail reform legislation, including eliminating cash bail for certain charges. New Jersey and Alaska have virtually eliminated cash bail altogether. Instead, both states are using a point system to determine what route each individual should take: release, held until trial, or other monitoring.

## *Profile: New Orleans, Louisiana*

The sheriff and the community in New Orleans, Louisiana, have been debating incarceration rates since Hurricane Katrina destroyed a number of facilities in 2005. The Sheriff requested funds to build a new 6,000 bed jail. Instead, he received funding for a facility with a cap of 1,250 inmates, and special interests and the community continue the battle officials' request to add more beds to the facility. In the last few years, the push to eliminate cash bail altogether has grown in New Orleans, with some arguing that poor, minority, and mentally ill offenders comprise a disproportionate amount of the population, incarcerated before they're even convicted, but with few services and diversion programs to help reduce their time in jail.

In 2019, the city received a \$2 million grant aimed specifically at creating programs to alleviate the jail population. This brings the total funding aimed at tackling the issue to \$3.5 million since 2015. Once known as the "mass incarceration capital" and notorious for rough jail conditions, New Orleans has now seen a 25% drop in the city's jail population since 2015, and officials are projecting another 20% reduction by the end of 2020.

At the core of their progress: A more robust Risk Assessment tool that helps determine risk and need and route individuals, such as those with substance use and mental health disorders, into alternative services while awaiting adjudication of a case.

***New Orleans has now seen a 25% drop in the city's jail population since 2015.***





## *Profile: Philadelphia's Police-Assisted*

In 2018, Philadelphia launched their Police-Assisted Diversion (PAD) program in an effort to cut their city's jail population. The program is offered for low-level, nonviolent drug, prostitution, and retail theft offenses within the PAD zone and during PAD hours, which are Monday through Friday, 8:00 a.m. to 12 Midnight, in three of Philadelphia's busiest police districts. The goal is to rehabilitate individuals in order to re-establish a normal life without the burden of a criminal record. In Philadelphia, the program keeps people out of jail and officers out of court and on patrol by moving people away from the criminal justice system and toward social services customized to participants' needs. Diversion, in cases of crimes related to substance use disorders, can drastically improve outcomes for those individuals.

The program is a major touch point for drug-involved offenders, allowing front line officers to direct people into treatment and rehabilitation services versus incarceration, speeding access to treatment while reducing jail populations and giving police a better tool to mitigate the disproportionate impact of the opioid epidemic on both jail beds and the community. The PAD program has also partnered with veteran's organizations, as well as a number of other community groups and providers, in order to streamline access to services.

The program also allows community members to approach officers and self-report when they're in trouble or in need of help. Called Social Referrals, these individuals can access medical, treatment, and mental health services free of charge, and voluntarily. The idea is to build trust so that people will choose to follow up with the police department when they're ready for more help. Philadelphia District Attorney Larry Krasner stated, "I think it's easier, frankly, to come forward and talk to a police officer about an issue when there is empathy for the problem, knowing the officers have the option of not turning it simply into a prosecution."

***Diversion, in cases of crimes related to substance use disorders, can drastically improve outcomes for those individuals.***

# Striking a Balance: Harm Reduction and Public Safety

When it comes to offenders with substance use and mental health disorders, redirecting them into relevant treatment programs can provide an off-ramp out of the criminal justice system. In some cases, a touch from the criminal justice system and the external pressure that applies can be helpful and drive compliance with treatment and other requirements. However, studies have shown that it's important that this touch is timely and in proportion to the crime committed. At least 30 states have laws meant to limit incarceration for technical violations, 35 states have policies meant to increase success rates for individuals on supervision, and 16 states specifically limit the amount of time someone can be placed in jail for a technical violation.

Probation still remains one of the biggest sources of jail and prison admissions in the US. With 95,000 people incarcerated daily (roughly 1/4 of the total number of people entering prison or jail) as a result of technical violations, this process costs the US roughly \$2.8 billion every year.



## Profile: The State of Louisiana

The state of Louisiana has programming that illustrates the potential impact of this criminal justice touch point. In 2007, the state passed a law limiting incarceration for technical probation or parole violations in order to prioritize beds for more serious offenders. This steers low-level offenders to potentially more effective alternatives, making them less likely to return to custody for a new crime.

Since 2007, Louisiana has reduced the average incarceration length for first-time technical violations by 281 days and maintained public safety by decreasing returns to custody by 22%. The result is a net savings of roughly 2,034 jail and prison beds per year, saving taxpayers an average of \$17.6 million annually.

However, those in jail due to technical violations aren't the only offenders overburdening the system. Overcrowding, underfunding, and staffing problems are forcing at the rate of incarceration currently in the U.S., The Mississippi Department of Corrections (MDOC) is facing such a problem.



## Conclusion

Once considered progressive and optional, jail alternatives are now standard operating procedure for the vast majority of programs in the U.S. The next few years will begin to show outcomes of some of the varying alternative methods of rehabilitating offenders and the impact on public safety, jail populations, and recidivism. Funding is essential, and outcome data will be key as jurisdictions struggle to strike a balance between funding facilities and funding programming. For the vast majority of people occupying jail beds, substance use disorder and underlying or co-occurring mental health disorders are the root of the problem.

***Jail alternatives are now standard operating procedure for the vast majority of programs in the U.S.***





## For More Information:

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## About Averhealth:

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