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# **MENTAL HEALTH AND DRUG TREATMENT COURTS IN NEW YORK STATE: ASSESSMENT AND THE CASE FOR EXPANSION**



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The National Alliance on Mental Illness of New York City  
(NAMI-NYC)  
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## EXECUTIVE SUMMARY

In this report, the National Alliance on Mental Illness of New York City (NAMI-NYC) sought to assess the wide variety of treatment courts throughout New York State, including their strengths and weaknesses, and analyze stakeholders' perspectives of what these courts can and should look like in the future.

Our findings suggest that, while existing mental health treatment courts help hundreds of people every year, there is significant room for improvement in line with a robust body of data about best practices.

Our recommendations are supported by interviews with stakeholders involved in the administration of and referral to treatment courts across New York State.

## INTRODUCTION

For over 40 years, the **National Alliance on Mental Illness of New York City (NAMI-NYC)** has served as a leading service organization for the mental health community throughout New York City by providing groundbreaking advocacy, education, and support for individuals affected by mental illness, their families, and the greater public— all completely free of charge. We represent and support the various peers living with mental illnesses, along with their supportive family members and caregivers.

NAMI-NYC advocates for reducing the number of people with mental illness and co-occurring substance use disorder involved in the criminal legal system. We must address the social determinants of mental health, as well as prioritize appropriate preventive and crisis care services. Any interactions should preserve the health, well-being, and dignity of the individual and off-ramps should be available for anyone open and willing to seek treatment and recovery. NAMI-NYC supports the use of problem-solving courts as part of a broad strategy to reduce incarceration, recidivism, and exacerbated symptoms by promoting diversion from further involvement in the criminal legal system for people with mental illness.<sup>1</sup>

NAMI-NYC is a member of the **Treatment Not Jail Coalition**,<sup>2</sup> where we advocate for expansion and improvement of existing problem-solving courts along with expanded funding for community-based mental health treatment and other supports that will make our communities safer and healthier. The New York State Legislature first introduced the Treatment Not Jail (TNJ) Act during the 2019-2020 legislative session, and it is still pending before the legislature.<sup>3</sup> If passed, the bill would amend the criminal procedure law and create statutory mental health courts in

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<sup>1</sup> “Problem-Solving Courts/Specialty Courts | NAMI: National Alliance on Mental Illness,” n.d. [https://www.nami.org/Advocacy/Policy-Priorities/Supporting-Community-Inclusion-and-Non-Discrimination/Problem-Solving-Courts-Specialty-Courts#:~:text=Problem-solving%20courts%20\(also%20known,providing%20treatment%20rather%20than%20punishment](https://www.nami.org/Advocacy/Policy-Priorities/Supporting-Community-Inclusion-and-Non-Discrimination/Problem-Solving-Courts-Specialty-Courts#:~:text=Problem-solving%20courts%20(also%20known,providing%20treatment%20rather%20than%20punishment).

<sup>2</sup> NAMI NYC. “Decriminalizing Mental Illness - NAMI-NYC.” NAMI-NYC, January 17, 2023 <https://naminycmetro.org/get-involved/advocacy/decriminalizing-mental-illness/>.

<sup>3</sup> NY State Senate. “NY State Senate Bill S8687,” October 9, 2020. <https://www.nysenate.gov/legislation/bills/2019/S8687>.

every county, building on the success of a 2009 law that did the same for statutory drug courts. In addition to expanding eligibility, the bill would incorporate harm reduction principles, enhance due process protections, and center clinicians and participants in the creation and implementation of the treatment plan, rather than lawyers and judges.<sup>4,5</sup>

In the context of this legislative push to expand access to treatment courts, NAMI-NYC sought to investigate the current treatment court landscape by speaking to stakeholders<sup>6</sup> across the state, in a diversity of communities, to understand variations in costs, what currently works and needs improvement. The people closest to the problem are often closest to the solution. We hope by incorporating stakeholders' perspectives in the conversation about possible reform, policymakers will be able to make well-informed decisions about how or whether reform should occur.

## BACKGROUND

New York State (NYS) has been experimenting with treatment courts for decades. The basic premise of treatment courts (often referred to as “diversion” or “problem-solving courts”) is that they address the root causes of criminal legal system involvement relying on treatment, rather than incarceration, to enhance public safety.

Nationally, treatment courts receive widespread, bipartisan support.<sup>7</sup> They have been shown to significantly reduce re-arrest rates for participants and enhance a person's ability to gain employment by nearly 50% compared to individuals who go through traditional criminal legal

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<sup>4</sup> *Ibid.*

<sup>5</sup> “Treatment Not Jail Campaign.” Justice Roadmap NY, 2022.

<https://justiceroadmapny.org/wp-content/uploads/2021/12/Treatment-Not-Jail-Campaign-FINAL.pdf>.

<sup>6</sup> E.g., prosecutors, defense attorneys, diversion program administrators, etc.

<sup>7</sup> Mexico, N., Blackburne-Rigsby, A., Kansas, S., Oregon, N., Macdonald, G., Justice, M., & Rutledge, J. (n.d.). *Chief Justice C.*

Shannon Bacon // SURVEY ADVISORY COMMITTEE MEMBERS. Retrieved April 3, 2023, from

[https://www.ncsc.org/\\_data/assets/pdf\\_file/0019/85204/SSC\\_2022\\_Presentation.pdf](https://www.ncsc.org/_data/assets/pdf_file/0019/85204/SSC_2022_Presentation.pdf).

system channels.<sup>8</sup> Not only do they tend to produce better outcomes, but the courts are also significantly cheaper than jail and prison. According to the Office of Court Administration, every \$1 invested in treatment courts produces \$2.21 in benefits to the state.<sup>9</sup> When accounting for collateral impacts—such as savings from incarceration, lost wages, family separation proceedings—treatment courts are even more cost-effective, offering a \$10 return on every \$1 invested.<sup>10</sup> Even victims of violent crimes overwhelmingly support treatment courts over increased spending on jails and prisons, according to a recent survey from the Alliance of Safety and Justice.<sup>11</sup>

## Drug Courts

Drug courts were the first iteration of treatment courts in New York State. Beginning in Rochester in 1995, early drug courts permitted prosecutors to determine eligibility and gatekeep who could participate.<sup>12,13</sup> That changed in 2009 when the state passed the Rockefeller Drug Law Reforms (DLR), which addressed the harsh sentencing set in the 1980s by former New York State Governor Nelson Rockefeller. The DLR created statutory drug treatment courts in every county under the new Criminal Procedure Law Article 216.<sup>14</sup> Article 216 expanded opportunities for judicial diversion by allowing judges to authorize participation in drug court over the

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<sup>8</sup> Mueller-Smith, Michael, and Kevin T. Schnepel. "Diversion in the Criminal Justice System." *The Review of Economic Studies* 88, no. 2. March 22, 2021: 883–936. <https://academic.oup.com/restud/article-abstract/88/2/883/5856753?redirectedFrom=fulltext>.

<sup>9</sup> New York State Unified Court System. *THE FUTURE OF DRUG COURTS IN NEW YORK STATE: A STRATEGIC PLAN*. (2017). [https://www.nycourts.gov/legacyPDFS/courts/problem\\_solving/drugcourts/The-Future-of-Drug-Courts-in-NY-State-A-Strategic-Plan.pdf](https://www.nycourts.gov/legacyPDFS/courts/problem_solving/drugcourts/The-Future-of-Drug-Courts-in-NY-State-A-Strategic-Plan.pdf).

<sup>10</sup> Testing the Cost Savings of Judicial Diversion Final Report. (2013). [https://www.innovatingjustice.org/sites/default/files/documents/NY\\_Judicial%20Diversion\\_Cost%20Study.pdf](https://www.innovatingjustice.org/sites/default/files/documents/NY_Judicial%20Diversion_Cost%20Study.pdf).

<sup>11</sup> *Crime Survivors Speak: The First-Ever National Survey on Victims' Views on Safety and Justice*. n.d. ALLIANCE FOR SAFETY AND JUSTICE. Accessed March 8, 2023. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

<sup>12</sup> *Ibid.*

<sup>13</sup> Flores, P., Lopez, J., Pemble-Flood, G., Riegel, H., & Segura, M. (2018). *An Analysis of Drug Treatment Courts in New York State*. <https://rockinst.org/wp-content/uploads/2018/05/5-23-18-Drug-Court-Report.pdf>, p. 9.

<sup>14</sup> Klein, J. (2012). NEW YORK STATE SENATE STANDING COMMITTEE ON ALCOHOLISM & DRUG ABUSE. [https://www.nysenate.gov/sites/default/files/Rockefeller%20Drug%20Laws%20Committee%20Final\\_0.pdf](https://www.nysenate.gov/sites/default/files/Rockefeller%20Drug%20Laws%20Committee%20Final_0.pdf).



prosecutor's objection. The judicial diversion law requires an upfront guilty plea to participate in most cases, except in some limited circumstances.<sup>15</sup> The law has narrow eligibility requirements.<sup>16</sup>

Research shows that Article 216 also deters many otherwise promising candidates from participating in diversion programs due to adherence to abstinence-only treatment modalities, frequent reporting requirements, and cost.<sup>17</sup> As a 2015 report from the State University of New York noted, "paying for treatment can be a barrier to success, especially if services and costs associated with treatment are not covered by Medicaid or private insurance."<sup>18</sup> Furthermore, the counties that do offer more expansive options require prosecutor approval, which creates another barrier.

Judicial diversion has successfully off-ramped more than 42,800 individuals from felony convictions and jail or prison sentences.<sup>19</sup> However, the overall 46% graduation rate from drug courts indicates room for improvement.<sup>20</sup>

## Opioid Courts

In 2017, New York was the first state in the nation to open an Opioid Treatment Court in Buffalo.<sup>21</sup> Opioid courts now exist in all thirteen of the state's judicial districts.<sup>22</sup> Opioid courts operate outside of the judicial diversion statutory framework.

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<sup>15</sup> NYS Criminal Procedure Law Section 216.05(4).

<sup>16</sup> To be eligible to participate in diversion, the person must be charged with one of a list of enumerated offenses of low-level drug and non-violent felonies. 216.00(1). Any person charged with violent felony is excluded. 216.00(1)(a). Those charged with misdemeanors or non-penal law offenses (e.g. offenses contained in the Vehicle and Traffic Law, like Driving While Intoxicated) are also foreclosed from participating. 216.00(1). Finally, most individuals with a prior conviction for a violent felony are categorically ineligible. CPL 216.00(1)(b).

<sup>17</sup> Flores, P., Lopez, J., Pemble-Flood, G., Riegel, H., & Segura, M. (2018). *An Analysis of Drug Treatment Courts in New York State*. <https://rockinst.org/wp-content/uploads/2018/05/5-23-18-Drug-Court-Report.pdf>, at 14.

<sup>18</sup> *Ibid.* at 16.

<sup>19</sup> "Drug Treatment Courts - Overview | NYCOURTS.GOV." n.d. Ww2.Nycourts.gov. [https://ww2.nycourts.gov/courts/problem\\_solving/drugcourts/overview.shtml](https://ww2.nycourts.gov/courts/problem_solving/drugcourts/overview.shtml).

<sup>20</sup> *Ibid.*

<sup>21</sup> "Opioid Courts - Overview | NYCOURTS.GOV." n.d. Ww2.Nycourts.gov. Accessed April 3, 2023. [https://ww2.nycourts.gov/COURTS/problem\\_solving/opioid-courts-overview.shtml#:~:text=Created%20with%20the%20explicit%20goal](https://ww2.nycourts.gov/COURTS/problem_solving/opioid-courts-overview.shtml#:~:text=Created%20with%20the%20explicit%20goal).

<sup>22</sup> "Opioid Courts - Court Locations | NYCOURTS.GOV." n.d. www.nycourts.gov. Accessed April 3, 2023. [https://ww2.nycourts.gov/COURTS/problem\\_solving/opioid-courts-locations.shtml](https://ww2.nycourts.gov/COURTS/problem_solving/opioid-courts-locations.shtml).

The goal of opioid courts, distinct from traditional drug courts, is to fast-track people into treatment for opioid use.<sup>23</sup> Participants are linked with Medication Assisted Treatment (M.A.T.) and/or behavioral treatment within hours of their arrest.<sup>24</sup> Crucial to the court's success is actively coupling M.A.T. with counseling and peer support, without requiring an upfront plea.<sup>25</sup> Criminal charges are put off for ninety days to focus on treatment, with both the prosecution and defense agreeing to waive speedy trial time and motions practice. The Buffalo opioid court model accepts relapse as a normal part of the recovery process and does not mandate abstinence-only treatment.<sup>26</sup>

Although there is a lack of empirical data publicly available, there is ample evidence demonstrating the opioid court model as effective and promising. For example, the Buffalo opioid court reported only one overdose-related death in the court's first year of operation out of 204 participants.<sup>27</sup> Hopefully, more data will soon be forthcoming, especially since the NYS court system received a 2021 U.S. Department of Justice grant requiring reporting and evaluation for these courts in rural parts of New York state.<sup>28</sup>

## Mental Health Courts

Mental health courts have been in existence in New York since 2002. Unlike drug courts, but like opioid courts, they operate outside of a statutory framework. They now exist in more than

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<sup>23</sup> *Ibid*, at n.16.

<sup>24</sup> Craig, Hon, and D Hannah. n.d. "Buffalo Opioid Intervention Court." Accessed March 8, 2023.

<https://www.buffalo.edu/content/dam/www/ria/events/Fulbrightpres/Hannah%20Keynote%204.27.19.pdf>, (slide 3).

<sup>25</sup> "New York State Unified Court System Essential Elements of Opioid Courts." n.d. Accessed March 8, 2023.

[https://ndcrc.org/wpcontent/uploads/2022/01/NY\\_State\\_Unified\\_Court\\_System\\_Essential\\_Elements\\_of\\_Opioid\\_Courts.pdf](https://ndcrc.org/wpcontent/uploads/2022/01/NY_State_Unified_Court_System_Essential_Elements_of_Opioid_Courts.pdf), p. 2.

<sup>26</sup> Craig, Hon, and D Hannah. n.d. "Buffalo Opioid Intervention Court." Accessed March 8, 2023.

<https://www.buffalo.edu/content/dam/www/ria/events/Fulbrightpres/Hannah%20Keynote%204.27.19.pdf>, (slide 25).

<sup>27</sup> DiFiore, Janet. "Review of New York State's Opioid Intervention Court." National Center for State Courts. Accessed March 8, 2023.

[https://www.ncsc.org/\\_data/assets/pdf\\_file/0016/26215/new-york-opioid-intervention-courts.pdf](https://www.ncsc.org/_data/assets/pdf_file/0016/26215/new-york-opioid-intervention-courts.pdf), p. 4.

<sup>28</sup> "New York Rural Opioid Court Initiative." n.d. Bureau of Justice Assistance. Accessed March 8, 2023.

<https://bja.ojp.gov/funding/awards/15pbja-21-gg-04548-coap>.

half of the counties in the state, with large treatment deserts particularly in more rural counties. Since 2021, they have served more than 12,000 participants.<sup>29</sup>

Due to their *ad hoc* nature, mental health courts in one New York County can look very different from a mental health court in a neighboring county. As Center for Court Innovation noted in 2015:

“[M]ental health courts in New York vary widely in court operations and local resources for treatment and related supports and face challenges of limited funding for planning, operations, ongoing training and technical assistance; lack of research-based standards for mental health courts; and limited research on mental health courts.”<sup>30</sup>

However, when compared to drug courts, mental health courts serve far fewer participants. In 2021, for example, mental health courts served only 570 people, according to data from the Office of Court Administration. Many barriers to participating remain. There is the requirement that people plead guilty prior to entering treatment, the unwillingness of prosecutors or defense attorneys to make referrals, the long wait times for programming and residential treatment beds, and the insufficient and underfunded community-based mental health treatment options. There is also the lack of transportation for many participants.<sup>31</sup>

As with opioid courts, New York’s mental health courts have little publicly available data or analysis of various models across jurisdictions. From our research, it seems as though most data lives internally with program administrators. However, the Brooklyn Mental Health Court, which is operated in partnership with the Center for Justice Innovation, provides a glimpse of promise.

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<sup>29</sup> Data provided from the Office of Court Administration in 2022, on file with authors and available upon request.

<sup>30</sup> Hahn, Josephine. n.d. “New York State Mental Health Courts a Policy Study.” Accessed March 8, 2023.

[https://www.innovatingjustice.org/sites/default/files/documents/MHC%20Policy%20Study%20Report\\_Final.pdf](https://www.innovatingjustice.org/sites/default/files/documents/MHC%20Policy%20Study%20Report_Final.pdf), (p. 1).

<sup>31</sup> *Ibid.*

The Court currently reports a 46% reduction in rearrest rates for graduates, and an 86% graduation rate for active participants.<sup>32</sup>

### Other Treatment Courts

Other problem-solving court models available in New York include veterans treatment courts, human trafficking intervention courts, and family treatment courts.

Buffalo City Court developed the first veterans treatment court (VTC) in 2008. There are now thirty-four VTCs across the state. An important component of the VTC model, which is different from other models, is the use of peer support. In this model, peer veterans with lived experience successfully navigating the recovery process will support current participants in the court program. Despite the promise of the VTC model, *The New York Times* wrote recently,

“the cost and effectiveness of such courts are difficult to determine...Caseloads are usually small, getting in can take months and data on how many veterans are readily identified and referred to these programs and how many succeed in staying employed and out of trouble is woefully incomplete,”<sup>33</sup>

which notes the extensive work that still needs to be done evaluating the program.

After the formation of VTCs, the state court system established twelve human trafficking intervention courts in 2013 to handle criminal cases involving sex work and to provide services to people accused of those crimes. As with VTCs, *The New York Times* noted that “a lack of data or measurable goals has made it difficult to determine if the approach works.”<sup>34</sup> The article

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<sup>32</sup> “Brooklyn Mental Health Court.” n.d. Center for Justice Innovation. Accessed March 8, 2023.

[https://www.innovatingjustice.org/programs/brooklyn-mental-health-court?gclid=CjwKCAiAs8acBhA1EiwAgRFdw\\_8MqK%20wkhzSeLe-IYsnmJkzwNf5b\\_jl\\_9YNocwUi3bUzMqJM25Ap3hoCx8gQAvD\\_BwE](https://www.innovatingjustice.org/programs/brooklyn-mental-health-court?gclid=CjwKCAiAs8acBhA1EiwAgRFdw_8MqK%20wkhzSeLe-IYsnmJkzwNf5b_jl_9YNocwUi3bUzMqJM25Ap3hoCx8gQAvD_BwE).

<sup>33</sup> Marcus, Chelsia Rose. 2023. “Veterans Trickle through a Special New York Court Known Only to a Few.” *The New York Times*, January 1, 2023, sec. New York. <https://www.nytimes.com/2023/01/01/nyregion/new-york-veterans-court.html>.

<sup>34</sup> *The New York Times*. 2020. “Charged with Prostitution, She Went to a Special Court. Did It Help?,” January 6, 2020. <https://www.nytimes.com/2020/01/06/nyregion/ny-prostitution-courts.html>.

interviewed participants and service providers who suggested that, while the program helped some people leave sex work, the threat of criminal punishment left other participants confused as to whether courts were more interested in punishing them. The number of participants in these courts has dropped as sex work arrests have decreased in recent years.<sup>35</sup>

### The Treatment Not Jail Act

In 2020, legislators in the New York State Senate and Assembly introduced a bill called the Treatment Not Jail Act (currently, S.1976A/A.1263A).<sup>36,37</sup> The legislation would expand the existing judicial diversion statute, which is currently limited by charge restrictions and only to people with substance use disorder issues. People would be eligible for admission to treatment court if they have a functional impairment, a term used by mental health professionals to encompass people with mental health concerns, substance use issues, and developmental disabilities. This expanded eligibility would allow thousands more people to avoid jail and prison sentences, and instead, receive the treatment for underlying issues that initially brought them in to the criminal legal system.

The Treatment Not Jail Act is inspired by similar legislation that passed in California in 2018. The California bill was the first-in-the-nation legislation creating statutory mental health diversion.<sup>38</sup>

## METHODS

NAMI-NYC seeks to understand the strengths and weaknesses of existing treatment courts in New York State as identified by treatment court stakeholders. Specifically, this report seeks to better understand:

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<sup>35</sup> *Ibid.*

<sup>36</sup> “NY State Senate Bill S1976A.” 2023. NY State Senate. February 14, 2023. <https://www.nysenate.gov/legislation/bills/2023/s1976>.

<sup>37</sup> “NY State Assembly Bill A1263A.” 2023. NY State Senate. March 3, 2023. <https://www.nysenate.gov/legislation/bills/2023/a1263/amendment/a>.

<sup>38</sup> California Penal Code 1001.36, available at: [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1001.36.&lawCode=PEN](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1001.36.&lawCode=PEN).

- (1) What does an investment in treatment courts look like?
- (2) What works in New York's existing treatment courts?, and
- (3) What needs improvement?

A NAMI-NYC staff member conducted interviews with thirteen stakeholders working with vested interest in their respective treatment courts across various counties in New York State.

These included:

- Kings County (3 interviewees),
- Nassau County (2 interviewees),
- Onondaga County (3 interviewees),
- Ontario County (3 interviewees), and
- Tompkins County (2 interviewees).

Interviews took place between September 2022 and January 2023. Those interviewed included:

- Public defenders and those involved with assigned counsel programs,
- Individuals working on the prosecution side with their respective District Attorney's office,
- Those involved in social work or case supervision and/or treatment advocacy/coordination, and
- Other related supervision/investment in judicial diversion.

These counties were selected because they each have a statutory drug court (judicial diversion) and an ad hoc mental health court. They also reflect the geographic diversity of the state, including urban, rural, and suburban communities.

The interviews focused mainly on mental health/wellness courts and somewhat on drug treatment courts. It is worth noting that these results are from counties that have mental health courts, and only half of the counties in the state do, which are more heavily concentrated downstate. Due to the small sample size, any information from stakeholders has been de-identified for privacy.

## Yearly Participants in Select Mental Health Courts<sup>39,40,41</sup>

<b>County/Locality</b>	<b>Population Size (2021)</b>	<b>Total Incoming Participants (2021)</b>	<b>Total Arrests by County (2021)</b>
Kings County	2,641,000	112	34,593
Nassau County	1,391,000	16	12,080
City of Syracuse* <sup>42</sup> (Onondaga County)	City: 146,000	22	8,258
Ontario County	112,000	14	1,379
Tompkins County	105,000	12	889

## RESULTS

Stakeholders answered questions about how treatment courts work in their counties, courts’ strengths and weaknesses, and how the existing models could be improved upon to enhance public safety and community health outcomes.

### Treatment Court Eligibility Requirements and Funding

<sup>39</sup> United States Census Bureau QuickFacts. “U.S. Census Bureau QuickFacts: Tompkins County, New York; Ontario County, New York; Onondaga County, New York; Kings County, New York; Nassau County, New York.” Census Bureau QuickFacts, n.d. <https://www.census.gov/quickfacts/fact/table/tompkinscountynewyork,ontariocountynewyork,onondagacountynewyork,kingscountynyork,nassaucountynewyork/PST045222>.

<sup>40</sup> New York State Division of Criminal Justice Services. “Adult Arrests - County and Region Selection,” n.d. <https://www.criminaljustice.ny.gov/crimnet/ojsa/arrests/index.htm>.

<sup>41</sup> Data provided from the Office of Court Administration in 2022, on file with authors and available upon request.

<sup>42</sup> Unlike other counties, Onondaga County (pop. 473,000) has a treatment court that is only open to individuals from within the City of Syracuse without violent felony charges.

As noted in the Background Section of this report, judicial diversion courts have statutorily mandated restrictions on eligibility. Unlike statutory drug courts, mental health courts operate in an *ad hoc* manner and operate differently across jurisdictions. Some diversion courts or those performing psychological evaluations do require a nexus and some do not; yet, often a nexus is found anyway. A nexus requires there to be a stated a connection between the alleged crime and the individual's health condition (e.g., serious mental illness or substance use disorder was the reason this act was committed).

According to stakeholders, some mental health courts in the state are also limited to misdemeanor charges and only accept other charges in rarer, case by case scenarios. Some mental health courts' cases are split about half misdemeanors and half felonies; some focus predominantly on felony cases, and finally, some have separate courts for Criminal (misdemeanor) and Supreme (felony) cases. Some of the counties were unable to provide specific data about which charges are admitted or excluded.

Anecdotally, the most common charges admitted for entrance are: petty larceny, harassment, drug use or possession charges, assault, and violating order of protection. Availability of information varied by location, where upstate/more rural counties had less violent crimes. This anecdotal data may also be influenced by the kind of charges accepted in their court program.

In Onondaga County, for example, the mental health court only accepts misdemeanor charges and caps the number of participants at 20. Only residents coming from the city of Syracuse with misdemeanor charges can be involved in the program. Residents of Onondaga County who live outside of the city limits in surrounding villages and towns are not permitted to participate in mental health treatment court. This is likely due to grant limitations as the mental health treatment court program is fairly new.

Other interviewees mentioned funding as an issue. Often, funding was mentioned as being time limited, so that temporary funding to expand program staff, for example, is not guaranteed to



last. At least one interviewee expressed concern about the client coordination staff time spent seeking and maintaining funding rather than direct client work.

Caseloads must also be reduced, so case managers or social workers may adequately perform their jobs. In counties with smaller numbers of treatment court participants, there may be fewer staff who cover necessary duties. As the number of participants with treatment plans in place increases, more staff and more staff supervision and oversight is needed.

### What's Working in New York's Treatment Courts?

One of the greatest strengths of treatment courts is that they are typically staffed by stakeholders who are invested and trained in working with people in recovery. Most stakeholders emphasized the value of having attorneys, judges, social workers, case workers, and even court officers in the treatment court environment who are experienced with the population or who have received specialized training. From the prosecution and defense to court staff, there is consensus that everyone working in the system should have access to research-backed models of care, including being trauma informed.

Many mental health court programs have less stringent sanctions around noncompliance than their drug treatment court counterparts. Court staff, for example, may look more holistically at what prevented the individual from attending court or their treatment appointment. Some mental health courts in the state, unlike most drug courts, do not require complete abstinence from substances. Anecdotally, the interviews suggest that such approaches result in higher rate of graduation from mental health court programs. There is greater understanding about the way serious mental illness interacts with the previously mentioned issues. Supportive staff advocate and work to support people and effectively address the day-to-day realities that can impact one's performance in the program. However, despite relative leniency as compared to drug courts, setbacks do still occur in mental health courts, delaying milestones or preventing program completion.

Care for treatment court participants appears to be improving. Outpatient clinics and programs, for example, increasingly emphasize more integrative services for dually diagnosed patients, or at least having more communication among care providers and between coordinators/case managers. Our research suggests that when the providers are in centrally accessible areas, this also helps to reduce the number of trips participants must make and is beneficial to treatment adherence. Regular meetings of the multi-disciplinary court team also help create a non-duplicative action plan for each client.

Stakeholders also note the value of having treatment court cases docketed separately from non-treatment court cases. Depending on the size of the treatment court population, most courts tend to use some kind of separate docket, or calendar, for appearances. In areas that have larger numbers of treatment court participants, this may be kept separate, such as for the mental health court or felony drug court in Kings County. It appears common in areas with fewer cases for the presiding judge over a mental health court, for example, to also preside over other problem-solving courts, such as TAP programs, misdemeanor and/or felony drug courts, sometime with a combined docket. However, the frequency of times various diversion programs has their clients in court may be different from one another. One stakeholder emphasized that having a separate and dedicated calendar for the population being served tends to create a sense of camaraderie, where treatment court participants may follow each other's progress and stay accountable to each other.

## What Needs Improvement in New York's Treatment Courts?

### *System Coordination*

The siloing of mental health concerns and substance use, frequently because of funding constraints, remains a challenge for stakeholders working in these courts. It is very common for individuals in mental health courts to have some kind of co-occurring substance use disorder. Stakeholders from the counties interviewed suggest that over 70% of individuals going through

mental health court treatment programs also have some kind of co-occurring disordered substance use. While some providers do add great value by providing integrated treatment for dually diagnosed individuals, there are concerns over separation of treatment by organizations and providers who do not provide both kinds of programming. Sometimes resource coordinators have difficulty coordinating the separated treatments. One stakeholder acknowledged their frustration with navigating communication across their program with information often being faxed between agencies and suggested a follow up/monitoring online portal for administrative ease. Separation of treatment providers can also add stress for the participant, particularly if they have difficulty physically accessing more places if providers are spread out due to transportation issues.

### *Data Reporting & Transparency*

Lack of data and reporting was a constant refrain. Some stakeholders suggested that not enough is being done to record data and keep systems accountable, particularly in mental health court. Interviewees mentioned the importance of creating reports to measure trends and assess best practices, which also would require more staff power to create. There was mention of hope that the Treatment Not Jail Act would create more accountability on tracking data. One interviewee suggested that third party monitoring outside of the court program could track updates and keep client cases accountable.

### *Housing*

Stakeholders from various counties stated that program intake has prolonged since the beginning of the COVID-19 pandemic. Part of this intake process involves securing housing for the client so the individual has some place safe to stay during treatment. Therefore, access to safe, affordable housing is often a significant barrier to a person's entry into a treatment court program.

Moreover, once a person is referred, the individual must first plead guilty in order to begin treatment. However, the plea is not entered until all the services are set up, so people who are otherwise ready to begin moving through the phases of their treatment court end up waiting, often for many months or more. They may spend that time stuck in jail awaiting resources to become available, including their housing.

Mental health housing is limited in terms of resources and availability. Most programs try to use communal placement, if possible. Housing placement is often the largest barrier to leaving jail and beginning treatment court. After the psychiatrist recommends that a person needs residential programming, the staff must find safe, structured housing options. If participants cannot be placed with family or less intensive community programming, this is a clinical barrier. Housing vacancies can take months and the wait time for resources affects the ability to transition participants out of jail.

### *Transportation*

Transportation is another reoccurring concern. In treatment court, attendance for court and treatment appointments are essential to successful completion of programming and court mandates. Transportation is a stressor for treatment court clients making court dates and appointments with their providers, particularly in areas not serviced well by public transportation. Some court check-ins may be able to be held virtually, but interviewees have found in-person interactions important for the community building and accountability aspect of participation in the diversion program. In mental health treatment courts, appointments are based on need, so care coordinators or social workers may waive check ins. In later treatment phases, drug and mental health court attendees may also be required to check in less frequently.

### *Continuity of Mental Health Care*

Treatment court participants' continuity of care and stabilization are another concern. One interviewee stated difficulties they have seen when participants in jail have posted bail and their

doctor is not made aware, or there is a missed connection with switching treatment providers. This is important, as medication management must follow the individual, so they remain stable in community settings. When there is no continuum of mental health care, it is difficult for individuals to remain in recovery.

### Staffing

There is also a lack of adequate clinicians and staffing in wraparound services and in other provider settings. There is a lack of emergency services capacity in at least a few of the counties interviewed, both in personnel and timing available, including emergency housing, Assertive Community Treatment (ACT) teams, and more quick/mobile response to mental health or substance use crises. One county's stakeholders noted concerns about wellness plan coordination and the occasional need for reciprocity in treatment with other counties. Anecdotally, there was mention of clients needing to travel outside of their own county to access methadone clinics or to access a therapist of color for trauma-informed and culturally-competent care. These issues can significantly impact clients' ability to succeed and continue in their programs.

### Treatment Court Expansion

Some recently launched mental health courts have started with only misdemeanors and/or only with city court defendants. Then, once things appear to be working and there is enough funding and capacity, the system can move to include town and village courts throughout the county and start taking felony participants. This model appears to help with the transition of starting this kind of program, and of ensuring coordination and staffing are in place. This option offers the greatest community benefit in the long run and develops a sustainable, trusted program.

For a stakeholder who has been involved in the expansion of a relatively young mental health treatment court program, they suggested, "get the plan together, secure the grant funds, and look into phasing it from the metropolitan [area] into the whole county, and incorporating the

community agencies.” They said this while also noting that what is particularly needed is “trying to encourage an integrative treatment model” for dual diagnosis along with very supportive coordination teams.

In the larger court systems, such as in Kings County, their Manhattan District 1 (MD1) court appears to have stronger financial support with a robust clinical team in a way that might not be found in all courts across the state. The program has also been around for over 20 years and has proven itself to be effective and a leading model.

The availability of and ease of engagement with treatment providers varies greatly from one county to the next: one interviewee mentioned the difficulty they have had in getting providers across the county to sign onto working with the treatment courts. Often, providers claim they do not have enough room, even though some already provide treatment to many of the people currently eligible for the treatment court programs. A representative from a different county noted an opposite response from providers. These providers stated individuals coming from drug or mental health courts often are their most regular clients due to the compliance to their program.

### Implementation of the Treatment Not Jail (TNJ) Act

Generally speaking, the interviewees had an appreciation for what the Treatment Not Jail bill aims to do. There is consensus to get people who need mental health and/or substance use treatment access to it and the use of incarceration as a last resort, with an overall benefit to the individual and their community, along with a reduced risk of recidivism. Stakeholders are concerned about the lack of funding for adequately trained staff both within courts, such as treatment coordinators and specialized attorneys, and of treatment providers and their agencies.

## *Eligibility*

The stakeholders generally lauded the bill's broadened eligibility, allowing more individuals who need treatment the opportunity to be assessed and offered the chance to go through the diversion process. With the types of charges being less limiting through the implementation of the TNJ Act, some stakeholders were uncomfortable with the lack of crime exclusions for more serious charges, such as murder. Others were concerned judges will not allow individuals with complex and more serious cases into the program in the first place, out of fear. One stakeholder suggested guidelines for the expanded charges where misdemeanors and lower-level felonies could be dismissed but higher-level charges would not be fully dismissed.

## *The Plea*

There is medical and legal eligibility to participate in the program. In mental health court, medical personnel determine whether the client is safe for community release to outpatient treatment. While these clinicians play a role in assessing the client's potential success in the program, they do not have the final authority to decide who can enter the program. In the existing framework, it is the responsibility of the District Attorney's (DA's) office to make the determination of whether to proceed with the diversion process. This decision takes into account various factors such as the victim's perspective if applicable, the strength or weakness of the case, and the individual's criminal history. Then, the DA's office determines the plea that will be resolved outside of jail.

Many stakeholders were hesitant about the plea model. On one hand, some individuals suggested the leverage of the plea model is necessary to get court participants to commit to treatment and stay on medication as necessary, in order to be released into the community. One person interviewed was worried some people will not get into programs without a plea, especially if it is a more serious admission, raising the question of what would happen if there were violations of probation with no plea taken. Similarly, several stakeholders felt cases should be disposed of

and not left open without a plea, since bringing a case back years later poses challenges. One other argument in favor of the plea was if a person isn't guilty of the crime, then mental health court wouldn't be the best course of action to work on the root causes of the crime.

In contrast, other interviewees were pleased that the TNJ bill removes the guilty plea from mental health court participants. Some say the current process acts in the "carrot and stick method." Several stakeholders spoke up about the negative side to requiring a plea and its coercive nature for continued participation in the program, leaning toward the area of forced treatment despite claims made that participation in this kind of treatment court is voluntary.

Another facet of treatment court is that not all court cases have victims seeking damages or justice from alleged offenders. However, for the crimes that do, two stakeholders asserted the importance of victims' input in proceedings. One of these stakeholders asserted that research demonstrates the majority of victims tend to support defendants proceeding with the treatment court process, rather than facing incarceration. The research backed:

**“By a margin of 3-to-1, victims prefer holding people accountable through options beyond just prison, such as rehabilitation, mental health treatment, drug treatment, community supervision, or community service.”**<sup>43</sup>

The oversight and power of gatekeeping actors in treatment court was a controversial piece. The TNJ legislation aims to move decision making and referrals in treatment court from law enforcement function of society (executive) to the judicial side. Judges may not have the whole perspective in terms of past/current criminal-legal system involvement (e.g., ongoing investigations, especially if across counties).

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<sup>43</sup> *Crime Survivors Speak: The First-Ever National Survey on Victims' Views on Safety and Justice*. n.d. ALLIANCE FOR SAFETY AND JUSTICE. Accessed March 8, 2023. <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.



Many of those interviewed appreciated the way the new legislation would take the district attorney out of the position of being gatekeeper to entry into diversion court. Others aired concern about giving power to judges. Arguments include that this would take the power away from “victims” and that this would require judges to become properly trained. Specifically, there was the question of whether a judge with this new power would shy away from taking certain cases they should (as a prosecutor would see fit) or take on some they should not. One stakeholder shared:

“Under TNJ, in newer courts, we need to get judges who are willing do it over their objection, instead of needing the DA’s consent as typically happens. But then you would need to make sure you have the judges implement the TNJ plan and have the right judges who have the correct training and understanding.”

One person who was interviewed stated a concern for treatment courts becoming an issue for local politics, particularly in more rural or swing-vote areas of New York State. For DA candidates or judges, their roles as gatekeepers determine the cases that are released into the community. If there was ever a negative outcome from a case, this could blow back on the DA and be used against them in their next election, potentially leading to fewer challenging cases being taken on.

## **DISCUSSION**

Although we originally set out to assess the costs of these programs to come up with a Fiscal Note Statement, we were met with challenges due to privacy concerns or reluctance on behalf of the respondents. Despite this, our organization found a number of resources, via snowball sampling and literature searches, to gauge the cost-effectiveness of these programs, as noted in our Backgrounds Section.

While problem-solving courts are cost-effective in reducing incarceration costs, wages lost, and more, **stakeholders rather emphasized the need to prioritize our research and**

**advocacy around the ethics of these programs.** Respondents stressed how we need to view these programs as “just” and how incarceration should only be used as a last resort. They also pointed towards specific programs to note the clear success of these programs, such as the longstanding program in Brooklyn, and the newer program in Tompkins County, which has been expanding its reach and beginning to take on more challenging cases.

Alongside these successes, respondents pointed towards certain elements of the TNJ Act which need to be considered or addressed and can be noted by the themes below:

### Staff Training

Stakeholders urged the need for staff training and understanding of the people served in various treatment courts. This is critical when the staff or the judge make determinations on sobriety or missing a court or treatment date. Appropriately trained staff will work closely with real people with serious mental illness who have complex situations and their illness may have directly or indirectly prevented them from performing well in the program. Staff must center the client and help them overcome issues rather than utilize absolutist thinking.

Anecdotally, a story was shared regarding a judge who had “black and white thinking and was waiting for people to mess up. This affects who chooses to go to a particular treatment court.” The success of judicial diversion programs and willingness to participate depend in large part on the judge’s (and court staff’s) background and understanding of how to work with the population.

Based on our interviews, we can deduce that less funding would be needed to train court staff if there was a standard process relying more on clinical opinions for the length of treatment, rather than having time in treatment dictated by punitive charges faced. Respondents noted that treatment varies based on the individual, but on average, takes 12-18 months in mental health and drug court programs.

## Adjustment to the Plea Model

Regarding concerns over the plea deal in the language of the legislation, we can look to treatment courts focused on opioid intervention. These are often pre-plea, pre-arraignment. They are shorter term and mostly aim to prevent people from overdosing between the initial citation and court appearance. Similarly, pre-plea models would help people with mental health conditions from further deteriorating in their condition while awaiting treatment in jail or prison.

## Nonpolice Response to Prevent Arrests

During community treatment, sometimes participants have run-ins with the police that result in another arrest. Individuals living with mental illness may not respond well in situations involving unnecessary police interaction, and situations may be escalated resulting in situations involving police assault or some other kind of arrest. There is a need for more mobile crisis teams and ACT team staffing, along with having family members and loved ones know who to call, which would help reduce recidivism and keep people in their treatment court programs.

This aligns with NAMI-NYC's stance on investing in more non-police, peer-led response, following our Correct Crisis Intervention Today of New York City (CCIT-NYC) coalition's model,<sup>44</sup> the Crisis Assistance Helping Out On The Streets (CAHOOTS) model,<sup>45</sup> and the proposed Daniel's Law (S.2398/A.2210) pending before the NYS Legislature.<sup>46,47</sup> Many stakeholders wish to see funding for peers on care teams or involvement of peer recovery programs within the treatment court system.

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<sup>44</sup> CCIT-NYC. "Our Proposal | CCIT-NYC," n.d. <https://www.ccitnyc.org/ourproposal>.

<sup>45</sup> Blair, Arthur. "CAHOOTS: A Model for Prehospital Mental Health Crisis Intervention - White Bird Clinic." White Bird Clinic, January 11, 2021. <https://whitebirdclinic.org/cahoots-model/>.

<sup>46</sup> NY State Senate. "NY State Senate Bill S2398," April 27, 2023. <https://www.nysenate.gov/legislation/bills/2023/s2398>.

<sup>47</sup> NY State Senate. "NY State Assembly Bill A2210," May 8, 2023. <https://www.nysenate.gov/legislation/bills/2023/a2210>.

## RECOMMENDATIONS

1. With support from local organizations and agencies, along with governmental and other grant funding for staffing and administrative needs, TNJ would be a positive step towards implementation and expansion of treatment courts throughout New York State.
2. In order to expand treatment courts, stakeholders agree there is a need for expedient supported housing, trauma-informed and client-centered care, as well as funding for trained staff, which is essential when life-changing determinations are made based on the discretion of judges and other court officials.
3. There is strong evidence that mental health courts are successful, including long-running programs in Brooklyn, and newer programs like Tompkins County, which have been expanding their reach and are beginning to take on more challenging cases. More publicly-available data is needed to begin assessing trends and continue improving programs in the future.
4. We recommend a companion bill to invest in the judicial diversion court workforce. We not only need training for this workforce, but also to incentivize mental health practitioners to stay in the field, especially in high need areas, through fellowships or loan forgiveness.
5. Stakeholders note that reduction in recidivism and an ability to remain stably within their community depends on various resources. It would be beneficial to have more provider services that keep clients stable and that are culturally responsive, along with being physically accessible for those who may have transportation issues.
6. With the TNJ Act – and a potential companion bill – we are modernizing the system to provide the highest quality mental healthcare. We are stably housing people. We are getting people resources to end the cycle of recidivism.

## CONCLUSION

The evidence presented in this report is a strong indication that the TNJ Act would bring New Yorkers closer to a judicial diversion system based on accountability, treatment, as well as a holistic understanding of an individual's needs and any difficulties they may encounter achieving the goals of their treatment. While our interviews were rich with details and findings, more publicly available data is still needed to determine the hard costs of these programs since they vary in size and reach. However, costs should not hinder the legislature from passing this bill because, as noted by respondents, the morale and ethics behind the legislation is more important and avoiding incarceration will inevitably save the system billions. Similarly, while the TNJ Act would standardize the process and expand access for many to receive treatment, we emphasize this bill should not be considered as a one-shot solution, but rather, a piece of a larger need for potential companion bills and other robust funding towards mental health and housing solutions, in general, to keep peers stable in community and avoid recidivism.

## APPENDICES

### Appendix A. Glossary of Terms

**judicial diversion:** a program for alleged felony offenders who face non-violent charges, and who also have a mental health condition or use alcohol and/or drugs. Instead of jail or probation, the goal of this method is to divert an individual away from the criminal legal system by helping the person enter and stay in a mental health, drug or alcohol treatment program. Judicial diversion programs often include regular court appearances and supervision by a judge.<sup>48</sup>

**problem-solving court:** (also known as specialty courts) are specialized dockets within the criminal justice system that seek to address underlying mental health or SUD that contribute to the commission of certain criminal offenses in many cases, often providing treatment rather than punishment. The most common types of problem-solving courts are drug treatment, mental health and veterans treatment courts, although there are other specialty court dockets that may vary by state or county. Through these problem-solving courts, judges, prosecutors, defense attorneys, mental health providers and community partners collaborate to provide treatment in the community as an alternative to being charged and possibly convicted of a criminal offense that could result in incarceration.<sup>49</sup>

**drug court:** a partnership between the Court, prosecutors, law enforcement, defense bar and treatment and education providers. Each drug court places non-violent, alleged offenders with substance use disorders into treatment in an effort to break the cycle of drug use, addiction,

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<sup>48</sup> "Judicial Diversion Program | NYCOURTS.GOV," n.d.

<https://ww2.nycourts.gov/courts/10jd/suffolk/treatment/index.shtml#:~:text=The%20Judicial%20Diversion%20Program%20%28%29%20%28CPL%20Article%20216%29,stay%20in%20a%20drug%20or%20alcohol%20treatment%20program.>

<sup>49</sup> "Problem-Solving Courts/Specialty Courts | NAMI: National Alliance on Mental Illness," n.d. <https://nami.org/Advocacy/Policy-Priorities/Supporting-Community-Inclusion-and-Non-Discrimination/Problem-Solving-Courts-Specialty-Courts#:~:text=Problem-solving%20courts%20%28also%20known%20as%20specialty%20courts%29%20are,many%20cases%2C%20often%20providing%20treatment%20rather%20than%20punishment.>

crime and jail. While each drug court has the same goals and uses the same guiding principles, each one operates in its own unique way.<sup>50</sup>

**mental health court:** “courts [that] seek to improve public safety, court operations, and the well-being of people with mental illness by linking to court-supervised, community-based treatment defendants whose mental illness is related to their current criminal justice involvement and whose participation in the Mental Health Court will not create an increased risk to public safety.”<sup>51</sup>

**treatment court:** synonym for problem-solving court

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<sup>50</sup> New York State Unified Court System. “NYC Drug Treatment Courts.” Copyright © 1996-2022 Office of Court Administration, the New York State Unified Court System - ALL RIGHTS RESERVED. Without Prior Written Consent, Any Form of Copying or Alteration Is Strictly Prohibited., n.d.

[https://www.nycourts.gov/courts/nyc/drug\\_treatment/#:~:text=Drug%20courts%20are%20a%20par%20tnership%20between%20the%20C%20court%20cycle%20of%20drug%20abuse%20addiction%20crime%20and%20jail.](https://www.nycourts.gov/courts/nyc/drug_treatment/#:~:text=Drug%20courts%20are%20a%20par%20tnership%20between%20the%20C%20court%20cycle%20of%20drug%20abuse%20addiction%20crime%20and%20jail.)

<sup>51</sup> “Mental Health Courts - Mission and Goals | NYCOURTS.GOV,” n.d.

[https://ww2.nycourts.gov/courts/problem\\_solving/mh/mission\\_goals.shtml#:~:text=New%20York%20State%E2%80%99s%20mental%20health%20courts%20seek%20to,not%20create%20an%20increased%20risk%20to%20public%20safety.](https://ww2.nycourts.gov/courts/problem_solving/mh/mission_goals.shtml#:~:text=New%20York%20State%E2%80%99s%20mental%20health%20courts%20seek%20to,not%20create%20an%20increased%20risk%20to%20public%20safety.)

## Appendix B. Interview Guide

### **Before The Interview:**

- The goal is to speak to 1 prosecutor or judge, 1 clinical director or program implementer of the treatment court and 1 defense attorney in order to triangulate the data. (3 total participants per region).
- Begin with the program implementer/clinical director or the defense attorney and use snowball method to secure meetings with the other two participants tied to the treatment court system.
- Please ask for consent to record the interview and explain that the recording will only be used for internal purposes to refer back to when drafting the final report.
- Download free version of <https://otter.ai/> on phone and put it next to the computer speaker, so it captures and transcribes the audio.

### **Introduction:**

Hello, thank you for agreeing to participate in this study. My name is \_\_\_\_\_. I am an interviewer and researcher on behalf of the National Alliance on Mental Illness of New York City, also known as NAMI-NYC. The purpose of this study is to collect further information about mental health, drug and other treatment court programs in the State of New York. The whole interview process should take about one hour.

Before we begin, I want to ensure that everything we discuss today will remain confidential. While our interview will be recorded and transcribed, all personal and identifying information may be redacted to secure your privacy, if you wish. Additionally, feel free to stop me at any point if you do not feel comfortable answering a question, or if you need to take a break or stop the interview for any reason.



Now, I am going to ask you a few questions regarding your consent to participate in this study. Please answer YES or NO.

1. Would you still like to participate in the current research study? YES or NO
2. Do I have your permission to record the audio of our conversation today? YES or NO

**Interview Guide:**

1. Can you please state for the record your name, title and the name of the court you are affiliated with?
2. Thank you. I am now going to ask you a series of questions regarding the mental health, drug court and/or other court diversion program that you help operate. What type of treatment courts does your county operate?
3. Could you tell me a little bit about what it looks like to operate the court treatment program(s) you just mentioned?
  - a. Follow-up Q's (if not already addressed in answer):
    - i. Do(es) your treatment court(s) have its own judge?
    - ii. Own calendar for mental health or drug court cases etc?
    - iii. How does your court handle participants with co-occurring disorders? (e.g. mental health concerns and substance use disorder)
4. How many people currently come through your program per year?
  - a. How many people request to enter the court?

- b. How many cases do prosecutors consent to admission to the treatment court?  
What are the prosecutors' requirements (e.g., do they require proffers?)
  - c. How many actually participate?
  - d. How many people graduate?
  - e. How long, on average, does it take for a person to graduate from (a) drug court or (b) mental health court or (c) other treatment court?
5. What kind of charges do participants typically have? (This would help us to consider how many days on average people would be incarcerated)
- a. Can you provide a breakdown of violent/nonviolent felonies/misdemeanors?
  - b. Does the court require a nexus between the offense and the alleged criminal conduct?
6. What is the breakdown of mental health conditions of participants?
- a. What is the breakdown of substances used by participants in the drug court?
  - b. How many of these participants overlap in having both mental health conditions AND co-occurring substance use disorders?
7. How many staff members do you have, and what are their roles?
8. What is the annual operating cost to run your [county's?] mental health court program?  
What about its drug court program?
- a. Are costs similar or the same?
  - b. Could you provide a breakdown of your expenditures? (Focus on overhead vs actual case management and treatment)

9. What do your funding sources look like?
  - a. Ask about government grants vs private foundations
10. What does your connection to service providers and community treatment options look like?
11. Do you see any differences in the clientele in drug courts and mental health courts
12. Do you face any operational or resource difficulties based on your location regarding access (e.g. to clinicians to perform evaluations, to transport for participants, etc.) ?
13. Is there anything else you think may be relevant to share with me? Or, that you believe would be important for me to ask the other treatment court programs participating in this study/in these interviews?
14. I'd be interested to hear about your thoughts on the Treatment Not Jail Act.
  - a. Are you familiar with the Treatment Not Jail Act?
  - b. Do you have any thoughts or concerns regarding its potential implementation or about the bill language itself?
  - c. If asked for more information:
    - a. Review one pager and be prepared to break down the bill for the participant if they're not familiar with it. Once you explain, ask again. Be careful not to lead the question when introducing information about the bill.
    - b. Do you have any thoughts or concerns regarding its potential implementation or about the bill language itself?
    - c. Synopsis: In 2022, State Senator Jessica Ramos and State Assembly Member Pharra Souffrant Forrest introduced a bill called the Treatment Not Jail Act.

The bill amends Article 216 of the Criminal Procedure Law which is the law about judicial diversion (statutory drug courts). The bill would create statutory treatment courts in every county. People would qualify for the court if they have a functional impairment, which includes mental illness, substance use disorder, traumatic brain injuries, or developmental disabilities. The bill would not require a plea in order to access treatment, similar to opioid courts. The bill adopts national best practices grounded in science on how to treat people with substance use disorders, mental health concerns, or co-occurring disorders. NAMI-NYC is a member of the Treatment Not Jail coalition.