

SAFETY AND JUSTICE CHALLENGE CASE STUDY

# Prosecutor-Led Diversion Strategies in Milwaukee County, Wisconsin

## Implementation Experiences and Lessons Learned

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*November 2022*

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Supported by the John D. and Catherine T. MacArthur Foundation

This report was created with support from the John D. and Catherine T. MacArthur Foundation as part of the Safety and Justice Challenge, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails.

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# Contents

<b>Acknowledgments</b>	<b>iv</b>
<b>Prosecutor-Led Diversion Strategies in Milwaukee County, Wisconsin</b>	<b>1</b>
Case Study Methodology	3
Background on Milwaukee County	4
The Impetus for Change	6
Diversion and Deferred Prosecution in Milwaukee County	7
An Overview of the Early Intervention Program	7
EIP Eligibility	8
EIP Track 1: Diversion	9
EIP Track 2: Deferred Prosecution	9
The EIP Referral Process	10
Using Deferred Prosecution Agreements to Address Domestic Violence	13
Collaborations and Partnerships	17
Racial and Ethnic Disparities	18
Community Engagement	19
Perceived Impacts and Jail Population Trends	20
Trends in Average Daily Population	21
Challenges	23
Successes	24
Lessons Learned	25
Conclusion	26
<b>Notes</b>	<b>27</b>
<b>References</b>	<b>28</b>
<b>About the Authors</b>	<b>30</b>
<b>Statement of Independence</b>	<b>31</b>

# Acknowledgments

This case study was funded by the John D. and Catherine T. MacArthur Foundation as part of the Safety and Justice Challenge, and developed in collaboration with the CUNY Institute for State and Local Governance. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at [urban.org/fundingprinciples](https://urban.org/fundingprinciples).

We are grateful to our partners in Milwaukee County for their partnership in developing this case study and throughout our work with them through the Safety and Justice Challenge. We are grateful to everyone who participated in the interviews. The authors appreciate the partnership from the CUNY Institute for State and Local Governance, from the early stages of conceptualizing this work through assistance with relevant system data and review and advice on this case study. We would also like to extend our special thanks to Janeen Buck Willison, Will Engelhardt, and Zach VeShancey for providing review and feedback on this case study.

# Prosecutor-Led Diversion Strategies in Milwaukee County, Wisconsin

The United States has the highest incarceration rate of any country in the world, annually incarcerating 2.3 million people in its jails and prisons (Wakefield and Uggen 2010). In 2020 alone, jails confined over 549,000 people on a given day (Minton and Zeng 2021). Though these numbers represent a recent 16 percent decrease between 2019 and 2020, likely due to COVID-19 policies, jails remain core contributors to mass incarceration. Further, research shows that even brief jail stays—whether for pretrial detention or a sentence of incarceration—create a myriad of challenges and barriers for people, including job loss, housing insecurity, economic hardship, and strained relationships with family and friends (Craigie, Grawert, and Kimble 2020; Vallas and Dietrich 2014). Pretrial detention also increases the likelihood that someone will experience contact with the system again in the future (Digard and Swavola 2019).

Mass incarceration has only exacerbated the long history of antiblack punitive practices and policies that have harmed low-income and underserved communities of color (Hinton and Cook 2021). This impact is most visible in the disproportionate surveillance, arrests, and incarceration of people of color, particularly Black and Brown people. In the United States in 2020, Black people were incarcerated in jail at a higher rate (465 per 100,000 people) than people of all other races and ethnicities; they were incarcerated at 3.5 times the rate of white people and 1.7 times the rate of American Indian/Alaskan Native people (Minton and Zeng 2021).<sup>1</sup>

In addition, people with mental health needs are disproportionately incarcerated, and incarceration makes it even more difficult for them to access appropriate treatment in community settings (Wagner 2000).<sup>2</sup> People who have mental health disorders are more likely to experience police contact and be arrested than people who do not (Hoch et al. 2009; Police Executive Research Forum 2018). However, research shows mental health disorders do not necessarily lead to increased criminal activity (Peterson et al. 2013), and arrest can have deleterious effects on mental health (Sugie and Turney 2017). Whereas only 5 percent of the general US adult population meets the threshold for serious psychological distress, that rate jumps to 26 percent of people incarcerated in jail (Bronson and Berzofsky 2017). Incarcerating people with these needs rather than treating them in the community is costly: a 2013 study found that jails spend two to three times more money on adults who have mental health disorders requiring intervention than on those who do not (Swanson et al. 2013).

In response to these issues, system stakeholders and criminal legal system reform advocates have proposed alternative approaches to incarceration to reduce the use of jails while addressing long-standing challenges such as mental health and substance use needs and racial and ethnic disparities in jail populations. One such approach is the use of diversion programs, particularly ones led by prosecutors, who play a dominant role in the legal system and hold a substantial amount of discretionary power (Davis 1998).

Diversion programs provide innovative opportunities to hold people accused of wrongdoing accountable and address harm while reducing the deleterious effects of incarceration. They can also provide treatment outside the traditional criminal legal system to address underlying needs that may have contributed to people's contact with the system in the first place. One aim of diversion programs is to reduce jail incarceration by offering opportunities at different decision points (i.e., arrest, booking, first appearance, postconviction) to interrupt further involvement and lessen the impact of system involvement. Diversion can occur prebooking (before someone enters jail at the arrest stage) or postbooking (when someone has been booked into jail). Although they vary across jurisdictions, diversions are often granted to people with certain mental health and substance use needs who are charged with low-level offenses (Center for Health and Justice 2013). Some jurisdictions, however, are adopting wider eligibility criteria to include offenses traditionally excluded, such as domestic violence, despite varying perspectives on the suitability of domestic violence offenses for diversion.

Prosecutor-led diversion programs are growing in popularity in many jurisdictions across the country. They offer prosecutors a unique opportunity to consider how prosecutorial decisions perpetuate mass incarceration and to reduce local jail populations (Baughman and Wright 2021).<sup>3</sup> In prosecutor-led diversion programs, prosecutors or prosecutors' offices are responsible for designing and implementing diversionary programs and for determining eligibility criteria, goals, and successful-completion conditions (Lowry and Kerodal 2019). These programs first emerged in the mid-1990s to address the needs of youth defendants and people with substance use disorders, in the case of drug courts, and have since expanded to serve more people entering the legal system (Johnson et al. 2020; Zlatic, Wilkerson, and McAllister 2010).

A study of a nationally representative sample of US jurisdictions reported that over 50 percent had some type of prosecutor-led diversion program (Lattimore et al. 2020). Many programs aim to divert people with certain behavioral and mental health treatment needs, but they also often base eligibility on charge type and conviction history. In a study of 121 prosecutors' offices across the country with diversion programs, 56 percent considered nonviolent felony cases for their programs, 60 percent

considered misdemeanor cases, and only 4 percent considered violent felonies (Lowry and Kerodal 2019). Prosecutor-led diversion programs have been criticized for their potential to net-widen, meaning increase social control through program participation. They have also been criticized for their use of discretion and disproportionate decisionmaking resulting in racial and ethnic disparities in diversion participant populations (FIU 2021; Levine and Wright 2020; Schlesinger 2013).

For nearly 15 years, Milwaukee County, Wisconsin, has offered an array of diversion opportunities that expanded under the Safety and Justice Challenge (SJC)—an initiative funded by the John D. and Catherine T. MacArthur Foundation to reduce overincarceration and disparities in jail populations (box 1)—through which the county set a goal in 2016 of reducing its overall jail population by 18 percent over the next several years. In this case study, we describe the county’s implementation experiences and lessons that other jurisdictions implementing prosecutor-led diversion programs may find useful. We begin with an overview of our methodology and Milwaukee County’s reform landscape. We then describe the main diversion programs the county implemented as part of the SJC, including their design and implementation. Then, we discuss the county’s efforts to reduce racial and ethnic disparities in the jail and facilitate community engagement. We conclude with several challenges, successes, and lessons learned.

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#### BOX 1

##### **The Safety and Justice Challenge Implementation Case Studies**

The John D. and Catherine T. MacArthur Foundation launched the Safety and Justice Challenge (SJC) in 2015 to address the misuse and overuse of jails, a main driver of incarceration in America. The network of cities, counties, and states participating in the SJC are working to rethink local justice systems with strategies that are intended to be data-driven, equity-focused, and community-informed, and that safely reduce jail populations, eliminate ineffective and unfair practices, and reduce racial disparities. This case study is part of a series that examines how SJC network jurisdictions that received significant, sustained grant investment in comprehensive system reform worked to change the way that they use jails, in order to provide practical insights to other localities seeking to realize similar reform ambitions.

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## Case Study Methodology

This case study, part of a series highlighting work supported by the Safety and Justice Challenge, examines Milwaukee County’s experience implementing a multipronged diversion strategy to reduce

its jail population, support the behavioral health needs of people in jail, provide appropriate alternatives to incarceration, and address domestic violence cases. To develop it, the research team relied on three data sources: semistructured interviews with Milwaukee County stakeholders; analysis of program materials (e.g., brochures, flow charts), SJC grant progress reports, and publicly available documents; and Institute for State and Local Governance (ISLG) analysis of jail population trends.

Between June and September 2021, the research team conducted one-hour semistructured virtual interviews with Milwaukee County stakeholders. These included 17 interviews with 19 stakeholders representing a wide range of legal agencies in the county (including the public defender's office, district attorney's office, courts, and Milwaukee Community Justice Council [CJC]) as well as community service providers that partnered with those agencies to offer programming and services to people in the county jail. Eight of these interviewees were system stakeholders, 8 were community service providers, and 3 represented SJC partner organizations that provide training and technical assistance support to Milwaukee County. Over 40 percent of stakeholders we interviewed work in the mental health and substance use domain and 37 percent work in the criminal legal system.

In our interviews, we collected information on stakeholders' professional backgrounds and roles in the SJC work, the landscape of criminal legal reform in Milwaukee County, SJC-funded diversion strategies, the design and implementation of those strategies, efforts to address racial and ethnic disparities, community engagement work, challenges and successes, key partnerships, outcomes, and sustainability. After data collection, we transcribed all interviews and uploaded them to NVivo, a qualitative analysis software, where we analyzed stakeholders' responses for trends using a codebook developed for this case study.

## Background on Milwaukee County

When Milwaukee County<sup>4</sup> joined the SJC, it had a strong track record of criminal legal system reform that included the formation of the CJC in 2007,<sup>5</sup> the development of universal screening at the point of jail booking, pretrial and early intervention services, analysis of jail population trends and drivers, and the creation of mobile crisis and co-responder teams. From 2010 onward, the county participated in the National Institute of Corrections' Evidence-Based Decision Making in Local Criminal Justice Systems Initiative,<sup>6</sup> through which it developed a strong collaborative body and created a foundation for its (precharge) diversion and (postcharge) deferred prosecution programs, collectively called the Early Intervention programs (EIP), which exist today and expanded under the SJC.

In 2016, the county also used SJC support to create a mental health diversion program called post-booking stabilization. In addition to diverting people with severe and persistent mental illness and/or alcohol and other drug use diagnoses who were charged with nonviolent offenses, the program also provided participants intensive case management and wraparound services in the community. In December 2018, the county restructured post-booking stabilization to make it a “general mental health” prosecutor-led diversion program and added it as another track in the EIP. One stakeholder said post-booking stabilization was too expensive to sustain and grow to the extent they needed to meet their SJC jail-reduction goals, and making it a mental health diversion program enabled the county to broaden the eligibility criteria and reduce the jail population more.

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*As it relates to the mental health diversion work, the Early Intervention Program came to be as one of our initial evidence-based decisionmaking strategies and has really significantly grown with the support of the MacArthur and Safety and Justice Challenge.*

*—Milwaukee County stakeholder*

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Milwaukee County proposed four core strategies as part of its SJC work: (1) improve case processing, which meant streamlining the movement of cases through the criminal legal system and increasing efficiencies in processing them; (2) expand data, for example by collecting and analyzing data to monitor trends, track SJC progress, and inform policy decisions; (3) engage in mental health diversion to identify people with mental health needs and link them to services in the community; and (4) identify and address racial and ethnic disparities by doing decision point analysis and training criminal legal system stakeholders around racial inequity. As part of the county’s mental health diversion efforts, stakeholders defined the following five substrategies:

- **Assess behavioral and mental health needs of people in jail quickly and continue mental and behavioral health diversion.**
- Implement the **Brief Jail Mental Health Screen** during the universal screening process.
- Hire a **behavioral health liaison** to identify people with mental health and substance use needs and divert them to treatment and support services.
- Hire an **assistant district attorney and a public defender** to assist the behavioral health liaison with identifying and diverting people with mental health and substance use needs.

- Hire a forensic discharge coordinator to streamline the **forensic discharge process** for people returning to the community from behavioral mental health facilities.

As mentioned earlier, most of Milwaukee County’s prosecutor-led diversion work was brought under the umbrella of the EIP because it complemented the other EIP programming and was familiar to stakeholders in the criminal legal system and community.

## The Impetus for Change

A common sentiment among Milwaukee County stakeholders was that many people in the jail “do not belong there” and are better suited for community-based treatment that addresses root-cause needs, especially people with needs related to mental health issues and substance use disorders; this approach was the basis of the county’s reform work before its SJC involvement and has continued to be since. One stakeholder there shared, “I think there’s just a recognition that we have people who come into the system who have serious mental health needs, and they really just seem to be coming into the system because we don’t know where else to put them.” This sentiment was shared by many stakeholders who acknowledged the complexity of issues impacting people who have been incarcerated in jail, such as a lack of housing, financial instability, and behavioral health issues.

Although they acknowledged the importance of reducing the jail population, Milwaukee County stakeholders expressed concern about an association people in the county are making between local criminal legal system reforms and recent increases in violent crime. This criticism includes policy changes made because of the COVID-19 public health crisis. Some interviewees reported that this shift in public sentiment has reduced stakeholders’ willingness to engage in reform efforts. Even so, many stakeholders we interviewed recognized the ineffectiveness of the county’s current approach to public safety, which relies on arrest, incarceration, and other punitive responses. Wanting to address people in the criminal legal system with mental health and substance use disorder needs, they looked to the county’s history of diversion work to expand its reach, reduce the jail population, and refer people to county treatment and services outside the legal system.

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*If [incarceration] was the answer Milwaukee would be one of the safest communities in the country, and we are not. –Milwaukee County stakeholder*

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Milwaukee County has also advanced other reforms that fall under the EIP umbrella, including: diversions, deferred prosecutions, and the Adult Drug Treatment Court; a pilot mental health court; the Veteran’s Treatment Court; and mobile crisis response teams. Milwaukee also has funding from the State of Wisconsin’s Department of Justice Treatment Alternatives and Diversion program, which supports a specialized track of the county’s postcharge diversion and treatment program that has existed since 2007 for people with a substance use disorder.

## Diversion and Deferred Prosecution in Milwaukee County

In this section, we provide an overview of the diversion and deferred prosecution strategies in Milwaukee County that fall under the EIP.

### An Overview of the Early Intervention Program

As mentioned earlier, Milwaukee County houses its diversion and deferred-prosecution work under what it calls the EIP. The first iteration of the county’s early intervention programs began in 2007, eight years before it joined the SJC. The EIP began as a two-pronged approach with precharge diversion and postcharge deferred prosecution agreements (DPAs) (figure 1 provides a flow chart of the EIP). The goal of the EIP is to address the large number of incarcerated people who are low risk and have criminogenic needs (many of whom have mental health and substance use needs) by linking them to treatment and social services and providing an alternative to traditional case processing and sentencing through the courts. The program was created to tackle “provable cases” that meet the threshold for reasonable doubt.<sup>7</sup> This means eligible cases are those the district attorney’s office has determined meet the highest standard of proof to secure a guilty verdict.

Milwaukee County considers diversion to mean precharge and deferred prosecution to mean postcharge. People can participate in the EIP via diversion or DPAs. To be eligible for the diversion track, a person must screen as low risk for reoffending on the Level of Service Inventory–Revised: Screening Version (LSI-R: SV); to be eligible for deferred prosecution, a person must screen as low to moderate risk for reoffending on the LSI-R: SV and must have been charged with an eligible crime.<sup>8</sup> The EIP charges participants a \$50 fee, which is used for program incentives. Participants who are unable to pay can still enter and graduate from the program.

The courts, JusticePoint, the Milwaukee County Department of Health and Human Services' Behavioral Health Division, the Milwaukee County District Attorney, the Milwaukee Police Department, the Milwaukee County Sheriff's Office, and the Wisconsin State Public Defender are key partners in the EIP. In addition, the behavioral health liaison (also known as the criminal justice liaison) the county hired using SJC funding has been a critical part of the EIP's mental health diversion program; they work with Behavioral Health Services and work in an office at the jail. The liaison has early contact with people who may be eligible for diversion programming and can advocate for them using their professional behavioral-health expertise and past encounters with Behavioral Health Services. They get people connected (or reconnected) to treatment and services as quickly as possible. According to stakeholders, the liaison is a crucial bridge between criminal legal system agencies and behavioral health providers.

## **EIP Eligibility**

The EIP typically serves people who have mental health and substance use disorder needs and diagnoses who enter the jail on low-level, nonviolent cases. According to some stakeholders, the district attorney's office will sometimes accept nonviolent felony cases for the EIP, but typically they focus on people with lower-level offenses. The county excludes violent cases, first-degree homicide, felony sexual assault, high-level drug dealing, and people who have extensive records or are on probation/parole. The screenings and assessments completed at the point of booking provide a risk level, and only low-risk cases are eligible for EIP diversion. Victims and survivors must consent to people's EIP participation. In compliance with the Wisconsin Constitution, if a victim or survivor does not agree, the person is not eligible for the program.

Milwaukee County expanded eligibility for the DPA program after an assessment detected racial and ethnic disparities in the EIP. The expansion made certain gun charges eligible because the data showed that charge type, particularly charges involving firearms, were a major driver of racial and ethnic disparities in the jail. Currently, DPAs can be offered to people with certain gun or domestic violence charges, but those charges are not eligible for diversion. One stakeholder from the county discussed the success it's had including firearm charges in the DPA program:

Because of the work that we were doing under the SJC, we were able to add a deferred prosecution agreement program for misdemeanor-level firearms offenders that we had never done before. Frankly, I think it's been a tremendous success and that it is almost, I mean if you just look at the racial demographics of that program, it's almost all inner-city individuals, it's almost all people of color. Our success rate has been extremely high. So, as you can imagine it from [our office's] standpoint, especially in the city of Milwaukee where violent crime is,

unfortunately, at an all-time high and in the last year or two, we are very careful about what we do with firearms offenders. This was really kind of our first foray into doing anything differently with regard to individuals that got caught with a firearm. So that's been a tremendous enhancement to the program.

## **EIP Track 1: Diversion**

Milwaukee's EIP offers precharge diversion to people who are screened as "low risk" for reoffending on the LSI-R:SV during universal screening. The EIP diversion program typically lasts six months and can be extended on a case-by-case basis. To complete a diversion agreement, the participant is required to remain crime free and to pay restitution, if applicable. When a victim requests or otherwise supports it, mediated restorative justice between the victim and offender and/or a letter of apology may also be required. A participant is usually required to do community service and/or attend educational programs and classes. Requirements vary from case to case depending on participants' unique contexts. When a participant meets all the requirements of their agreement, the program is successfully completed and their charges are not issued.

Milwaukee County's pretrial data system showed that diversion agreements were issued to 409 people between January 2021 and December 2021, of whom 60 percent ( $n = 245$ ) identified as male and 40 percent ( $n = 163$ ) identified as female; the sex was unknown for 0.24 percent of participants ( $n = 1$ ). Forty-seven percent of participants were Black, 40 percent were white, 14 percent were Hispanic, and race/ethnicity was identified as other or unknown for 9 percent of participants. Lastly, 81 percent of participants successfully completed the program and had no charges issued during that period, representing 15,345 jail days saved.

## **EIP Track 2: Deferred Prosecution**

Someone not determined eligible for diversion may be considered for a postcharge deferred prosecution agreement after being charged. If they complete (usually within six to nine months) the components of that agreement, their charges are dismissed or reduced (for instance, from a felony to a misdemeanor). Whereas EIP diversion is for individuals determined to have low criminogenic risk, DPAs are offered to individuals who are determined to have moderate criminogenic risk and may have co-occurring mental health and substance use challenges. There are five DPA tracks: (1) moderate risk-related, (2) substance use-related, (3) mental health-related, (4) domestic violence-related, and (5) gun charge-related. A DPA generally requires some or all of the following steps: participating in treatment

and community service, paying restitution, and not contacting the victim and/or writing a letter of apology.

Per Milwaukee County's pretrial data system, DPAs were issued to 287 people between January 2021 and December 2021, of whom 67 percent ( $n = 192$ ) identified as male and 33 percent ( $n = 95$ ) identified as female. Forty-three percent of participants were Black, 53 percent were white, 10 percent were Hispanic, and race/ethnicity was identified as other for 2 percent of participants. In terms of outcomes, 61 percent of participants had their charges reduced or dismissed, resulting in 15,045 jail and prison days saved.

## The EIP Referral Process

There are multiple referral pathways into the EIP; most are referred through universal screening or by the stakeholders involved in a case. Referrals often occur, particularly for mental health diversion cases, from law enforcement flagging cases for the district attorney's office at the point of arrest, but also by way of JusticePoint through universal screening at the time of booking; a defense attorney or by assistant district attorneys who screen people for eligibility and refer them for diversion; advocating family members who contact the district attorney or public defender's office; and the behavioral health liaison.

If a person is preliminarily identified as appropriate for mental health diversion, the behavioral health liaison will check whether they are or have ever been in treatment services through Behavioral Health Services (the liaison receives a list of everyone booked into the jail which indicates their Behavioral Health Services histories and whether they've accessed mental health services there). To connect people with services as quickly as possible, the liaison tries to assess and connect people to services **the same day**. Based on the assessment results, the liaison informs the district attorney's and public defender's offices of eligible EIP candidates and encourages that all be accepted. The assistant district attorney decides whether to issue diversion or charge the case.

The major focus of [the liaison position] has been to reduce the jail population by basically scrubbing booking lists on a daily basis to find folks that have touched our system and need to get reconnected to their providers, or to find folks that are appropriate for our services that we can provide outreach to get them connected to the things that they need in the community.

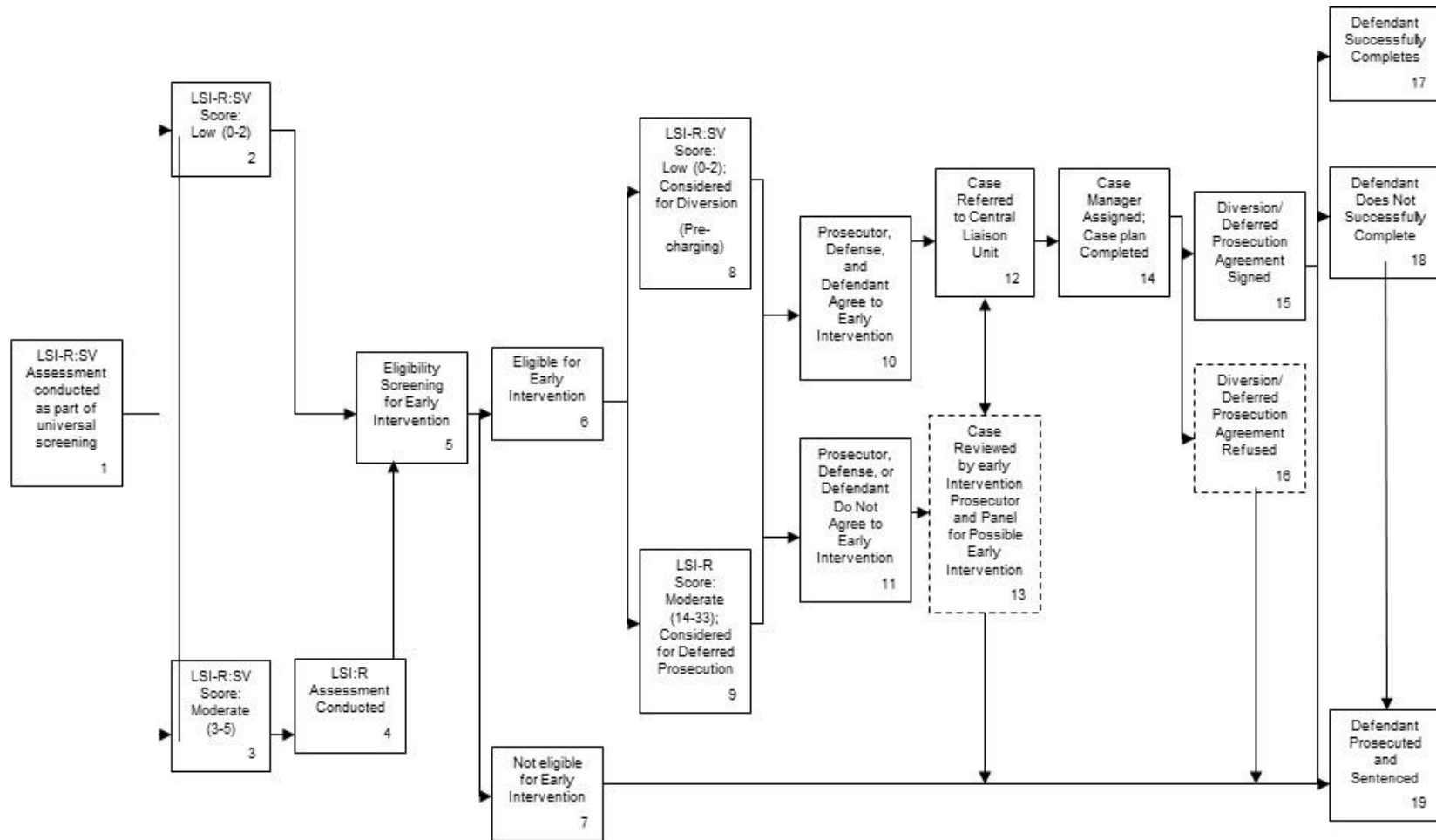
—Milwaukee County stakeholder

From there, the prospective participant is asked to agree to participate in the EIP. The public defender must ensure prospective participants are competent (able to understand the nature and consequences of the proceedings against them or to assist properly in their own defense) to participate.

If not, they can't participate. If screened as eligible, they usually are offered diversion or a DPA and the parties negotiate the terms of the agreement. Although stakeholders usually follow the screening recommendation prepared by JusticePoint, attorneys are not obligated to follow that recommendation and can use their discretion. Also, in cases where people have received behavioral health services before, the liaison can reconnect them with their previous treatment providers or services. If a person has never received behavioral health services before, the liaison can try to connect them with community-based services and resources.

FIGURE 1

Early Intervention Program Flow Chart



Source: Flow chart created and provided by Milwaukee County.

Notes: LSI-R:SV = Level of Service Inventory-Revised: Screening Version.

## Using Deferred Prosecution Agreements to Address Domestic Violence

During the county's SJC efforts, Milwaukee County stakeholders increasingly recognized there was significant underlying and unresolved trauma in people who were booked into the jail on domestic violence-related charges. The United Nations defines domestic violence (DV) and intimate partner violence (IPV) as "a pattern of behavior in any relationship that is used to gain or maintain power and control over an intimate partner. Abuse is physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person."<sup>9</sup> Nearly 1.2 million instances of DV were reported in the United States through the 2019 National Crime Victimization Survey (Morgan and Truman 2020). According to that survey, over 50 percent of people who experienced domestic violence did not report it as a crime, and this is magnified for people from historically marginalized groups (Morgan and Truman 2020).<sup>10</sup>

According to the most recent data from the Wisconsin Department of Justice, in 2018 Milwaukee County had 10,320 reported incidents of DV that involved 10,439 people categorized as "suspects" and 10,750 people categorized as "victims." Reported DV has steadily increased in the county over the past decade: between 2013 and 2018, reported incidents increased approximately 31 percent.<sup>11</sup> This may reflect an increase in domestic violence locally, or also an increase in reporting; further, sometimes victims and survivors are arrested on DV charges. According to data provided by local partners, from 2011 to 2018 DV and IPV homicides averaged approximately 12 percent of all homicides in the city of Milwaukee and 3 percent of nonfatal shootings. In 2019 and the first seven months of 2020, DV and IPV incidents accounted for nearly 25 percent of all homicides (MHRC 2020).

Data also indicate stark racial and ethnic disparities among people who come into contact with the criminal legal system for suspicion of committing DV or as a person who experiences it or is considered a victim. In 2018, nearly 65 percent of people arrested for DV offenses were Black; 30 percent were white, 4 percent were reported as "unknown," and 2 percent were American Indian, Alaskan Native, or Asian. Sixty-five percent of victims were Black, 29 percent were white, 5 percent were reported as "unknown," and 2 percent were American Indian, Alaskan Native, or Asian. Approximately 77 percent of people arrested on DV charges identified as male and 23 percent identified as female, and approximately 80 percent of victims identified as female and 18 percent identified as male (1 percent were reported as "unknown").<sup>12</sup>

In 2016, Milwaukee County stakeholders decided to create a postcharge DPA track for people charged with DV to address underlying and unresolved trauma they perceived in people causing harm

in the form of DV. In 2017, it used SJC funding to create the Domestic Violence Deferred Prosecution Agreement Program (DV-DPA). The goal for the program is to interrupt family violence between generations by promoting behavioral change such that participants understand the long-term impact of family violence on victims, including children exposed to DV.

Some stakeholders said the impetus for this strategy was a recognition of a false dichotomy between being a perpetrator and victim and that many who cause harm have also experienced harm; research indicates that experiencing harm and causing harm are mutually reinforcing (Roman et al. 2019). Another motivation behind the DV-DPA strategy was to provide an avenue outside the criminal legal system that could more effectively address harm and help families who have experienced DV incidents. The DV-DPA formed part of a larger SJC trauma-focused strategy in Milwaukee County that incorporated training for staff on understanding trauma, the ways people are retraumatized by the criminal legal system, and trauma-informed approaches.

Historically, it's been sort of this black and white response, where...you either arrest someone or you don't. They end up in the criminal justice system or they don't. And there really is no gray area for...what is the intermediary stage to hold this person accountable for what they did, but is there an opportunity for us to keep this family together? Since we know that families oftentimes reunite in domestic violence cases, so what would it mean for us to be able to have a family come back together safely in a domestic violence case? —Milwaukee County stakeholder

Key partners involved in the DV-DPA are the district attorney's and public defender's offices, which are the legal entities that determine DPA eligibility and conditions, and the Alma Center and Sojourner Family Peace Center, service providers that deliver programming to people who have committed DV and their families. Referrals are made by prosecutors in the district attorney's office who identify eligible participants or defense attorneys in the public defender's office. In the case of the public defender's office, defense attorneys will ask the district attorney's office to review defendants for eligibility. In all cases, victims and survivors must consent to the defendant's participation. All eligible defendants are given the LSI-R: SV risk assessment as part of the universal screening process when booked into the jail. Programming is a mandatory component for everyone with a DV-DPA. When the county designed the DV-DPA in 2016, it determined eligibility using static and dynamic factors (table 1).

TABLE 1

**Milwaukee County Considers Static and Dynamic Factors When Determining Eligibility for the Domestic Violence Deferred Prosecution Agreement Program**

<b>Factors</b>
<b>Static factors (exclusionary, do not change)</b>
The current offense is a violent domestic violence felony offense (i.e., included substantial bodily harm or great bodily harm as a result of the offense)
A prior misdemeanor conviction for a violent domestic violence offense
A prior conviction for a firearms offense
A firearm was used against the victim within the commission of the current offense
<b>Dynamic factors (can change)</b>
A history of relationship and/or family violence involving tactics of power and control employed by the actor, including an assessment of: <ul style="list-style-type: none"> <li>■ seriousness and pervasiveness of any unreported history of interpersonal family violence</li> <li>■ seriousness and pervasiveness of any history of interpersonal family violence involving the civil court system</li> <li>■ seriousness and pervasiveness of any history of no process referrals involving allegations of interpersonal family violence</li> <li>■ whether a weapon was involved in the commission of the current offense or within past offenses</li> <li>■ whether either past or current allegations of interpersonal family violence involved threats to kill the victim or family members</li> <li>■ whether the victim has a belief that the perpetrator may actually kill the victim</li> <li>■ whether the perpetrator has easy access to a firearm</li> </ul>
The existence of a mental impairment or disability which affects the emotional and behavioral stability of the actor
Whether the actor has any history of military service or is currently serving in the military
A history of general violence by the actor to resolve conflict
Whether the actor was acting to resist or defend against being battered in the context of a historical relationship of violence, power and control
The wishes of the victim

Source: Milwaukee County District Attorney’s Office policy for creating the Domestic Violence Deferred Prosecution Agreement Program.

According to stakeholders, as the program evolved, the district attorney’s office modified its eligibility criteria associated with criminal history, recognizing criminal background can exacerbate racial and ethnic disparities and was disproportionately affecting Black men’s eligibility for the DV-DPA.

We had to figure out...who was going to be eligible and how to be aware of racial equity within that, within the DPA, because...if they made the DPA available only to people with no prior criminal record, it would, because of bias, exclude many African American men who had accrued a record for a variety of reasons. So, the records look different. They would come in with the same offense, but their prior records look very different. So, [we were] trying to figure out the equity component of that. —Milwaukee County stakeholder

A participant’s DV-DPA conditions depend on the severity of the charge and offense type. Examples of conditions include participating in community service, writing a letter of apology, paying restitution, undergoing mandatory drug testing, and maintaining sobriety for a certain period. People

receiving a DV-DPA must also participate in programming delivered by the Alma Center, which uses a three-month restorative justice curriculum that takes a holistic and multifaceted approach to addressing harm caused and healing from trauma. While participants receive programming from the Alma Center, the victims are offered the opportunity to undergo programming provided by the Sojourner Family Peace Center.

Stakeholders elevated a few challenges around DV-DPA implementation, including limited referrals; stakeholders we interviewed said the number of referrals was lower than expected. And the district attorney's office has been criticized for not being willing to accept certain charges for the DV-DPA when referrals are made.

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*You would think that people would be running at this opportunity, but it hasn't been that way. —Milwaukee County stakeholder*

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Stakeholders noted collaboration had been challenging because of tension and distrust between the public defender's office and district attorney's office. There was a perception among interviewed stakeholders that public defenders would, early on in the legal process, "wait out" cases rather than agree to DV-DPAs to see whether their clients' charges would instead be dismissed. This suggests larger challenges around public defenders' decisionmaking; for instance, one stakeholder shared that the legal system incentivizes waiting for a dismissal. We discuss this challenge and other stakeholder reflections about collaboration later in this report.

Despite implementation challenges with referrals and cross-agency collaboration, stakeholders indicated that the DV-DPA represented a larger cultural shift in Milwaukee County's criminal legal agencies and in the county's community-service-provider community. Domestic violence charges used to be excluded from most diversion programming, not just in Milwaukee County but across the United States. Recently, however, the DV advocacy and legal field has advanced its thinking beyond traditional punitive measures and explored more restorative justice approaches.

Every single person in my office is trained on what to look for and how we're trying to divert people from the criminal justice system, and I think it's changed the thinking of my entire office about what we can do instead of recommending probation or jail time for people. So, I think it's really affected people, not just on the individual level that's in my program, but I've seen it kind of expand to recommendations throughout the entire office. —Milwaukee County stakeholder

## Collaborations and Partnerships

During our interviews, stakeholders reflected on the many collaborations and partnerships formed and strengthened between stakeholders, agencies, and systems through implementing the EIP. Key actors from the criminal legal system included judges, prosecutors, and defense attorneys. A substantial number of stakeholders explicitly mentioned the successful relationships they cultivated with individuals in the public defender's office. Interviewees described the importance of maintaining strong relationships with consistent communication.

I can't stress enough how fortunate we are to have a public defender who is always at the table, and a prosecutor's office, who also is at the table, and they're always wanting to work together...You know some of the lower line staff, you know down the [hierarchy], still very much have some adversarial personalities. However, we have a very collaborative leadership here in Milwaukee County right now which I see as one of our strengths, for reform initiatives as well.  
—Milwaukee County stakeholder

Stakeholders also built strong relationships with community-based organizations, the behavioral health system, and other service providers through their SJC participation. One described their agency's relationship with a victims' services organization, the Sojourner Family Peace Center, as "strengthened in very much sharing a vision," and indicated the relationship is effective because of the shared set of values and aims on jail reduction, equity, and addressing trauma. Stakeholders also described the challenge of often diverging perspectives between representatives from the criminal legal and behavioral health systems. Some said these diverging perspectives most often owed to the more rigid perspectives of actors in the criminal legal system. Whereas behavioral health service providers viewed mental health within a public health model and context, criminal legal system representatives focused on acute definitions of "risk" and emphasized medicalization. Nevertheless, there was a willingness to continue engaging and improving relationships.

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*I will say, there did seem to be some historical tension between the criminal justice system and the behavioral health system, and we've been kind of working through that over the course of the mental health diversion program. —Milwaukee County stakeholder*

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## Racial and Ethnic Disparities

Milwaukee County has significant racial and ethnic disparities in its jail population. As of December 2021, there was a substantial difference in the average daily population (ADP) of Black people (1,015) compared with white people (350). The most recent data show that Black people make up nearly three-quarters (73 percent) of the county jail population but constitute just 27 percent of Milwaukee County's population. Also, Black people are booked in jail at a rate 4.9 times higher than white people. Despite the county's overall progress reducing its ADP, Black people are still vastly overrepresented in the local criminal legal system.

A pivotal moment occurred in 2019 when the county board passed an ordinance declaring racism a county public health crisis and committed to address the root causes of institutional and systemic racism with a wide range of strategies. Strategies outlined in the ordinance include mandatory training on racial equity for all county employees; routine evaluation of how county budgets, processes, policies, and procedures impact Black and Brown communities in the county; and the development of a more diverse and inclusive government workforce reflective of the county's demographics.

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*Milwaukee still has a long way to go for racial equity, but it's specifically within the county you can't attend a meeting or submit a request without having it asked and being addressed.*  
—Milwaukee County stakeholder

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Although stakeholders we interviewed who have been involved in the county's SJC work were well aware of the prevalence of racial and ethnic disparities in the county's jail population and overall criminal legal system involvement, the county has had few recent strategies explicitly focused on these disparities. Most of these strategies, such as the development of a community book club, racial equity workshops, and closed discussion spaces for system stakeholders, have been educational and involved building awareness. The strategies have also involved data tracking: stakeholders said the county has collected and regularly reviewed demographics of EIP participants (who have been predominantly white) to ensure they reflect the overall system-involved population.

In 2019, the John D. and Catherine T. MacArthur Foundation provided Milwaukee County additional funding to implement another phase of its SJC work focusing explicitly on racial equity. One

stakeholder described how that funding enabled the county to focus more on racial disparities and equity:

We have our Early Intervention meetings monthly and we keep track of those statistics and look at them and see if we can identify a causal factor as to why one group may be barred from getting something. So, for example, “CCW” is “carrying concealed weapons” and those really fell along racial lines in our system and people were getting charged and they were invariably young men of color. I’d like to say that our district attorney’s office was so enlightened that they saw that problem and they decided to offer DPAs. —Milwaukee County stakeholder

In response to the EIP data the county began routinely reviewing, county stakeholders made data-driven changes to the program to reduce racial and ethnic disparities. First, the district attorney’s office agreed to make misdemeanor firearm offenses eligible for DPAs because it observed racial and ethnic disparities in who was getting charged for those offenses. The data also demonstrated that misdemeanor firearm offenses were disproportionately occurring in zip codes predominantly comprising people of color and where there is a larger law enforcement presence. Second, the office decided to remove criminal histories as exclusionary criteria for the EIP because it recognized criminal-history requirements were disproportionately affecting communities of color, which are overpoliced and criminalized, and were preventing Black men from accessing diversion and DPAs. Lastly, many stakeholders cited the development of the DV-DPA program itself as a racial-equity strategy given that people of color in Milwaukee County are more likely to be arrested and brought into the criminal legal system for domestic violence.

You get to overlook these things [criminal history] because we already know that it’s baked into the system and it’s not a fair way of evaluating people. It’s not a fair criterion for evaluating and...whether a person is eligible for DPA or diversion. History cannot predict this [likelihood to fail] because history is not equal, equitable. And I know initially with the eligibility criteria, it was primarily white men that were eligible for the program and the district attorney’s office looked at that and changed things around to try and make it more representative of the population. —Milwaukee County stakeholder

## Community Engagement

Community engagement in Milwaukee County’s SJC work occurs primarily through committee-based channels, including meetings. Notably, how people involved in the SJC work describe community *and* engagement varies significantly. Many stakeholders we interviewed defined the community as mostly consisting of direct partners and service providers. They shared that people directly impacted by the legal system and members of the larger Milwaukee County community have few opportunities to provide input (such as through the reentry committee). Also, there was some disagreement about the

various committees' definitions and the quality of their community engagement. Some committees' engagement primarily involves meetings where community members can provide input. Stakeholders often criticized these meetings for their minimal engagement and one-way communication. Other stakeholders, however, said their committee-based work has been more satisfying and successful engaging more diverse audiences. Only one stakeholder described the process of their agency formally using a community advisory board as part of their diversion strategy. Despite this, most stakeholders articulated the importance of community engagement and said growing it is critical for their strategies to succeed.

I think it's also helped us recognize the importance of including community or getting community input. Again, we had our CJC [Community Justice Council] meetings of the whole with the community and are some of the subcommittees were open to the public for feedback. We always had that the platform...but I think it just helped further ingrain it in the stakeholders that this is really needed and important, and to include them [community members] and make sure that it's really a cognizant effort to do that. —Milwaukee County stakeholder

Regarding behavioral health, we heard about a substantial amount of engagement in community partnerships and fellowships, and the use of service providers with direct or indirect lived experience with the criminal legal system. Most of Milwaukee's community engagement work is done through its CJC. In sum, stakeholders voiced the need for the perspectives of community members and people directly impacted by the county's criminal legal system reform work. Going forward, prosecutor-led diversion strategies in the county should more explicitly and creatively involve community engagement.

## Perceived Impacts and Jail Population Trends

Milwaukee County's SJC work over the past several years has significantly impacted the county, according to stakeholders. Improved collaboration was the most cited impact. Though many stakeholders said they already had a foundation for local collaboration, they said the SJC has solidified those relationships and increased communication and collaboration across government agencies. The SJC, by requiring a multidisciplinary, multiagency team for systemwide reform, forced collaboration and laid the groundwork for a collaborative infrastructure for the county's diversion and larger systemwide efforts.

The strengthening of relationships and collaboration was most notable across county legal system and behavioral health agencies, which some stakeholders said historically had strained relationships. The SJC helped those agencies build an infrastructure to assess people coming into the criminal legal system with behavioral health needs and properly design and implement diversion strategies for them.

Stakeholders said the behavioral health and criminal legal system agencies' differing priorities, approaches, and language was a barrier to collaboration. For instance, legal system agencies understand "high risk" to mean something qualitatively different than behavioral health providers. Also, many stakeholders noted that behavioral health professionals' legal obligations to their clients differ from those of criminal legal system agencies: whereas criminal legal system stakeholders may prefer to address someone's needs by having them formally admitted to a hospital, behavioral health stakeholders must abide by certain laws and cannot commit someone involuntarily. Disconnects in language, assumptions, and approaches were a challenge to collaboration, and the SJC helped bridge that gap.

Oftentimes the behavioral health response will be that they are voluntary. They, in many cases, don't have like a hammer to come down with. So I think that's been a source of tension where the criminal justice system is saying, "Well, why don't you just give this person medication or like put them into this treatment," and then the behavioral health side is saying this is voluntary and we can't force someone into it. So that's been a real point of contention. The language issue has been a point of contention. —Milwaukee County stakeholder

During the county's SJC work, criminal legal system agencies deepened their knowledge of the intersection of behavioral health needs and criminal legal system involvement, while behavioral health agencies increasingly recognized people in the jail as a client population. This resulted in more people being diverted from jail who would have otherwise been detained due to their mental health and substance use needs.

I think just the recognition that there is so much support and collaboration amongst the stakeholders within the criminal justice and the behavioral health system is really important and shouldn't be lost. There's really no like finger pointing or blaming. It's a system, and as a system, meaning the behavioral health and the criminal justice, like we can do better we know we can and we're working towards it. —Milwaukee County stakeholder

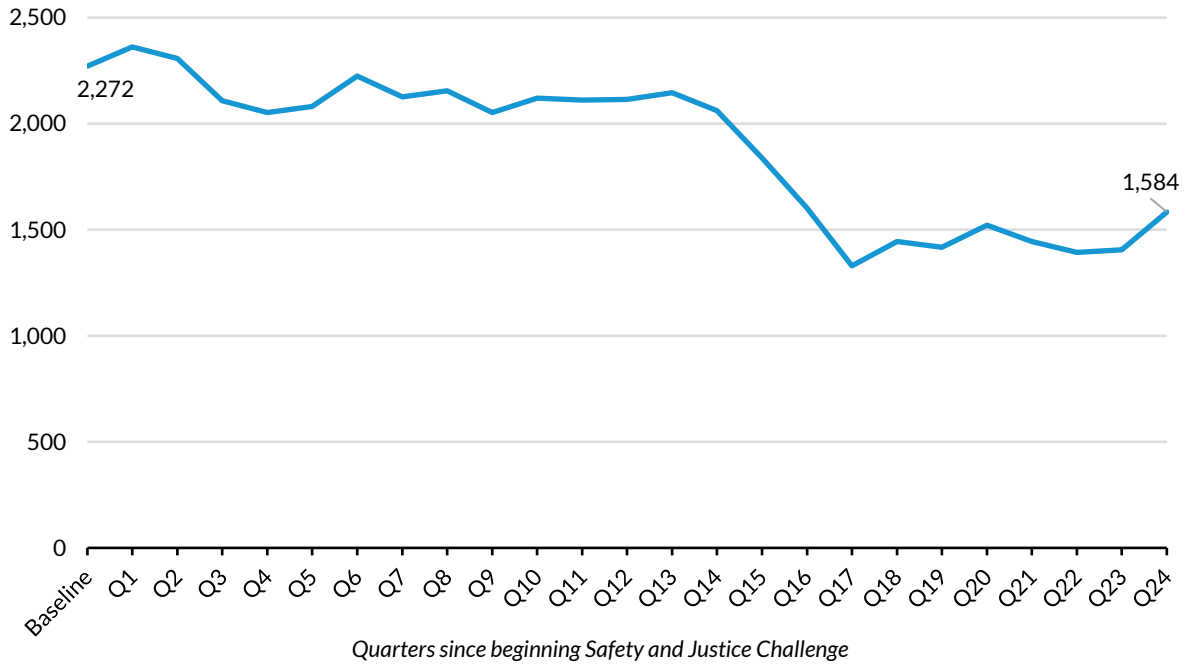
It is also important to mention that Milwaukee experienced a notable reduction in the jail population that is partially attributable to the COVID-19 public health crisis. Milwaukee achieved its aim of an 18 percent reduction in the overall jail population well before its projection in December 2019. One stakeholder noted that Milwaukee's SJC efforts really accelerated after the pandemic hit. This information is substantiated by trends identified by ISLG. Despite these critical reductions in the overall jail population, however, significant racial and ethnic disparities remain.

## Trends in Average Daily Population

In 2015, Milwaukee County's two jails (Milwaukee County House of Correction and the Criminal Justice Facility) had a baseline ADP of 2,272 people in custody, with an incarceration rate of 333.6 per

100,000 adults (ISLG 2021). Stakeholders set a target to reduce the jail population by 18 percent. By April 2022 the ADP had decreased 30 percent (from 2,272 to 1,371 people in custody). Figure 2 provides a timeline of the county’s ADP throughout its SJC participation.

**FIGURE 2**  
**Milwaukee County’s Average Daily Jail Population Had Decreased 30 Percent by April 2022, Seven Years after It Joined the Safety and Justice Challenge**



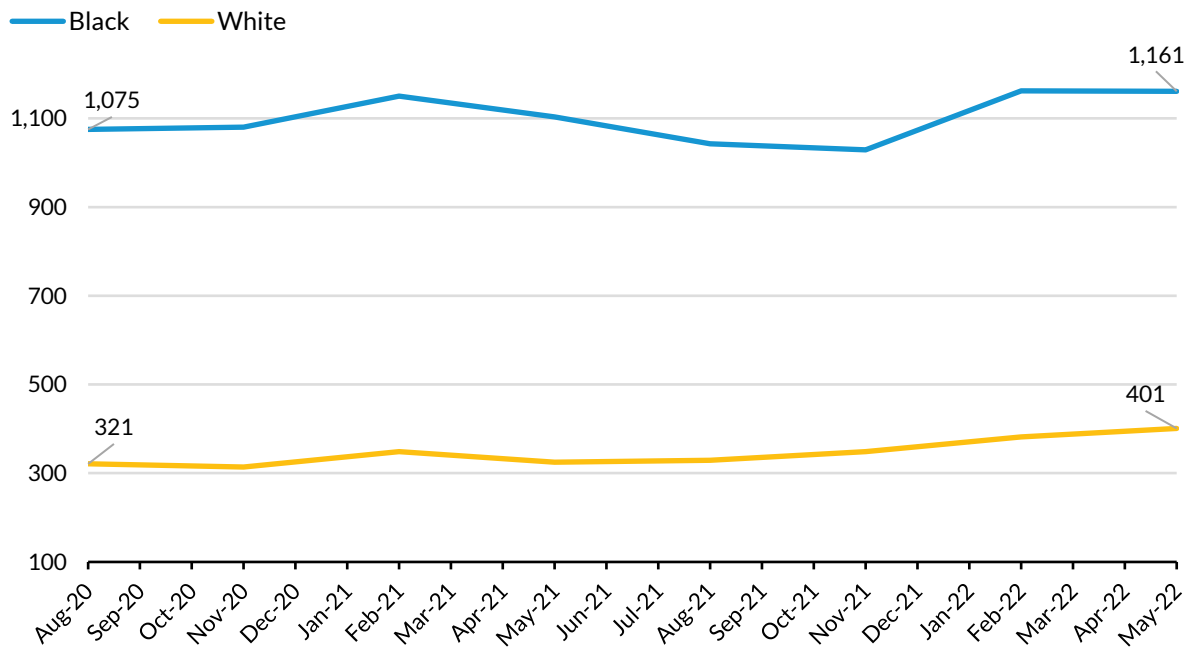
URBAN INSTITUTE

Source: Analysis by the CUNY Institute for State and Local Governance.

People of color make up around three-quarters of Milwaukee County’s total jail population (ISLG 2021). In January 2022, the ADP of Black people was 1,085, and the ADP of white people was 361 (figure 3 shows racial disparities in the county’s jails over the past few years). The average length of stay at baseline (November 2015 to April 2016) was 26.2 days, and by January 2022 had increased to 38.3 days. In addition, from October 2017 to September 2018, one-quarter (26 percent) of the pretrial jail population who went through universal screening screened positive for a history of mental health issues on the Brief Jail Mental Health Screen; this trend continued into 2019, when one-quarter of the pretrial population screened positive for needing further mental health assessment.

FIGURE 3

Disparities in Average Daily Populations of Black and White People in Milwaukee County’s Jails Have Remained Stark since August 2020



URBAN INSTITUTE

Source: Analysis by the CUNY Institute for State and Local Governance.

## Challenges

Milwaukee County has experienced many challenges in its diversion efforts. As we’ve discussed, interagency collaboration was an initial challenge that improved as relationships grew. Another challenge many stakeholders elevated involved the EIP’s restricted eligibility and difficulties securing enough referrals. Stakeholders believe Black people are underrepresented in the EIP compared with the share of Black people in the county’s jail population. They also observed that people can be, and often are, disqualified for a myriad of reasons that are not always transparent; for instance, stakeholders had concerns about the district attorney’s office’s use of discretion around eligibility. One stakeholder in particular voiced distrust toward whether the district attorney’s office is contacting victims or rather using that as a reason to not make referrals. Another challenge around eligibility is capacity: there are not enough staff to complete the necessary work. Also, one stakeholder believes the EIP lasts too long and said shortening the program would give them more capacity to take on new participants. They added,

I think there's just a lot of opportunity to disqualify people, and...they also have charges that are, you know, exclude people...So, sometimes it does feel to me like they are cherry picking or trying to keep their success rates very high and they also talk a lot about capacity.

Lastly, the COVID-19 public health crisis continues to be a challenge for SJC efforts. Stakeholders discussed that the backlog of cases in the court system owing to pandemic-impacted operations, court closures, and staffing shortages is a serious consequence and has resulted in people waiting significantly longer for their cases to reach disposition. This has particularly devastating impacts on people who may remain detained for extended periods and are unable to access community behavioral health services to address the factors underlying their criminal legal system contact. Like services across the United States, community behavioral health services in Milwaukee County have had to shut down during the pandemic, which has made them unable to reach detained clients and clients in the community.

The COVID impact on this program cannot be overstated, our backlog is so great. And our ability to reach our clients has been so compromised, because of it. And I just think we're going to be digging out from under this for two to three years, and I think it's going to have a negative impact on our program, and on their success rate, because you know those same clients who maybe needed more resources right because of mental health [prescription drug and services] prices or drug addiction crisis. —Milwaukee County stakeholder

## Successes

The success Milwaukee County stakeholders cited most was the reduction in the jail population. When the county entered the SJC, its original goal was to reduce the overall jail population by 18 percent. Since then, its ADP has decreased by 40 percent, double its initial goal. Its baseline ADP of 2,272 people had shrunk to 1,478 as of January 2022 (although racial and ethnic disparities in the jail have not also shrunk). Though the COVID-19 pandemic impacted the jail population reductions, the reductions are largely the product of fruitful partnerships and collaboration between various stakeholders, agencies, and systems to change who is booked into the jail.

We do really good work, but it's just I think the daily, the daily work of, really, preventing people from being charged criminally and putting them into our program, or even doing the informal. It's nice to have someone look at the cases who knows about like the mental health system and figure out what would be best for people because it's...with a lot of this population, it's just simply not probation and the criminal justice system. —Milwaukee County stakeholder

Many stakeholders feel diversion and DPAs serve a greater purpose than simply reducing contact with the criminal legal system, which was evident in the number of individual success stories they shared with us. Stakeholders referred to these strategies as a “second chance” for people to rebuild their lives and contribute to their communities. Rebuilding their lives meant many things, including

maintaining sobriety, finding housing, maintaining stable employment, strengthening their relationships with their families, and being able to tend to their physical and mental health. Stakeholders expressed satisfaction in knowing that a criminal record would not permanently mark these individuals. They also valued witnessing these success stories and the relationships they were able to cultivate with each other.

## Lessons Learned

Stakeholders in Milwaukee County learned several important lessons from participating in the SJC and years of data and program evaluation. They hope to use those lessons (which we describe below) to sustain and evolve their strategies for reducing the jail population via diversion and advancing racial equity goals.

**Reducing involvement in the criminal legal system requires partnerships that go beyond the criminal legal system to include other social and public service domains.** Milwaukee County's multifaceted diversion programs require strong cross-department and cross-agency collaboration for their jail-reduction goals to be fully realized. In particular, the county's behavioral-mental-health and substance-use-disorder diversion programs necessitate strong collaboration between Behavioral Health Services, the district attorney's office, the jail facilities, and the public defender's office. Many stakeholders expressed how integral the behavioral health liaison, a cross-agency position, was to the EIP's functionality and effectiveness in diverting people from the jail.

**Members of collective bodies must set common goals and priorities together and work within their individual and agencies' capacities to achieve desired outcomes, particularly in diversion strategies that require involvement from multiple agencies.** At times, Milwaukee County stakeholders' expectations around each agency's capacity and roles were not aligned. A few interviewees reported that stakeholders often disagreed about how to address cases involving mental health and substance use disorders. For instance, Behavioral Health Services and the jail have different definitions of what it means for a person to need involuntary treatment at a behavioral health facility. Milwaukee County should discuss options for building trust between stakeholders as well as ways to expand and restructure its programs and services to fill gaps in serving people with mental health and substance use disorder needs.

**Regularly analyzing program data and jail data to identify racial inequity can shed light on issues of eligibility and equal access to diversion programs.** For example, Milwaukee County found that its

exclusion criteria for its diversion and deferred prosecution programs were driving racial and ethnic disparities in DPAs. Because of overpolicing of communities of color, individual and systemic bias, the racist history of the criminal legal system, and violence against people of color, people of color in Milwaukee County are more likely to have prior system involvement, which excluded them from participating. The county responded to this by expanding its eligibility criteria to include firearm charges, for which Black men were being disproportionately excluded from the EIP.

**Community engagement is a vital component that is missing from Milwaukee County's SJC diversion initiatives and larger reform efforts.** Stakeholders often mentioned that community members voluntarily participate in a couple of Milwaukee County Community Justice Council workgroups, but the extent of their contributions to the county's goals, priorities, and strategies is unclear. The county should engage community members, especially people with lived experience, as it has done in reentry-focused efforts to strengthen reform efforts in other areas, including jail population reduction.

## Conclusion

As jail populations continue to be a significant driver of mass incarceration and as jurisdictions disproportionately detain and incarcerate low-income and underserved communities of color and people with behavioral health needs, prosecutor-led diversion offers a unique opportunity to interrupt criminal legal system involvement. Prosecutors have substantial discretionary power locally, and in collaboration with public defenders' offices, community-based organizations, and corrections agencies, they can develop and implement strategies like Milwaukee County's Early Intervention Programs to reduce local jail populations and the impact incarceration has on local communities. While Milwaukee County experienced challenges implementing its prosecutor-led diversion program, such as the need to expand eligibility, capacity issues, and the COVID-19 pandemic, it also experienced successes: it reduced its jail population, began offering diversion for charges that were adding to racial disparities such as domestic violence and gun possession, and increased partnerships between people in the criminal legal system and behavioral health sector. For the county to build on this work and make its diversion more successful, intentional strategies focused on community engagement and addressing racial and ethnic disparities will be important.

# Notes

- <sup>1</sup> This study reports race and ethnicity categories as exclusive, meaning people of Hispanic/Latino ancestry are not included in other categories (e.g., Black people refers to non-Hispanic Black people). For more information on this, please see Urban's 2019 blog post "Separating Race from Ethnicity in Surveys Risks an Inaccurate Picture of the Latinx Community," available at <https://www.urban.org/urban-wire/separating-race-ethnicity-surveys-risks-inaccurate-picture-latinx-community>.
- <sup>2</sup> Wendy Sawyer, "New Government Report Points to Continuing Mental Health Crisis in Prisons and Jails," Prison Policy Initiative, June 22, 2017, [https://www.prisonpolicy.org/blog/2017/06/22/mental\\_health/](https://www.prisonpolicy.org/blog/2017/06/22/mental_health/); Peter Wagner, "Incarceration is Not a Solution to Mental Illness," Prison Policy Initiative, April 1, 2000, <https://www.prisonpolicy.org/blog/2000/04/01/massdissent/>.
- <sup>3</sup> "The Power of Prosecutors," American Civil Liberties Union, accessed September 16, 2022, <https://www.aclu.org/issues/smart-justice/prosecutorial-reform/power-prosecutors>.
- <sup>4</sup> Milwaukee County, located in southeastern Wisconsin, has nearly one million residents and its county seat is Milwaukee, the most populous city in the state (US Census Bureau 2020). The county is 64 percent white and 27 percent Black, whereas the city of Milwaukee was 44 percent Black and 39 percent white as of 2020.
- <sup>5</sup> The Milwaukee Community Justice Council was established in 2007 and is an umbrella organization consisting of staff from county criminal legal system agencies, key system leaders, and local government officials. [According to its website](#) it "works collaboratively to ensure a fair, efficient and effective justice system that enhances public safety and quality of life in our community."
- <sup>6</sup> That initiative aimed to equip local criminal legal system agencies, policymakers, and communities with resources and tools to reduce jail populations, increase efficiency, and improve public confidence in the legal system. The goal of the initiative was to build a systemwide framework to promote collaborative, evidence-based decisionmaking and practices (CEPP 2017).
- <sup>7</sup> "Pre-Charge Diversion Program," Wisconsin Criminal Justice Coordinating Council, accessed March 17, 2022, <https://cjcc.doj.wi.gov/county/milwaukee-county/pre-charge-diversion-program#:~:text=The%20Milwaukee%20County%20Diversion%20Program,diverted%20from%20the%20justice%20system>.
- <sup>8</sup> Crimes excluded from eligibility are: operating while intoxicated (OWI); residential burglary; felony sex offenses; crimes of violence; public welfare and entitlement charges; gang involvement; and high-level drug-related charges including possession.
- <sup>9</sup> "What Is Domestic Abuse?" United Nations, accessed September 16, 2022, <https://www.un.org/en/coronavirus/what-is-domestic-abuse>.
- <sup>10</sup> "Intimate Partner Violence," National Crime Victims' Rights Week resource guide, accessed September 16, 2022, [https://www.ncjrs.gov/ovc\\_archives/ncvrw/2017/images/en\\_artwork/Fact\\_Sheets/2017NCVRW\\_IPV\\_508.pdf](https://www.ncjrs.gov/ovc_archives/ncvrw/2017/images/en_artwork/Fact_Sheets/2017NCVRW_IPV_508.pdf).
- <sup>11</sup> Wisconsin Department of Justice domestic abuse data, accessed September 7, 2022, available at <https://www.doj.state.wi.us/dles/bjia/domestic-abuse-data>.
- <sup>12</sup> Wisconsin Department of Justice domestic abuse data.

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## STATEMENT OF INDEPENDENCE

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