Reducing the Use of Jails:

Exploring Roles for City Leaders

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Introduction

As the nation grapples with mass incarceration, mayors and other city leaders have multiple opportunities to reduce the flow of residents into local jails. Jail overuse constitutes a critical, under-addressed aspect of America's mass incarceration crisis, does not markedly increase public safety, and worsens short- and long-term outcomes in America's cities. Working with residents and other stakeholders across local justice systems, city leaders can reduce the use of jails and strengthen connections with community-based services. This brief documents lessons learned from five cities intent on reducing their local overreliance on jail.

A dramatic context and scale highlight the importance of this issue for city leaders. Current criminal justice policies lead 11 million people to enter US. jails each year. The effects of short jail sentences and more commonly, pre-trial confinement, include loss of jobs and housing; stigma and disenfranchisement from criminal records; diminishment of positive police-community relations; and deteriorated health due to limited jail capacity to respond to mental, physical, and behavioral health needs.

Cities across the country have begun to recognize that reducing the use of jails, especially for low-level offenses, figures into smart public safety agendas. Emerging practices lead cities to focus on cases in which anti-social behavior stems from mental health needs or substance use disorders, and poor connections to support and services. Citywide equity initiatives also provide a platform for reducing the significant racial disparities that accompany current overreliance on jails.

As a Strategic Ally within the John D. and Catherine MacArthur Foundation's Safety and Justice Challenge, the National League of Cities (NLC) Institute for Youth, Education, and Families (YEF Institute) provided technical assistance in 2018-19 to five cities – Birmingham, Alabama; Gainesville, Florida; Madison, Wisconsin; Savannah, Georgia; and St, Louis, Missouri. During this time, each city developed and began to implement pilot diversion programs to reduce the use of local jails, and leaders from each city participated in a two-day Mayors' Institute to refine the place of jail reduction strategies in broader policy frameworks.

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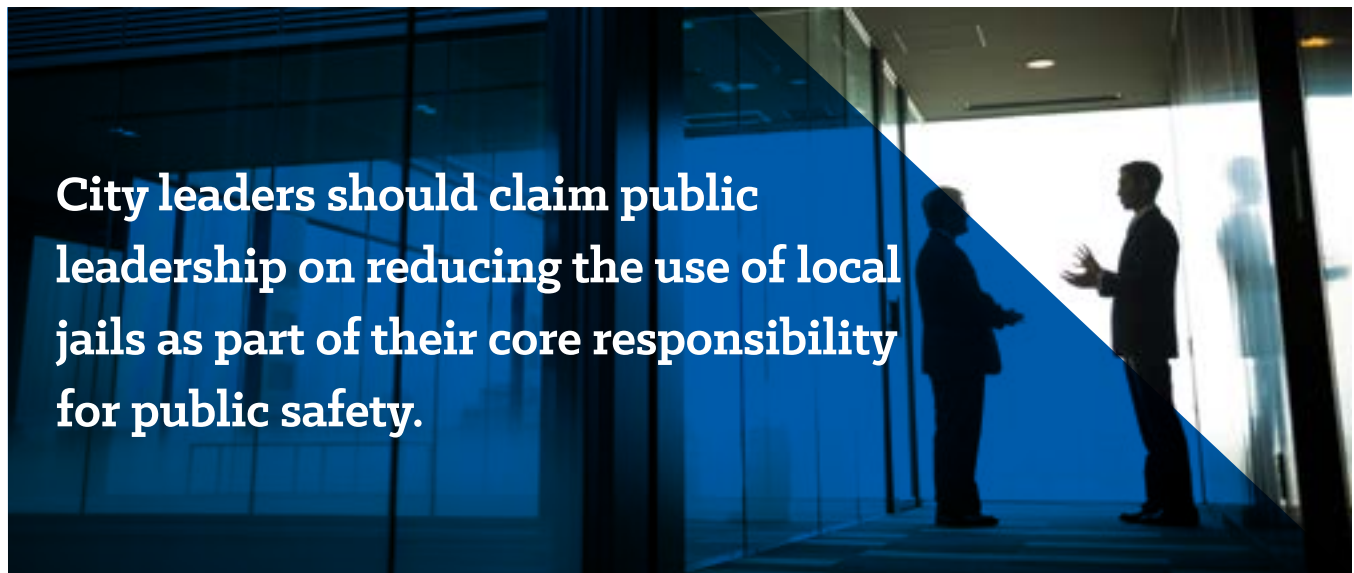
> **City leaders should claim public leadership on reducing the use of local jails as part of their core responsibility for public safety.**

THE YEF INSTITUTE LEARNED THREE PRIMARY LESSONS DURING ITS SUPPORT OF THESE LEADING-EDGE CITIES, ABOUT:

1 The public leadership roles that mayors and other city leaders can play on the issues surrounding reducing the use of jails;

2 The need for comprehensive planning and stakeholder engagement when formulating approaches; and

3 The opportunities for braiding together a range of pre-arrest diversion strategies with the greatest chance of reducing the overuse of jails.

Birmingham has a slightly unusual level of control of the local criminal justice system, including a police department, municipal court and city-run jail.

Gainesville has the typical city level of control over the justice system. Gainesville's police department is its key opportunity for impact on decisions at the county and state-level later in the justice system. Madison shares Gainesville's opportunity at the police decision point.

Savannah recently underwent dissolution of its shared city-county police force, returning Savannah to a city-run police force. All other aspects of Savannah's local criminal justice system are controlled at the county or state level. St. Louis shares Birmingham's system set up, including two city-run jails.

In order to develop and implement viable and sustainable policies to reduce the use of local jails, mayors and other elected officials from the five cities stepped in to champion the issue as a core component of their public safety platforms. Given the nuanced and sensitive nature of public safety policies these city leaders relied on being well-versed in both the need and supportive evidence for these policy shifts.

To this end, all five mayors from the cities in NLC's technical assistance cohort attended a Mayors' Institute. At this intensive working and learning session, mayors and their teams shared their initial plans and learned from national experts and their peers.

Upon returning to their respective cities, these mayors took public ownership of policy reforms to lessen the reliance on local jails. Savannah Mayor Eddie DeLoach garnered local media coverage and launched a community-wide conversation of the issue by announcing the city's plans for a diversion program in his 2019 State of the City Address.

Gainesville Mayor Lauren Poe added an "arrest less" pillar to his public safety agenda. In a local op-ed, Mayor Poe lays out the reasons for pursuing reform and the progress it has made as a cornerstone of her racial equity agenda.

"Nationally, a staggering 70% of all inmates are being held without a conviction. Because money usually buys you a release, people with means go free until a trial, while the poor languish in jail. For some it may be days, others weeks and some months," Mayor Poe wrote in June 21 op-ed in the Gainesville Times. "Regardless, it is enough time to sever the economic, social and familial ties that allow someone to support themselves and their families, regardless of guilt or conviction. This is why it is so critical to offer pre-arrest alternatives, in order to keep those critical social and economic lifelines in place."

Birmingham Mayor Randall Woodfin made the issue central to his anti-violence PEACE Initiative public health policy plan.

"Reducing the flow of people into our local jails is absolutely part of my PEACE plan — a public health approach to reduce violence," Mayor Woodfin said.

Advancing and expanding pre-arrest diversion strategies stands out as a crucial policy option available to city leaders.

A number of policy and programmatic options exist that participating city leaders explored braiding together to form comprehensive, sustainable and scalable initiatives to responsibly reduce the use of jails. Crucially, this continuum of options includes mechanisms to offer more appropriate interventions and supports for people in crisis including pre-arrest diversion, triage centers, and restorative justice.

PRE-ARREST DIVERSION:

Pre-arrest diversion programs offer some people the ability to obtain needed community-based services or engage in restorative practices in lieu of arrest and prosecution. Savannah's pre-arrest diversion proposed program, which links with an existing deferred prosecution program, requires the buy-in and approval of local prosecutors and uses a "carrot-and-stick" approach. In this system people must agree to and complete a plan that can include completing mental health and/or substance use disorder treatment along with community service in order to avoid being charged with a crime and booked in jail.

DEFLECTION:

Seen by many in the justice reform field as a "game-changer," deflection is a form of pre-arrest diversion that stops involvement in the criminal justice system before it starts. Deflection cannot, by definition, lead to future charges. Gainesville plans to implement deflection for non-violent offenses for which police officers currently issue a notice-to-appear citation. Successful deflection programs help people in crisis avoid custodial arrest, booking and detention in jail.

TRIAGE CENTERS:

Gainesville and St. Louis joined the large number of cities convening stakeholders to consider and study the opportunities for a triage center to

contribute to public safety in their communities. Triage centers serve as a single location where first responders, including police and emergency medical services, can bring an individual experiencing crisis related to mental health needs or substance use disorders. Trained clinicians assess individuals and provide immediate treatment and referrals to ongoing treatment.

Model existing triage centers across the country demonstrate high rates of success connecting people to services, avoiding incarceration, and reducing recidivism. First responders using triage centers see increased efficiency since drop-offs take significantly less time than the jail booking process. Beds in triage centers also cost far less than jail or emergency room beds.

RESTORATIVE JUSTICE:

Birmingham's extraordinary and unique proposed diversion includes a restorative justice program led by residents of the public housing community where the city will pilot the diversion. Restorative justice brings together both offenders and victims, along with family, friends and members of the community, to restore the harm caused by bad acts. Based on traditional practices in Native American communities, restorative justice seeks to resolve both the immediate dispute and permanently strengthen the community. Restorative practices serve as a promising component for cities as they seek to enhance community wellbeing and public safety.

As of the publishing of this report, all five cities in NLC's technical assistance cohort are preparing to pilot either pre-arrest diversion or deflection programs.

Strong comprehensive planning requires city leadership efforts to understand the current landscape and engage a range of stakeholders.

All five participating cities completed a comprehensive process that included mapping their current systems to identify existing or new opportunities for diversion; collecting data on current populations to understand the needs in the criminal justice system; engaging system stakeholders early to avoid roadblocks; employing robust community engagement; and understanding the full capacity for community-based services to meet the community need. Whereas cities generally do not have complete control of aspects of the criminal justice system, municipal leaders do well to initiate mapping or other steps needed to understand the local landscape and get the various and sometimes adversarial stakeholders to the table at the very beginning of the process.

City Examples

Below, are examples of how cities mapped their current systems and took steps toward jail use reduction.

MAP THE CURRENT SYSTEM AND EXISTING DIVERSION LANDSCAPE:

Each of the five cities mapped its local criminal justice system, the decision-making agencies at each decision point throughout the system, and existing diversion opportunities available. It is also important for city leaders to understand what state laws preempt or support their efforts to reform the local justice system. Identifying state laws limiting the power of cities proved key for most of the participating cities.

COLLECT DATA:

NLC provided each of the participating cities with a data collection tool to support their key step of collecting and analyzing data to determine the need for reforms. The tool asked for data on decisions leading to jail broken down by race and ethnicity, gender, neighborhood of arrests and age. This allows stakeholders to determine if particular communities disproportionally suffer negative effects of current local policy.

Savannah, Georgia:

The City of Savannah's city attorney proved a key, initially unanticipated partner when she identified an important barrier to the city's initial plan. Namely, a pre-arrest diversion model using civil citations for a variety of offenses would not work because state law limits the use of civil citations to marijuana possession.

Madison, Wisconsin:

Through a deep data dive, the City of Madison learned that a higher proportion of black residents faced arrest while a higher proportion of white residents received a citation for similar infractions. Madison's Mayor Paul Soglin sought to address the racial disparities in arrests in his citywide focus on equity.

ENGAGE SYSTEM STAKEHOLDERS:

NLC's five cohort cities all found it productive to engage local prosecutors early and persistently. Savannah created a close working partnership with the local prosecutor. City leaders across the cohort worked hard to engage local prosecutors from the very beginning of the process and continue to utilize public champions and other stakeholders to build support with the prosecutors.

Cities attempting jail use reduction should keep in mind that county governments usually have authority over jails, while the state may control the local court system. City leaders stand the best chance of achieving desired results by engaging with decisionmakers at each point in the criminal justice system, with an emphasis on developing and acting on shared definitions of success. And, city leaders should remain wary other decisionmakers may perceive cities' efforts as threats to existing authority, and thus hold back from attempts to establish and pursue shared goals.

Madison, Wisconsin:

Through its mapping of the current local criminal justice system, the City of Madison identified an existing stakeholder group it could join rather than create a new collaborative body. Namely, the Dane County Criminal Justice Council follows a Criminal Justice Coordinating Council model common in jurisdictions across the country, which does not necessarily engage city elected leadership. Nevertheless, in this case, the Dane County CJC agreed to add a city representative.

The tools utilized for mapping and data collection are available via NLC upon request.

EMPLOY ROBUST COMMUNITY ENGAGEMENT:

Communities affected by disparities in criminal justice contact are not monolithic, and city officials may need to talk to a variety of community stakeholders to get a fuller picture of residents' needs. Additionally, city leaders need to use their "bully pulpits" to explain the scope of the problem locally and why to adopt the proposed solutions. proposed solutions are necessary. Everyday Democracy offers an excellent guide to holding these community conversations.

Birmingham, Alabama:

The City of Birmingham used particularly strong community engagement to craft its plans for reform. The city joined a community conversation with residents of the housing authority neighborhood where the city plans to pilot its prearrest diversion program. Birmingham's municipal court also surveyed people who failed to appear for court hearings to determine what roadblocks made it difficult for them to make their court dates.

ANSWER THE "DIVERT TO WHAT" QUESTION:

Scanning for existing services and resources helped participating cities sketch what they needed for an effective and sustainable system of community-based services.

Savannah, Georgia:

The City of Savannah found that it had a number of service and support options it can divert people to, and early buy-in from the District Attorney's office facilitated referrals to existing, successful Status Court program.

Conclusion

In notable ways, the five participating sites charted new directions in city leadership for jail use reduction during this brief initiative. Five diverse approaches now illustrate some of the ways that city leadership and strategies can complement the jail administration leadership typically located at the county level, and the policy context flowing from the state level. With implementation of diversion models just getting underway in the sites, the NLC YEF Institute looks forward to identifying additional lessons learned for sharing with the broad constituency of NLC members as well as the Safety and Justice Challenge network.

The five sites' efforts also helped to highlight additional areas for exploration by NLC and other cities. For example, as expanded access to Medicaid comes online in more states, with focus and intention cities and their partners should find opportunities to increase the availability of the mental health and substance use disorder treatment so needed to answer the question, "Divert to what?" On another front – tackling the persistent racial and ethnic disparities that may accompany new diversion efforts – cities can follow the lead of Gainesville's successful reduction in disparities in juvenile diversions through intensive monitoring and support from the Chief of Police. In addition, the growing experience with local triage centers bears further scrutiny as to the centers' actual effects, resource savings, and scalability. Last but not least, Birmingham's application of a restorative justice framework serves as a reminder of the ongoing need to redefine public safety in ways that promote community involvement and accountability, and to steer away from a questionable reliance on over-incarceration.

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