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# Women's Pathways Into and Out of Jail in Buncombe County

Findings from Research with Women Detained in Buncombe County and  
Recommendations for Reducing the Use of Jail

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*Jennifer Peirce, Tara Dhanraj Roden, Sandhya Kajeepeta, Elizabeth Swavola, and  
Jesmeen Grewal*

## About this report

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# Introduction

This report presents an analysis of women’s experiences with the local criminal legal system in Buncombe County, North Carolina: their pathways into and out of the jail, their living conditions and concerns during detention, and their perspectives on how services and systems in the county can improve. The underlying research project was part of the broader jail reduction work of the [Safety and Justice Challenge](#) (SJC) network. In 2018, the Vera Institute of Justice (Vera) selected Buncombe County as a Safety and Justice Challenge site with which to partner in identifying drivers of growth within the women’s jail population and opportunities to reduce the number of women in jail. Buncombe County has a population of 269,452 (as of April 2020) and covers 656 square miles, including the City of Asheville.<sup>1</sup>

The findings in this report are based on administrative data from the jail (January 2017–April 2021); surveys with 40 women, representing nearly all the women who were held in the jail in September 2021; and interviews with 21 women conducted by Vera staff via video calls. Although the findings are responsive and specific to the needs of women in Buncombe County, many of the recommendations, if implemented, can benefit all people who are involved in the local criminal legal system.+

Broadly, this report finds that women’s pathways into jail in Buncombe County—in line with national patterns—are shaped by economic instability and laws and policies that criminalize acts of survival and acts related to substance dependency.<sup>2</sup> In general, there is an excessive use of police, jail detention, and community supervision for low-level charges that do not pose a public safety risk. There is a clear opportunity to reduce the use of criminal legal system resources to respond to these situations and invest instead in supportive community-based services, especially for women.

The key findings and recommendations from this work are grouped into six themes:

1. the criminalization of poverty,
2. bail,
3. community supervision,
4. substance use,
5. jail conditions and costs, and
6. interagency coordination and communication.

## The criminalization of poverty

- (a) Expand housing options.
- (b) Provide alternatives to arrest and/or jail for certain charges, such as trespassing, low-level drug possession, or other public order charges.

- (c) Create a policy by which the district attorney's office declines to prosecute low-level charges, especially those related to poverty and/or that pose no public safety risk.
- (d) Expand warrant resolution clinics and resources.
- (e) Eliminate fines and fees imposed by the local justice system and end the use of detention as a penalty for nonpayment.

## Bail

- (a) Codify and expand on COVID-era pretrial release practices, such as use of unsecured bail and warrant grace periods.
- (b) Uniformly assess ability to pay before setting bail amounts.

## Community supervision

- (a) Eliminate supervision conditions not directly related to treatment programming or public safety, especially conditions related to housing, curfews, and drug abstinence.
- (b) Institute a formal policy for reduced length of time on supervision or for goal-based rather than time-based justifications for ending supervision.
- (c) Eliminate jail stays as a penalty for violations, including "quick dips" that incarcerate people for a few days in lieu of longer probation stays.

## Substance use

- (a) Advocate for changes to state laws that criminalize low-level drug possession and for changes to local county, police, and prosecutorial enforcement of these laws, including citations in lieu of arrest.
- (b) Expand access to, capacity of, and eligibility criteria for treatment in the community, especially for inpatient and low- and no-cost options.
- (c) Prioritize treatment and support programs that are peer-led and that use positive incentives rather than the threat of jail.
- (d) Ensure continual, free access to treatment services during and after detention and provide access to virtual treatment and counseling sessions within the jail.

## Jail conditions and costs

- (a) Expand time for women out of cells, including during pandemic restrictions and more so as restrictions ease.
- (b) Allow in-person visits with family, especially children, and ensure that video call options do not replace in-person visits. Make video and phone calls free.
- (c) Align video call options with times when children are home from school.
- (d) Expand access to in-person and virtual programming, beyond substance use treatment.
- (e) Ensure medical visits, phone calls, video calls, and virtual programming are free to incarcerated women.

## Interagency coordination and communication

- (a) Ensure women receive frequent and clear communication about court cases.
- (b) Expand peer navigator programs in the courts and jail to include a focus on navigating the pretrial and court process.

Although the total Buncombe County Detention Facility population dropped by about 35 percent from spring 2019 to spring 2020, from 420 people to 272 people—largely because of the changes in the early stages of the COVID-19 pandemic—it has since rebounded to 445 people on average in 2022 since January 1, including 54 women.<sup>3</sup> Women make up a relatively small portion of the jail population, approximately 16 percent from 2017 to 2019 and declining to about 11 percent in 2020, but their circumstances and needs are distinct.<sup>4</sup> The main goal of this report is to connect the experiences and suggestions of system-involved women to concrete policy recommendations for Buncombe County.

The circumstances of women in Buncombe County's criminal legal system are not unique and reflect national trends. Women's jail incarceration has increased exponentially in the United States since the 1970s.<sup>5</sup> Prior to 2020 and the COVID-19 pandemic, data from the past decade demonstrated that the population of men in jail in the United States was declining while the population of women in jail had continued to increase.<sup>6</sup> Compared to men, women are more likely to face lower-level drug and property charges.<sup>7</sup> Even short stays in jail cause compounding negative effects on court outcomes and economic and family stability, and jail detention is especially disruptive to women, who are often the primary caregivers for their children and families.<sup>8</sup>



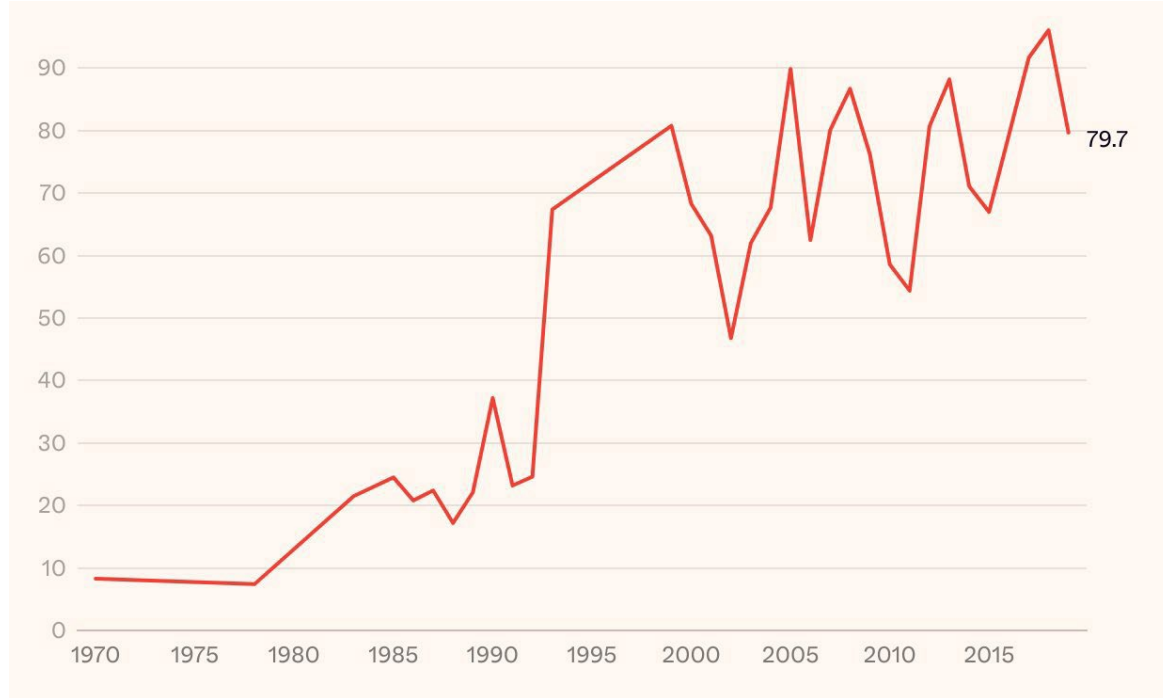
# Big Picture Trends: Women in Jail in Buncombe County

## Characteristics and trends over time and during study (fall 2021)

In Buncombe County, the women’s jail incarceration rate increased tenfold from 1970 to 2019. (See Figure 1.) This is compared to a threefold increase in the men’s jail incarceration rate over the same period.

Figure 1

**Buncombe County women’s jail incarceration rate per 100,000, 1970-2019**

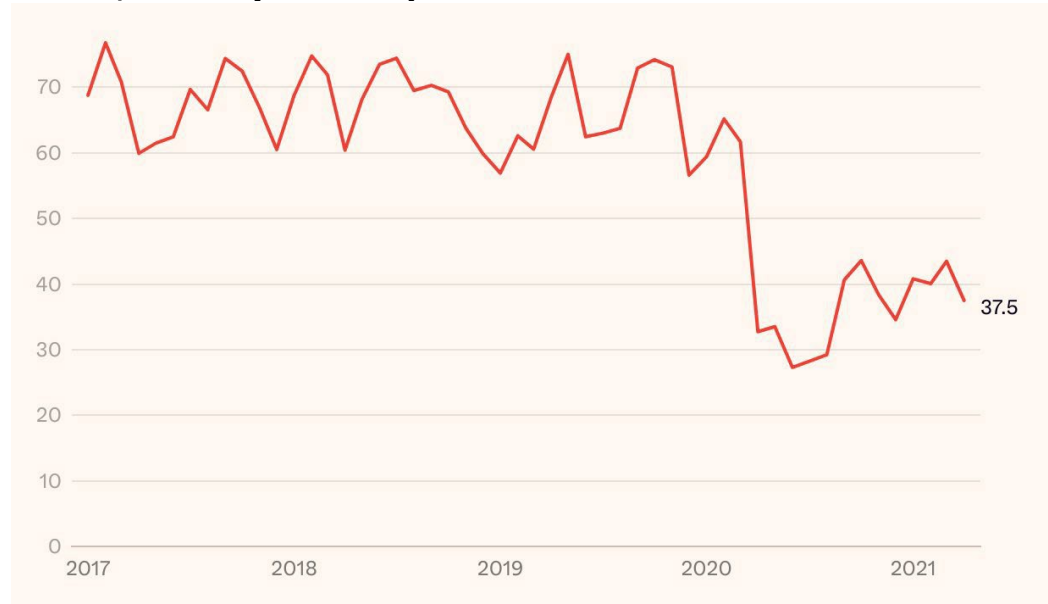


Source: Vera Incarceration Trends, [https://trends.vera.org/state/NC/county/buncombe\\_county](https://trends.vera.org/state/NC/county/buncombe_county).

More recently, the Buncombe County Detention Facility population has fluctuated. Figure 2 displays the average daily population (ADP) of women in the jail by month from January 2017 through April 2021 based on the jail administrative data. From 2017 to 2019, the ADP for women in the jail ranged from about 55 to 75 women. Beginning in 2020, coinciding with the start of the COVID-19 pandemic, the ADP dropped, averaging about 41 women over the course of the year, which represented about 11 percent of the total jail population in 2020.

Figure 2

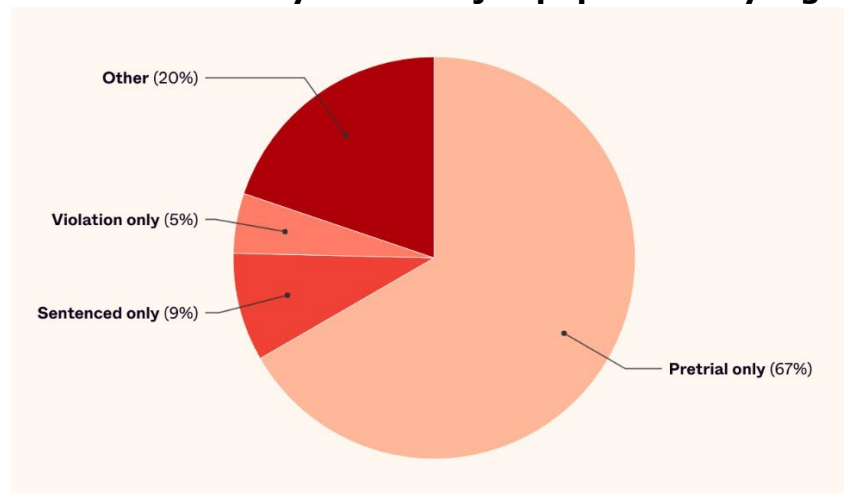
**Average population of women in Buncombe County Detention Center by month, January 2017–April 2021**



Source: Buncombe County Detention Center Administrative Jail Booking Data.

Figure 3

**Buncombe County women’s jail population by legal status, 2020**



Source: Buncombe County Detention Center Administrative Jail Booking Data.

Of the average daily population of women in 2020, the majority (66 percent) were held on pretrial status only. (See Figure 3.) The remainder were serving a sentence only (9 percent) or were awaiting a hearing on an alleged community supervision violation/revocation only (5 percent). The remaining 20 percent includes people with some combination of pretrial charges, supervision violations, and/or sentenced charges, such as people with probation violations and

new pretrial charges, or people serving a sentence with pending charges. Since 2020, the number of women in the jail has rebounded and is approaching pre-pandemic levels: there were 68 women in the jail as of May 15, 2022.<sup>9</sup>

Figure 4

### Demographic characteristics of survey participants

Characteristic	Number	Percentage
<i>Age (years)</i>		
18–24	6	15.0%
25–34	21	52.5%
35–44	10	25.0%
45–54	2	5.0%
55–64	1	2.5%
65 and over	0	0.0%
<i>Gender</i>		
Women	38	95.0%
Transgender	1	2.5%
Other	1	2.5%
<i>Sexual orientation</i>		
Heterosexual	33	82.5%
Bisexual	5	12.5%
Lesbian/gay	2	5.0%
<i>Race/ethnicity*†</i>		
White	33	82.5%
Black	2	5.0%
American Indian	1	2.5%
Multi-racial	1	2.5%
Other	4	10.0%

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

\*Self-identified race/ethnicity may differ from the race/ethnicity registered by jail staff on admission, as the jail staff typically determine this based on the person’s driver’s license or on a visual guess.

†The characteristics of the survey sample do not necessarily match the characteristics of women represented in the jail administrative data discussed above because the survey sample is a one-time snapshot of the women who were detained in September 2021. Notably, the survey sample has a higher percentage of white women compared to the ADP reflected in the jail administrative data.

The Buncombe County administrative jail booking data demonstrated that Black women were dramatically overrepresented in the Buncombe County Detention Facility. In 2020, Black women represented 14 percent of the women incarcerated in the jail but just 6 percent of the county’s population of women.<sup>10</sup>

The administrative jail booking data also demonstrates that women often experience repeat bookings into the jail. For example, of the women who were booked into the jail in April 2021 (the last month of available data), 64 percent had previously been booked into the jail at some point from January 2017 to March 2021. More than 15 percent of the women had previously been booked into the jail seven times or more.

The women in this study represent nearly all the women who were detained in the Buncombe County Detention Facility in September 2021: 40 women participated in the survey,

and 21 participated in semi-structured interviews. Figures 4 and 5 display the demographic and socioeconomic characteristics of the study sample.

Figure 5

**Socioeconomic characteristics of survey participants**

Characteristic	Number	Percentage
<i>Education</i>		
Less than high school	10	25.0%
High school/GED	14	35.0%
Vocational/tech training	1	2.5%
Some college	9	22.5%
Associate’s degree	2	5.0%
Bachelor’s degree	3	7.5%
Graduate degree	1	2.5%
<i>Have children</i>		
Yes	30	75.0%
No	10	25.0%
<i>Housing</i>		
Renting	9	22.5%
Homeowner	1	2.5%
Living with family/friends	13	32.5%
Halfway house/treatment center	1	2.5%
Houseless	12	30.0%
Other precarious housing*	9	22.5%
<i>Employment</i>		
Full-time employed	10	25.0%
Part-time employed	8	20.0%
Causal/informal jobs	3	7.5%
Unemployed	19	47.5%
<i>Currently or previously diagnosed with a mental illness by a medical provider</i>		
Yes	27	67.5%
No	13	32.5%

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

\* Other precarious housing includes couch-surfing, temporary hotels, or living in a car.

Note: Due to the small number of study participants whose racial/ethnicity identity is Black, Native American, multi-racial, or other, researchers did not disaggregate these results by race/ethnicity.

Figure 6

### Victimization and prior criminal legal system involvement of survey participants

Characteristic	Number	Percentage
<i>Past experience of victimization</i>		
Yes	38	95.0%
No	2	5.0%
<i>Victimization type</i>		
Victim of nonviolent crime (e.g., burglary)	20	50.0%
Victim of violent crime	24	60.0%
Domestic/intimate partner violence	28	70.0%
Sexual abuse by someone known to them	22	55.0%
Physical abuse by someone known to them	28	70.0%
Emotional abuse by someone known to them	32	80.0%
Sexual assault	20	50.0%
Assault or abuse by a law enforcement officer	10	25.0%
Neglect or abandonment as a child	19	47.5%
Other	2	5.0%
<i>Number of forms of victimization experienced</i>		
More than one	36	90.0%
One	2	5.0%
<i>Held in Buncombe County Detention Facility previously</i>		
Yes	30	75.0%
No	9	22.5%
Unsure	1	2.5%
<i>Number of times previously in Buncombe County Detention Facility</i>		
1-2	5	12.5%
3-4	3	7.5%
5-6	8	20.0%
7 or more	14	35.0%
<i>Arresting agency</i>		
Buncombe County Sheriff's Office	16	40.0%
Asheville Police Department	8	20.0%
Other or unsure	16	40.0%

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

Note: Due to the small number of study participants whose racial/ethnicity identity is Black, Native American, multi-racial, or other, researchers did not disaggregate these results by race/ethnicity.

## Top charges driving women's jail admissions

The administrative jail data also shows that many admissions of women into the jail are for low-level, nonviolent charges. As shown in Figure 7, the most common categories of the most serious

charge on a woman’s jail booking in 2020 were property-related charges (for example, theft and trespassing) and drug-related charges (for example, drug or drug paraphernalia possession). The equivalent list for men shows that the categories of charges are similar but not identical, with property charges and drug violations also being the most common charge categories driving men’s jail admissions (18.8 percent and 13.3 percent, respectively). More serious charges like violent crimes against persons, weapons charges, and sex offense charges are slightly more common as the most serious charge for men.<sup>11</sup>

Figure 7

**Women’s 2020 Buncombe County Detention Facility admissions, by most serious charge categorization**

Charge category (most serious charge only)	Number of admissions	Percentage of all admissions	Average length of stay (days)
Property	510	21.1%	5.2
Drug violation	399	16.5%	7.4
Driving while impaired	267	11.1%	0.2
Simple assault	261	10.8%	1.7
Traffic violation	209	8.7%	2.3
Probation violation	171	7.1%	15.7
Financial	123	5.1%	5.4
Violent crime against person	71	2.9%	16.5
Public order	57	2.4%	0.2
Pretrial supervision violation	34	1.4%	18.5
Parole violation	24	1.0%	17.1
Weapons	11	0.5%	13.9
Prostitution	7	0.3%	1.7
Sex offense	4	0.2%	2.5
All other	268	11.1%	6.2

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

Note: Property charges include theft/larceny, burglary, and trespassing. Financial charges include fraud, embezzlement, and counterfeiting.

## Key Themes

### Theme 1: Criminalization of poverty

The criminalization of poverty occurs when activities people engage in to survive—such as driving without a license or sleeping outside—are prohibited by the law. Numerous actions that stem mainly from the pressures of poverty remain illegal under the North Carolina Criminal Code, such as sleeping in public spaces (trespassing), stealing food or diapers (misdemeanor larceny), and consumption of alcohol or certain drugs in public.<sup>12</sup> Furthermore, the trauma of

victimization and abuse can increase women’s likelihood of experiencing homelessness.<sup>13</sup> Living in poverty can worsen mental illness and vice versa.<sup>14</sup> Similarly, although people in any socioeconomic situation can become dependent on drugs, people experiencing poverty or homelessness are more at risk of serious consequences like overdoses or infections; frequent police harassment and incarceration also increase these risks.<sup>15</sup> Given the prevalence of these experiences among the women in this study, the criminalization of acts of survival is even more harmful. These laws set off a response by the criminal legal system, from discretionary arrests by police to detention to ongoing supervision, supplanting responses by other institutions—like health and social services—which are often limited and inconsistent due to lack of investment. The effects of criminalization are compounded when the criminal legal system further impoverishes people through the imposition of bail, fines, fees, and other costs. Jails too often become the default local institution people encounter in a crisis—and jails cannot resolve these major social issues.<sup>16</sup> Supportive healing services—services that attempt to address the underlying problems and do not use punishment or confinement—are especially important for women, who experience compounded forms of victimization and criminalization.

This criminalization of poverty occurs against the backdrop of socioeconomic inequality in Buncombe County. As noted above, more than half (52.5 percent) of the study participants said they were either unhoused or in precarious housing situations before their arrest. People who are unhoused are particularly susceptible to law enforcement contact simply because they live in public spaces. In 2018, about 15 percent of people in Buncombe County were living below the poverty level, and in 2020, there were 547 people unhoused in Asheville.<sup>17</sup>

In response to a question in Vera’s survey about top challenges they face in the local criminal legal system, women said the system is too harsh overall and that courts should be more understanding of women’s life circumstances, notably poverty.<sup>18</sup>

## Key findings

### **Poverty-related charges drive jail admissions**

Surveyed women named poverty and exposure to abuse and victimization as central reasons they become involved in illegal activity and caught in a cycle of incarceration and probation supervision. They also expressed that most officials in the local criminal legal system—police, judges, jail staff, probation officers, and lawyers—do not understand or relate to the life circumstances of women with little to no income and with significant backgrounds of abuse who are involved with the system. For example, one woman said,

I wish they [people working in the system] considered personal history—[I] understand it’s hard to have someone have time to look at someone’s entire history. But the attorneys at least should at least look at someone’s record to understand their life. Lost kids because of living in [an] abusive home—their only option was to sell drugs to support kids because [their] job had paid minimal wage and it wasn't enough to cover costs of childcare and [they] had no family support. They are not eligible for housing assistance in [an]other county where [they’re] living.

As outlined in Figure 7, property charges, such as larceny and trespassing, which are often related to poverty, made up more than 20 percent of all jail admissions for women in 2020. What's more, women who are booked into the jail on these generally minor property charges have longer lengths of stay on average (5.2 days), compared to those with charges like simple assault (1.7 days) and impaired driving (0.2 days)—this is likely a result of inability to pay money bail. Public order violations, such as sleeping in a public place and loitering, also often reflect criminalized behaviors related to poverty and homelessness. These charges represent an additional 2.4 percent of women's jail admissions (more than 50 admissions in 2020), with a shorter average length of stay, similar to the length of stay for impaired driving admissions.

### **Excessive policing of low-income areas and unhoused people contributes to jail admissions**

A third of the women interviewed (seven out of 21) said that police specifically target areas where people experiencing poverty and/or homelessness live. Several described this policing as “unfair,” and one person said the police “pester and pick [on] the homeless out of everybody.” Others commented that the police arrested them for sleeping in public spaces. One participant said, “I shouldn't have been sleeping in a parking lot.....I was tired,” describing an interaction with the police.

When people have no safe and legal place to sleep, they are subject to police discretion in enforcing public order laws, such as trespassing. One woman described frustration at how police interacted with people sleeping in a local parking lot:

I mean, housing, it's difficult.....recently, they started housing people in hotels. But, like, for example, people were camping in front of Walmart in our area. And the police came and told everybody to move and if they didn't, then you'd be busted. So the ones of us that did move like the police told us to, um, weren't allowed in the hotels. So the people that stayed got put in hotels and helped out with housing. And then we inquired about getting the help with the housing, and they said, “Well, you had to been here at the campsite.”

The lack of options that people experiencing homelessness face in Buncombe County also creates perverse incentives for them when they are in desperate situations. One survey respondent said, “Some people are already homeless, so [they] come in [to jail] on purpose to have a place to eat and sleep.” Women in the study felt that police focus too much on under-resourced areas of Asheville, based on stereotypes, not an actual need for law enforcement presence:

They're in the projects a lot. You know, and it's not necessarily the projects where the drugs are. You know, it's everywhere but . . . they pick at that more.....They used to stop you if you have a backpack walking through, they'll stop you and search you and that's not right.

### **Inability to pay fines and fees drives ongoing system involvement**

Many women are unable to pay fines and fees imposed by the criminal legal system. This can compound into escalating involvement, including jail detention. Even seemingly small amounts of money can be out of reach for people living in poverty.<sup>19</sup> Women also said because they have



little to no monetary income, they face difficulties complying with certain conditions of pretrial supervision and probation, such as housing, transportation, and fees. (See the Community Supervision section on page 25).

## Existing county initiatives: Countering the criminalization of poverty

Buncombe County has taken some steps to address the criminalization of poverty locally. For example, according to conversations with county officials, the district attorney's office is supporting a driver's license restoration initiative and a new diversion program that aims to reduce barriers to finding housing and provide other supports for unhoused people who also have criminal legal system involvement in the county. Beyond this, local pretrial and probation services do not charge fees for required drug testing during supervision. Buncombe County's SJC community engagement workgroup is exploring funds for relief from court fees and debt.<sup>20</sup>

## Recommendations to Buncombe County

- 1. Expand housing options.** People experiencing homelessness are 11 times more likely to be arrested and come in contact with the legal system than the general housed population.<sup>21</sup> Women's experiences of abuse, victimization, and mental illness present specific challenges to finding housing and require specific considerations to ensure that housing options are safe and supportive. Given this and the fact that housing costs in Asheville and its metro region are the highest in the state with income lagging behind the national average, it is imperative to expand access to housing locally.<sup>22</sup>
  - Expand eligibility for public housing, including specifically for women and families. A growing number of public housing authorities are focusing on reentry and changing requirements to allow people with conviction histories increased access to public housing.
    - Implementation requires criminal legal system stakeholders partnering with the local public housing authority to identify capacity, gaps in access to housing, and expansion of eligibility requirements to reach more people.<sup>23</sup>
  - Example: In New York City, the Family Reentry Program allows people to apply for housing while incarcerated if they have a release date and up to three years post release.<sup>24</sup>
  - Implement a supportive housing program that provides permanent affordable housing, rental support, and access to voluntary services without strict conditions through a case manager.<sup>25</sup> Research shows permanent supportive housing reduces the number of days participants spend in jail compared to nonparticipants.<sup>26</sup>
    - Example: The Supportive Housing Social Impact Bond in Denver, Colorado, serves people who are without housing and have been to jail at least eight times within the last three years. Participants spent an average of 12 days in jail annually compared to 77 days for similar nonparticipants.<sup>27</sup>

**2. Provide alternatives to arrest and/or jail for certain charges, such as trespassing, low-level drug possession, or other public order charges.** Given that a significant portion of charges at booking are low-level and nonviolent, this is a feasible starting point for alternatives.

- Other responses, such as [pre-arrest diversion triage centers](#) and [alternatives to 911](#) for behavioral health crises, should be available on short notice and around the clock to reduce logistical barriers and should be managed by organizations other than police.<sup>28</sup> More generally, supportive services for mental health and substance use challenges should be widely available to prevent crises that can end up involving police.<sup>29</sup>

Implementation requires community-based organization capacity, law enforcement awareness and utilization, and cross-system communication around ongoing evaluation and improvement. Implementation could go a step further, with law enforcement issuing a directive to refer people to mental health providers, shelters, and/or substance use treatment programs instead of arresting them in cases in which the person must be removed from their location.

- Police should issue a directive for officers to give a citation (not make an arrest) for specific categories of charges, such as misdemeanors.<sup>30</sup>

Implementation requires law enforcement leadership approval, line staff buy-in, and accountability/oversight by a community-based entity to ensure citations are being used as intended.

**3. Create a declination policy for prosecution of low-level charges, especially those related to poverty and/or that pose no public safety risk.** This would reduce the time in jail after booking, as the person could be released quickly on dismissal of charges, and it could reduce arrests if police know charges will not be filed.

Implementation requires policy directives from the district attorney's office, clear communication to system partners of policy directives, and community awareness and buy-in, particularly in the downtown Asheville business district.

- Examples:
  - Suffolk County, Massachusetts, instituted a policy declining to prosecute charges often driven by poverty; unmet mental health needs; substance use and social issues, such as disorderly conduct; shoplifting; and some drug possession charges. A recent study of the effects of that policy found that people not prosecuted had a lower likelihood of criminal legal exposure in the future.<sup>31</sup>
  - Shelby County, Tennessee, stopped prosecuting driver's license suspension charges. Within 16 months, 20 percent of all cases docketed in Shelby were removed, representing thousands of people not sitting in jail and not accumulating additional debt—a change in practice that also reduced the risk of people missing court and receiving warrants.<sup>32</sup>

**4. Expand warrant resolution clinics and resources.** This would allow the courts to dismiss old, low-level cases, such as misdemeanor cases with an order for arrest more than two years old. The county could also set up mobile clinics or hotlines for people to come forward voluntarily to resolve outstanding warrants. People living in poverty who come into contact with the criminal legal system may not be able to determine how to stay in compliance with the court when they have fines and fees they are unable to pay.<sup>33</sup> Women who have prior contact with police or jail are less likely to report their experiences of domestic violence or to seek support services and might also be deterred from proactively seeking to resolve open warrants.<sup>34</sup> Unpaid fines and fees and failures to appear in court can turn into bench warrants. Warrant resolution clinics and warrant amnesty programs would reduce the fear that can push people to avoid appearing in court if they are unsure of the consequences for an old warrant or unpaid fees.<sup>35</sup>

Implementation requires coordination from the courts, district attorney's office, and public defender's office; oversight by an entity such as the Justice Resource Advisory Council and/or a community oversight body; and community awareness.

- Examples:
  - The Consolidated Justice Court in Pima County, Arizona, has held warrant resolution courts. Two sessions in 2016 served more than 1,300 community members, addressed 470 warrants, and reinstated 460 driver's licenses.<sup>36</sup>
  - In Oklahoma City, an amnesty program resolved more than 116,000 outstanding warrants in a nine-month period. People were given the opportunity to pay reduced fees or have fines waived altogether if they were found to be unable to pay.<sup>37</sup>
  - New York City and Philadelphia implemented one-time mass dismissals of about 644,000 and 19,400 warrants for low-level charges, respectively.<sup>38</sup>

**5. Eliminate fines and fees imposed by the local criminal legal system and end the use of detention as a penalty for nonpayment.** Although some fees are mandated by state statutes, the county can advocate to change these laws. A new rule, starting in 2022, allows a person "to request an equitable imposition of monetary obligations" based on ability to pay.<sup>39</sup> The county can decide to end fines and fees within its discretion, such as costs for basic needs in jail (see Theme 5), or for being on probation (see Theme 3). Fines and fees should also be waived for people deemed indigent or with little to no income. This is especially important for women who are the primary caregivers of their children. Finally, system actors can use their discretion to refrain from imposing incarceration (even brief stays) for nonpayment of fines and fees.

Implementation requires cross-system collaboration among and policy creation in the courts, sheriff's office, and pretrial supervision and probation departments. Court policies would include the adoption of an ability to pay assessment. (See Theme 2 recommendations.) A working group of cross-system leadership would ensure streamlined coordination and communication.

## Theme 2: Bail

Perhaps the starkest manifestation of the criminalization of poverty is the use of money bail. In the U.S. criminal legal system and in North Carolina, bail was designed to ensure that someone could be released and would return to court. Yet, across the country, hundreds of thousands of people remain in pretrial detention because they do not have the funds to pay bail, while people facing identical charges who do have money can await their next hearing from home.<sup>40</sup>

Paradoxically, research shows that pretrial detention, even briefly, actually makes people *more* likely to be rearrested and to fail to appear for court.<sup>41</sup> Women are less likely to have steady employment prior to arrest and thus have fewer resources available to pay bail.<sup>42</sup> Additionally, when women who are primary caregivers have to divert money for bail costs, their children’s well-being is affected. In the United States, money bail burdens people of color and those with low incomes disproportionately.<sup>43</sup>

Further, using money bail does not increase court appearance rates or public safety—its two stated goals. Jurisdictions like New Jersey; Cook County, Illinois; and New York City that have shifted policy and practice away from using money bail have demonstrated that this can be done without negatively impacting safety or appearance rates.<sup>44</sup>

### Key findings

#### **Bond amounts are out of reach and keep women in detention**

Bail is a key driver of women’s jail incarceration in the county due to the frequency of secured bail and high bond amounts. Average bonds for women in the Buncombe County Detention Facility have been increasing, even prior to the pandemic. This trend matches that of men detained in Buncombe County. Figure 8 shows a pattern of increasing average bonds by year for women’s jail bookings for which a bond amount was reported.<sup>45</sup> High bond amounts of \$10,000 or more were applied not only for cases involving violent charges, but also for bookings with top charges such as drug violations, larceny, and stolen property.

Figure 8

#### **Average bond amount totals for women’s jail bookings, by booking year**

<b>Booking year</b>	<b>Average bond total</b>
2017	\$8,168
2018	\$9,349
2019	\$8,956
2020	\$10,152

Source: Buncombe County Detention Center Administrative Jail Booking Data.

Among the women surveyed, the minimum bond amount reported was \$1,500, and the maximum bond amount reported was \$125,000. Eight women reported bond amounts exceeding \$50,000, and only two women reported bond amounts less than \$5,000. Very high bond amounts present an insurmountable challenge, leaving women with no other option but pretrial incarceration. Many women with bond amounts less than \$10,000 found this sum

impossible to pay, even when required to post only 10 percent of the total amount. As one woman put it:

I've had a couple of times where it's been like . . . my bond was \$100, and some note bonds . . . in my life, like I don't have a lot of people who . . . most of them are struggling. Most of them don't just have it, \$100 like, to be able to do that.

Figure 9

**Bail status among women surveyed (n = 40)**

**Bail-related decision in most recent case (n = 40)**

Detention, no hearing yet	4 women (10%)
Detention, bail denied	1 woman (3%)
Not eligible for bail	6 women (15%)
Bail set	24 women (60%)
Written promise release	1 woman (3%)
Pretrial supervision	1 woman (3%)
Blank or don't know	3 women (8%)

**Ability to pay bail (n = 30, people with bail set at some point in their case)**

Could not pay bail, remained in detention	19 women (63%)
Family or friends paid bail	3 women (10%)
Bail bonds company paid bail	2 women (7%)

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

Fifty-eight percent of the women surveyed had bail set in their current case, and of those with bail set, 63 percent could not pay it.

This study, of course, includes only the experiences of people who were in detention, not those who were released on a written promise or an unsecured bond, those who had bail set and were able to pay it, those who were released on a pretrial supervision program or another diversion program, or those who were successfully meeting the conditions of probation. It is not entirely surprising, therefore, that only a small proportion of the women in the study had direct experience with some of the available alternatives to money bail and incarceration. Of the 40 women surveyed, five (12.5 percent) said they were currently in jail due to a pretrial release violation. Only one respondent (2.5 percent of the sample) said the judge offered pretrial supervision at the hearing on her current case.

Regarding pretrial supervision, a few women mentioned that when a violation of release conditions is formally registered, this can result in increased or additional bail amounts. For example, one woman said: "Pretrial supervision unsecured my bond last time, and they picked it up for \$8,000. This time, on Friday, they doubled my [current] bond to \$50,000. I have paperwork to prove I didn't miss court." Another participant expressed frustration with her lawyer and the court system as she was seeking to have her bail reduced, but pretrial supervision violations also resulted in a higher bail amount:

Get on the ball and like do something about it, in my case. I mean, he keeps telling me that he's going to do something [to get bail reduced] and then not do it, like, it's just very upsetting, like I was supposed to get a bond hearing three times now. I haven't got a bond

hearing. And, uh, pretrial they violated me twice . . . that's the reason why my bond is so high. My bond is [more than \$100,000] now.

## Existing county initiatives: Bail

Buncombe County recently invested in an additional public defender to help cover all first appearances. Investing in public defense is a critical step to reduce the number of people in jail and increase equity by ensuring that all people, regardless of economic resources, have equal access to legal representation. Focusing on first appearances is especially important because research shows that having representation at first appearance results in lower bond amounts.<sup>46</sup> The Jail Review Team—composed of representatives from various county agencies—meets weekly to review a recently instituted bond report that includes incarcerated people charged with low-level felonies and misdemeanors to determine cases that have yet to have a bond review hearing and to schedule these hearings.

## Recommendations to Buncombe County

**1. Codify and expand on COVID-era pretrial release practices, such as use of unsecured bail and warrant grace periods.** Early in the COVID-19 pandemic, judges in Buncombe County expanded the use of unsecured bonds and allowed grace periods before issuing a warrant when people failed to appear for court. It is now up to judges' individual discretion whether to continue this practice. Women surveyed often raised inability to pay bail as a major challenge; these recommendations would benefit all people booked into the Buncombe County jail.

- Local courts should implement a policy to reduce the use of secured bonds and to encourage greater use of other, less restrictive conditions allowable under statute, such as written promise release, unsecured bonds, and release to supervision.<sup>47</sup>
- Examples:
  - Kentucky has an [administrative release policy](#) mandating the release of people charged with most misdemeanors and some low-level felonies. This program was expanded early in the pandemic to require
    - people with warrants for nonpayment of fines be cited and released;
    - people charged with/arrested for failure to appear (FTA) on any nonviolent/nonsexual Class D felony be released on recognizance; and
    - people arrested for contempt of court on a civil matter or for nonpayment of child support or restitution be released on recognizance.

Although the number of cases resulting in release more than doubled with the expansion, the percentage of people rearrested did not increase substantially.<sup>48</sup>

- In Harris County, Texas, secured money bonds are no longer required for most misdemeanors under a court rule adopted as part of a legal settlement. Most people arrested on misdemeanor charges are released quickly without a hearing. Before bail reform, 92 percent of people facing misdemeanor charges had money bail set; this proportion dropped to 14 percent in 2020. Additionally, the rate at

which new charges were filed within a year against people released following a misdemeanor arrest did not substantially change from 2015 to 2021 (pre-reform years to post-reform years).<sup>49</sup>

- A key study of Colorado counties found that after release on an unsecured bond, people did not have statistically significant differences in FTA rates or public safety outcomes as compared to those released on secured bonds (cash bonds and commercial bail bonds).<sup>50</sup> People with secured bonds did, however, have significantly longer lengths of stay in jail before securing release than did those with unsecured bonds.<sup>51</sup>
- Some people may need more support in returning to court and remaining arrest-free in the pretrial period. The county should develop ways to link people to voluntary, community-based services and offer assistance overcoming common barriers to court appearance, such as lack of transportation and childcare.<sup>52</sup>
- To expand the capacity of the additional public defender staffing first appearances, the county should consider a bail advocates program, similar to that in Philadelphia. In Philadelphia's pilot program, paraprofessionals, many of whom have lived experience with the criminal legal system, interview people after arrest to equip public defenders with more individualized information to present during the bail decision. They also identify any service needs and make connections to those services. An evaluation found bail advocates had a significant effect on the number of people arrested for both technical violations of bail conditions, like FTA, and new charges. Their involvement also led to a reduction in racial disparities by enabling the court to make more informed pretrial decisions and increasing clients' sense of procedural justice, fostering engagement throughout the court process.<sup>53</sup>
- For cases in which it is necessary to issue a warrant for arrest after a failure to appear, the courts should implement a policy establishing grace periods to allow the court time to notify people to come to court to address the FTA.<sup>54</sup> When an order for arrest is issued, unsecured bond should be the recommended condition.

Implementation requires chief judges to make policy changes and ensure adherence among judges. Trainings for judges and attorneys on people's barriers to court appearance, including on women's unique economic and victimization experiences, will help to ensure the policy becomes practice. Partnerships with community-based organizations will be necessary to provide supportive services to people released pretrial. If there is hesitation to implement, stakeholders should look at data on FTA and rearrest from the height of the pandemic when unsecured bail was primarily used. For example, the October 2021 Justice Services Newsletter provided detailed analysis showing that rearrest rates did not increase when more people were released without bail during the first six months of the pandemic compared to 2019, and fewer people were detained for FTA.

## 2. Uniformly assess ability to pay before setting bail amounts.

- Local courts should create a policy requiring judges to assess a person’s ability to pay before setting bail, taking into account their economic responsibilities related to caregiving.  
Implementation requires chief judges to issue a policy adopting ability-to-pay assessments and to ensure adherence to the policy among other judges and court actors. Trainings for judges, attorneys, and other relevant court staff on how to use the selected assessment tool will help to ensure the policy becomes practice.
- Examples:
  - Per the court rule described in Recommendation 1, Harris County, Texas, requires judicial officers to inquire about the amount of money a person can afford to pay if secured money bail is under consideration and to consider alternatives if the person cannot pay.<sup>55</sup>
  - Vera’s “ability to pay” calculator, in use in New York, can be a useful tool for quickly assessing what each person is actually capable of paying and is available to everyone as a free, downloadable app.<sup>56</sup>

## Theme 3: Community supervision (pretrial supervision and probation)

Although community supervision, including pretrial supervision and probation, is meant to be a less punitive alternative to detention, it can have serious and punitive consequences.<sup>57</sup> Even when a person’s “noncompliance” is technical, with little or no effect on public safety—such as missing a check-in with an officer or having a positive drug test—the penalty can involve detention in jail.<sup>58</sup> And women often face more intensive supervision conditions, including detention in jail, for breaking technical rules of supervision in the community.<sup>59</sup> Furthermore, probation can be costly, especially for people whose economic circumstances are already precarious. In North Carolina, probation supervision costs a person \$40 a month. Although these fees can be waived by judges, a waiver is discretionary and must be requested by the person on probation.

Jail sanctions as a penalty for supervision violations do not lead to fewer violations or new charges; in fact, community service or treatment are equally or more effective, while also being less expensive and disruptive.<sup>60</sup> Women have a high prevalence of victimization, abuse, and substance use, all of which can make the harms of criminal legal system involvement even more pronounced.<sup>61</sup> Even initiatives to reduce the use of jail time as a penalty for violations can cause disruptions in people’s lives and do not necessarily deter future violations.<sup>62</sup>

In North Carolina, the “quick dip” option, a two- or three-day stay in jail as a penalty for some probation violations, has been in operation for about 10 years, with the goal of achieving a deterrent effect through this brief stint of incarceration.<sup>63</sup> This is part of a larger package of probation “reforms” established under the Justice Reinvestment Act in 2011 that includes “Confinement in Response to Violations” (CRV), 90-day confinement, with behavioral health programs, as a consequence for technical probation violations.<sup>64</sup> Men serve this time in “CRV



Centers” that provide programming, but there is no CRV for women; they serve this time in the local jail.<sup>65</sup> Among people who underwent “quick dips” in North Carolina, those with the most restrictive supervision level were the least likely to successfully complete probation.<sup>66</sup> Overall, 82 percent of people who underwent a “quick dip” in 2019 had a subsequent alleged violation within a year.<sup>67</sup> This is hardly success from a deterrence perspective. Further, the use of jail time as a penalty for probation violations increases the number of women in the county jail.

## Key findings

### **Violations of community supervision increase the jail population mainly through long stays**

As shown in Figure 7, pretrial, probation, and parole violations represented 9.5 percent of women’s new admissions to the Buncombe County Detention Facility in 2020. The role that community supervision violations play in driving the women’s jail population is due in part to the long jail stays associated with these charges. In 2020, the average length of stay for a booking was 15.7 days if the top charge was a probation violation, 18.5 days if the top charge was a pretrial violation, and 17.1 days if the top charge was a parole violation. (See Figure 7.) The only other charge category with similarly long average length of stay was violent crime against a person. (See Figure 7.) Considering number of admissions and length of stay together, Vera found that on an average day in 2020, 20 percent of the women in the jail were held with a community supervision violation as the top charge.

The surveys and interviews Vera conducted confirmed the role of community supervision violations as a driver of women’s incarceration. Of the 40 women surveyed, 17 (43 percent) were in jail due to violations or revocations of community supervision: nine from probation, six from pretrial supervision, and two from parole. Women in the jail who had been on pretrial supervision reported that the hardest conditions to comply with were restrictions on where or with whom they could live and required drug testing. Of those on probation, half reported fees or debts associated with probation supervision as the most difficult condition. Those on probation also identified drug testing as a difficult condition.

The curfew sometimes imposed as a probation condition is another challenge, as this makes it difficult to get and maintain a job because many jobs require being outside of the home after the time that probation requires someone to be back at their residence for the day.<sup>68</sup> Women also cited difficulties with making check-in appointments due to schedule conflicts with work and lack of childcare. They also mentioned the difficulty of finding steady housing and work with a conviction history. One woman said:

When you have a [conviction history], it’s difficult to find places to live, you have to have a job, certain credit, background check, these are all barriers to finding somewhere to live. Finding a place to live with no job, no driver’s license.

Another stated:

I was missing hours of work or had to get someone to pick up my kid from school in order to make appointments. Just an annoyance.

Women said they struggled to pay the fees associated with supervision. One woman said, “It used to be revoking . . . that and drug tests. But now it’s just the money……. I think the biggest one is not being able to pay the money.” Another said: “I was probably a thousand dollars in the hole by the time it was all said and done.” Women with limited access to money must make hard choices between fees and other basic needs. One explained:

[W]e just got out of jail or whatever and we’re havin’ to pay all this money, but, um, we’re tryin’ to get our lives back in order and we ..... have to decide whether we’re gonna buy groceries or we’re gonna pay our probation.

The women Vera surveyed and interviewed also described the punitive nature of community supervision and the strict enforcement they faced for minor mistakes, such as missing one appointment or failing one drug test. For example, one woman said, “It don’t matter if you worked hard for six months, seven months. You miss a ride and you’re done.” Of course, there is variation among different officers, who have the discretion to allow for mistakes or relapses. Referring to a pretrial supervision officer, one woman said, “On check-ins with officer: yes, very, kept me stabilized. I missed a couple but called the next day. He was very understanding.”

But the women in detention generally expressed the view that they struggle to meet conditions and are afraid of the potential violation, as they cannot count on having an understanding officer or judge. Because they are often involved in multiple proceedings with multiple agencies and decision makers, the uncertainty can be overwhelming, and the intertwined enforcement mechanisms can be unclear. For example, one woman explained:

[T]he first time I went in front of a judge, he gave me probation. I have attended that probation a couple times, but I did fail a drug test, uh, and then the third or fourth time, I couldn’t find a ride. I didn’t have transportation. I was scared to go. She got me for, uh, absconding, so I went to jail and I got bonded out, and I got put on probation in a different county…… so, when I got put on that probation, I was scared to go back to the other probation. So now I done violated two probations ..... when I should be off of one of them at least. I paid my fines. I paid the \$500 in fines, which [was] all I owed, and I’m still on probation. They said if I paid all that, I would be on unsupervised probation, but I’m not. I’m still on probation.

## Current county initiatives: Community supervision

During the height of the COVID-19 pandemic, community supervision officers allowed people on supervision to report via phone rather than in person, although they have since shifted back to in-person. This alleviated barriers like transportation to the office, lack of childcare, and reporting during work hours—but it was a temporary practice. Both pretrial and probation agency leadership encourages officers not to issue violations solely for unpaid fees.

## Recommendations to Buncombe County

- 1. Eliminate supervision conditions not directly related to treatment programming or public safety, especially conditions related to housing,**

**curfews, and drug abstinence.** Although some conditions are mandated by state statute, probation and pretrial supervision leadership could codify a local practice that officers cannot issue violations for conditions not related to treatment programming or public safety and instead could connect people with services to address underlying challenges. For example, if a person loses stable housing, rather than issuing a violation, supervision staff should connect them with social service providers that can help them secure safe housing that meets supervision requirements.<sup>69</sup> Again, these actions reflect the needs of women as outlined in this study but would benefit all people on probation.

Implementation requires probation and pretrial leadership approval, judicial and line-staff buy-in, and oversight to ensure adherence.

- 2. Institute a formal policy for reduced length of time on supervision or for goal-based rather than time-based termination approaches.** Early termination of probation allows women who have been successful on probation for a specific period of time to have their supervision ended sooner than the full term of probation to which they were originally sentenced. Goal-based supervision is an alternative approach to early termination in which supervision terminates once people meet specific goals in their case management plans.<sup>70</sup>

Implementation requires collaboration between agency leadership from pretrial, probation, public defense, and prosecution to institute a formal policy for early termination with judicial buy-in—perhaps starting with cases involving women who are on probation. County leaders could then advocate for state-level legislative change to institute a statewide early termination policy.

Examples:

- Evidence shows that incentives can motivate behavior change more than threats of punishment. “[I]n Missouri in 2012, policymakers granted 30 days of credit for every 30 days of compliance . . . for certain people on community supervision. As a result, 36,000 people reduced their terms by an average of 14 months, and there was a 20 percent reduction in the total number of people under supervision. Overall, reconviction rates were the same or lower for people who were discharged early.”<sup>71</sup>
- In Allegheny County, Pennsylvania, the probation, public defender, and district attorney’s offices instituted a formal policy to systematize early terminations for people who had “completed half of their supervision term, had met all conditions, and had no new convictions or outstanding warrants.” Because judges understand the eligibility criteria, they are more likely to grant early termination motions. “As of December 2019, judges had approved 73 percent of early termination motions.”<sup>72</sup>

- 3. Eliminate fixed jail stays as a penalty for violations, including “quick dips.”**

- Even short jail stays cause severe disruption to people’s lives, especially for women, who often serve multiple caregiving roles. Studies of jail sanctions for violations

- demonstrate that they are no more effective at reducing violations or new charges than community-based sanctions.<sup>73</sup>
- Although state statute allows jail sanctions for violations, including quick dips, probation could create a local policy to eliminate the practice, especially for women, and make detainers a last resort option.<sup>74</sup>  
Implementation requires probation and pretrial leadership approval, line-staff buy-in, court understanding and awareness, and oversight to ensure adherence.

## Theme 4: Substance use

People incarcerated in jails are more likely to have a substance dependency than people in the general public.<sup>75</sup> One study found that 82 percent of women in jail had met the criteria for drug or alcohol dependence at some point in their lives.<sup>76</sup> In state prisons, drug-related convictions are more common among women than men, and arrests of women on drug-related charges have increased more sharply than for men over the past three decades.<sup>77</sup>

Substance use disorders are prevalent in the Buncombe County region: in a statewide survey, 47.4 percent of adults living in Western North Carolina and 50.2 percent in Buncombe County reported that their lives had been negatively affected by substance use.<sup>78</sup> Laws criminalizing drugs in North Carolina have not changed as much as in other states, and even cannabis remains illegal (including medical cannabis), although a proposal for decriminalization is under consideration.<sup>79</sup>

Jails are not an effective setting for substance use treatment because jail stays are short and unpredictable, and detention itself is harmful to health and stability. Although some people do “get clean” during jail detention through involuntary detox, the risk for overdose and death on release from jail is higher than for people who were not in jail detention.<sup>80</sup> Although it is important to provide a basic standard of care to people in detention who are experiencing negative effects of drug use or withdrawal, jails should not become default treatment providers for people with substance use disorders.<sup>81</sup> Given the prevalence of substance dependency among women in this study, it is especially crucial to increase community-based support options and ensure adequate care in jail, too.

### Key findings

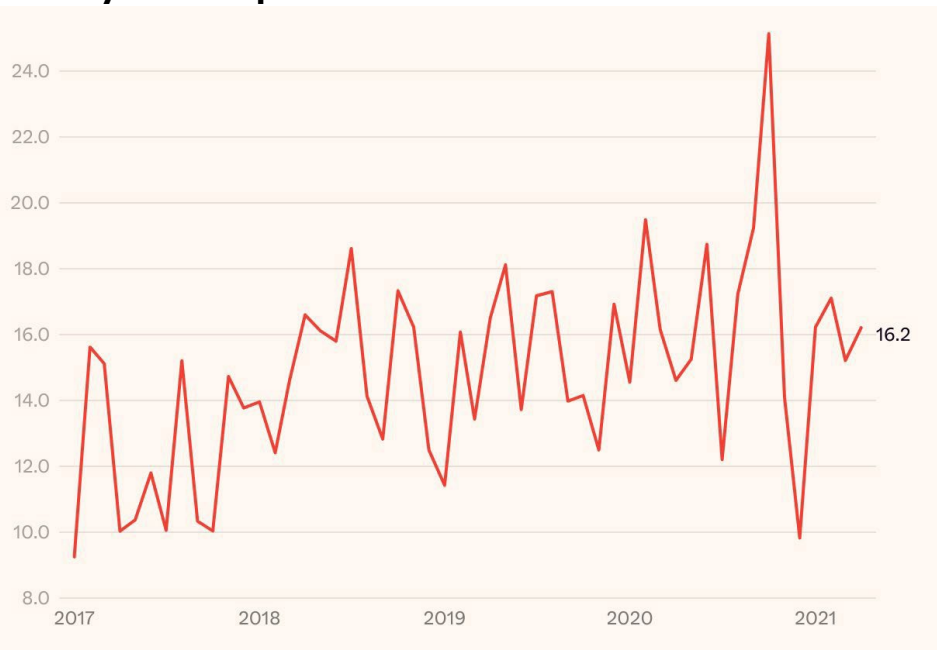
#### **Drug-related charges make up 17 percent of admissions and have longer stays**

The criminalization of substance use as a pathway into jail was a major theme from the administrative data and the survey and interview data from women detained in Buncombe County. Jail bookings with a drug violation as the top charge have been increasing as a percentage of total bookings of women. (See Figure 10.) From January 2017 to April 2021, the percentage of bookings with a drug violation as the top charge increased from 9 percent to 16 percent. Bookings with a drug-related charge as the top charge made up 16.5 percent of total jail

admissions in 2020. (See Figure 7.) Of drug-related charges, methamphetamine possession was the most common charge, followed by possession of drug paraphernalia.

Figure 10

**Percentage of women’s bookings with a drug violation as top charge, January 2017–April 2021**



Source: Buncombe County Detention Center Administrative Jail Booking Data.

Additionally, the jail administrative data demonstrates that the average length of stay and average bail amount are higher for bookings with a drug charge as the top charge compared to other bookings. Specifically, the average length of stay for drug-related bookings is 7.4 days compared to 3.7 days for other bookings (such as property, driving while impaired, simple assault, traffic, and public order charges), and the average bail is \$12,065 versus \$3,877, respectively.

The survey findings underscore how common substance use is among women in the Buncombe County Detention Facility—far beyond the portion of women who are booked on drug-related charges. In fact, substance use challenges permeate the lives and criminal legal system involvement of nearly all the women in the jail. All but two of the 40 women surveyed had experienced substance dependency in their lives. Seventy percent reported a dependency on methamphetamine, 50 percent on heroin, and 52.5 percent on prescription medications.

Figure 11

### Substance dependency among study participants (*n* = 40)

	Number	Percentage
<b>Current or past substance dependency</b>		
Yes	39	97.5%
No	1	2.5%
<b>Substance type (of current/past dependency)</b>		
Methamphetamine	28	70.0%
Prescription medication	21	52.5%
Heroin	20	50.0%
Cocaine	14	35.0%
Alcohol	6	15.0%
Other	20	50.0%

Source: Surveys of women incarcerated in Buncombe County Detention Center in September 2021.

### Women who use drugs feel stigmatized

When asked about the causes of crime in Buncombe County, women most commonly answered “drugs” or “drug addiction,” along with homelessness and survival-related actions like shoplifting or trespassing. They also described various situations of using drugs as a way to cope with traumas: participants mentioned witnessing murder, experiencing severe domestic violence, and experiencing isolation following miscarriage as events that precipitated drug use or relapse. The fact that nearly all women surveyed reported one or more forms of victimization further illustrates these connections. People also said residents of Buncombe County and employees of the criminal legal system were belittling of or judgmental toward women who use drugs. Some comments about this stigma included:

I’ve been here my whole entire life. There’s a lot of resources for a lot of different things if you’re willing to take ‘em. Certain things have extended hands out . . . and you can accomplish a lot. But there are some things, like, bein’ a[n] addict, they do look down on and make you feel tiny or take that and run with it, like, for example, when you go to jail, they look at addicts differently I feel like.

Bein’ an addict they definitely treat you like shit because they don’t see that it’s [a] disease. They just see it as somebody on drugs compared to higher authority or whatever it may be. So, it kinda makes it harder to . . . put your foot in the door anywhere and, like, try to make a change ‘cause it’s so judgmental.

### Treatment for substance use is difficult to access in jail and in the community

Many of the women in the Buncombe County Detention Facility are facing both physical and psychological challenges of substance use. Drug treatment programs in the jail became limited during the COVID-19 pandemic. Nonetheless, seven women reported attending some kind of drug treatment therapy, and 13 reported attending Narcotics Anonymous (NA) or Alcoholics Anonymous (AA) groups during their detention. Most found the programs helpful. The remaining women were unaware of such programs or activities. The program in the jail women

mentioned most often was Sunrise Recovery, and most women had positive perceptions of this program.

The most common answer women offered regarding programs that should be offered more at the jail was drug treatment programs, along with education programs. One said, “Programs to keep people moving forward, instead of biding time.” Another said she wanted to access a drug treatment program, and an officer said she would “bring a packet to apply for it the next week, and she never came back.” One woman volunteered to chair NA/AA meetings herself during the early pandemic when volunteers couldn’t enter the jail. Another woman suggested using tablet computers for drug treatment programs:

Substance abuse theory. We’re all addicts in here. Any kind of therapy offered would be great. They could offer group therapy through tablets via Zoom call. Instead of making us buy things, we could use tablets.

Several women said medication-assisted therapy is available in the jail, but only for people who were already enrolled in this treatment prior to detention. Other people who use opioids were only eligible for this treatment after release.

I think it would’ve helped like, mentally, because it helps you mentally a whole lot when you take Suboxone or Subutex, um, when you don’t, you’re still, like your body’s still going through withdrawal. Like, it’s just, it’s a long process. So, I think it would’ve helped a lot had I been able to start it like, you know, like right then in the early stage.

In the survey, some women had experience with drug treatment programs tied to the criminal legal system outside of the jail. Among the four respondents who did attend drug treatment programs while on supervision, three found these sessions useful. Three women (of 40) reported being offered a drug court program at the beginning of their cases. Another woman described being assigned to a drug treatment program (Black Mountain Women’s Recovery) during a prison sentence, which she found beneficial. Another woman said she was not admitted to a drug diversion program a second time due to past difficulty in meeting the conditions—despite the reality that recovery from drug use is rarely linear. She said,

They should give second chances to people. Once you’ve been deferred, you’re never eligible. But sometimes things change and you might be ready for it. They should make sure you’re ready before. They could’ve vetted me better.

Two women reported paying money for drug or alcohol treatment courses while on probation supervision. One said she paid nearly \$1,000 over six weeks; another said it cost \$80 per course. The policy of the Buncombe County probation agency—and other agencies—is to refer people to no-cost treatment options, though private options for a cost do exist. The gap between this policy and the experiences of these women may lie in lack of clear information about options for cost-free treatment or may be because the women were not assessed as being indigent.

Women also pointed out that simply stopping substance use is not sufficient for shifting to a more stable life after problematic drug use. For example, when asked about programs that would be useful in the jail, one woman explained,

Coping skills, because I've gotten clean from drug use but it's just a matter of staying clean. You need more than just classes to go to. It's a new you, you have to learn how to maintain and manage this new person.

### **Women need housing and support services, not jail, to recover**

Even the most determined women struggle to avoid drug use when they face instability returning to the community after jail detention. One woman explained how housing options could help women maintain their progress in recovery:

Housing. Because like one of the main things that um, people that I know when they get released, they have nowhere to go. Like, so they don't know what they're gonna do, they don't know who to call. Most of these people don't have anybody to call. So, it's just like day one, starting all over again. Like, you have no house, you have no phone, you have, you know, nothing. Like, and so then what they do is they go back to what they know. And then they fall back into drug abuse and just the whole thing all over again. . . . It's a nightmare. And then with them going back to drug abuse, like, there has been, just this past year, there's been so many people that's passed away after getting released from jail or prison, because of going back into that routine that they know. So, I feel like somethin' needs to be done to prevent that, because it's gettin' a little ridiculous.

More broadly, women repeatedly expressed that they wish the criminal legal system would consider how substance use disorders can alter a person's behavior and choices—and that treatment and dignity are needed, not detention. One woman said,

I wish they would see me as a person, as a human. Yes, I committed crimes, but that does not define who I am. I wish they saw that I never got in trouble until drugs [were] introduced in my life and most of the stuff I have done is crime but I did it to support a habit that I could not support at that time. I wish they would not let that define the person that I am.

### **Current county initiatives: Addressing substance use**

According to county officials, Buncombe County has numerous outpatient substance use treatment options, including Sunrise Community for Recovery and Wellness, although fewer spaces for inpatient treatment are available. The County's Post Overdose Response Team (PORT) not only assists with overdose in the community, but also can administer medications to treat opioid withdrawal symptoms.<sup>82</sup> PORT employs peer specialists who follow up with community members after receiving medication. PORT works with the Mountain Area Health Education Center (MAHEC). MAHEC provides outpatient addiction treatment services. A local nonprofit service provider, RHA Health Services, screens people in jail for diversion to treatment and supports planning for reentry into the community. In addition, the county has a small "Familiar Faces" program for people with complex needs who interact frequently with the



criminal legal system. In the jail, the Sheriff's office runs a highly regarded Medication Assisted Treatment program that employs a peer specialist.<sup>83</sup> The county also has three established treatment courts related to substance use: Adult Drug Treatment Court, Sobriety Court, and Veterans Treatment Court. A newly formed partnership, the Behavioral Health Justice Collaborative, is in place to improve access to case managers and treatment options for system-involved people.

## Recommendations for Buncombe County

**1. Advocate for changes to state laws that criminalize low-level drug possession and for changes to local county, police, and prosecutorial enforcement of these laws, including citations in lieu of arrest.** Decriminalization removes criminal regulations related to drug possession/use/sale, whereas legalization involves enabling and regulating sales.<sup>84</sup> The overall goal is to reduce the use of criminal penalties and law enforcement as a response to drug use (as well as related charges like drug paraphernalia) because evidence shows this is both harmful and unnecessary, as drug use is a health issue.<sup>85</sup> For the same reasons, treatment and other support services for people who use drugs—especially women—should be available primarily in the community, without court-mandated requirements or penalties and with substantial peer-led content.

Implementation requires advocacy by local governments and community organizations and (eventually) a decision by the state legislature.

- **Examples:**
  - Numerous states have legalized cannabis possession in recent years, for public health and economic reasons. Others have decriminalized cannabis possession.<sup>86</sup> Oregon has also decriminalized possession of other drugs (heroin and cocaine), resulting in decreased arrests and a savings of \$300 million that is being reinvested in community-based services, which is a significant change even though engagement in treatment options is slower than anticipated.<sup>87</sup> The City of Northampton, Massachusetts, also decriminalized possession of many controlled substances.<sup>88</sup>
  - At the county and city levels, even in states where drug possession remains illegal, authorities can issue directives that instruct law enforcement to stop or de-prioritize arrests for cannabis possession. Little Rock, Arkansas, issued an ordinance to this effect, for example.<sup>89</sup> The City of Lawrence, Kansas, voted to reduce the fine for cannabis possession to \$1.<sup>90</sup> Kansas City, Missouri, repealed all penalties related to cannabis possession, including small fines.<sup>91</sup>
  - Prosecutors can formalize a declination policy for drug possession charges. (See details in Recommendation 3, Theme 1.) Some district attorneys have announced that they will specifically not charge cannabis possession cases, such as in Fairfax County, Virginia.<sup>92</sup>
- To the extent that governments are providing new and/or reallocated resources for support services, and eventually for commercial opportunities when cannabis is legalized, they should prioritize opportunities for the communities most harmed by drug

prohibition. For example, New York has set criteria for license eligibility to prioritize people with past cannabis convictions.<sup>93</sup>

## **2. Expand access to, capacity of, and eligibility criteria for treatment in the community, especially for inpatient and low- and no-cost options.**

Implementation requires local treatment providers coming together to determine needs (including needs specific to women) and a plan for expansion; securing funding for additional inpatient options; clear and frequent communication to women and communities about availability of services; integration of additional approaches, including peer-led services; and coordination to reduce disruptions in access that may occur if a person enters or leaves the jail.

- The county can allocate budgetary resources to expand current organizations' capacity for treatment options. This includes bed space, staff hiring and retention, and program costs, including allocations specifically for women. The state and the county have access to American Rescue Plan Act funds that are designated for behavioral health and substance use treatment needs.<sup>94</sup> Additionally, resources currently used for enforcing low-level drug charges (through arrests, detention, and supervision) can be reallocated to treatment services.
- Treatment providers can expand their eligibility criteria, including allowing women who have had past “failures” or relapses in programs to try again.
- Treatment providers can expand options for people with low or no income, including better information and outreach about no-cost treatment options.
- Agencies that may serve as initial contact points for people who need or want treatment—such as police, hospitals, probation, and community-based organizations—should intentionally work to ensure that their staff do not perpetuate stigma or stereotypes when interacting with people who use drugs.<sup>95</sup>
- Criteria for “success” in treatment programs should focus on positive outcomes, such as increased stability, social bonds, and health—not total abstinence from substance use.<sup>96</sup>

## **3. Prioritize treatment and support programs that are peer-led by women with system experience and that use positive incentives rather than the threat of jail.**

Implementation requires treatment providers to continue and expand peer-led and other approaches, which involves securing funding for, training, and hiring peer staff, as well as ongoing evaluation and oversight by an entity such as the Justice Services Department alongside community organizations. For peer-led programs offered inside the jail, the facility needs to provide clearance for system-involved staff, who likely have conviction histories.

- Substance use treatments that use positive incentives—including reinforcement from social peers and material rewards like money and meals—for meeting program goals have promising outcomes, especially in combination with conventional therapy and medication-based treatments.<sup>97</sup>
- Peer-led programs involve women with lived experience (of substance dependency and/or of involvement with the criminal legal system) and with formal training who

- play a key role in treatment and recovery programs.<sup>98</sup> Research suggests that peer-led interventions with people in or released from jail have positive outcomes, including reduced recidivism and improved health, likely due to the increased trust between participants and peers who have similar life experiences.<sup>99</sup>
- During times when treatment providers cannot access the jail facility, treatment provider staff should be able to connect with incarcerated women virtually.
  - Example: Fairfax County, Virginia, has implemented a peer-led therapeutic program in its detention facility.<sup>100</sup>

**4. Ensure continual, free access to treatment services during and after detention and provide access to virtual treatment and counseling sessions within the jail.** Disruptions in access to treatment—including medication-assisted treatment—when someone moves from the community to the jail or vice versa can cause setbacks in recovery. Offering an array of treatment options in the community and in the jail—while prioritizing community-based options whenever possible—is important to meet different needs and logistical constraints. Implementation requires coordination between the Buncombe County Department of Health and Human Services, service providers, clinicians, criminal legal system agencies, and jail staff, as well as health insurance/Medicaid agencies.

- The county should ensure that assessment information, clinical information, Medicaid/insurance coverage, and access to medication is coordinated and centralized to overcome disruptions in access or lack of appropriate treatment options during detention and immediately after release.
- Treatment providers should invest in more services for women whose main dependency is on methamphetamines, for whom medication-assisted treatments for opioid use are not as relevant. Studies suggest contingency management (positive incentives) and various forms of social/peer support (for example, therapeutic communities and peer-led supports) are promising.<sup>101</sup>
- Treatment providers and clinical staff should work with women in detention to plan for their access to treatment services following release from jail.
- Jail staff should set up technology and space to allow for virtual access to treatment programs where possible, as a backup (not replacement) for in-person programs. This would allow women access to services when providers may not be able to enter the facility. The jail staff, in conversations with Vera, have noted serious space constraints due to rooms being used for court, lawyer meetings, and other activities. The county and jail leaders could consider other options, including holding program sessions in other buildings (while maintaining security) and/or on different schedules, such as evenings and weekends.

## Theme 5: Jail conditions and costs

Pretrial detention has harmful effects on well-being, health, and case outcomes overall.<sup>102</sup> Women have the added disadvantage of trying to survive in jail facilities that were designed for

men.<sup>103</sup> Of course, the COVID-19 pandemic has added an extra set of challenges and constraints for incarcerated women and staff alike.

The costs of being detained in jail and accessing programs and basic services directly shape a person's experience. At the Buncombe County Detention Facility, women reported having to pay \$20 for each medical visit—regardless of whether their health concern was resolved.<sup>104</sup> The jail also charges fees for phone and video calls but has the discretion to alter or eliminate the cost of both.<sup>105</sup> Under the 2021 Dignity Act, the state must provide menstrual products to incarcerated women for free.<sup>106</sup>

## Key findings

### **Pandemic-related restrictions are confusing and difficult.**

The main theme about current jail conditions to emerge in interviews and surveys was the restrictions imposed due to the COVID-19 pandemic. Some of these restrictions have evolved since September 2021, but these concerns remain valid as future surges of the pandemic may yet occur. Although some restrictions and isolation measures might be needed to reduce transmission of the virus, the practices in place in September 2021 generated additional burdens for incarcerated women that were not justified by public health or disease transmission prevention benefits. Further, as the number of women in the jail has risen in spring 2022, these considerations remain urgent, for both operational and public health reasons.

The first example is the booking process. According to most participants, the jail uses cells in the booking area to hold several people—up to six or eight women per cell—for a day or more, before transferring some to the housing area. However, the highest likelihood of transmission of COVID-19 occurs immediately on admission, especially if people are being held in close proximity. Further, the 14-day quarantine in effect in September 2021—being held in a single cell with limited time outside—makes less sense as a public health measure if the women are held in collective cells first. This is the reverse of an effective virus mitigation strategy, in which testing and medical isolation are strictest upon intake.<sup>107</sup> The quarantine approach could be used more strategically—for people with positive tests, for example—rather than as a blanket policy. According to a statement from the Sheriff's office, standard practice in September 2021 was to take detained women directly to cells, rather than group holding, unless officials anticipated the person would be released within a day.<sup>108</sup>

Women spoke about having little access to basic needs in the booking area, such as a blanket, mattress, change of clothes, or access to lawyers and phones to notify loved ones, employers, and landlords about their incarceration.

[Consider] the fact that I have three kids and two grandkids at home. I wasn't prepared to do any time, and I went into jail that day. I had a job that I was in the middle of doing. I can't contact them. I am hoping I will have that job when I get out. Just give me a chance. Petty charges. Can I have 24 hours to notify people? Rent will be late this month. They wouldn't even give me my phone, and I didn't get a call here for three days. The free call shows up as SPAM when people get it. It should say JAIL. They kept me in the drunk tank for three days.

Women’s top concern about the housing unit was the mental and physical harm of isolation in cells for 23 or more hours per day. Although the quarantine measures of lockdown are not meant to be punitive in the way that solitary confinement typically is, the effect is nonetheless similar. The toll of isolation in solitary confinement on mental health, physical well-being, connection with loved ones, discipline and behavioral outcomes, and other metrics has been well-documented—with specific harms for women.<sup>109</sup> Women uniformly described having only 15 or 30 minutes outside their cells every one to three days. In the words of one woman:

[I] showered twice in 14 days with no change in jumpsuit. . . . I’ve been wearing the same bra and underwear for 14 days, washing in the sink. I’ve never had access to laundry. I’ve cleaned my cell twice in 14 days and only got to mop.

Another said:

We can’t even access the kiosk outside the quarantine door. We’re given 15 minutes once or twice a week to take a shower but not to use a phone. My friend had to log in to the kiosk for me so I could order basic necessities. I’ve been here for a month and just got soap and shampoo today.

Most women had the opportunity to receive a COVID-19 vaccine during detention if they had not already been vaccinated. However, they said that getting fully vaccinated did not give them any additional leeway in the quarantine conditions or other freedom of movement in the facility—which appeared to them as a lost opportunity to incentivize vaccination and alleviate some of the isolation.

### **Lack of programs and activities, especially during COVID restrictions, is a missed opportunity.**

The other principal theme related to jail conditions was the lack of positive ways to occupy time and energy during detention, especially with the 23-hour lockdown in cells.

Using the tablets they just got for good and not evil, they have an opportunity to make a real difference like offering Zoom classes, they already have people on payroll that can’t do in-person activities so why not do Zoom classes?

As mentioned above, many women called for substance use programs to have a more active presence in the jail, to provide information about options after release and help women make plans, and to provide appropriate treatment and support during detention.

The next most common requests for program content were counseling and therapy. Figure 5 shows that 67.5 percent of the women surveyed were diagnosed with a mental illness. Given that the survey finding was self-reported conditions and asked only about those professionally diagnosed, the percentage of women experiencing mental illness might be higher than the survey findings. Several women noted that a mental health counselor visits women in detention regularly but said they only get to speak with him briefly. Women also want access to education options, including GED courses, college courses, and other general learning options. They said

the “library program” could easily be expanded, as it is currently a box of donated books, most of which are fiction.

Physical exercise is another way to improve women’s mental and physical well-being during detention. Using the day room for organized exercise or relaxation/yoga programs is an option. Tablet-based exercise programs to follow in-cell are another option. Most women yearned for some access to fresh air and sunshine. Although this may not be possible given the current facility configuration, even occasional opportunities to be outside would make a difference.

### **Accessing basic necessities in jail is expensive.**

Finally, a common theme related to jail conditions is the costs of living in detention. The average amount of money survey participants said they would need to cover necessities was \$70 a week. Most have no source of income when in detention. The most common costs women noted were for phone calls, hygiene products, and medical visits. Several women said they went for two weeks or more without toothpaste, shampoo, or clean underwear. Women reported that the jail provides “indigent kits”—basic hygiene kits—but these cost \$2 each, which is out of reach for people who are indigent. In December 2021, jail staff stated that this fee was eliminated. According to jail officials, the policy is that no incarcerated person is denied basic hygiene items due to lack of funds in their account.<sup>110</sup>

One woman described:

\$20 for an ibuprofen. I’ve ordered the indigent kit for \$1.98 and I’m \$7 in the hole and I haven’t received anything. . . . I have no soap, no toothpaste.

Another woman commented:

Have to beg for these terrible pads. This happened this morning. I waited for an officer. She said, “It’s about to be shift change so ask someone else.” I needed new underwear.

On top of this is the \$20 charge for a medical visit (to a nurse or doctor). As a result, women struggle on their own with ongoing medical conditions, pain, and lack of medication—which can result in health crises or hospital visits, a costly consequence of the initial, prohibitive fee.

### **Current county initiatives: Jail conditions and costs**

The Vera team met with the sheriff and captain of the county jail in December 2021, prior to the surge of the COVID-19 Omicron variant, to share time-sensitive findings. The sheriff and captain were responsive and stated changes would be made in the jail based on Vera’s recommendations. The jail leaders agreed in principle to increase time out of cells, to waive fees for indigent hygiene kits, and to explore waiving other fees. According to jail officials, the medical fee was waived during the height of COVID-19 and has since been reduced to \$10, and the indigent hygiene kit fee was eliminated in December 2021.<sup>111</sup>

## Recommendations for Buncombe County

### 1. **Expand time for women out of cells, including during pandemic restrictions and more so as restrictions ease.**

Isolation and lack of constructive activity is harmful to the physical and mental health of incarcerated people. Although social distancing and isolation of actively contagious people are important for managing COVID-19 in the jail, it is important to find a balance. This is especially urgent as the number of women in detention in Buncombe County has been rising in early 2022.<sup>112</sup>

Implementation requires leadership in the sheriff's office to establish a schedule with sufficient time, flexibility, and staffing for the women's unit to allow for more out-of-cell time and to ensure that logistical or pandemic shifts do not lead to rollbacks.

### 2. **Allow in-person visits with family, especially children, and ensure that video call options do not replace in-person visits. Make video and phone calls free. Align video call options with times when children are home from school.**

Implementation requires reallocation of staff resources and updated screening procedures to enable in-person visits, decisions to eliminate fees for calls, and ensuring that staffing plans and out-of-cell schedules enable calls to family and children.

- Expand access to virtual family interactions, which is especially crucial for women, who are often the primary caregivers of children. Set up virtual calls by free video call platforms (such as Zoom, Teams) on tablets (individual or in classrooms). Have information about this on the county/jail website and available to send by email to family members so they know how to set this up. For people who do not have home Wi-Fi/tablets, have tablets/computers set up in accessible locations in the community. Allow flexibility to enable incarcerated women to use day release policies to attend key family events—funerals, birthday celebrations, graduations—by video if they are unable to attend in person (without reducing options to attend in person).<sup>113</sup>

### 3. **Expand access to in-person and virtual programming, beyond substance use treatment.**

Due to varying needs and shifting policies related to the pandemic, expanding programming through multiple modalities will be the best way to sustain increased access and choice. This means investing in new or restarted in-person programs, technology to enable virtual programs, and peer-led programs (including by currently detained women). Mental health services, especially, must be more accessible (if in-person is not feasible due to restrictions) to incarcerated women due to the high prevalence of mental health needs.

Implementation requires decisions by the jail staff regarding rules for outside volunteers/agencies, schedules, technology, and use of classroom/day room spaces, as well as more involvement from community partners who can provide program content and from companies that can assist with technology.

- Various options for virtual programs exist, both “live” (interacting with someone on video) and pre-recorded. It is crucial that virtual/video programs do not replace or reduce in-person programs. Rather, they should be supplementary and offered on a flexible basis.

- Abundant technology options for educational programs exist, including video conferencing, phone conferencing, hotlines, learning management systems, and email systems tailored to facilitate secure student–teacher correspondence. Vera and its partner organizations can provide examples and more detailed best practices.
- Program content options can be expanded through partnering with local government and nongovernmental groups that can deliver programs in person and/or via video: GED/high school equivalency and college programs (partnerships with educational institutes), physical health (yoga, exercise, stretching), mental health (beyond clinical–mindfulness, music), basic resources (on pregnancy, parenting, nutrition, etc.), employment preparation (financial literacy, job searching), religious programming, leisure (books, movies, music), and other courses (languages, nature).
- One-on-one support and reentry planning: in-person and video options exist to help women think through their current situation and plan for a successful reentry process, including peer navigators and other support services, not just clinical or caseworker staff.

- 4. Ensure medical visits, phone calls, video calls, and virtual programming are free to incarcerated women.** Implementation requires jail leadership to make the decision to waive fees and negotiate contracts with service providers accordingly. It may also require public funding to make up for any revenue shortfall previously coming from fees.
- Some companies offer free tablets or other resources to incarcerated people, but many then charge for content or calls. Use corporate partnerships where beneficial, but only if services are truly, fully free, without subsequent or hidden fees.

## Theme 6: Interagency coordination and communication with system-involved women

Women in the Buncombe County Detention Facility said unclear, confusing, or absent information about their cases was a top concern. The COVID-19 pandemic generated massive disruptions and changes to normal processes in the criminal legal system: shifting to virtual court, phone-based check-ins, and limited access to the jail for outside groups on top of the pressures of illness and job burnout for jail staff. This seems to have exacerbated some of the information and coordination problems, in part because processes were constantly changing.

### Key findings

#### **Incomplete and difficult-to-access case information causes uncertainty for women.**

The lack of information that women receive about their cases and the criminal legal process, plus a general sense of uncertainty, was a predominant theme in this study. Vera heard from many women that they did not know when their next court hearing was or why exactly they were in jail. Due to the lack of internet access in the jail and the limited ability to use the phone,



especially during the COVID-19 pandemic, women were unable to access their own court data through the website or text reminder system to learn about their cases. This caused difficulties in planning and preparation for hearings. In the words of one woman:

[A] lot of these people they have their families going to those court dates to show support. And, because my court date was actually supposed to be for today and my mother, she took off work and everything, my boyfriend took off work, like, they're all supposed to go to my court date, but it wasn't today. It was 17 days earlier.

Another said:

Most of [the] time if you have court dates when you're in here [in jail] . . . you sleep and then they just call you to wake you up for court. . . . So, you have no time to prepare anything if you want to say anything, write anything, jot down anything for your memory so you don't forget to say while you're in court. . . . It's instant, like, "Wake up, it's time to go to court." They don't give you like five minutes to prepare yourself.

There are also delays in the court process that cause further uncertainty and frustration. Twenty-three percent of women surveyed who were due for a court hearing had not yet had a hearing at the time we spoke with them—although it was not always clear if a hearing was meant to occur in their case at that stage. Although some of these reported delays may be due to backlogs in the courts related to the pandemic or custody situations in which a hearing may not be immediate (such as a probation revocation hearing), most women did not understand these distinctions and simply felt confused and frustrated.

### **Difficulties in communication with defense lawyers.**

Defense lawyers are often the key intermediary for case-related information, but this channel appears challenging to navigate in Buncombe County. Notably, 37 percent of surveyed women who had a hearing reported having no defense lawyer present at all during their first hearing. Of the rest, 50 percent had a public defender, 7 percent had a court-appointed lawyer, and 7 percent had a private lawyer.

Several women said they do not know how to contact their defense attorneys—they do not know the phone number—and they simply wait for the lawyer to visit. A few women had positive comments about the responsiveness of their public defenders, but most had negative experiences. For example, one said she found her current lawyer to be dismissive of her situation:

[S]ome of 'em are really good. . . public defenders that have really, you know, fought for me, and that's done a great job on my cases. However, as in the case that I'm right now, I have a court-appointed attorney that's. . . one of the types that [will] just kinda blow somebody off. . . I'm not gonna say a name, but he's one of very many in this county and in this area that just doesn't care much, and I feel like they should be a little bit more mandated to. . . at least look into the history of their clients' cases.

Another woman felt stereotyped by her lawyer:

I mean, I think that he had, you know, good intentions, but I think that he was judging me off of being addicted to drugs.

And a third woman felt coerced into taking a plea deal:

Look at the things that I have been charged and convicted with and I had no choice to plea. They made it too easy, but I was not guilty [of this charge]. I was forced to accept that because I would have gotten a lot more [punishment]. Public defenders herd people like cattle. Women get that done [to them] a lot.

Many women noted that they had not heard from attorneys or from the court or jail about next steps in their cases. Several women said that when they did call the public defender's office, no one answered the call when it was from the jail, but the lawyers did answer calls from relatives of the women in the community.

[My public defender] could've had a little better communication, like, I was in a booking for like three weeks . . . but I never got the chance to talk to her. Like, she never answered the phone, I never got to talk to her. . . . So, there could've been like, you know, easier ways to maybe talk to her, ask for the public defender packet to try to write her and nobody could seem to find any. So, that's another headache that you know, it's ridiculous.

This suggests some combination of logistical and practice problems in the public defender's office that result in a sense of lack of access. Of course, public defenders have very heavy caseloads—due to chronic underfunding—which often make it impossible to give adequate attention to individual clients. But even given that circumstance—which underscores the need for more defense lawyers overall—the gaps in communication are serious.

### **Women miss court appearances due to lack of coordination by county agencies.**

An additional issue identified from the surveys and interviews was interagency communication and coordination challenges leading to missed court appointments and failure to appear (FTA) violations. Women reported having missed court appointments logged as an FTA in Buncombe County because they were held in another county's jail. Several women described being held in jail due to an FTA stemming from confusion between agencies about the woman's location—that is, she was in the custody of another county or the jail, but the court believed her to be in the community. One woman stated:

They need to actually bring people to court. They give you an FTA when they have you in their own jail! The video system doesn't work.

Another woman described feeling confused about her status:

But it was a miscommunication because at this point, I'm not sure . . . if I get released if I'm going to get violated by pretrial because I missed this court date. And that's a part of the things that you can't do is break [an]other law or not come to court .....So, I'm

worried about that, but then at the same time, it's a misunderstanding because..... I got time served. So, was I still under pretrial when I was out or not? But it's just like it's just questions that I asked that I haven't got answers to yet.

A third woman talked about lack of information about her FTA charges:

Believe it or not, I'm sitting here on failure to appear, two of them for the same thing. But I actually went to court to find out that I had a failure to appear. So, it wasn't like I was missing court on purpose, you know what I mean? Like, I actually went to one of my court dates and didn't know that I had another court that I had already missed. So, I got locked up in court for failure to appear and that's what I was trying to stress to the judge. Like, if I was trying to skip out on court, I definitely wouldn't come this time, knowing that I'm going to get arrested.

Similarly, women have missed court appointments due to being in jail under COVID-19 restrictions. For example, one woman said:

I was in detention in another county and had a court date in Buncombe. They gave me an FTA here in Buncombe because they didn't know I was in jail [in the other county]..... I tested positive for COVID. . . . Then they came to get me, and the man transporting me said that they wouldn't release you for court because you were under quarantine. . . . Then Buncombe had to come get me for a missed court date. . . . I was left in the drunk tank for six days. Now I'm here. They didn't take me to court even though it was on the [specific date]. Now it's not in the system. . . . Bond is still a cash bond because of the FTA because I was in jail.

## Current county initiatives: Coordination and information

Buncombe County created a local website through which residents can access court docket details and sign up to receive text message reminders of court dates through a partnership with Code for Asheville, but people in jail cannot currently access these services. The county also developed a Criminal Justice 101 video explaining the local court system and is exploring ways to make this video accessible to incarcerated people. Local stakeholders have secured funds to pilot a court peer navigator program to help people understand the court process and navigate the local legal system. Lastly, the county has the Justice Resource Advisory Council, staffed with leadership from criminal legal agencies, which focuses on systemic planning and coordination for crucial needs in the criminal legal system.

## Recommendations for Buncombe County

- 1. Ensure women—and all people held in the jail—receive frequent and clear communication about court cases.**
  - Proactively provide court dates and case information to incarcerated women and hold periodic legal clinics in the jail where people can get updated information about their cases and next steps. This can include access to the new court reminder system provided through Code for Asheville, which can be accessed via a QR code on a smart

- phone or through a web browser. Case/docket information should be provided via a hand-out to each woman regularly and on request to ensure they have up-to-date information. Implementation requires the sheriff's office to delegate this task to an officer or case manager on the women's housing unit, as well as ongoing coordination and communication with public defenders and the courts.
- Dedicate time out of cells during business hours for women to call their defense lawyers and for lawyers to call the women, waive all phone and video fees, and ensure these calls are not recorded. Implementation requires the sheriff's office to allocate sufficient staffing on the unit to allow for additional time out of cells and that lawyers are given a direct number to call and timeframe for when to call.
  - Establish a practice with the local public defender's office/lawyers to have clear health screening protocols and enable regular in-person visits at fixed times, and further increase investment in public defense capacity. Implementation requires coordination, communication, and planning between the sheriff's office leadership and public defender's office leadership, consultation with the county health department, and communication of protocols to all lawyers and public defenders.
  - For virtual court hearings, allow the incarcerated person to have a video call with their lawyer ahead of the hearing, providing an opportunity to discuss the case beforehand. Implementation requires coordination and communication between the sheriff's office staff, the courts, and the lawyers to determine a schedule. There needs to be enough time between each hearing or meeting to allow detention staff to bring women to the room to connect with lawyers.

- 2. Expand peer navigator programs in the jail to include a focus on navigating the pretrial and court process.** Having credible messengers— women who themselves have system experience—who can help incarcerated women understand the current status of their cases, next steps, and what to expect will provide clarity, ease anxiety, and allow women to participate more actively. The County already employs peer navigators for some drug treatment programs in the jail, so this would be complementary. Implementation requires obtaining funding; identifying and securing staff; coordination and collaboration among criminal legal system partners; and a body to oversee the program, such as the SJC Case Processing Workgroup or Justice Services Department.
- Example: The Reentry Resource Center and Faith Based Collaborative in Santa Clara County, California, has a peer program in which peers can meet with clients who are incarcerated.

## Conclusion

This study has provided a description of the experiences of women detained in the Buncombe County Detention Facility from various sources: administrative data, surveys, and interviews with women in the jail. The findings point to six overarching topics that explain why and how women end up in jail, why some remain in jail, and why many feel frustrated and uncertain about their situations and struggle to rebuild stability in their lives after release. The criminalization of poverty in the law and in the practices of law enforcement agencies put undue burdens on marginalized women, for no significant benefit to public safety. The severity of bail policy and practice results in jail detention being the inevitable outcome for women who do not have resources, even if they are facing low-level charges. Supervision (pretrial and probation), although meant to support remaining out of detention, can inadvertently push women back into jail if conditions and enforcement are overly strict. The criminalization of drug use also pushes women into jail by imposing criminal penalties instead of offering sufficient health and treatment supports in the community. Finally, challenges with coordination and information—sharing across agencies, as well as systemic barriers for system-involved women to understand basic facts about their cases—lead to uncertainty, delays, and missed hearings.

Based on these findings, research, and practices from across the country, the Vera team has outlined recommendations for actions by county leadership, including elected officials and staff from justice agencies, as well as nongovernmental service providers and other organizations. Some of these recommendations are especially salient for women, because women are more likely than men to be in jail on lower-level charges, to have past experiences of trauma and victimization, and to have family caregiving responsibilities.<sup>114</sup> Many of the recommendations are broader—covering the whole system—and would benefit people of any gender. No single recommendation will transform the system, but a combination of actions across all these areas will make a significant difference. Opportunities through new, flexible funding under the American Rescue Plan Act make these changes more feasible in the near term.

Women make up only a modest portion of the people detained in the Buncombe County Detention Facility, but in many ways, the changes in rules, policy, and practice outlined here can have an outsized impact for women. As noted at the outset of the report, the vast majority of system-involved women have histories of serious trauma and victimization. Shifting the resources, policies, and practices of Buncombe County away from punishment and toward support and health will improve both the well-being of these women (as well as many other people in detention) and the safety of the entire county community.

## Credits

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For more information about this report, contact Jennifer Peirce, senior research associate, at [jenniferpeirce@vera.org](mailto:jenniferpeirce@vera.org).

## Endnotes

<sup>1</sup> United States Census Bureau, “Quick Facts, Buncombe County, North Carolina,” <https://www.census.gov/quickfacts/buncombecountynorthcarolina>.

<sup>2</sup> Elizabeth Swavola, Kristine Riley, and Ram Subramanian, *Overlooked: Women and Jails in an Era of Reform* (New York: Vera Institute of Justice, 2016), 6, <https://perma.cc/AG3G-2B57>. For more on the prominence of abuse, trauma, substance use, and mental health conditions in women’s pathways into incarceration, see Shannon M. Lynch, Dana D. DeHart, Joanne Belknap, and Bonnie L. Green, *Women’s Pathways to Jail: Examining Mental Health, Trauma, and Substance Use* (Washington, DC: Bureau of Justice Assistance, 2013), <https://perma.cc/P5MB-2DJJ>. For more on trauma and experiences of violence among women in a North Carolina jail, as well as the role of policy and services, see Catherine Mitchell Fuentes, “Nobody’s Child: The Role of Trauma and Interpersonal Violence in Women’s Pathways to Incarceration and Resultant Service Needs,” *Medical Anthropology Quarterly* 28, no. 1 (2013), 85-104.

<sup>3</sup> Buncombe County, North Carolina, Safety + Justice Challenge website, updated March 22, 2022, <https://safetyandjusticechallenge.org/our-network/buncombe-county-nc/>. The jail population figure is the average daily population since January 1, 2022, for the year 2022 so far. It was retrieved from the Buncombe County Detention Facility dashboard on June 6, 2022. Buncombe County, North Carolina, “Buncombe County Detention Facility—Current Daily Populations,” database (Asheville, NC: Buncombe County Detention Facility, updated May 29, 2022), <https://app.powerbigov.us/view?r=eyJrIjoiaNTA3OThkZmEtZDQ3ZC00YzRkLWE1YmUtMzQwMmI2MGQ0OGNkIiwidC16IjNiNGUyYmMzLWI2ODU0tNGFiNi04Mzk5LWZiYTQ3ZDk1ODYwZCJ9>.

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Detention Facility dashboard on May 1, 2022. Buncombe County, North Carolina, “Current Daily Populations,” 2022; and Buncombe County, North Carolina, “Daily Population Trends,” database (Asheville, NC: Buncombe County Detention Facility, updated May 29, 2022),

<https://app.powerbigov.us/view?r=eyJrIjoiMWQzYTg2ZmYtZTYwZi00YzBmLWEzNDctNjUwMWJN2MyMDI0IiwidCI6IjNiNGUyYmMzLWl2ODUtNGFiNi04Mzk5LWZlYTQ3ZDk1ODYwZCJ9>.

<sup>5</sup> Swavola, Riley, and Subramanian, *Overlooked*, 2016, 6.

<sup>6</sup> Zhen Zeng and Todd D. Minton, *Jail Inmates in 2019* (Washington, DC: Bureau of Justice Statistics, 2021), 6, <https://perma.cc/28J6-Y7E7>; and Zhen Zeng and Todd D. Minton, *Jail Inmates in 2020—Statistical Tables* (Washington, DC: Bureau of Justice Statistics, 2021), 3, <https://perma.cc/8EUH-4E8B>.

<sup>7</sup> Swavola, Riley, and Subramanian, *Overlooked*, 2016, 7.

<sup>8</sup> Bruce Western, Jaclyn Davis, Flavien Ganter, and Natalie Smith, “The Cumulative Risk of Jail Incarceration,” *Proceedings of the National Academy of Sciences* 118, no. 16 (2021), 1-6, <https://www.pnas.org/doi/10.1073/pnas.2023429118>; and Swavola, Riley, and Subramanian, *Overlooked*, 2016, 13, 17-20.

<sup>9</sup> Buncombe County, NC, “Current Daily Populations,” 2022 (select “View Daily Count Details” button).

<sup>10</sup> The percentage of Black women in the jail was calculated using the Buncombe County Detention Center Administrative Jail Booking Data. The percentage of Black women in the county population was calculated using 2020 Census data. U.S. Census Bureau, “Annual County Resident Population Estimates by Age, Sex, 6 Race Groups (5 Race Alone Groups and Two or More Races), and Hispanic Origin: April 1, 2010 to July 1, 2019; April 1, 2020; and July 1, 2020” database (Washington, DC: United States Census Bureau, 2022), <https://www2.census.gov/programs-surveys/popest/datasets/2010-2020/counties/asrh/>, file CC-EST2020-ALLDATA6-37, Row 2909, Columns J and N. Key available at *ibid.*, <https://www2.census.gov/programs-surveys/popest/technical-documentation/file-layouts/2010-2020/cc-est2020-alldata6.pdf>.

<sup>11</sup> For men’s jail admissions, the administrative jail data shows that the most common charge categories (most serious charge only) are property (18.8 percent), drug violation (13.3 percent), driving while impaired (10.5 percent), simple assault (10.2 percent), and traffic violation (7.8 percent).

<sup>12</sup> See N.C. Gen. Stat. §14-159.12, First degree trespass, <https://perma.cc/EQ4C-TMC5>; N.C. Gen. Stat. §14-72, Larceny of property; receiving stolen goods or possessing stolen goods, <https://perma.cc/A73N-PRBX>; N.C. Gen. Stat. §18B-300, Purchase, possession and consumption of malt beverages and unfortified wine, <https://perma.cc/Y5MR-JEQA>; N.C. Gen. Stat. §90-95, Violations; penalties, <https://perma.cc/2E5Y-WCUA>; and Asheville Code of Ordinances, Section 11-16 (Sleeping on public property), Ord. No. 2977, § 1c, 11-12-02, [https://library.municode.com/nc/asheville/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH11OFMIPR](https://library.municode.com/nc/asheville/codes/code_of_ordinances?nodeId=PTIICOOR_CH11OFMIPR). For more on the criminalization of ordinance violations in North Carolina generally, see Jessica Smith, “Overcriminalization and Ordinance Violations as Crimes,” University of North Carolina School of Government, March 2019, <https://perma.cc/F8DK-PACN>.

<sup>13</sup> Ryan Broll and Laura Huey, “‘Every Time I Try to Get Out, I Get Pushed Back’: The Role of Violent Victimization in Women’s Experience of Multiple Episodes of Homelessness,” *Journal of Interpersonal Violence* 35, no. 17-18 (2020), 3379-3404; and Deborah K. Padgett, Robert Leibson Hawkins, Courtney Abrams, and Andrew Davis, “In Their Own Words: Trauma and Substance Abuse in the Lives of Formerly Homeless Women With Serious Mental Illness,” *American Journal of Orthopsychiatry* 76, no. 4 (2006), 461-467, <https://perma.cc/DLL6-C7EQ>.

<sup>14</sup> Matthew Ridley, Gautam Rao, Frank Schilback, et al., “Poverty, Depression, and Anxiety: Causal Evidence and Mechanisms,” *Science* 370, no. 6522 (2020), eaay0214.

<sup>15</sup> Saba Rouhani and Ju Nyeong Park, “Situating the Continuum of Overdose Risk in the Social Determinants of Health,” *Harvard Medical School Primary Care Review*, October 16, 2020, <http://info.primarycare.hms.harvard.edu/review/continuum-of-overdose>.

<sup>16</sup> Melvin Washington II, *Beyond Jails: Community-Based Strategies for Public Safety* (New York: Vera Institute of Justice, 2021), 1-2, <https://perma.cc/69C5-79XZ>.

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<sup>18</sup> Other answers to Vera’s survey question about challenges in the criminal legal system include jail staff lacking empathy, respect, and responsiveness; challenges related to COVID-19 lockdown policies (see Theme 5: Jail conditions and costs); and unclear court dates (see Theme 6: Interagency coordination and communication with system-involved women). The recommendations that women suggested, other than solutions to these challenges, were mainly about types of programs they would like to access in the jail.

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<sup>20</sup> Justice Services Department, December 14, 2021, email; Hannah Mackenzie, “New Buncombe County Program Aims to Help Homeless Non-Violent Criminal Offenders,” ABC 13 News, February 24, 2022, <https://perma.cc/5RRJ-7369>; Meeting with Buncombe County Probation Department [via videoconference], February 22, 2022; Meeting with Buncombe County Pretrial Services Department [via videoconference], February 23, 2022; and email from Hannah Legerton, Buncombe County Justice Services Department to Tara Dhanraj, Program Associate, Vera Institute of Justice, re: “Dec 16 Women’s Presentation—Seeking your input on Buncombe strategies already in place,” December 14, 2021, on file with Vera.

<sup>21</sup> National Law Center on Homelessness & Poverty, *Housing Not Handcuffs 2019: Ending the Criminalization of Homelessness in U.S. Cities* (Washington, DC: National Law Center on Homelessness & Poverty, 2019), 50, <https://perma.cc/A7JU-5HDL>.

<sup>22</sup> Joel Burgess, “Asheville Cost of Living: Gap Between Prices and Income Could Grow, Despite Rising Wages,” *Citizen Times*, May 18, 2021, <https://perma.cc/TG2D-4CM5>.

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<sup>25</sup> Josh Leopold and Mary K. Cunningham, “To End Homelessness Carson Should Continue Housing First Approach,” Urban Institute, January 18, 2017, <https://perma.cc/SR29-6C75?type=image>.

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<sup>28</sup> National League of Cities, *Triage Centers as Alternatives to Jail for People in Behavioral Health Crises* (Washington, DC: National League of Cities, 2020), <https://perma.cc/9H56-ZNV4>; and White Bird Clinic, “What is CAHOOTS?” October 29, 2020, <https://perma.cc/P6E2-ULJT>.

<sup>29</sup> See Jackson Beck, Aaron Stagoff-Belfort, and Jason Tan de Bibiana, *Civilian Crisis Response: A Toolkit for Equitable Alternatives to the Police* (New York: Vera Institute of Justice, 2022), <https://www.vera.org/civilian-crisis-response-toolkit>.

<sup>30</sup> National Conference of State Legislatures, *Citation in Lieu of Arrest* (Denver: National Conference of State Legislatures, 2019), <https://perma.cc/JLA3-PP9N>; and International Association of Chiefs of Police, *Citation in Lieu of Arrest: Examining Law Enforcement’s Use of Citation Across the United States* (Alexandria, VA: International Association of Chiefs of Police, 2016), <https://perma.cc/GJP2-KWKX>.

<sup>31</sup> Amanda Y. Agan, Jennifer L. Doleac, and Anna Harvey, *Misdemeanor Prosecution* (Cambridge, MA: National Bureau of Economic Research, 2021), 3-4, <https://perma.cc/S3ZR-EK7L>.

<sup>32</sup> Amy P. Weirich, *Driving While License Suspended, Revoked or Cancelled Policy* (Memphis, TN: Shelby County District Attorney General’s Office, 2018), <https://perma.cc/54P5-Y977>.



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<sup>33</sup> Terry Skolnik, “Rethinking Homeless People’s Punishments,” *New Criminal Law Review* 22, no. 1 (2019), 73-98, 78, <https://perma.cc/5AGN-GFUG>; and Jessica Mogk, Valerie Shmigol, Marvin Futrell, et al., “Court-Imposed Fines as a Feature of the Homelessness-Incarceration Nexus: A Cross-Sectional Study of the Relationship Between Legal Debt and Duration of Homelessness in Seattle, Washington, USA,” *Journal of Public Health* 42, no. 2 (2020), e107- e119, <https://perma.cc/GWV5-NXA9>.

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<sup>36</sup> Daniel Bernal, “Taking the Court to the People: Real-World Solutions for Nonappearance,” *Arizona Law Review* 59, no. 2 (2017), 547-571, 566, <https://perma.cc/6VNS-AJ2B>.

<sup>37</sup> Christian Tabak, “OKC Council Approves Amnesty Program for Fines and Warrants,” *Journal Record*, June 18, 2019, <https://perma.cc/27PF-SPJ3>.

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<sup>39</sup> N.C. Gen. R. P. 28, <https://perma.cc/X856-W8GL>.

<sup>40</sup> Léon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera Institute of Justice, 2019), 2, <https://perma.cc/S5XA-RCQY>.

<sup>41</sup> In Kentucky, people detained even for just three days were 39 percent more likely to be rearrested, and those detained for more than a month were 74 percent more likely to be rearrested, compared to people released within 24 hours. See Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention* (Houston: Laura and John Arnold Foundation, 2013), 4, <https://perma.cc/UU8C-X9EB>. A follow-up study showed that spending any amount of time over 24 hours in jail was associated with increased rates of rearrest and that there was no relationship between pretrial detention and court appearance rates. See Arnold Ventures, *The Hidden Costs of Pretrial Detention Revisited* (Houston: Arnold Ventures LLC, 2022), <https://perma.cc/R78X-9KZ2>. In New Jersey, court appearances remained similar and even slightly improved, exceeding 90 percent, after the implementation of bail reform. See Glenn A. Grant, *Annual Report to the Governor and the Legislature* (Trenton, NJ: New Jersey Courts, 2020), 3, <https://perma.cc/8W44-9HYF>.

<sup>42</sup> Digard and Swavola, *Justice Denied*, 2019, 7.

<sup>43</sup> Sandra van den Heuvel, Anton Robinson, and Insha Rahman, *A Means to an End: Assessing the Ability to Pay Bail Policy Brief* (New York: Vera Institute of Justice, 2019), 1-2, <https://perma.cc/E9CY-58FA>.

<sup>44</sup> In New Jersey, 93 percent of people charged in 2020 were released pretrial, and following the change in law, court appearance rates have remained around 90 percent. See Grant, 2020, 33, 43. In Cook County, Illinois, after the implementation of a reform that reduced the use of bail for people charged with felonies, 83 percent of people attended hearings and remained charge-free during the pretrial period, and only 0.6 percent incurred a new violent charge. See State of Illinois Circuit Court of Cook County, *Bail Reform in Cook County: An Examination of General Order 18.8A and Bail in Felony Cases* (Chicago: State of Illinois Circuit Court of Cook County, 2019), 2, <https://perma.cc/7CZ7-SHMW>. New York is another example: people released on their own recognizance (with no amount of bail set) return to court 88 percent of the time, and rates go up to 92 percent and 95 percent, respectively, when a pretrial supervision program or community bail fund provides supports. See Insha Rahman, “Undoing the Bail Myth: Pretrial Reforms to End Mass Incarceration,” *Fordham Urban Law Journal* 46, no. 4 (2019), 845-875, 861-862, <https://perma.cc/XC3T-FLSP>.

<sup>45</sup> Analysis of the bond information in the jail administrative data includes all bookings in which a bond amount was reported. Notably, people can be released on unsecured bond or on a written promise. For women released in 2020,

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about 19 percent were released on unsecured bond and about 27 percent were released on a written promise. The remainder were detained until they posted bond or were released for some other reason (for example, transferred to another agency, time served). Author analysis of Buncombe County Detention Facility administrative records from between January 2017 and April 2021, conducted on March 18, 2022. On file with Vera.

<sup>46</sup> Douglas L. Colbert, Ray Paternoster, and Shawn Bushway, “Do Attorneys Really Matter? The Empirical and Legal Case for Right of Counsel at Bail,” *Cardozo Law Review* 23, no. 5 (2002), 1719-1793, 1720, <https://perma.cc/5QYJ-M5LU>.

<sup>47</sup> See N.C. Gen. Stat. §15A-534. Procedure for determining conditions of pretrial release, <https://perma.cc/LGR6-534V>.

<sup>48</sup> Eighty-nine percent of people released under the expanded order were not rearrested, compared to 92 percent the previous year. Some of the release categories have been scaled back despite the positive outcomes. Ashley Spalding, “New Data Helps Pave the Way for Bail Reform in Kentucky,” *KyPolicy*, January 21, 2021, <https://perma.cc/GDE9-TRHT>.

<sup>49</sup> Brandon L. Garrett, Sandra Guerra Thompson, Dottie Carmichael, et al., *Monitoring Pretrial Reform in Harris County: Second Report of the Court-Appointed Monitor* (Durham, NC: ODonnell Monitor, 2021), v, <https://perma.cc/F9CC-9XT7>.

<sup>50</sup> Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* (Washington, DC: Pretrial Justice Institute, 2013), 10-11, <https://perma.cc/XP4V-9444>.

<sup>51</sup> *Ibid.*, 14-15. People with secured bonds remain in jail until they or someone else negotiates a payment contract with a commercial bail bond company or posts the full monetary amount of a cash bond.

<sup>52</sup> In 2016, New York City launched a citywide Supervised Release program that provides community-based support for people with pending cases. See New York City Mayor’s Office of Criminal Justice, “Supervised Release Program,” <https://perma.cc/K7C9-DCHR>. A 2020 evaluation found the program reduced pretrial detention, was as effective as money bail in ensuring people appear for court, and did not increase new arrests. See Melanie Skemer, Cindy Redcross, and Howard Bloom, *Pursuing Pretrial Justice Through an Alternative to Bail: Findings from an Evaluation of New York City’s Supervised Release Program* (New York: MDRC, 2020), 52, 56-57, <https://perma.cc/9WAR-TQ3Y>.

<sup>53</sup> Paul Heaton, “Enhanced Public Defense Improves Pretrial Outcomes and Reduces Racial Disparities,” *Indiana Law Journal* 96, no. 3 (2021), 701-750, 729-740, <https://perma.cc/KV95-35FL>.

<sup>54</sup> Studies have shown that many people who FTA do return to court voluntarily within a few days or weeks, so courts should adopt policies allowing a grace period before issuing a bench warrant and notify people that they need to come to court to resolve the FTA in order to cut down on the number of warrants that are issued. See Mary T. Phillips, *Effect of Release Type on Failure to Appear* (New York: New York City Criminal Justice Agency, 2011), 14, <https://perma.cc/L4Q8-4UZM>. New York’s revised bail laws have implemented a grace period like this; see N.Y. Crim. Proc. Law § 510.50(2), <https://www.nysenate.gov/legislation/laws/CPL/510.50>. Similarly, the Michigan Joint Task Force on Jail and Pretrial Incarceration proposed creating a 48-hour grace period before a bench warrant is issued; see Recommendation 4b in Michigan Joint Task Force on Jail and Pretrial Incarceration, *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, 2020, 21, <https://perma.cc/XPR8-LEG4>.

<sup>55</sup> According to Harris County Criminal Court Rule 9.3, “Secured money bail must not be required as a condition of pretrial release prior to a bail hearing . . . including an individualized determination of ability to pay and, if the person cannot pay, consideration of alternatives.” See Harris County Criminal Courts at Law, *Rules of Court* (Harris County Criminal Courts at Law: Houston, 2021), 18, <https://perma.cc/X29L-QM72>.

<sup>56</sup> Vera Institute of Justice, “Vera’s Bail Assessment Pilot Launches ‘Ability To Pay’ Calculator,” press release (New York: Vera Institute of Justice); and van den Heuvel, Robinson, and Rahman, *A Means to an End*, 2019, 2.

<sup>57</sup> Alex Roth, Sandhya Kajeepeta, and Alex Boldin, *The Perils of Probation: How Supervision Contributes to Jail Populations* (New York: Vera Institute of Justice, 2021), 10, <https://perma.cc/3UJU-LKU5>.

<sup>58</sup> *Ibid.*, 5.

<sup>59</sup> Merry Morash, Deborah A. Kashy, Sandi W. Smith, and Jennifer E. Cobbina, “Technical Violations, Treatment and Punishment Responses, and Recidivism of Women on Probation and Parole,” *Criminal Justice Policy Review* 30, no. 5

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<sup>60</sup> Roth, Kajeepeta, and Boldin, *Perils of Probation*, 2021, 11.

<sup>61</sup> Lenore E. A. Walker and Carly B. Conte, "Women, Domestic Violence, and the Criminal Justice System: Traumatic Pathways," in *Gender, Psychology, and Justice: The Mental Health of Women and Girls in the Legal System*, edited by Corinne C. Datchi and Julie R. Ancis (New York: New York University Press, 2017), 48-74.

<sup>62</sup> Outcomes from "swift and certain" initiatives that use short, immediate jail stays as a penalty for probation violations are mixed. See John H. Boman IV, Thomas J. Mowen, Eric J. Wodahl, et al., *Responding to Substance Use-Related Probation and Parole Violations: Are Enhanced Treatment Sanctions Preferable to Jail Sanctions?* (Bethesda, MD: U.S. National Library of Medicine, National Institutes of Health, 2019), 4-5,

<https://perma.cc/85UU-B5LM>; Kelly Frailing, Victoria Rapp, and Rae Taylor, "Swift and Certain Probation as a HOPE-Like Model: Progress toward Goals and Lingering Challenges," *Corrections: Policy, Practice and Research*, 2020, 1-16, 3-7; and Pamela K. Lattimore, Doris Layton MacKenzie, Gary Zajac, et al., "Outcome Findings from the HOPE Demonstration Field Experiment: Is Swift, Certain, and Fair an Effective Supervision Strategy?," *Criminology & Public Policy* 15, no. 4 (2016), 1103-1141, 1117-1120.

<sup>63</sup> North Carolina Sentencing and Policy Advisory Commission, *Justice Reinvestment Act: Implementation Evaluation Report, 2021* (North Carolina Sentencing and Policy Advisory Commission: Raleigh, 2021), 22-23, <https://perma.cc/QQ78-UV2M>.

<sup>64</sup> *Ibid.*, 26. Revocations for technical violations of probation fell after the implementation of the CRV approach; however, this is a comparison to pre-reform rates, not to quick dips or reduced scope and scale of supervision. See Ashlin Oglesby-Neal, Robin Olsen, Megan Russo, and Brian Elderblom, *Assessing North Carolina's Changes to Supervision Revocation Policy* (Washington, DC: Urban Institute, 2021), 2, <https://perma.cc/RS9B-65HM>.

<sup>65</sup> North Carolina Sentencing and Policy Advisory Commission, *Justice Reinvestment Act, 2021*, 30.

<sup>66</sup> The revocation rates are for 2019 and are not compared to prior years. See *ibid.*, 24-25.

<sup>67</sup> *Ibid.*, 24.

<sup>68</sup> In Vera's survey (September 2021), women mentioned curfews as a challenging condition of community supervision. Although the Buncombe Probation Agency confirms that officers take steps to adjust curfew hours if a person has a job that requires working evenings, this remains an individualized discretionary step. Lori Anderson and Regina Ray, North Carolina Department of Public Safety, meeting with Jail Decarceration Team, Vera Institute of Justice via Zoom, February 22, 2022.

<sup>69</sup> Supervision staff should also clearly communicate that curfew flexibility is available to accommodate work schedules. Additionally, supervision staff should account for the non-linear nature of recovery from substance dependency rather than issuing violations for positive drug tests, given that research shows that drug testing as a condition of supervision does not improve recidivism. See Jessica Reichert, *Drug Testing in Community Corrections: A Review of the Literature* (Chicago: Illinois Criminal Justice Information Authority, 2020), 2, <https://perma.cc/2KXE-WW4X>; and Erin Harbinson, Julia Laskorunsky, and Kelly Lyn Mitchell, *Research in Brief: Drug Testing as a Condition of Supervision* (Minneapolis: Robina Institute of Criminal Law and Criminal Justice, 2020),

<https://perma.cc/T2DCYR5A>.

<sup>70</sup> See Madeline M. Carter and Richard J. Sankovitz, *Dosage Probation: Rethinking the Structure of Probation Sentences* (Silver Spring, MD: Center for Effective Public Policy, 2014), 13-15, <https://perma.cc/PQ7C-RQD4>; Executive Session on Community Corrections, *Toward an Approach to Community Corrections for the 21st Century: Consensus Document of the Executive Session on Community Corrections* (Cambridge, MA: Program in Criminal Justice Policy and Management, Harvard Kennedy School, 2017), 4-5, <https://perma.cc/ZNA8-6YQM>; Pew Charitable Trusts, *Probation and Parole Systems Marked by High Stakes, Missed Opportunities* (Philadelphia, PA: Pew Charitable Trusts, 2018), 15, <https://perma.cc/U6S6-KX2D>; Pew Charitable Trusts, *Policy Reforms Can Strengthen Community Supervision: A Framework to Improve Probation and Parole* (Philadelphia, PA: Pew Charitable Trusts, 2020), 24-26, <https://perma.cc/TQJ6-HDKE>; and Michelle S. Phelps, "Ending Mass Probation: Sentencing,

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Supervision, and Revocation,” *The Future of Children* 28, no. 1 (2018), 125-146, 133, <https://perma.cc/43YH-M883>.

<sup>71</sup> Vera Institute of Justice, *Report to Seattle Municipal Court Probation Services on Strategies for Improving Policies and Practices* (New York: Vera Institute of Justice, 2020), 8, <https://perma.cc/EH6N-DDCT>.

<sup>72</sup> Roth, Kajeepeta, and Boldin, *Perils of Probation*, 2021, 26.

<sup>73</sup> Studies show that outcomes such as recidivism are similar or worse when comparing jail sanctions to community-based and/or treatment services. See Boman, Mowen, Wodahl, et al., *Responding to Substance Use- Related Probation and Parole Violations*, 2-4; E. K. Drake and S. Aos, *Confinement for Technical Violations of Community Supervision: Is There an Effect on Felony Recidivism?* (Olympia, WA: Washington State Institute for Public Policy, 2012), 4, <https://perma.cc/TM6Z-24Y9>; and Patrice Villettaz, Gwladys Gillieron, and Martin Killias, “The Effects on Re-Offending of Custodial vs. Non-Custodial Sanctions: An Updated Systematic Review of the State of Knowledge,” *Campbell Systematic Reviews* 11, no. 1 (2015), 1-92, 46-48, <https://onlinelibrary.wiley.com/doi/pdf/10.4073/csr.2015.1>.

<sup>74</sup> For example, Allegheny County, Pennsylvania, created a policy to make detainers the last resort in most cases unless people have mandatory detention conditions or are charged with a new offense that threatens public safety. The policy requires supervision staff to exhaust all options for keeping a person in the community before issuing a detainer. *Ibid.*, 26-27.

<sup>75</sup> According to national survey data from 2009, 63 percent of people in jails met the criteria for a substance dependency. Jennifer Bronson, Jessica Stroop, Stephanie Zimmer, and Marcus Berzofsky, *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007–2009* (Washington, DC: Bureau of Justice Statistics, 2017), 4, <https://perma.cc/4DAK-5KJA>.

<sup>76</sup> Research has also found that at the time of the alleged offense, women were more likely to have been using drugs than men. Swavola, Riley, and Subramanian, *Overlooked*, 2016, 9-10.

<sup>77</sup> According to analysis of FBI arrest data by the Prison Policy Institute, arrests of women on drug-related charges increased by 216 percent from 1985 to 2019, compared to a 48 percent increase for men. See Tiana Herring, “Since You Asked: What Role Does Drug Enforcement Play in the Rising Incarceration of Women?” Prison Policy Initiative, November 10, 2020, <https://perma.cc/3WSN-SQXU>. Among people serving state prison sentences in 2018, 26 percent of women were convicted of drug-related charges, compared to 13 percent of men. See E. Ann Carson, *Prisoners in 2019* (Washington, DC: Bureau of Justice Statistics, 2020), 20, <https://perma.cc/5PJT-DR5V>.

<sup>78</sup> Western North Carolina Health Network, “Substance Misuse in Western North California,” <https://perma.cc/6E2Q-BQQW>. The opiate poisoning death rate in Buncombe County is 15.1 per 100,000 residents, compared to 11.8 statewide. See North Carolina Institute of Medicine, “North Carolina Health Profile Buncombe County,” <https://nciom.org/counties/buncombe-county/>.

<sup>79</sup> Agustin Rodriques, Nick Ranom, and Christina Sava, “The Status of Cannabis Legalization in the South,” Regulatory Oversight, February 16 2022, <https://perma.cc/2X7C-SN9C>; and Compassionate Care Act, NC SB 711 (2021), <https://www.ncleg.gov/Sessions/2021/Bills/Senate/PDF/S711v5.pdf>.

<sup>80</sup> Vera Institute of Justice, *Overdose Deaths and Jail Incarceration: National Trends and Racial Disparities*, <https://perma.cc/2L28-5YLW>; and Shabbar I. Ranapurwala, Meghan E. Shanahan, Apostolos A. Alexandridis, et al., “Opioid Overdose Mortality Among Former North Carolina Inmates: 2000–2015,” *American Journal of Public Health* 108, no. 9 (2018), 1207-1213, 1207, <https://perma.cc/3JTG-XU2J>.

<sup>81</sup> Chris Mai, Mikelina Belaine, Ram Subramanian, and Jacob Kang-Brown, *Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead* (New York: Vera Institute of Justice, 2019), 30-33, <https://perma.cc/QY45-B23P>.

<sup>82</sup> Anjali Patel, “Post-Overdose Response Team to begin administering addiction medication on-site,” ABC 13 News, December 21, 2021, <https://wlos.com/news/local/post-overdose-response-team-to-begin-administering-addiction-medication-on-site-buncombe-county-asheville-narcan-buprenorphine-mountain-area-health-education-center-mahc-dogwood-health-trust>

<sup>83</sup> Hannah Mackenzie, “NC attorney general impressed by Buncombe County opioid addiction treatment program,” MY40, July 25, 2022, <https://my40.tv/news/local/nc-attorney-general-impressed-by-buncombe-county-opioid->

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[addiction-treatment-program](#).

<sup>84</sup> See Drug Policy Alliance, “Decriminalization Exchange,” <https://drugpolicy.org/deccrim>, for more info.

<sup>85</sup> The Drug Policy Alliance recommends that decriminalization initiatives encompass drug possession, drug paraphernalia, public drug use and intoxication, release of people incarcerated for drug convictions, reducing or eliminating penalties and revocations from community supervision due to drug use, decriminalization of youth drug possession, ending removal of noncitizens for drug charges, and ending civil penalties and barriers due to drug convictions, such as eligibility for public housing and benefits. For more information, see Drug Policy Alliance, *Dismantling the Drug War in States: A Comprehensive Framework for Drug Decriminalization and Shifting to a Public Health Approach* (New York: Drug Policy Alliance, 2021), 2-5, <https://perma.cc/9EB6-EG83>.

<sup>86</sup> Drug Policy Alliance, *Marijuana Decriminalization and Legalization* (New York: Drug Policy Alliance, 2018), <https://perma.cc/JW2B-V73P>.

<sup>87</sup> Sophie Quinton, “Oregon’s Drug Decriminalization May Spread, Despite Unclear Results,” Pew Charitable Trusts, November 3, 2021, <https://perma.cc/388H-HFSW>.

<sup>88</sup> City of Northampton, Massachusetts, “A Resolution Decriminalizing Controlled Substance Possession as well as Cultivation and Distribution of Psychedelic Plants,” R-21.207, March 18, 2021, <https://perma.cc/4EAV-9A9Z>.

<sup>89</sup> Joseph Flaherty, “Little Rock Board Approves Ordinance Classifying Misdemeanor Pot Offenses as Lowest Priority for Police,” *Arkansas Democrat Gazette*, May 19, 2021, <https://perma.cc/BV34-JW8J>; and Little Rock, Ark., An Ordinance to Declare It the Policy of the City of Little Rock, Arkansas, That the Investigation, Citation, Arrest, Seizure, Or Prosecution of Misdemeanor Marijuana Offenses by Adults Be its Lowest Law Enforcement and Prosecutorial Priority; and for Other Purposes, Draft, 2021, <https://perma.cc/ECR6-9ES5>.

<sup>90</sup> Rochelle Valverde, “Lawrence City Commission Votes to Lower Fine for Marijuana Possession to \$1,” *Lawrence Journal-World*, March 19, 2019, <https://perma.cc/F9EB-AFFN>.

<sup>91</sup> Tom Angell, “Kansas City Lawmakers Vote to Remove All Local Penalties for Marijuana Possession,” *Marijuana Moment*, July 9, 2020, <https://perma.cc/NT4L-9RMK>; and Kansas City, Mo., Possession of Marijuana, Sec. 50-10 (2020), [https://library.municode.com/mo/kansas\\_city/codes/code\\_of\\_ordinances?nodeId=COORKAMIVOII\\_CH50OFMIPR\\_ARTIINGE\\_S50-10POCOMA](https://library.municode.com/mo/kansas_city/codes/code_of_ordinances?nodeId=COORKAMIVOII_CH50OFMIPR_ARTIINGE_S50-10POCOMA).

<sup>92</sup> Drew Wilder, “Fairfax Co. Commonwealth’s Attorney Declining to Prosecute Simple Marijuana Possession,” NBC News 4 Northern Virginia, January 2, 2020, <https://perma.cc/C4G3-44C8>.

<sup>93</sup> Will Yakowicz, “Why New York’s First Cannabis Licenses Will Go to People with Pot Convictions,” *Forbes*, March 10, 2022, <https://perma.cc/NG3Q-HD52>.

<sup>94</sup> Substance Abuse and Mental Health Services Administration, “HHS Announces \$3 Billion in American Rescue Plan Funding for SAMSHA Block Grants to Address Addiction, Mental Health Crisis,” press release (Washington, DC: U.S. Department of Health and Human Services, May 18, 2021), <https://perma.cc/ZY6Z-AMA3>.

<sup>95</sup> For more on stigma reduction in the recovery sector, see Mim Landry, *Anti-Stigma Toolkit: A Guide to Reducing Addiction-Related Stigma* (Silver Spring, MD: Central East Addiction Technology Transfer Center Network, 2012), <https://perma.cc/D795-RLPR>. For more on the importance of reducing stigma to improve treatment outcomes, see Kathleen Crapanzano, Rebecca Hammarlund, Bilal Ahmad, et al., “The Association Between Perceived Stigma and Substance Use Disorder Treatment Outcomes: A Review,” *Substance Abuse and Rehabilitation* 10 (2019), 1–12, <https://perma.cc/AP2B-367N>. For more on stigma among health care professionals, see Leonieke C. van Boekel, “Stigma Among Health Professionals Toward Patients With Substance Use Disorders and its Consequences for Healthcare Delivery: Systematic Review,” *Drug and Alcohol Dependence* 131, no. 1–2 (2013), 23–35.

<sup>96</sup> Stephen Tiffany, Lawrence Friedman, Shelly F. Greenfield, et al., “Beyond Drug Use: A Systematic Consideration of Other Outcomes in Treatments for Substance Use Disorders,” *Addiction* 107, no. 4 (2012), 709–718, <https://perma.cc/5EPP-DDPV>.

<sup>97</sup> This approach is sometimes called contingency management. See Recovery Research Institute, “Contingency Management,” <https://www.recoveryanswers.org/resource/contingency-management/>. See also Claire Ronsley, Seonaid Nolan, Rod Knight, et al., “Treatment of Stimulant Use Disorder: A Systematic Review of Reviews,” *PLoS*

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ONE 15, no. 6 (June 18, 2020), <https://perma.cc/MNN8-Q85D>.

<sup>98</sup> Lauren Perron and Steven Belenko, "Peer-Delivered Recovery Support Services in Addiction Treatment: A Scoping Review," *Addiction Science & Clinical Practice* 15, no. 35 (2020), 40, <https://doi.org/10.1186/s13722-020-00208-4>.

<sup>99</sup> Chyrell Bellamy, James Kimmel, Mark N. Costa, et al., "Peer Support on the 'Inside and Outside': Building Lives and Reducing Recidivism for People with Mental Illness Returning from Jail," *Journal of Public Mental Health* 18, no. 3 (2019), 188-198, 196; Maji Hailemariam, Lauren M. Weinstock, and Jennifer E. Johnson, "Peer Navigation for Individuals with Serious Mental Illness Leaving Jail: A Pilot Randomized Trial Study Protocol," *Pilot and Feasibility Studies* 6, no. 114 (2020), 1-11, 1-2, <https://doi.org/10.1186/s40814-020-00659-1>; and Shannon Portillo, Victoria Goldberg, and Faye S. Taxman, "Mental Health Peer Navigators: Working With Criminal Justice-Involved Populations," *The Prison Journal* 97, no. 3 (2017), 318-341, 332, 334.

<sup>100</sup> Fairfax County, Virginia, has a jail-based therapeutic peer-led model in which peer specialists work in the county jail and provide treatment services to incarcerated people. Sheriff's Office, Fairfax County, Virginia, "Peer Recovery Specialists Help Inmates Help Themselves," January 16, 2019, <https://perma.cc/Q8TH-YLJG>.

<sup>101</sup> Ronsley, Nolan, Knight, et al., "Treatment of Stimulant Use Disorder," 2020.

<sup>102</sup> For more on the harms of pretrial detention, see generally Claudia N. Anderson, Joshua C. Cochran, and Andrea N. Montes, "The Pains of Pretrial Detention: Theory and Research on the Oft-Overlooked Experiences of Pretrial Jail Stays," in *Handbook on Pretrial Justice*, edited by Christine S. Scott-Hayward, Jennifer E. Copp, and Stephen Demuth (New York: Routledge, 2021). For more on health considerations in jails, see Meghan A. Novisky and Daniel C. Semenza, "Jails and Health," in *Handbook on Pretrial Justice*, 2021. For more on case outcomes, see Stacie St. Louis, "Does Jail Derail? The State of the Literature on Cumulative Disadvantage and Pretrial Detention" in *Handbook on Pretrial Justice*, 2021.

<sup>103</sup> Swavola, Riley, and Subramanian, *Overlooked*, 2016, 13.

<sup>104</sup> According to North Carolina state law, the jail may establish fees up to \$20 per non-emergency medical visit. See N.C. Gen. Stat. § 153A-225. Medical care of prisoners, <https://perma.cc/7SB7-V6M3>. The jail may waive this fee if a person is indigent, but often the waiver serves as a deferral, accruing a negative balance on an incarcerated person's account. See Jamie Markham, "Medical Fees for Jail Inmates," North Carolina Criminal Law: A UNC School of Government Blog, October 24, 2018, <https://perma.cc/HH44-8Y7W>.

<sup>105</sup> According to an addendum to a 2020 RFP for a new detention center phone service, the county jail charges \$.20 per minute per phone call and video call, and \$.50 per video message. Women in the study confirmed these rates. At this rate, it would cost an incarcerated person \$2 for a 10-minute phone or video call. This same document states that the jail receives a 61 percent commission from the telephone revenue. Buncombe County, North Carolina, "Addendum for RFP Detention Center Phone Service," November 10, 2020, <https://perma.cc/5DBQ-6FRH>. The addendum modifies the original RFP: Buncombe County, North Carolina, "Buncombe County Detention Center Phone Service," October 15, 2020, <https://perma.cc/5WT7-V6QE>. The county and/or detention center can alter the terms of future contracts with phone/video providers. See also Peter Wagner and Alexi Jones, "State of Phone Justice: Local Jails, State Prisons and Private Phone Providers," *Prison Policy Initiative*, February 2019, <https://perma.cc/B6XN-UM28>.

<sup>106</sup> "Dignity for Women Who Are Incarcerated," NC HB 608 (2021) (codified at NC § 148-25.4), <https://perma.cc/8BAZ-FLPZ>.

<sup>107</sup> Centers for Disease Control and Prevention, "Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," updated May 3, 2022, <https://perma.cc/LR4K-HKWL>.

<sup>108</sup> Aaron Sarver, public information officer, Buncombe County Sheriff's Office, conversation with Tara Dhanraj, senior program associate, Vera Institute of Justice, Buncombe County, North Carolina, August 18, 2022.

<sup>109</sup> Kayla James and Elena Vanko, *The Impacts of Solitary Confinement* (New York: Vera Institute of Justice, 2021), 1-2, <https://perma.cc/6JUC-K9TX>; and Vivian Aranda-Huges, Jillian J. Turanovic, Daniel P. Mears, et al., "Women in Solitary Confinement: Relationships, Pseudofamilies, and the Limits of Control," *Feminist Criminology* 16, no. 1 (2021), 47-72, <https://journals.sagepub.com/doi/full/10.1177/1557085120961441>.

<sup>110</sup> Aaron Sarver, public information officer, Buncombe County Sheriff's Office, email to Tara Dhanraj, senior

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program associate, Vera Institute of Justice, August 3, 2022.

<sup>111</sup> Aaron Sarver, public information officer, Buncombe County Sheriff's Office, email to Tara Dhanraj, senior program associate, Vera Institute of Justice, August 3, 2022.

<sup>112</sup> In September 2021, there were approximately 50 women in the Buncombe County Detention Facility. In late May 2022, there were more than 60 women. See Buncombe County, North Carolina, "Buncombe County Detention Facility—Current Daily Populations," database (Asheville, NC: Buncombe County Detention Facility, updated May 26, 2022),

<https://app.powerbigov.us/view?r=eyJrIjoiNTA3OThkZmEtZDQ3ZC00YzRkLWE1YmUtMzQwMmI2MGQ0OGNkIiwidCI6IjNiNGUyYmMzLWI2ODUtNGFiNi04Mzk5LWZlYTQ3ZDk1ODYwZCJ9>.

<sup>113</sup> This is a common practice that is sometimes called temporary release or furlough, to allow people in jail or prison a short-term, temporary release, under conditions, to maintain family ties. See, for example, New York's Department of Corrections and Community Supervision, "Temporary Release Program," <https://doccs.ny.gov/temporary-release-program>; and Federal Bureau of Prisons, "Inmate Furloughs," U.S. Department of Justice, effective February 10, 2011, <https://perma.cc/ER4C-XALT>.

<sup>114</sup> Swavola, Riley, and Subramanian, *Overlooked*, 2016.