

Implications for a System in Hawai'i for Criminal Justice and Substance Use

**From the Hawai'i State Department of Health
Alcohol and Drug Abuse Division State Plan**

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Coordinated by the
Department of Psychiatry
JABSOM University of
Hawai'i in partnership with
the Hawai'i State
Department of Health,
Alcohol & Drug Abuse
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Statewide Youth Network of
Care (HI-SYNC)



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Learning Objectives

By the conclusion of the session, the audience will be able to:

- **Illustrate several implications of drugs on the health of criminal justice-involved people in Hawaii.**
- **Describe the current system of care for criminal justice and substance use in Hawaii**
- **The key concept is to seize opportunities to both identify and treat those who can benefit from substance use treatment while involved with the criminal justice system.**
- **Identify effective interventions identifying and treating when working with criminal justice-involved people.**
- **Outline the proposed system of care for criminal justice and substance use in Hawaii and what Hawaii needs for it.**



The Team



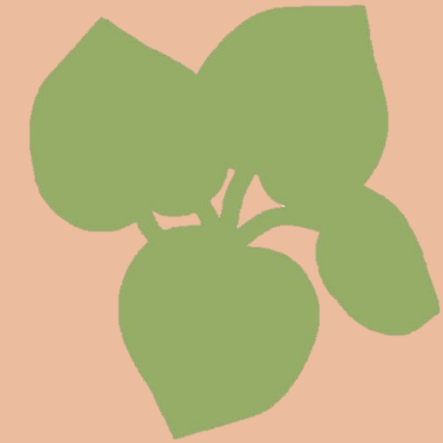
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ADAD State Plan for a System of Care

The goal of this project is to assist ADAD in updating its state plan, which states the division’s “efforts are designed to promote a statewide culturally appropriate, comprehensive system of substance abuse services to meet the treatment and recovery needs of individuals and families and to address the prevention needs of communities.”

Data Analytics Core

UH Pacific Health Analytics Collaborative

Culture Case Study Core

Native Hawaiian Culture Case Study, Puni Ke Ola project

System of Care Implications Core

UH Department of Psychiatry & Chapter Leads

Emerging Adult Treatment Needs Assessment

UH Department of Psychiatry



SoC Chapters

The SoC Implications Core includes a set of reports which discuss the Systems of Care for the intersection of substance use and public sector or specific populations

Substance Use & Public Sector

Mental Health

Homelessness

Criminal Justice

Juvenile Justice

Violence (IPV, DV, CAN)

Substance Use & Populations

Rural

Native Hawaiian

Sexual & Gender Minorities

Pregnant & Parenting Women

Primary Care Integration

Background

Significant opportunities to improve treatment for substance use disorders can occur within the criminal justice system. We will review the current system of care, understand current interventions available and to explore recommendations to better address community needs.

With rising numbers of substance use and substance related deaths, this threat to the community is predicted to only worsen without intervention.



The Prevalence and Threat of Drugs in Hawai‘i

Methamphetamine and high-potency **marijuana** pose the greatest threats to the community.

For example, in 2015, there were **186 methamphetamine admissions per 100,000 people** and **141 marijuana admissions per 100,000 people**.

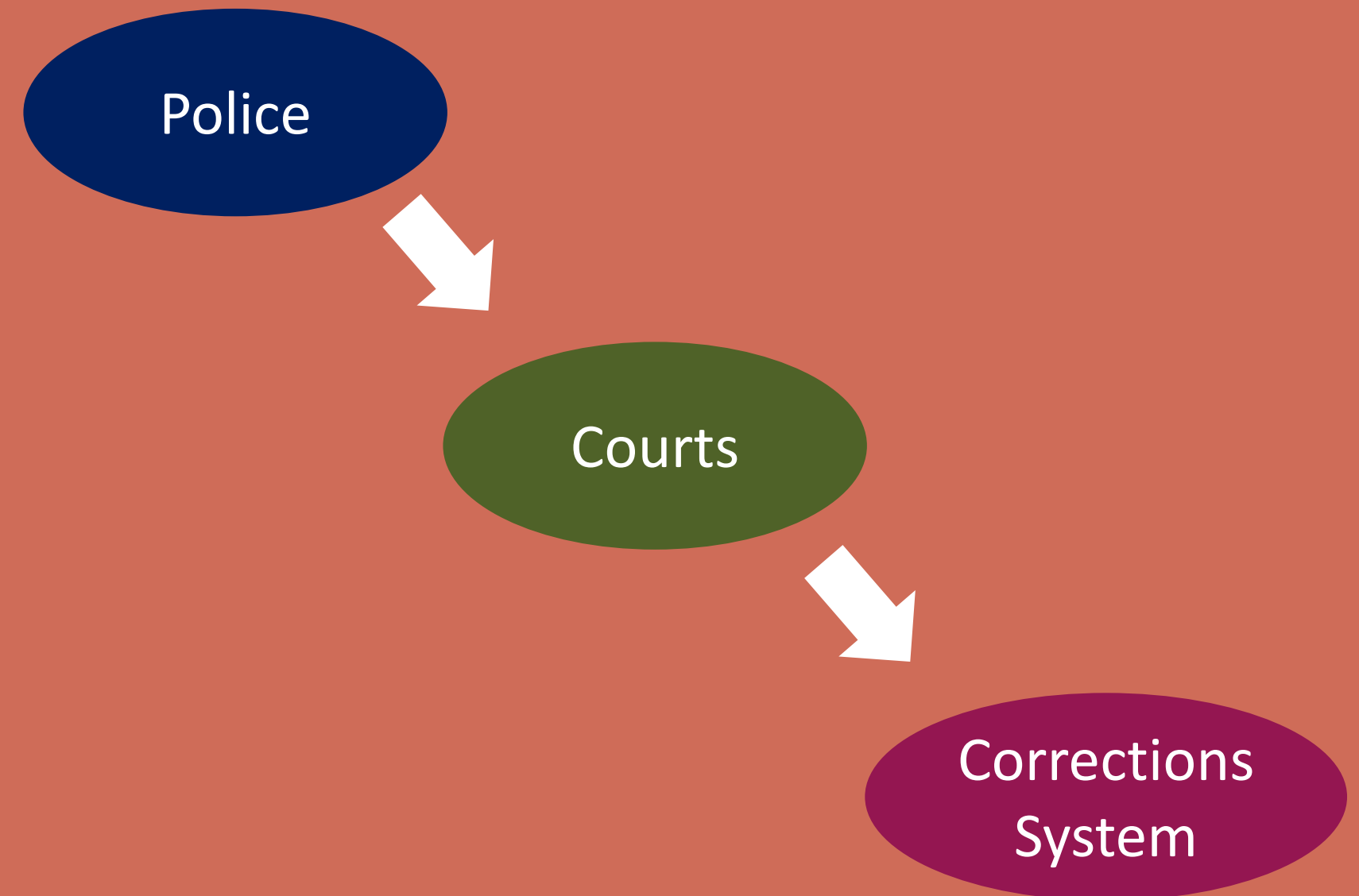
The Purpose of the Criminal Justice System

“...structure of laws, rules, and agencies designed to hold criminals accountable for their misdeeds and help them to restore their victims as much as possible.”



The Components of the Criminal Justice System

- **Police** – “gatekeepers” and social servants
- **Courts** – hold trial and conviction
- **Corrections System** – separate and rehabilitate
- **Juvenile Justice System** –



How Does the Criminal Justice System Work?

Police

1. Crime – reported to police by community
2. Investigation – done by law enforcement
3. Arrest – discretion of the officer



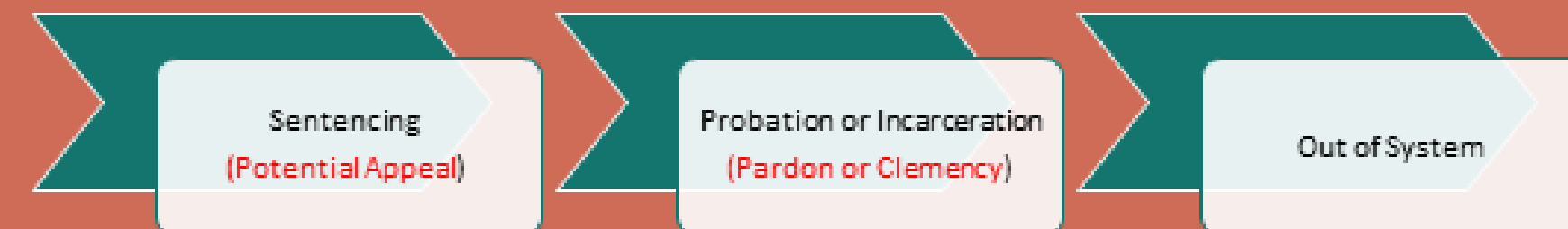
Courts

4. Pre-trial (courts) – series of hearings for due process
5. Adjudication (courts) – found guilty or not guilty



Corrections System

6. Probation (corrections) – supervision in community
7. Incarceration (corrections) – imprisonment in facility



The Current System of Care in Hawai'i

Police, Courts, and Corrections



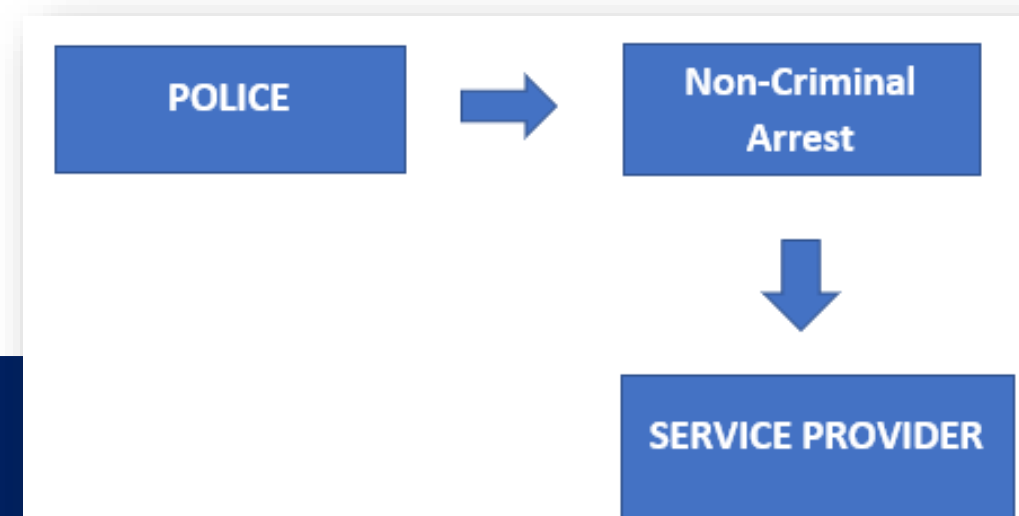
In Hawai'i, a common access point for care of individuals with substance use disorders is arrest, which leads to a person's entry into the criminal justice system. After arrest, a person with a substance use disorder can be supervised by the courts and later by corrections officials to get substance use treatment.

Systems of Care by the Police



Two scenarios within Hawai‘i law for officers to engage individuals who are not criminally arrested:

1. Officer determines an appropriate response to individuals who are imminently dangerous to themselves or others
 - taken into custody and offered mental health treatment
 - make an arrest for driving under the influence (DUI)
2. Diversion or alternatives to arrest
 - Arrest diversion: officer utilizes discretion to prevent arrest
 - Prosecution diversion: officer provides LEAD initiative to prevent prosecution



Systems of Care by the Courts



In Hawai‘i, there are generally three situations where the courts are involved in care for substance use disorders:

1. Bail investigation for those who do not post bail at the police station
 - pre-trial bail assessment
 - bail recommendations
2. Drug treatment court
3. Specialized probation
 - placement into the HOPE program

Systems of Care by Corrections



The Hawai‘i Corrections System has an established treatment program consisting of several parts:

1. Screening to classify risk and predict recidivism
 - Level of Service Inventory-Revised (LSI-R)
 - Adult Substance Use Survey (ASUS)
2. Treatment (ex: “no” treatment, increased urinalysis testing with drug/alcohol education, weekly outpatient therapy, intensive outpatient therapy, residential treatment, and therapeutic community treatment)
 - medication-assisted treatment (MAT) program for opioid use disorder

Implications for the System of Care



- Adjustment to the police performance evaluation
 - Traditional police performance metrics have, historically come in the form of easy to track metrics, such as the number of arrests made, calls the officer responded to, and reports that were taken.
- Increase use of LEAD program
 - LEAD diverts offenders on the front end of the criminal justice system by diverting individuals away from the criminal justice system to a more rehabilitative approach.
- Increase use of drug treatment courts
 - The Government Accounting Office assessed the effectiveness of drug court programs leading to statistically significant recidivism reductions (i.e., reductions in rearrests and convictions).



Interventions

Evidence-based or best practices
from the literature, or
Specific to Hawai'i

Intervention 1: Use of Discretion

Criminal justice discretion is traditionally defined as “an authority conferred by law to act in certain conditions or situations in accordance with an official’s or an official agency’s own considered judgment and conscience.”

Intervention 2: Reduction of Legal “Hard-Stops”

Legal “hard-stops” create a barrier to services and treatment for those suffering from substance use disorder

Use of Discretion by Criminal Justice Officials

Criminal Justice Official	Decide whether or not or how to
Police	Enforce specific laws Investigate specific crimes Search people, vicinities, buildings Arrest or detain people
Prosecutors	File charges or petitions for adjudication Seek indictments Drop cases Reduce charges
Judges	Set bail or conditions for release Accept pleas Determine delinquency Dismiss charges Impose sentence Revoke probation
Corrections Officials	Assign to type of correctional facility Award privileges Punish for disciplinary infractions
Paroling Authorities	Determine date and conditions of parole Revoke parole

Legal “Hard-Stops”

“Certainty” and “Standard of proof”

The Hawai‘i Revised Statutes (Section 803-5)24 dictates the standard of proof to arrest someone is “probable cause.”

Probable cause is on the high end of the scale of certainty in criminal justice. Moreover, if probable cause that a person committed a crime does not exist when the police contact a person, then legally there is traditionally little the system can do to begin services or treatment.

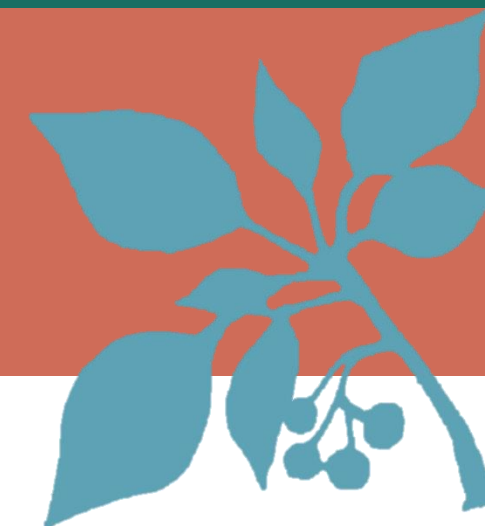
Amount of time to settle one’s affairs with the court

The 2021 forecast data from the Hawai‘i Department of Public Safety showed median overall court processing time (i.e., the amount of time to settle one’s affairs with the court) was about 200 days or more in 2020 and the felony court processing time was 400 days or more in 2020.

“Maxing-out” and not completing substance use treatment

People who have been convicted and sent to prison and who also have a substance use disorder cannot be forced into correctional drug treatment programs. Consequently, for those who “max-out” or complete their prison sentences without even starting a program and/or those who do not complete substance use treatment, both cannot be touched by the system when their sentence is completed. According to the 2019 Hawai‘i Recidivism Report by the Hawai‘i Interagency Council on Intermediate Sanctions, the recidivism rate for maximum term release prisoners was 57%.

Recommendations (Part 1)



Priority should be placed on alternatives to arrest and incarceration.

When the LEAD program was introduced in Hawai'i, a pilot project was completed to gauge the effectiveness of the program. The results of the project showed a **23% decrease** in methamphetamine use by clients since the start of the program.

I'm not going to arrest you, but I can see you are struggling with addition to _____. Have you every heard of _____ program?

Harness opportunities to offer services and treatment.

The police and others should utilize the opportunity when people are in custody to assess and coordinate referrals for services. Brief assessment tools, such as the **Ohio Risk Assessment System Pretrial Assessment Tool**, may be a simple starting place in identifying opportunities to begin the process of helping people. Can help determine supervision level and aid case managers to identify modifiable risk factors and treatment barriers. Such dynamic/modifiable risk factors include substance misuse, association with antisocial peers, mental health needs, low income and employment barriers.

Are you currently intoxicated right now? Have you used illegal drugs in the past 6 months?

Recommendations (Part 2)

Ensure that there is continuity of care while justice-involved people move through the criminal justice system.

Those who have initiated treatment or released from the criminal justice system must be assured that their treatment can **continue** while they are involved in the justice system or after their justice system involvement is over.

Ensure or create incentive programs that motivate incarcerated people to participate in treatment programs while incarcerated.

The 2019 recidivism rate amongst the maximum sentence offender group was 57%. To reduce the recidivism rate in this group, treatment programs can be **incentivized** to increase participation and complete the requirements of such programs.

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Questions?

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A draft volume of the ADAD State Plan System of Care Implications Chapters is available for public review and comment at

<https://health.hawaii.gov/substance-abuse/state-plan/>

