

Substance Misuse and Incarceration in Tennessee

Key Points

- Corrections in Tennessee cost over \$1 billion annually due to a rising incarceration rate.
- The State's increasing incarceration rate is related to the growth in substance misuse which on its own costs Tennessee \$2 billion each year and leads to over \$1 billion in lost income from a shrinking work force.
- Prioritizing evidence-based treatment that targets the underlying medical and behavioral issues driving addictive habits for justice-involved individuals could simultaneously address rising recidivism, reincarceration, and growing substance misuse.

In 2020, Tennessee's incarceration rate was 6% higher than the national average and 75% higher than in New York. Over the last decade, Tennessee's prison population has grown by an average of 6% each year, while the state budget for corrections has increased by 65%, with \$1.12 billion requested in fiscal year (FY) 2019-2020. While the budget request for corrections has grown, it is important to note that the cost per incarcerated individual has remained relatively stable and, in some years, even decreased—indicating that increases in costs are directly related to increases in the number of individuals incarcerated and the duration of the sentence served.

Still, despite the growth in Tennessee's incarceration rate and increases in corrections funding, [there is little evidence to suggest that communities are safer](#). Much of the growth in incarceration is due to non-violent offenses, reincarceration, and recidivism. In FY 2017-2018, [74% of felony admissions were for non-person offenses](#), with [39% of admissions](#) due to reincarceration for technical violations of parole, probation, or community supervision conditions. Further, 2016 estimates from the Tennessee Department of Corrections (TDOC) indicate that the statewide recidivism rate is more than [46% for all justice-involved individuals](#).

Contributing to this revolving door is that individual encounters with the justice system are increasingly caused by, or related to, substance misuse. [Between 2003 and 2017, the state incarceration rate for drug offenses increased by 26%](#). Despite evidence that drug addiction treatment is far more cost-effective and beneficial to society, [with every \\$1 invested in treatment yielding up to \\$7 in reduced crime-related costs](#), more than 337,000 of adult Tennesseans were unable to access a specialized facility for substance misuse treatment even when it was needed according to [2017-2018 estimates](#) by the National Survey on Drug Use and Health.



The purpose of this brief is to detail the relationship between incarceration for non-violent drug offenses, reincarceration, and recidivism related to post-release substance misuse, and the subsequent toll on the criminal justice system. Similar analyses have recently led to a series of recommendations for criminal justice reform by [Governor Bill Lee's Criminal Justice Task Force](#) and recent legislation passed by the Tennessee State Assembly and signed by the governor on May 12, 2021 ([SB 767/HB 784](#) and [SB 768/HB 785](#)), which focuses on providing expanded alternatives to incarceration and minimizing barriers to community reentry.

This brief seeks to build upon this work to suggest potential paths

forward to ensure state resources are being used most effectively and communities are able to thrive.

Substance Misuse, Incarceration Rates, Reincarceration, and Recidivism

The Tennessee Bureau of Investigations (TBI) reports that 5% of residents have used pain relievers for non-medical purposes and [70% of people who use pain relievers for non-medical purposes obtained them from a friend or relative](#). Additionally, it is estimated that approximately [70,000 Tennesseans are addicted to opioids](#). The substance misuse epidemic these numbers represent has been costly to the state's criminal justice system. In 2018, more than [1 in 4](#) of all prison admissions in Tennessee were for non-violent drug offenses and that same year, [drug offenses surpassed homicides as the primary offense among incarcerated individuals](#). As of FY 2019-2020, [drug offenses accounted for 18%, or nearly 1 in 5 incarcerated individuals in the Tennessee prison system](#).

According to data released by TDOC, at least 1,535, or nearly 8% of individuals incarcerated last year met the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) criteria for having [Substance Related and Addictive Disorder](#). However, this number may be an underestimate of the scope of the disorder as the Bureau of Justice Statistics (BJS) has found that more than half, [58%, of state prisoners and about two-thirds, 63%, of sentenced jail inmates met the DSM-IV criteria for drug dependence or abuse between 2007 and 2009](#). If the BJS statistics hold true for Tennessee, [this would indicate that approximately 7,800 TDOC inmates in jails and 13,140 in prison have a substance use disorder](#).

In general, [most individuals entering the criminal justice system are engaged in illicit drug use at the time of their arrest](#), and many have substance misuse problems. As a result, many of the non-violent drug admissions are the result of [technical violations](#) of probation or parole, often times coming in the form of a missed drug screen, positive drug screen, or other non-person offense behavior. [Between 2010](#)

[and 2019, the number of revocations for a technical violation during parole or probation increased by 53%](#). These revocations increase the reincarceration rate, while the failure to address underlying substance misuse, a significant factor in rising recidivism rates, leads to new offenses. These new offenses, such as property crimes, are often committed to obtain money to purchase drugs, while [participation in drug crimes frequently places individuals in situations where other crimes are likely to occur](#).

Evidence-Based Best Practices

Using evidence-based best practices, justice-involved individuals can be [effectively managed by community-based treatment programs](#) at a far lower cost than if they are incarcerated. In fact, [drug treatment reduces drug use by 40% to 60%](#) and significantly decreases criminal activity during and after treatment. For example, [a study of therapeutic community treatment for drug offenders demonstrated that arrests for violent and nonviolent criminal acts were reduced by 40% or more](#). Further, a 2012 study found that if just 40% of justice-involved individuals nationwide who suffered from substance misuse were treated under community supervision instead of while incarcerated, [upwards of \\$12 billion could be saved from corrections budgets](#). [These strategies](#) include diversionary programs, such as drug courts, medication-assisted treatment, and behavioral therapy.

[Diversionary programs](#), which divert individuals from incarceration and offer the opportunity to attend drug treatment, have shown positive results in decreasing drug use and recidivism rates amongst participants. [Drug Courts](#) are a type of diversionary program that serves high-risk high-need people, and requires collaboration between the courts, substance misuse treatment providers, community supervision, and other ancillary services. These [courts](#) have been shown to be effective in [changing behavior and reducing recidivism](#).

In addition, best practices indicate that a [combination of treatments including medication and counseling can help individuals achieve sobriety](#). [Medical treatments](#) such as Methadone, buprenorphine, and naltrexone can help prevent return to use by re-establishing normal brain functions and decreasing cravings, while counseling, such as cognitive behavioral therapies, can help readjust attitudes. While these [evidence-based treatments can be effectively facilitated while individuals are incarcerated or under community supervision](#), [research indicates](#) that they are rarely made available to justice-involved individuals due to cost and other barriers.

TN ROCS

The Tennessee Recovery Oriented Compliance Strategy (TN ROCS), is a low-cost, high-impact strategy developed by Circuit Court Judge, Duane Slone, in 2013. TN ROCS utilizes the essential components of the most successful long-lasting recovery strategies: a clinical assessment and rapid linkage to the best available treatment services, accountability, leverage, and relationship. With the assistance of the TDOC and the Tennessee Department of Mental Health and Substance Abuse Services [it has become a nationally recognized evidence-informed promising practice to assist people in the criminal justice system who have substance use and mental health disorders on a large scale](#). In addition to reduction in overdose deaths, neonatal opioid withdrawal syndrome, and crime in both Grainger and Jefferson Counties, a 2020 Policy Research Associates [Sequential Intercept Mapping](#) report revealed a greater than 50% reduction in TDOC sentences being served locally in Jefferson County from October 2017-October 2019. TN ROCS is now being utilized in approximately eleven judicial districts in Tennessee.

Potential Roadblocks to Shifting Strategies

Despite the significant need for substance misuse treatment, many people in the criminal justice system do not receive it. One of the reasons non-violent drug offenses continue to dominate prison admissions in Tennessee is the limited availability of options that divert a person from the system and the [few alternatives to incarceration](#) available to criminal defendants.

In Tennessee, some of the potential roadblocks of such a shift to more evidence-based practices include:

- A number of offenses are prohibited from probation eligibility, including some Class B drug offenses despite the fact that most other types of Class B offenses are eligible.
- [Tennessee currently imposes statutorily standard supervision conditions on all individuals, despite](#) research concluding that tailoring supervision and treatment conditions to an individual's criminogenic needs and responsivity factors is critical for treatment success.

Another barrier to evidence-based treatment of substance misuse is stigma. Although medicine has reached a consensus that [addiction is a complex brain disorder](#) with behavioral components, many in the public and in the criminal justice system continue to view it as a result of moral weakness and flawed character. As a result, [criminal justice agencies are often reluctant to offer effective treatments for addiction](#), such as medications for opioid misuse.

Finally, though a sentencing judge or parole board may order special conditions, there are [no statutory requirements](#) to ground those conditions with the individualized results of the TDOC risk and needs assessment. Furthermore, the [TDOC assessments occur after an individual has spent time incarcerated](#), most often in local jails which are not required to conduct an assessment. In some cases, this time can be lengthy, even longer than a year. The lack of grounding the conditions in the risk and

needs assessment, as well as the delay in its administration, leads to inconsistent treatment requirements and gaps in services provided across the State. This contributes to disparities in incarceration rates. For example, the eastern part of the State, [which is on average more rural, has the highest incarceration rate in the State and has seen an increase of 11% over the last decade](#). This inconsistency in approaches and resource distribution leads some individuals and communities to bear a disproportionate burden. [The task force recommends](#) that “funding associated with each individual otherwise incarcerated would follow the individual to allow for more diverse sentencing options including treatment and recovery programs beyond what is available in recovery courts.”

Moving Forward

Support for the approaches detailed here is already demonstrated in the recent passage of legislation by the Tennessee General Assembly ([SB 767/HB 784](#) and [SB 768/HB 785](#)). For example, Tennessee State Senate Bill (767) and companion House Bill (784), also known as the “Alternatives to Incarceration Act,” creates a process for local governments and organizations to develop alternatives to incarceration, prohibits parole revocation upon one instance of a technical violation or violations, and opens drug court treatment programs to individuals who were previously ineligible. Similarly, SB 768/HB785, or the “Reentry Success Act” requires that eligible inmates be released to supervision one-year prior to the expiration of the original sentence and states that inmates who were ineligible for early release will not be returned to incarceration after the expiration of the sentence for noncriminal, technical violations of supervision conditions. In addition, the legislation limits the liability for employers who hire individuals with convictions and encourages community colleges and technical schools to provide training and programs to facilitate workforce development among those previously incarcerated.

In addition to this crucial legislation, the most helpful solutions going forward would be for Tennessee to prioritize funding and training for

programs and supervision that rely on evidence from the brain science of addiction to guide decision-making as well as provide community-based alternatives to divert individuals from incarceration. Such support would lead to more efficient and effective services for justice-involved individuals struggling with substance misuse and would allow for evidence-based treatments, such as counseling and medication, to be prioritized and to actually treat rather than react to the underlying substance misuse conditions in those who pass through the criminal justice system.

Grundy County Jail Programs

Grundy County Jail, a 114-bed facility located in rural middle-Tennessee, implemented a program in 2017 to support successful re-entry for inmates back into society following release. According to the Grundy County Sherriff's Office Re-entry Coordinator, this grant-funded program includes a needs assessment after 30 days of incarceration, which is used to identify courses that ease the transition from incarceration back into the society. These trainings allow participants to gain skills related to stress management, financial planning, parenting, substance use disorder, as well as many others. Some Grundy County inmates will also qualify for a work-release program, Correction Career Pathway, which provides employment outside of the jail for people with non-violent offenses. Participants are able to earn wages to pay court fines and child support while incarcerated and have savings upon release. Prior to release, a needs assessment is performed with each inmate to determine what resources within the community could contribute to successful re-entry. Although Grundy County has a recidivism rate of 22%, their program participants have a recidivism rate of only 10.5%.



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