The United States incarcerates people at a higher rate than any other country in the world, and Ohio has the 15th highest incarceration rate among the 50 states. Within the incarcerated population, there are large disparities. Nationally and in Ohio, African Americans are incarcerated in state prisons at more than five times the rate of whites. Additionally, black Ohioans are arrested for drug-related crimes at 2.5 times the rate of white Ohioans, despite similar rates of illicit drug use and substance use disorder nationally (see figures ES 1 and ES 2).

Incarceration is costly for Ohio taxpayers. It costs more than $75 per day to house a person in state prison. Because Ohio currently incarcerates over 49,000 people in prisons statewide, taxpayers will spend over $1.3 billion dollars on state prison incarceration this year.

### Executive summary

**3 key findings for policymakers**

- **Progress toward evidence-informed policies.** Ohio is beginning to move in the right direction by embracing evidence-informed policies, such as Crisis Intervention Teams and specialized dockets, that address addiction in law enforcement and criminal justice settings.

- **Systemic issues in the criminal justice system.** National “tough on crime” policies have resulted in high rates of incarceration for addiction-related offenses. In addition, historically discriminatory criminal justice practices have disproportionately impacted communities of color. More can be done to reduce the number of people with substance use disorder in the criminal justice system, decrease spending on incarceration and improve outcomes for Ohioans struggling with addiction.

- **Gaps in data and information.** Policymakers do not have the information they need to comprehensively address addiction and inequities in the criminal justice system because of significant gaps in data collection, analysis and evaluation.

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**Figure ES 1. U.S. substance use disorder and illicit drug use in the past year, age 18 and older, by race, 2017**

- **White**: 8% Substance use disorder in past year, 7.2% Illicit drug use in past year
- **Hispanic or Latino**: 6.9% Substance use disorder in past year, 17.6% Illicit drug use in past year
- **Black or African American**: 7.2% Substance use disorder in past year, 20.9% Illicit drug use in past year

**U.S. overall**: 7.6% Substance use disorder in past year, 19.3% Illicit drug use in past year

**Note:** Illicit drug use includes use of marijuana, cocaine (including crack), heroin, hallucinogens, inhalants, and methamphetamine, as well as the misuse of prescription pain relievers, tranquilizers, stimulants and sedatives

**Source:** National Survey on Drug Use and Health, 2017

**Figure ES 2. Ohio drug crime arrest rate by race, per 100,000 population, 2018**

- **White Ohioans**: 472.8
- **Black Ohioans**: 1,263.6

**Source:** Ohio Department of Rehabilitation and Correction, 2019
Addiction is a major driver of Ohio’s high incarceration rate. National “tough on crime” policies, including the War on Drugs, have created severe penalties for addiction-related behaviors and have led to an unprecedented increase in the prison population. Ohioans with prior convictions face challenges finding housing, securing employment and pursuing activities that aid in recovery from addiction.

Developing evidence-informed and innovative solutions in law enforcement agencies, courts, jails, prisons and community correctional settings can rehabilitate people with addiction and limit the number of people with addiction who enter the criminal justice system.

This report reviews state-level policy changes related to law enforcement and the criminal justice system enacted in Ohio from 2013 to 2018. It includes:

- **An inventory** of policy changes (legislation, rules and state agency initiatives, programs and systems changes)
- **A scorecard** that indicates the extent to which Ohio is implementing strategies that are proven effective by research evidence (see figure ES 3)
- **Opportunities for improvement** in both the public and private sectors

### Sequential Intercept Model

The Sequential Intercept Model (SIM) is a conceptual framework that is often used as a community-level strategic planning tool. Communities use the SIM to improve cross-system collaboration and reduce the involvement of people with mental illness and substance use disorder (SUD) in the justice system. The criminal justice topics in this report are organized by the six intercepts of the SIM (intercepts 0-5), which are also outlined in figure ES 3. The SIM gives stakeholders across sectors a common framework for identifying key issues and partners in each intercept.

### What are the strengths of Ohio’s policy response?

State policymakers have invested in evidence-informed and emerging practices to address the addiction crisis within the criminal justice system. The following strengths stand out:

- **Innovative law enforcement tactics.** Law enforcement agencies and first responders across the state have invested in evidence-informed and innovative models to respond to overdose and other behavioral health crises and to connect people to treatment. Examples include the Overdose Detection Mapping Application Program (ODMAP), Quick Response Teams (QRT)/Drug Abuse Response Teams (DART) and Crisis Intervention Teams (CIT).
- **Pretrial diversion for people with addiction.** Ohio law offers several options outside of incarceration for offenders who commit low-level, non-violent crimes related to substance use or addiction. Recent policy changes have expanded eligibility for some of these programs, including Intervention in Lieu of Conviction (ILC).
- **Drug courts and other specialized dockets.** Ohio has a large number of specialized dockets (256 specialized dockets, including 180 drug courts) and, in many cases, drug courts are quickly connecting participants with appropriate, evidence-informed addiction treatment.
- **Addiction treatment in state prisons.** The Ohio Department of Rehabilitation and Correction (DRC) has several evidence-informed policies in place regarding use of naloxone and addiction screening/treatment in state prisons. State prisons also consistently provide naloxone and naltrexone (Vivitrol) to qualifying and interested individuals upon release.
- **Reentry services.** DRC has many longstanding programs that provide people who are incarcerated with Medicaid coverage, education and employment and life skills training in order to maximize success post-release.
• **Recent changes in data and evaluation.** Although there is room for improvement in Ohio’s criminal justice data and evaluation infrastructure, CIT data is systemically collected and analyzed by the Ohio Criminal Justice Coordinating Center of Excellence. Additionally, the Supreme Court of Ohio recently began requiring standardized data collection from specialized dockets across the state.

**What are the gaps in Ohio’s policy response?**

Despite these strengths, Ohio continues to have a high incarceration rate and many people with addiction are involved in the criminal justice system. In Ohio’s policy response to curb these trends, the following gaps remain:

• **Gaps in data and evaluation.** There are significant gaps in data collection, analysis and evaluation across the law enforcement and criminal justice systems in Ohio. Information on inequities in the system is limited because data on race, ethnicity, income and education is frequently unavailable.

• **Addiction screening and treatment in jails.** Standards for jails are insufficient to ensure access to behavioral health screening and treatment for all detainees. DRC has several evidence-informed policies in place regarding naloxone and SUD screening/treatment in state prisons, which could serve as a model for local jails.

• **Pretrial diversion access.** Not all offenders who could benefit from diversion programs have access to them. Offenders who have committed violent or high-level felonies due to addiction are not eligible for pretrial diversion, and access to these programs is up to the discretion of the prosecutor and/or the judge.

• **Money bail system.** Ohio utilizes a money bail system and has not implemented risk assessment as a tool for pretrial release and detainment decisions. The ability to pay bail determines whether an Ohioan will await trial in jail or in the community, creating inequities in pretrial detention.

• **Mandatory sentencing.** While some mandatory sentences have been removed from the Ohio Revised Code over the past six years, policymakers have also increased and added several mandatory sentences during that time.

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**About the HPIO Addiction Evidence Project**

This report is part of HPIO’s *Addiction Evidence Project*, which provides policymakers and other stakeholders with information needed to address substance use disorders in a comprehensive, effective and efficient way. This inventory and scorecard report analyzes two topics: Law enforcement and criminal justice. The first report examined prevention, treatment and recovery and the second report addressed overdose reversal and other forms of harm reduction. Future reports will focus on children services and data and evaluation.
Opportunities for improvement

1. **Improve data collection and reporting across the law enforcement and criminal justice systems** and identify state-level entities to coordinate data sharing and evaluation.
   a. Require and provide funding for local law enforcement agencies to report crime data to the Ohio Incident-Based Reporting System (OIBRS).
   b. Collect additional data from specialized dockets and leverage existing data by linking it to the Ohio Automated Rx Reporting System (OARRS) to detect patterns of at-risk behavior among specialized docket participants.
   c. Institute a standard data collection system across Ohio jails to determine the extent to which substance use disorder screening, treatment and naloxone are available in jails.
   d. Collect additional data from state prisons to measure the extent to which effective substance use disorder screening and treatment are available during incarceration.

2. **Include race, ethnicity, income and education information in law enforcement and criminal justice data collection systems.** Assess the impact of law enforcement and criminal justice policies on different groups of Ohioans in order to identify opportunities to reduce disparities and inequities in the criminal justice system.

3. **Expand existing evidence-informed models and programs that address addiction in law enforcement and criminal justice settings to all Ohio counties.**
   a. Encourage all first responders and public health agencies to fully utilize ODMAP to mobilize more effective responses to overdose spikes and hot spots. Facilitate partnerships between local health departments and first responders to enhance collaborative utilization of the data.
   b. Assess the extent to which QRTs/DARTs are being implemented across the state and identify a common set of process and outcome evaluation metrics that can be used to evaluate and improve these programs.
   c. Encourage counties to participate in the Targeted Community Alternatives to Prison (T-CAP) program and reduce the number of conditions that make offenders ineligible for T-CAP so that more offenders with addiction issues are diverted from prisons.
   d. Expand the Addiction Treatment Program and/or the Specialized Docket Subsidy Program so that all specialty dockets receive General Revenue Fund (GRF) funding.
   e. Look to the Crisis Intervention Team leadership provided by the Ohio Criminal Justice Coordinating Center of Excellence as a model for training, technical assistance, evaluation and data collection for other statewide criminal justice programs.

4. **Reform the money bail system** and implement a risk assessment tool for pretrial release and detention decisions. Risk assessment tools should be accessible and culturally competent so that unintended consequences related to racial and other inequities are minimized.

5. **Reduce the prevalence of mandatory sentencing requirements** in the Ohio Revised Code, which prevent the possibility of alternative sentencing programs and/or diversion to community corrections.

6. **Update the minimum standards for jails** to specifically require appropriate use of naloxone, medically managed withdrawal and evidence-based SUD screening and treatment. Rigorous monitoring of local jails is also needed to ensure that inmates with SUD are provided with opportunities to address their addiction while in jail and upon release.

7. **Provide technical assistance to local communities on the Health Insurance Portability and Accountability Act (HIPAA) and Code of Federal Regulations (CFR) 42**, so that law enforcement agencies and others can appropriately share information through QRTs/DARTs and other community service programs.

8. **Simplify Ohio’s Good Samaritan law** and reduce the restrictions on Good Samaritan immunity so that bystanders are encouraged to call for help during an overdose.

9. **Increase training requirements for corrections professionals** on the nature of addiction, evidence-based addiction treatment, stigma and implicit bias.

10. **Update the Ohio Parole Board Handbook** to require the use of evidence-based risk assessment.

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**Executive summary**