

Health and **Criminal Justice** Reform

A Health Approach to Substance Use & Mental Health

Time to End Our Obsession with Incarceration

For the last four decades, this country has relentlessly expanded the size of our criminal justice system, needlessly throwing away lives and wasting trillions of taxpayer dollars.

This burden has fallen disproportionately on low-income people and people of color.

Too many people with health problems like mental health and substance use disorders have been swept up into the criminal justice system, which can often make things worse - when what they really need is access to healthcare.

The ACLU works to reduce this country's overreliance on incarceration, including by moving toward a health approach, rather than a criminal approach, to mental health and substance use disorders.

The Affordable Care Act (ACA) provides a tremendous opportunity to expand access to physical and behavioral healthcare, including treatment for mental health and substance use disorders. Given this historic shift, it is time to expand access to these and other health services outside of the criminal justice system.

Traditionally, most individuals in the criminal justice system did not have access to affordable healthcare coverage. Medi-Cal (California's Medicaid program) only provided coverage for low-income people who also fell into a certain category, such as the elderly, disabled, pregnant, parent, or child. This excluded adult men without dependent children, who are disproportionately represented in jail and prison.

Under the ACA, Medi-Cal eligibility requirements have broadened to include most adults under the age of 65 whose annual income is at or below 138% of the federal poverty level (\$16,105 for an individual and \$32,913 for a family of four in 2014). As a result, many people in California's criminal justice system are newly eligible for Medi-Cal. For

many, this will be their first opportunity to have health insurance. There is no waiting period or disenfranchisement for Medi-Cal for formerly incarcerated individuals, and people on parole or probation can access Medi-Cal benefits.

Furthermore, the ACA requires most insurance plans (including Medi-Cal) to cover mental health and substance use disorder services. Expansion of coverage provides an opportunity for individuals with mental health and substance use disorders, who disproportionately end up in

As of January 1, 2014, most lowincome adults, including many under supervision in the community, are eligible for federally-funded healthcare coverage through Medi-Cal, including coverage for mental health and drug treatment.

the justice system due to criminalization of their condition, to access necessary health services that they could not afford previously.

By enrolling newly eligible justice-involved individuals into Medi-Cal, the state and counties will be able to draw down significant federal dollars for physical and behavioral health services. Healthcare reform provides the financial means for California to finally address mental health and substance use disorders in the health system, rather than through the criminal justice system.





A More Effective Strategy

In San Diego and Imperial Counties, the ACLU is working with law enforcement, healthcare providers, and community stakeholders to establish the most effective means of directing justice-involved people into the right care and away from unnecessary and counterproductive incarceration.

There are more than 90,000 bookings into San Diego County jails and about 10,000 in Imperial County jails each year. A significant proportion of people that pass through the jails have an identified need for substance use disorder and/or mental health treatment. In fact, 45% of adult arrests in San Diego County in 2012 were for an alcohol or drug offense.

With the support of the California Endowment, the Parker Foundation, and Open Society Foundations, the ACLU is engaging correctional, health, and community stakeholders to get people affected by the criminal justice system enrolled in healthcare coverage, educated about how to use it, and connected to health providers who can meet their needs.

The ACLU is a resource for information on Medi-Cal expansion and other aspects of the ACA. We advocate at the county level for the adoption of a far-reaching system of enrollment of the justice-involved population into healthcare coverage. We connect health service and reentry providers to criminal justice agencies to facilitate more enrollments and a warmer hand-off for those reentering the community. We also work with community partners to ensure that the system is capable of providing high-quality treatment to the newly Medi-Cal eligible population, especially mental health and substance use disorder treatment. As an enrollment system develops, we will advocate with different law

enforcement entities to adopt their practices to consider the health needs of the individual, including increasing diversion into treatment and reducing revocation of supervision for relapse.



What you should know about ACA + criminal justice

- Historically in California, 80% of people leaving jails and prisons have had no health insurance.
- Medi-Cal has expanded to include most adults under 65 years of age making 138% of the federal poverty level or less. An individual's immigration or migrant status does affect eligibility. For more information, see the ACLU's How the ACA Impacts Immigrant and Migrant Populations in California [http://bit.ly/1yrm6iG].
- The federal government will pay 100% of the costs of coverage for the newly eligible Medi-Cal population through 2016. By 2020, the federal share will fall slightly, to 90%.
- Individuals cannot access Medi-Cal benefits while they are incarcerated (except when they are treated in a community hospital for 24 hours or more). California will continue to pay for the vast majority of the healthcare costs of its prison and jail populations.
- For more, see the ACLU of San Diego and Imperial Counties' ACA: A Primer for Advocates [http://bit.ly/1oiavbU] and the ACLU's Healthcare Not Handcuffs: Putting the Affordable Care Act to Work for Criminal Justice and Drug Law Reform [http://bit.ly/1rkK5cU].

