



# Unrecognized and Underutilized Potential: The Behavioral Health Court of Alameda County

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The United States of America is and has been at a crisis point when it comes to the racialized mass incarceration of individuals with mental illnesses. Our jails have become known as the largest psychiatric facilities in the country, and the conditions within them only serve to deepen the suffering of incarcerated individuals with mental health needs.

In a criminal legal system whose primary tool is punishment, can the Behavioral Health Court (BHC) of Alameda County, California, pave the way for a system more founded on justice and care? What is standing in the way of its ideals of compassion and rehabilitation?



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## Executive Summary

Jails are no place for people with mental illnesses. Yet, with a crumbling public mental health infrastructure, United States' jails have become the largest providers of mental health treatment in the country. In Alameda County's Santa Rita Jail, people with serious mental illnesses make up nearly a quarter of the inmate population, and the jail is woefully unequipped to offer appropriate mental health resources to those people.

The Behavioral Health Court (BHC) of Alameda County is one of Alameda County's attempts to combat the overincarceration of individuals with serious mental illnesses. This court program is run in collaboration between the Superior Court of Alameda County and Alameda County Behavioral Health (ACBH), and it follows a collaborative model where judges, lawyers, and mental health professionals work in partnership with the court's client, or "partner," to develop a treatment plan for the "partner." The program diverts those who qualify for the program out of Santa Rita Jail and into a one to two-year treatment program with an Alameda County based mental health provider. The "partner" is closely monitored by the court, and upon successful completion of their treatment plan, the "partner's" pending criminal case and associated arrest record are sealed.

By always centering the "partner's" needs and goals, the BHC is diametrically opposed to the traditional adversarial court model. The BHC is a program representative of true compassion and a focus on individual rehabilitation, not punishment. Not only does the BHC operate in a racially conscious and just manner, but the court also represents a more cost-effective investment in public health and public safety for Alameda County. The BHC has enormous potential in transforming the justice system. Yet, for it to increase its impact, a few things must change (full list of reforms on page 24):

- Alameda County Behavioral Health must improve its public transparency.
- More public, political, and fiscal resources must be placed in increasing certain community mental health services which are always at capacity. These mental health services are the "rate limiting factor" of the BHC's caseload.
- BHC should consider expanding its caseload to more violent criminal charges.

This report strives to illuminate the potential and challenges of the BHC, including necessary reforms to the BHC in order to maximize its positive impact on the issue of overcriminalizing people with mental illnesses in Alameda County.



## Purpose, Methods, and Acknowledgments

This report was written for the [Interfaith Coalition for Justice in Our Jails](#) (ICJJ), an affiliate of Faith in Action East Bay, in an attempt to assist them in their advocacy for alternatives to incarceration for people with mental illness. The ICJJ is very active in this advocacy, most recently taking an active role on the Justice Involved Mental Health (JIMH) Task Force of Alameda County. The report's purpose is also to inform its readers about the Behavioral Health Court and its relationship to the movement for ending the criminalization of mentally ill individuals, especially since the BHC is not widely known. I would like to extend a special thank you to my mentors at the ICJJ, Myrna Schwartz, Meg Bowerman, Richard Speiglmán, and Bob Britton. I would particularly like to thank my primary mentor, Charlie Eddy, at the [Urban Strategies Council](#), where I spent my summer internship.

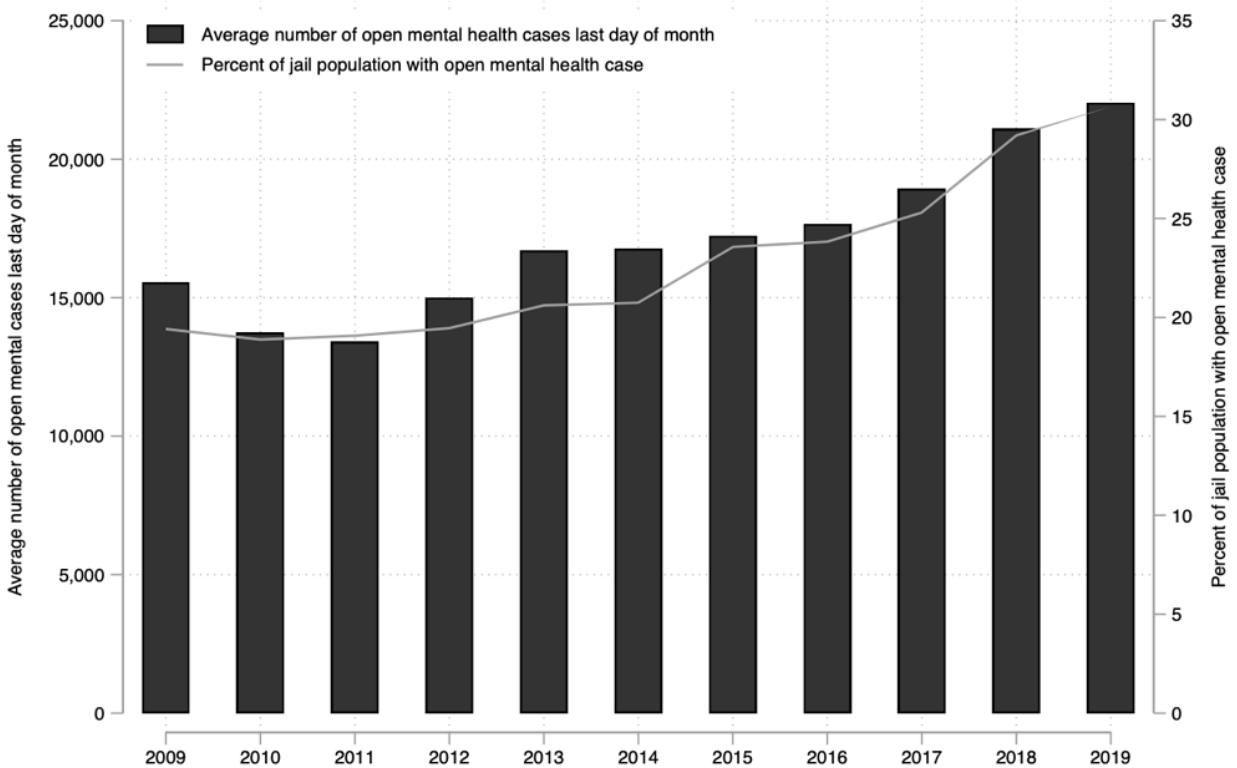
Between July and August of 2021, I conducted interviews with ten individuals, all of whom had some personal experience with the Behavioral Health Court, Collaborative Courts, incarceration, or mental health work. Through reading and reviewing a multitude of reports and other pieces of literature on the subject of mass incarceration, mental illness, and mental health courts, I was able to support the information gleaned from my interviews with background information, context, and data. Each interviewee represents a different professional and personal background, as well as perspective. *It is important to note that each of my interviewees spoke to me from their personal opinion and experience, and they do not represent the agency which they may work for in any way.* I would like to thank all of my interviewees for their time and openness:

- Judge Charles Smiley – Assistant Presiding Judge, Superior Court of Alameda County; Presiding Judge, Collaborative Courts; Former Judge, Behavioral Health Court.
- Judge Greg Syren – Presiding Judge, Behavioral Health Court of Alameda County.
- Andé Peña – Former Manager, Alameda County Treatment Courts.
- Brian Caruth – Deputy Public Defender, Alameda County, assigned to the Behavioral Health Court.
- Mas Morimoto – Deputy Alameda County District Attorney, formerly assigned to the Behavioral Health Court.
- Dr. Greg Robinson – External Evaluator, Alameda County's Collaborative Courts.
- Sholonda Jackson-Jasper – Licensed Clinical Social Worker, Napa State Hospital; Vice-President, Bay Area Association of Black Social Workers; former employee, Bay Area Community Services (BACS).
- Katherine Lutz – Licensed Clinical Social Worker, Bay Area Community Services; liaison between BACS and the Behavioral Health Court.
- Roy Bettencourt – Marriage and Family Therapist, Bay Area Community Services; Associate Director, Full-Service Partnerships; Program Manager, Circa60 and Intensive Case Management.
- Anonymous BHC Partner/Client, under Bay Area Community Services Case Management.



## Framing the Problem

### Mass Incarceration Meets Mental Illness



**Figure 1: The percentage of individuals with mental illnesses in California's jails has been steadily increasing over the last decade.<sup>1</sup>**

In the year 2009, California's average statewide jail population was around 80,000 individuals. In the year 2019, California's statewide jail population was around 72,000 individuals. This represents an approximately 9% reduction in jail population. However, over the course of those same ten years, the percentage of California's jailed population with an active mental health case increased from 19% to 31%, meaning California jail held around 62% more mentally ill people in 2019 than 2009 (see Figure 1).<sup>2</sup>

Beginning in the mid 1900s, the public became more aware of state psychiatric facilities because of the widespread coverage of abuse and inhumane conditions within them. So, on October 31, 1963, John F. Kennedy signed the Community Mental Health Act. It detailed the

<sup>1</sup> "The Prevalence of Mental Illness in California Jails is Rising: An Analysis of Mental Health Cases & Psychotropic Medication Prescriptions, 2009-2019," *California Health Policy Strategies, L.L.C.*, February 2020, 6, [https://calhps.com/wp-content/uploads/2020/02/Jail\\_MentalHealth\\_JPSReport\\_02-03-2020.pdf](https://calhps.com/wp-content/uploads/2020/02/Jail_MentalHealth_JPSReport_02-03-2020.pdf).

<sup>2</sup> *Ibid*, 6.

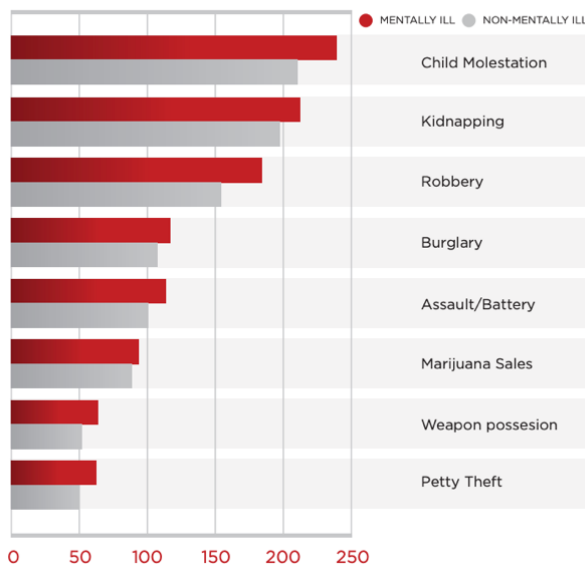


closure of many states' institutional facilities for those with mental illnesses, and it instead directed funds to outpatient, community-based mental health treatment. However, due to the assassination of President John F. Kennedy three weeks later, and due to the breakout of the Vietnam War a couple of years later, Congress never appropriately funded this landmark piece of legislation.<sup>3</sup> Without institutional psychiatric facilities and fully funded community-based treatment, this severe gap in public mental health services was replaced by perhaps the most inhumane of all options: jails and prisons.<sup>4</sup> Coupled with an explosion in incarceration rates driven by racist "tough on crime" policies in the late 1960s and 1970s, the web of incarceration caught those with severe mental illnesses (see note 1). Individuals with severe mental illnesses are now overrepresented in jail populations nationwide by around 15 percentage points, making up an

"Serious mental illness among peoples ages 18 and older is defined as having, at any time during the past year, a diagnosable mental, behavior, or emotional disorder that causes serious functional impairment that substantially interferes with or limits one or more major life activities. Serious Mental Illnesses include schizophrenia, delusional disorder, bipolar I disorder, and other mental disorders that cause serious impairment." – Alameda County Justice Involved Mental Health Taskforce Definition

approximated 20% of jail populations nationwide.<sup>5</sup> The United States' jails and prisons are now known as the largest psychiatric providers in the country, and statistically speaking, they are: according to the Treatment Advocacy Center, in every US county with a jail and county run psychiatric facility, the jail, across the board, holds more seriously mentally ill people than the psychiatric facility.<sup>6</sup>

Prisoners with Mental Illness Receive Longer Sentences (Feb. 2017)



**Note 1 (right): Serious Mental Illness (SMI)**

**Figure 2 (left): California's mentally ill inmates face longer incarceration periods than their neurotypical counterparts for the same offenses (x-axis measurement unit unclear).<sup>7</sup>**

<sup>3</sup> *The Definition of Insanity*, directed by Gabriel London, written by Charlie Sadoff, aired April 14, 2020, PBS, <https://www.pbs.org/show/definition-insanity/>.

Vic DiGravio, "The Last Bill JFK Signed – and the Mental Health Work Still Undone," WBUR, October 23, 2013, <https://www.wbur.org/commonhealth/2013/10/23/community-mental-health-kennedy>.

<sup>4</sup> "Ending an American Tragedy: Addressing the Needs of Justice-Involved People with Mental Illnesses and Co-Occurring Disorders," *National Leadership Forum on Behavioral Health/Criminal Justice Services*, September 2009, 2.

<sup>5</sup> Lorna Collier, "Incarceration Nation," *Monitor on Psychology* 45, no. 9 (October 2014): 56, American Psychological Association, <https://www.apa.org/monitor/2014/10/incarceration>.

"Serious Mental Illness Prevalence in Jails and Prisons," *Treatment Advocacy Center*, September 2016, <https://www.treatmentadvocacycenter.org/evidence-and-research/learn-more-about/3695>.

"Ending an American Tragedy."

<sup>6</sup> "Serious Mental Illness," *Treatment Advocacy Center*.

<sup>7</sup> Michael Romano, "The Prevalence and Severity of Mental Illness Among California Prisoners is on the Rise," *Stanford Justice Advocacy Project*, 2017, 4, <https://www-cdn.law.stanford.edu/wp-content/uploads/2017/05/Stanford-Report-FINAL.pdf>.

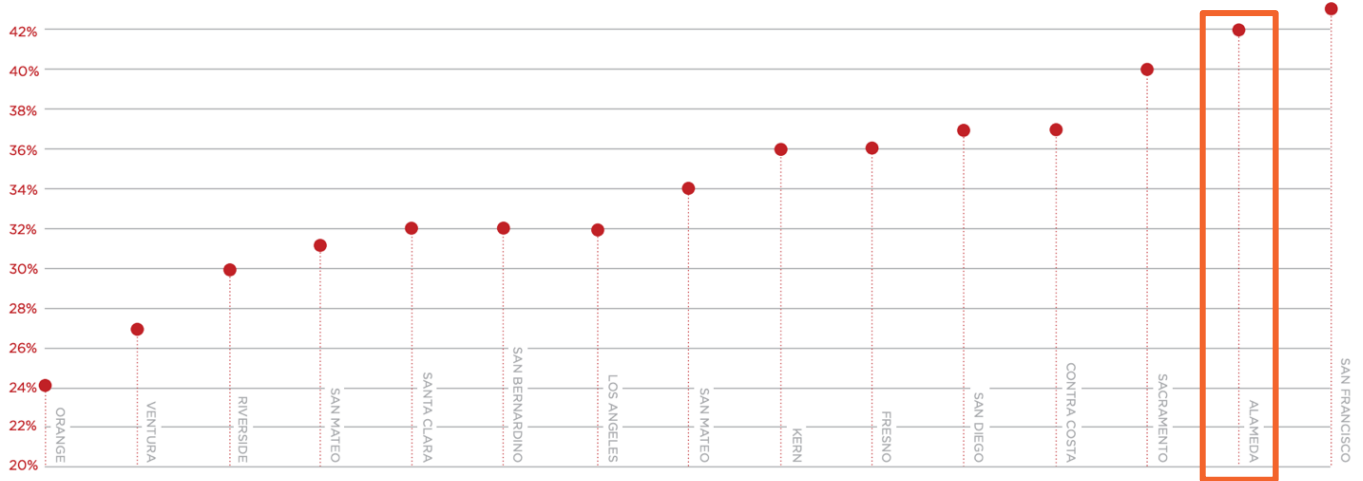


Firstly, it is important to note that the burden of mental health and incarceration disproportionately affects Black and Latinx communities in the United States. According to 2015 data from California, African-American people make up just 6% of the State's population but represent 20% of the State's jail population, and the statistics are even worse for California prisons.<sup>8</sup> Moreover, California prisoners with mental health issues, on average, face sentences that are 12% longer than their counterparts without mental health needs (see Figure 2). The primary reason for this is that incarcerated individuals with mental illnesses commit infractions more often while incarcerated. In addition, they understandably find it more difficult to navigate the complex criminal legal system.<sup>9</sup>

"This national disgrace, kept hidden for too long, represents one area in civil rights where we have actually lost ground."<sup>10</sup>

## Alameda County

Percentage of Prisoners with Mental Illness, Fifteen Largest Counties (Feb. 2017).



**Figure 3: As of 2017, Alameda County committed the second highest percentage of inmates with known mental illnesses to California's state prisons, at 42%.<sup>11</sup>**

Alameda County is no exception to the epidemic of overincarcerating and mistreating individuals with mental health needs. In fact, Alameda County's Santa Rita Jail (the only adult jail in the county) and mental health systems have been the subject of various litigation, including an important class action lawsuit, *Babu et al vs County of Alameda*, which accuses the county of "harsh and unconstitutional conditions" in Santa Rita Jail for prisoners with severe mental illnesses.<sup>12</sup> Most recently, in April of 2021, the United States Department of Justice (DOJ)

<sup>8</sup> "Incarceration Trends in California," *Vera Institute of Justice*, December 2019, 2, <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-california.pdf>.

<sup>9</sup> Romano, "Prevalence and Severity," 4.

<sup>10</sup> "Ending an American Tragedy," 3.

<sup>11</sup> Romano, "Prevalence and Severity," 5.

<sup>12</sup> *Babu et al v. County of Alameda*, District Court, N.D. California, <https://www.courtlistener.com/docket/8471952/babu-v-ahern/?page=1>.





released a report on an investigation that began in early 2017 into Alameda County's unnecessary reliance on the institutionalization of people with mental illnesses in John George Psychiatric Pavilion and Santa Rita Jail. The DOJ report cited Alameda County with violations of mentally ill prisoners' constitutional rights and violations of the Americans with Disabilities Act (ADA).

The DOJ report provides an in-depth perspective into the deep-seated problems at the intersection of Alameda County's criminal legal and mental health systems. For one, Santa Rita Jail staff reported that 40% of prisoners have an active mental health case and are on the Jail's mental health caseload, and 20-25% of the overall population has a serious mental illness.<sup>13</sup> These numbers fall close to, and perhaps slightly over, national and state averages. Furthermore, Santa Rita Jail inmates who demonstrate certain symptoms of their severe mental illness, particularly violence, are often transferred to administrative segregation, where they are kept in isolation for extended periods of time with little to no treatment or time outside their cell. Of the prisoners who are placed on administrative segregation at Santa Rita Jail, at least 50% have a severe mental illness. The DOJ report also found that, "chart notes confirm that the Jail's mental health professionals believe restrictive housing exacerbates prisoners' mental health issues."<sup>14</sup> With the further decompensation of already volatile individuals' mental health situations, these inmates are particularly vulnerable to self-harm and long-lasting trauma. In fact, between January 2014 and October 2019, 11 of the 14 people who died of suicide at Santa Rita Jail were in some sort of isolation, and the death rate of Santa Rita Jail exceeds that of the largest jail in the country, Los Angeles County, by approximately 50%.<sup>15</sup> Two more suicides also occurred in the first four months of 2021, and more recently there was a suicide on October 21, 2021, demonstrating how serious and active this problem is.<sup>16</sup>

The DOJ report itself concludes that the answer to this issue is fully funded community-based treatment programs that can facilitate long term recovery and treatment for mentally ill individuals in the "most integrated setting appropriate to the needs of qualified individuals with disabilities," as Title II of the ADA requires.<sup>17</sup>

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<sup>13</sup> "Investigation of Alameda County, John George Psychiatric Hospital, and Santa Rita Jail," *United States Department of Justice (DOJ) Civil Rights Division*, April 22, 2021, 21, <https://www.justice.gov/crt/case-document/file/1388891/download>.

<sup>14</sup> "Investigation," *US DOJ*, 34.

<sup>15</sup> Lisa Fernandez, Simone Aponte, and Alex Savidge, "Death rate at Santa Rita exceeds nation's largest jail system as critics call for reform," *KTVU FOX 2*, October 1, 2019, <https://www.ktvu.com/news/death-rate-at-santa-rita-exceeds-nations-largest-jail-system-as-critics-call-for-reform>.

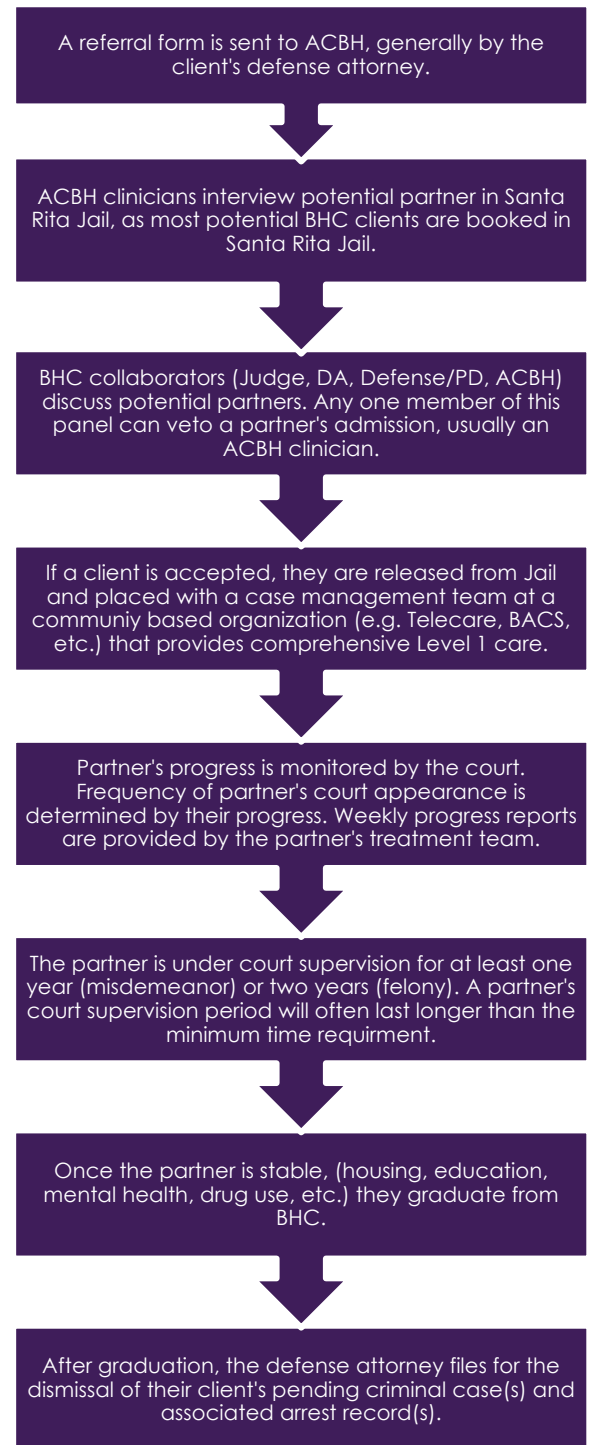
<sup>16</sup> "Investigation," *US DOJ*, 25.

<sup>17</sup> "Investigation," *US DOJ*, 6.



## The Behavioral Health Court: An Overview

Founded in 2009, the goal of the Behavioral Health Court (BHC) of Alameda County, California, is to divert adults with serious mental illnesses out of the traditional routes of incarceration and into community-based treatment programs that address their underlying mental health needs.<sup>18</sup> It currently operates out of the Wiley W. Manuel Courthouse in downtown Oakland. This court is one of more than 250 mental health courts nationwide, although each offers a unique program with varying practices and outcomes.<sup>19</sup> The BHC of Alameda County grew out of the larger Collaborative Court system of Alameda County, which was first pioneered in the early 1990's by Judge Jeffrey Tauber. Judge Tauber's court provided an alternative to incarceration for low-level drug offenders cycling through his Oakland Municipal Court.<sup>20</sup> The original type of treatment court was Drug Court to treat drug addiction and its associated crimes. In fact, an organization called the [National Association of Drug Court Professionals \(NADCP\)](#), is the foremost national organization pushing for justice reform through the expansion of treatment programs like Drug Court. Many counties around the country are also expanding their treatment court efforts into mental health. In the Bay Area, three other counties have Behavioral Health Courts, in addition to Alameda County: [San Francisco County](#), which has one of the most robust Behavioral Health Courts, Santa Clara County, and Solano County. The Judges of the Behavioral Health Court of Alameda County have been Judge Carol Brosnahan, who founded the program in Alameda County, Judge Charles Smiley, and currently Judge Gregory Syren.



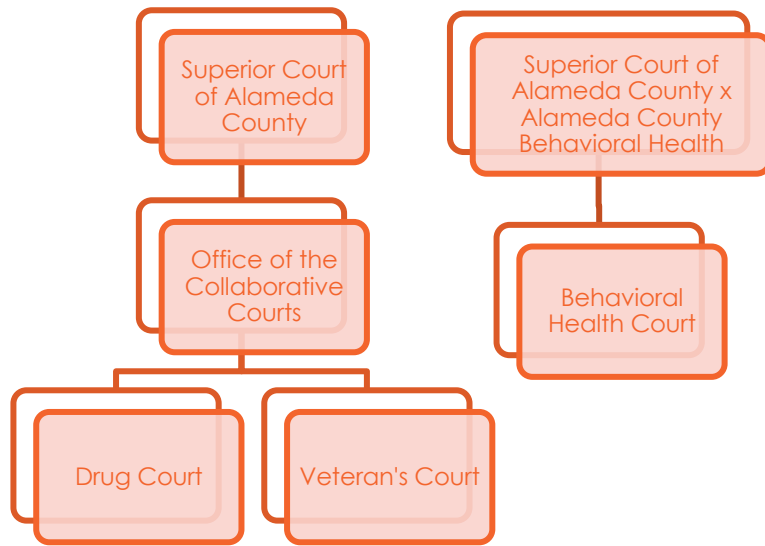
**Figure 4: All the stages of the Behavioral Health Court program**

<sup>18</sup> "Alameda County Behavioral Health Court," *Alameda County District Attorney's Office*, July 24, 2017, [http://www.acgov.org/board/bos\\_calendar/documents/DocsAgendaReg\\_7\\_24\\_17/GENERAL%20ADMINISTRATION/Regular%20Calendar/Behavioral\\_Health\\_Court.pdf](http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_7_24_17/GENERAL%20ADMINISTRATION/Regular%20Calendar/Behavioral_Health_Court.pdf).

<sup>19</sup> Leah Wang and Kaie Rose Quandt, "Building exits off the highway to mass incarceration: Diversion programs explained," *Prison Policy Initiative*, July 20, 2021, <https://www.prisonpolicy.org/reports/diversion.html>.

<sup>20</sup> Jane Gross, "Probation and Therapy Help Some Drug Users," *The New York Times*, June 21, 1991.

### Collaborative Courts vs Behavioral Health Court



The Behavioral Health Court is not a part of the Office of the Collaborative Courts which oversees treatment courts such as Drug Court and Veteran's Court, because the BHC's primary funding and clinical resources come from Alameda County Behavioral Health (ACBH) and the community providers that ACBH partners with. Funds from the Mental Health Services Act of 2004 also help run this program.<sup>21</sup> The BHC is actually a special partnership between the Superior Court of

Alameda and Alameda County Behavioral Health. Although the BHC is not technically under the administration of the Alameda County Office of the Collaborative Courts, it does follow a collaborative court model. A collaborative court model is one in which mental health professionals, community case managers, a District Attorney, a defense attorney, the Judge, and the partner of the court all come together to provide and monitor a treatment plan for the partner at hand.<sup>22</sup> Furthermore, although the Behavioral Health Court focuses its efforts on people with mental illnesses, it also offers services to their partners which go into the realm of substance use treatment, housing, employment, or education, showing how the BHC tries to take a holistic approach to treating its partners.

### Behavioral Health Court vs Informal Behavioral Health Court

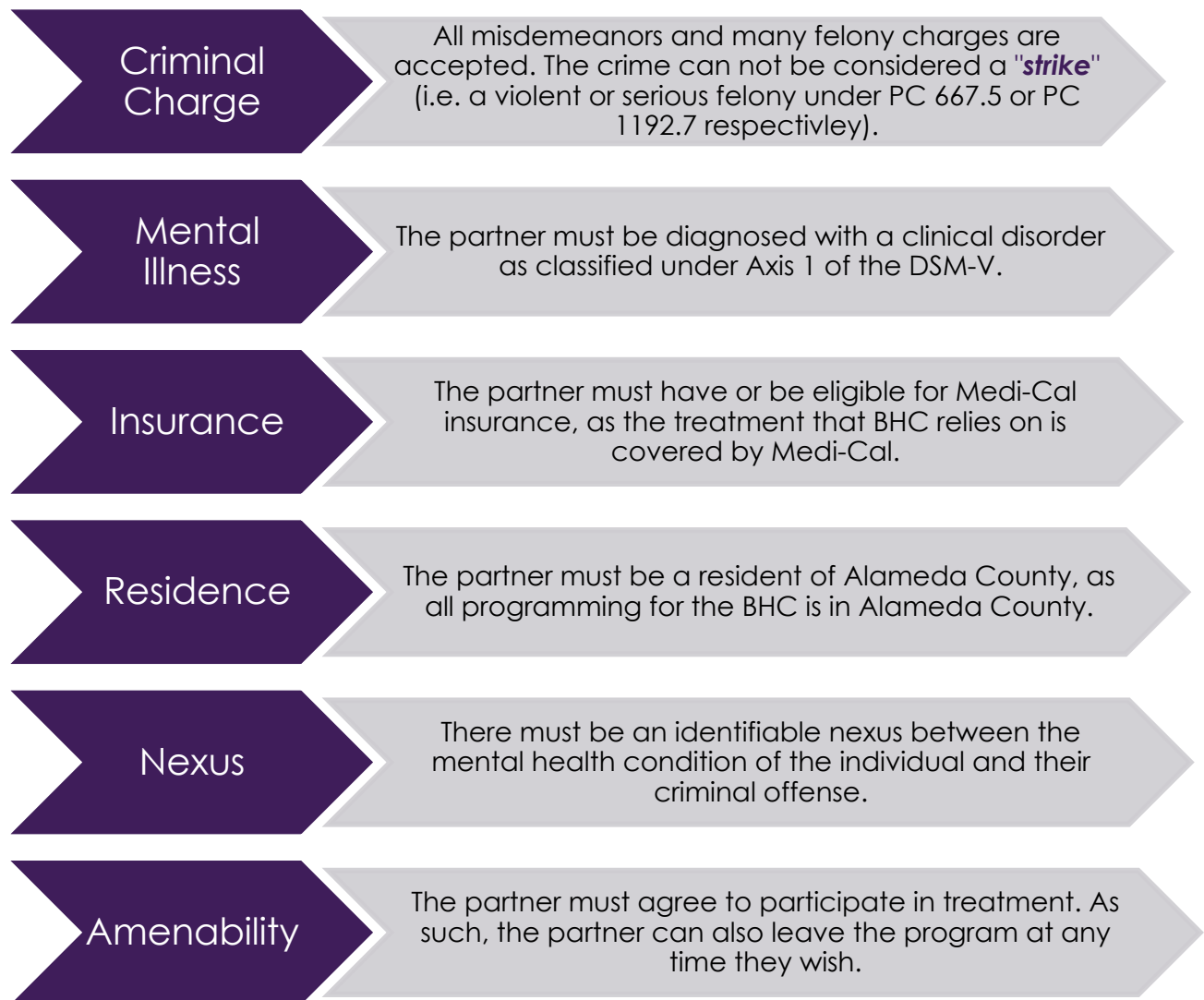
[SB 215](#), signed into law in 2018, created a statutory device for Superior Courts around the state to divert mentally ill individuals into community-based treatment if they meet certain criteria, many of which are similar to the Behavioral Health Court's qualifications for entry. Adopted into the California Penal Code as PC 1001.36, the "Informal Behavioral Health Court" of Alameda County, under the Office of the Collaborative Courts and the judgeship of Judge Smiley, follows the legislative framework set out in PC 1001.36. As Judge Syren explained to me, the mental health diversion court stipulated in SB 215 and PC 1001.36 provides no funding, infrastructure, or "teeth," simply a policy on paper which the various counties around the state can use as they please. Because of the longer history and the resources attached to the Behavioral Health Court, those with more severe mental illnesses often get filtered into BHC, whereas those with less severe mental illnesses get placed in Informal Behavioral Health Court.

<sup>21</sup> Alameda County Behavioral Health (ACBH), *Alameda County Mental Health Services Act (MHSA) FY 2019-2020 Annual Plan Update*, 70.

<sup>22</sup> "What is Treatment Court?," Santa Clara County Superior Court, [https://www.sccscourt.org/court\\_divisions/collaborative/pdfs/What%20is%20Treatment%20Court.pdf](https://www.sccscourt.org/court_divisions/collaborative/pdfs/What%20is%20Treatment%20Court.pdf).



### **Qualifications for Entering the Behavioral Health Court**



The qualifications for entrance in the BHC, as well as the Court's procedures and policies, are not bound by regulatory or legislative requirements. For instance, if an individual seems particularly suitable for BHC treatment and does not pose an immediate threat to society in the eyes of the prosecutor, the District Attorney's office may amend the criminal charge pending against the defendant to reflect an eligible, less serious criminal offense. In terms of more serious offenses, the BHC may take individuals with a "strike" offense post-plea (all other individuals come to BHC pre-plea). This means that individuals with a "serious" or "violent" charge against them must officially plead guilty to that crime and waive their right to a criminal trial before they can be accepted into the BHC.



### **Qualifications for Discharge from the Behavioral Health Court**

The goal of the BHC is to work with the partner for as long as they are engaged and willing. However, there are certain situations for which an individual may be discharged from BHC. The judgement to discharge a partner is made collaboratively between all stakeholders in the court, although the Judge has the final say in this matter. These qualifications include:

- an extended period of non-compliance and non-engagement without a partner's intent to re-commit themselves
- the partner being charged with a new crime, especially if it is a severe charge
- the partner's mental illness becoming so severe that they must be conserved (i.e. placed under the legal protection of a conservator because their mental illness is so debilitating)
- the partner deciding to opt out of the program

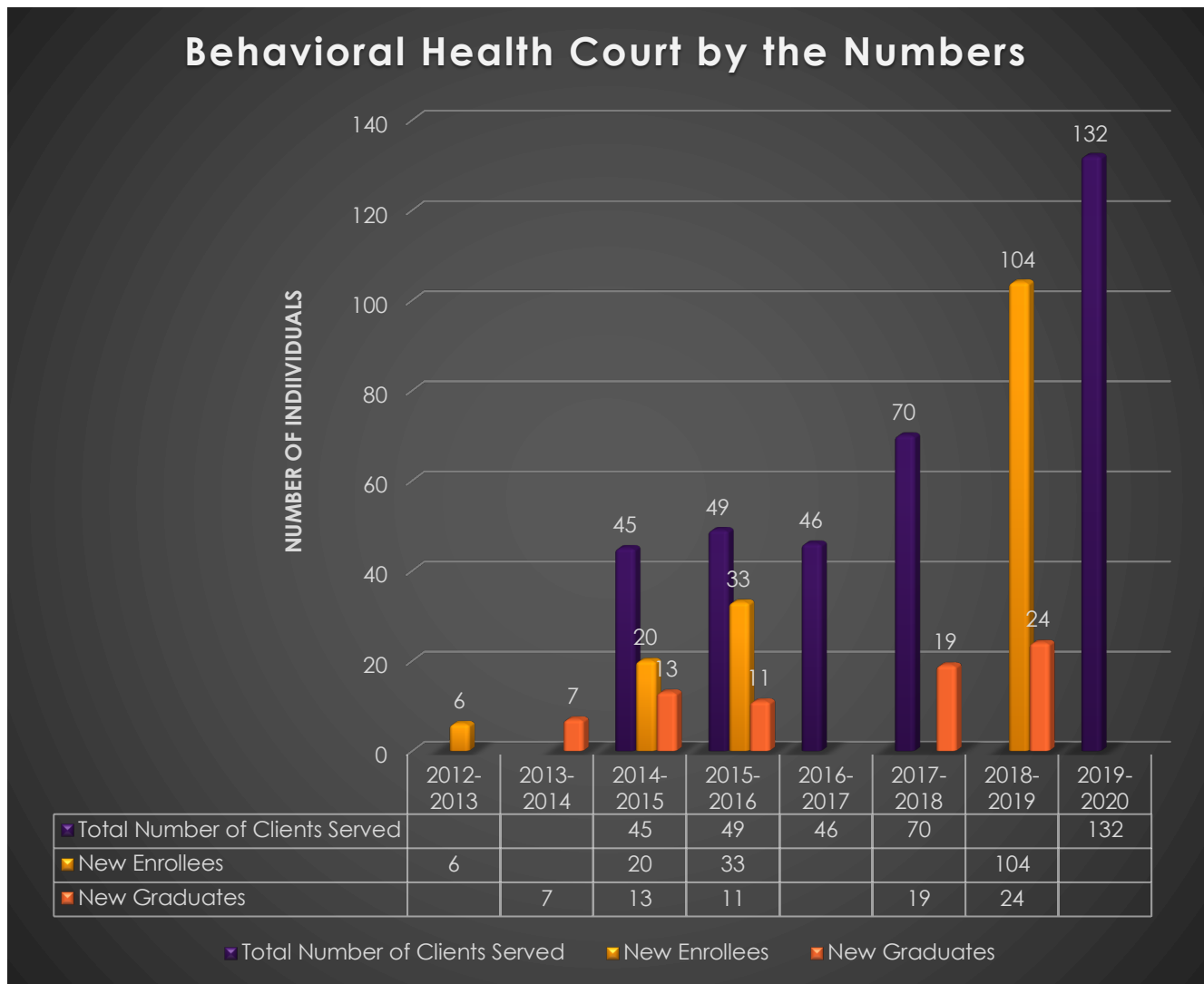
#### **A Behavioral Health Court Partner's Story**

*One of the individuals whom I interviewed was a person in the Behavioral Health Court under Bay Area Community Services (BACS) case management. He generously agreed to share his story with me.*

Booked in Santa Rita Jail on charges of disturbing his neighborhood, this man spent 17 days in Santa Rita Jail before being accepted into the BHC. This was not the first time he had been in Santa Rita Jail, for earlier in his life he had been arrested for drinking in public while he was unhoused. Given this man had an untreated alcohol addiction during his most recent arrest, he was withdrawing from alcohol while in the Santa Rita Jail COVID-19 quarantine unit. Withdrawal from alcohol without support can be incredibly dangerous, and this was a very painful time for this man. His public defender was eager to get him out of the jail and into treatment, and when he was presented with the option of being transferred to the BHC, he did not hesitate. Anything seemed better than jail.

The Behavioral Health Court immediately helped him get off of his alcohol addiction by sending him to a sober living program in San Francisco for one month, and after that he was able to start living independently again. Although he was a BACS client prior to joining the BHC, with the BHC's structure and rules, this man was better able to stay sober and follow his treatment plan. Another aspect of motivation for him was the care of the judge and lawyers, as well as hearing the progress of BHC partners who had been in the court program for a longer period of time. Overall, he would recommend the BHC program to many other people because of its accessibility and resource rich nature.

Having graduated from the court this September after a little over a year under the court program, this man is planning to travel and see his family this winter. After he comes back, he is planning to find a part time job with the help of BACS employment specialists.



**Figure 5: All year ranges represent fiscal years. Consistent metrics are not reported on a year-to-year basis in the annual MHSA (Mental Health Services Act) Plan Updates, and therefore empty data points in Figure 5 represent inconsistent statistical reporting on the part of ACBH.<sup>23</sup>**

<sup>23</sup> ACBH, Alameda County MHSA FY 2014-2015 Annual Plan Update, 33.  
 ACBH, Alameda County MHSA FY 2015-2016 Annual Plan Update, 21-27.  
 ACBH, Alameda County MHSA FY 2016-2017 Annual Plan Update, 16-20.  
 ACBH, Alameda County MHSA FY 2017-2020 Three Year Plan, 58.  
 ACBH, Alameda County MHSA FY 2018-2019 Annual Plan Update, 37.  
 ACBH, Alameda County MHSA FY 2019-2020 Annual Plan Update, 69-70.  
 ACBH, Alameda County MHSA FY 2020-2021 Annual Plan Update DRAFT, 141-143.



# Opportunities and Barriers to Further Success

## Answering the Advocates' Questions

### 1. Is the Behavioral Health Court equitable and racially just?

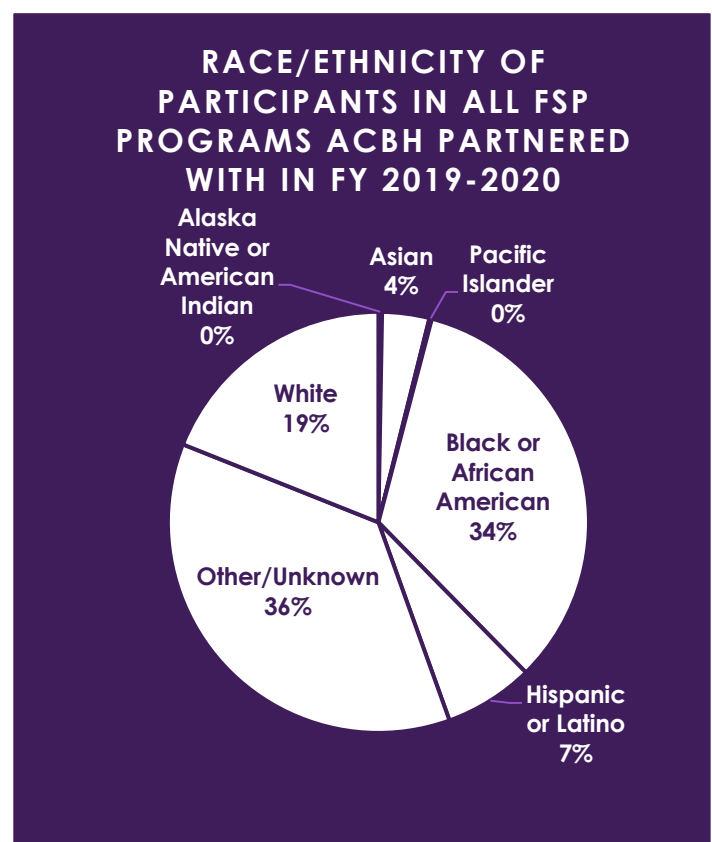
#### Alameda County Data

Given that the United States' twin epidemics of mass incarceration and severe mental illness do not affect all populations equally, particularly when it comes to the disproportionate representation of Black Americans in the carceral system, it is imperative that the Behavioral Health Court has a slate of participants that accurately represents the demographics of Alameda County's incarcerated population.

Early 2018 racial demographics of Santa Rita Jail and now closed Glenn E. Dyer Detention Facility <sup>24</sup>	2019 racial demographics of Alameda County <sup>25</sup>
Over 50% African-American/Black	11% African-American/Black
20% Latinx	22.3% Latinx
Under 20% White	30.6% White
Unknown	32.3% Asian

**Figure 6 (right) - Racial Demographic Data of Alameda County's Full-Service Partnership Programs (most intensive mental health programs)<sup>26</sup>**

**Figure 7 (above) - Recent Racial Demographics of Alameda County and Alameda County's Incarcerated Population**



Unfortunately, no data are available to the public regarding the demographics of individuals in the Behavioral Health Court due to data transparency issues with Alameda County Behavioral Health. The only data available to the public on this issue are the

<sup>24</sup> OCO Live Free, "What's Up with Our Jails? Holding Alameda County's Sheriff Accountable," Oakland Community Organizations, October 2018, 1.

<sup>25</sup> "QuickFacts: Alameda County, California," United States Census Bureau, <https://www.census.gov/quickfacts/alamedacountycalifornia>.

<sup>26</sup> ACBH, Alameda County MHSA FY 2019-2020 Annual Plan Update, 80.





demographics of individuals who make use of the Full-Service Partnerships (FSP) which Alameda County Behavioral Health uses. Full-Service Partnerships offer comprehensive community services to individuals with the most severe mental illnesses, services that address all of their co-occurring needs. There are multiple FSP programs around the county, with four under Bay Area Community Services (BACS) itself, including ones that the BHC makes use of. FSPs specifically serve populations that are involved with the criminal legal system, unhoused, and/or are high utilizers of the county's psychiatric system. Given figures 6 and 7, it is likely that Black individuals remain somewhat underrepresented in FSPs based upon the effect of the criminal legal system in Alameda County on Black individuals. Furthermore, as shown in the figure 7, in early 2018, around 20% of Alameda County's incarcerated population was Latinx, but just 7% of the reported individuals in FSPs during FY 2019-2020 were Latinx. One reason for this low percentage could be the high percentage of reported races and ethnicities being categorized as "Other/Unknown." Nevertheless, given only 2% of of FSP users spoke Spanish as their primary language (see figure 8), it is possible that Latinx people may be significantly underrepresented in Alameda County's FSPs as well.

PRIMARY LANGUAGE			
Fiscal Year	Language Group	Clients	% of Clients
FY 2019-2020	Arabic	1	<1%
	Chinese	5	<1%
	English	1,005	93%
	Other	41	4%
	Spanish	21	2%
	Tagalog	1	<1%
	Vietnamese	2	<1%
		1,076	100%

**Figure 8: Primary Language Spoken by Full-Service Partnership Clients**

*"Racial and Gender Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them?" - National Association of Drug Court Professionals' (NADCP) Journal for Advancing Justice: An Article Review*

In the NADCP study, referenced above, researchers compared the population of treatment court participants in different regions of the US to the probation population in those regions. They found that Black individuals were slightly overrepresented in treatment courts in the Western United States by around three percentage points.<sup>27</sup> Due to inconsistencies in collecting demographic data on the Latinx population, the researchers could not draw a substantive conclusion regarding the overrepresentation or underrepresentation of Latinx individuals. The study also investigated whether graduation rates varied based on gender or racial identity for participants in treatment courts. It found that Hispanic/Latino individuals in the West had an average graduation rate of 47%, while White individuals had a graduation rate of 50%, and Black individuals had a significantly lower graduation rate of 34%.<sup>28</sup> However, the study also noted that in 22% of the treatment courts the study surveyed nationwide, Black individuals had higher graduation rates than White individuals, indicating the possibility for each treatment court to control the standard of racial equity in their program. This same study concluded that the most significant factors affecting whether a person graduates any type of treatment court are employment status and whether they have a high school diploma before

<sup>27</sup> Timothy Ho, Shannon M. Carey, and Anna M. Malsch, "Racial and Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them?" *Journal for Advancing Justice* 1 (2018): 14-16, <https://advancejustice.org/wp-content/uploads/2018/06/AJ-Journal.pdf>.

<sup>28</sup> *Ibid*, 20.





entering BHC.<sup>29</sup> In, BHC specifically, the severity of the individual's mental illness in conjunction with their social circumstances, such as poverty, housing, and family situation, also make a huge impact on an individual's likelihood of graduation.

### *Interviewee's Qualitative Assessments on Equity*

By and large, all of my interviewees felt that the Behavioral Health Court admits and graduates a population of people which accurately represent the demographic composition of Alameda County's mentally ill incarcerated population.

Roy Bettencourt, BACS Therapist	Roy Bettencourt shared that most of BACS's clients, when it comes to the Behavioral Health Court specifically, are Black men, and he saw the diversity of BACS's client population as evidence that BACS and the BHC are actively trying to counteract the racism of the criminal legal system.
Brian Caruth, Deputy Public Defender	Brian Caruth also has not noticed any significant demographic disparities in who gets dismissed from Behavioral Health Court, particularly when it comes to the potential over-dismissal of Black BHC partners. This is an issue he is careful to remain vigilant of though.
Dr. Greg Robinson, external evaluator for the Office of the Collaborative Courts	Dr. Robinson shared with me that, since the Collaborative Courts strive to act as a vehicle for social justice, they particularly try to make sure that Black individuals are represented in the Collaborative Courts proportional to their representation in Alameda County's criminal legal system. In the Collaborative Courts, Dr. Robinson has found that the racial demographics of each court fluctuates over time; however, most recently he found that White participants were slightly overrepresented in the Collaborative Courts when compared to their overall involvement in the criminal legal system. This has not necessarily been a consistent trend. Furthermore, in the Collaborative Courts, Dr. Robinson has also seen no significant disparity in graduation rates among individuals of different races.
Mas Morimoto, Deputy District Attorney	Mas Morimoto described how the court is forced to serve the poorest population of Alameda County due to the requirement that participants be eligible for Medi-Cal. Mas Morimoto, however, thinks it might be beneficial to lift this requirement in order to tap into the resources of private health systems. Judge Syren, in contrast, recognizes that coordinating with private healthcare to pay for the services the BHC provides its partners can be administratively burdensome.

### *The Need for Culturally Responsive Services*

Sholonda Jackson-Jasper, a formerly incarcerated individual and a Licensed Clinical Social Worker who works with the forensic population at Napa State Hospital, described to me how the public health system has long overlooked the need of providing culturally appropriate services to patients, especially Black patients. One example she provided,

<sup>29</sup> Ibid, 17.



indicative of a larger trend, was the lack of culturally appropriate hair care products provided to Black individuals being treated in Napa State Hospital. One way that the Behavioral Health Court tries to provide culturally appropriate services is by partnering with BACS's Homeless Engagement Action Team (HEAT) Full-Service Partnership, which provides culturally specific services to African-American men. In addition, the BHC partners with La Familia Counseling Services which provides Latinx centric services. However, Judge Syren noted that a specific area the BHC must improve in is providing linguistically appropriate services to speakers of a diversity of Asian languages. For instance, the court has a Punjabi speaking individual who they are having trouble finding mental health services for because they do not speak English.

**Conclusion 1: In terms of the demographics of participants in the Behavioral Health Court itself, it appears that the BHC is equitable and just, particularly in terms of racial justice. However, the BHC must continue to strive to provide culturally responsive services to a diverse clientele.**

**2. From a policy making standpoint, is the Behavioral Health Court a smarter fiscal investment for governments in terms of improving the communal state of public safety and health?**

Every person who I asked about the cost-effectiveness of the Behavioral Health Court responded with a similar answer: cost-effectiveness's importance pales in comparison to the importance of connecting just one individual with the resources they need. That is true. Morals and social integrity must take precedence over money. Nevertheless, many of the individuals and institutions who have the power to expand the Behavioral Health Court and community mental health resources do care about money.

The general agreement in the findings of national studies is that mental health courts are more cost effective than jail. One study of four mental health courts in four different states found that the mental health court reduced costs per partner in the long term compared to traditional criminal court, and another study found that there were no significant short-term costs greater than traditional criminal court.<sup>30</sup> This is not to say, however, that the mental health courts aren't resource intensive. In fact, they are more resource intensive in many ways than traditional criminal court, but they are not necessarily more monetarily intensive. A study of San Francisco's Behavioral Health Court found similarly significant cost reductions represented by BHC treatment as opposed to traditional criminal court. Most interestingly, the study found that 53% of the annual operating costs of the BHC fall under the cost of jail time that partners spend between the period of time when they are admitted into the program and when they are released into the community for treatment.<sup>31</sup>

**Conclusion 2: Investing in BHCs with similar models to those of Alameda County and San Francisco County is much more cost-effective than funding county jails.**

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<sup>30</sup> Judicial Council of California Administrative Office of the Courts, *Mental Health Courts: An Overview*, April 2012.

<sup>31</sup> Arley Lindberg, "Costs and Benefits of Behavioral Health Court," *San Francisco Collaborative Courts – San Francisco County Superior Court*, May 2009, 2.



### **3. Do graduation rates really indicate the “success” of the Behavioral Health Court? What is an appropriate metric for the success of the BHC, and by that metric, is the BHC successful?**

It is understood in Behavioral Health Court that hardly any partner's trajectory towards graduation will be linear. Given the complexity and severity of the mental illnesses most partners in the program have, relapse is common, and an individual's mental health condition never truly goes away. As Roy Bettencourt, a staff member at BACS told me, one small program like the BHC isn't going to solve generations of systemic racism, poverty, and trauma in Alameda County. Nevertheless, the Behavioral Health Court's philosophy is to keep working with each partner as long as that partner is committed to the program despite possible setbacks.

According to Dr. Greg Robinson, the graduation rates for each Collaborative Court in Alameda County varies greatly, but they all roughly range from the high 30s to 60 percent. Unfortunately, there is no data available to the public on BHC graduation rates. However, in fiscal year (FY) 2018-2019, the ratio between graduates and new enrollees in the BHC program was only 0.23:1 when compared to FY 2015-2016 when that ratio was 0.33:1 (see figure 5; page 12).<sup>32</sup> So, despite insufficient data, the graduation rates of the BHC likely represent the lower end of Collaborative Court graduation rates. Despite increasing numbers of partners in the court, the ratio of graduates to new enrollees has been decreasing over the years as enrollees to the court outpace graduates of the court.

#### *In Some Important Ways, Graduation Rates Indicate Success*

On one hand, graduation is an important marker of the success of the BHC simply because only a graduated partner will receive the full benefit of the Behavioral Health Court in the form of the erasure of that partner's pending criminal case(s) and associated arrest record(s) which will help them find housing and work. Furthermore, Mas Morimoto shared with me that, to his knowledge, only one person who has graduated the BHC program has ever recidivated. Also, only the graduated individual is truly diverted out of the criminal legal system, and those that are discharged from the program are set up for jail time and a potential criminal conviction just as they would have been prior to entering the program. Unfortunately, Roy Bettencourt and Kat Lutz at BACS commented to me that the incentive of graduating and having one's pending criminal case sealed generally only works on individuals with less severe mental illnesses and minor criminal records.

#### *In Many Other Ways, Graduation Rates Only Tell Part of the Story*

On the other hand, it is possible that there are benefits for an individual partner and public safety even if the partner doesn't complete BHC treatment. In truth, multiple nationwide studies suggest mental health diversion programs don't reduce criminal recidivism, although they may reduce jail time for individuals.<sup>33</sup> Some even suggest that problem solving courts are an ineffective reform largely promoted by judges that bar further transformation of

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<sup>32</sup> ACBH, *Alameda County MHSA FY 2018-2019 Annual Plan Update*, 37.

<sup>33</sup> Frank Sirotych, MSW, “The Criminal Justice Outcomes of Jail Diversion Programs for Persons with Mental Illness: A Review of the Evidence,” *The Journal of the American Academy of Psychiatry and the Law* 37, no. 4 (2009): 469.



a more deeply broken criminal legal system.<sup>34</sup> Nevertheless, while many mental health court programs around the country may not effectively reduce criminal recidivism, data from San Francisco and Alameda County Behavioral Health Courts', which share similar, rigorous models, suggest that the San Francisco and Alameda County model of BHC is successful in improving mental health and reducing criminal recidivism if a partner stays in the program long enough.

### Improved Public Safety Outcomes

Alameda County Behavioral Health Court: FY 2016-2017 Review <sup>35</sup>		San Francisco County Behavioral Health Court: 2007 Review <sup>36</sup>	
Jail Days Spent by Partner 12 Months Post-Enrollment vs 12 Months Pre-Enrollment	Incarceration Episodes Experienced by Partner 12 Months Post-Enrollment vs 12 Months Pre-Enrollment	Likelihood of Partner Committing a New Offense 18 Months Post-Enrollment in BHC Compared to Similar Individual Who Was Sent to Jail	Likelihood That the New Offense Is Violent
<b>83% Reduction</b>	<b>67% Reduction</b>	<b>26% Lower</b>	<b>55% Lower</b>

### Improved Psychiatric Outcomes for Partner

Alameda County Behavioral Health Court: FY 2015-2016 Review <sup>37</sup>		
Hospital Days Spent by Partner 12 Months Post-Enrollment vs 12 Months Pre-Enrollment	Psychiatric Emergency Service Episodes 12 Months Post-Enrollment vs 12 Months Pre-Enrollment	Proportion of Partners 6 Months into BHC Who Reported a More Independent Living Situation than at the Time of Enrollment
<b>61% reduction</b>	<b>79% reduction</b>	<b>84%</b>

<sup>34</sup> Erin R. Collins, "The Problem of Problem-Solving Courts," *University of California, Davis* 54 (2021): 1575-1582, [https://lawreview.law.ucdavis.edu/issues/54/3/articles/files/54-3\\_Collins.pdf](https://lawreview.law.ucdavis.edu/issues/54/3/articles/files/54-3_Collins.pdf).

<sup>35</sup> ACBH, *Alameda County MHSA FY 2016-2017 Annual Plan Update*, 16. At the time of this survey, the BHC had a much smaller client population, as it was still in its nascent stages.

<sup>36</sup> Dale E. McNiel and Renée L. Binder, "Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence," *American Journal of Psychiatry* 164, no. 9 (September 2007): 1401.

<sup>37</sup> ACBH, *Alameda County MHSA FY 2015-2016 Annual Plan Update*, 21-22.

**Conclusion 3: A BHC partner will only receive the full benefits of the program if they graduate, particularly in the sealing of their pending criminal case. However, there is an abundance of data that shows any significant amount of time a partner spends in BHC has a positive impact on community violence prevention and on the mental health of the BHC partner.**

**4. Is the BHC having a significant impact on reducing Alameda County's racialized mass incarceration of people with severe mental illnesses?**

According to Judge Syren's estimate, there were approximately 120 criminal cases represented in his court as of the summer of 2021, and given many partners have multiple criminal cases pending against them, there were likely closer to 60 individuals in the court program. According to an estimate that Judge Syren shared with me, the court likely has a maximum capacity of 100 unique participants at any one time due to resource limitations in the community and Alameda County Behavioral Health (ACBH) staffing limitations. With more than 2000 people incarcerated in Santa Rita Jail as of September 2021, and an estimated 20-25% of them with a severe mental illness (see page 7), the BHC is still not meeting the demand presented at the intersection of incarceration and severe mental illness.<sup>38</sup> It is likely that there is a need for at least four to five times the number of placements in the Behavioral Health Court to approach the demand in Alameda County's carceral system. In fact, every single individual who I interviewed conclusively said that many more individuals could and should benefit from the BHC than are currently.

**Conclusion 4: The BHC is currently not meeting the communal need for its services.**

**5. So, what is holding back the BHC from treating a larger population?**

*Political Will*

To begin with, there is not enough political will or attention paid to the courts from within the criminal legal system. André Peña, the outgoing Drug Treatment Court Manager described how there are many people who don't want treatment courts to exist. She's heard many jokes about how the Collaborative Courts are "too soft." Judge Smiley also described to me that while Alameda County has always been considered on the leading edge of criminal legal reform, other counties around the state who have similar Collaborative Court programs are doing a far better job in terms of garnering county support and funding from a diverse array of governmental agencies.

*Insufficient Community Based Mental Health Treatment Infrastructure*

Surprisingly, expanding the Behavioral Health Court does not mean funding the BHC directly, but rather increasing funding for the community-based treatment options that the BHC partners with. In this way, expanding the Behavioral Health Court really means expanding

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<sup>38</sup> Aparna Komarla, "COVID-19 Outbreak at Sacramento County Jails – 50+ Cases Reported in One Week," *David Vanguard*, October 25, 2021, <https://www.davisvanguard.org/2021/09/breaking-down-covid-19-in-ca-jails/>.



the infrastructure of community mental health care programs, like BACS, which are currently always running at full capacity and without sufficient staffing. In addition to funding community based mental health treatment, expanding the BHC must entail more funding for ACBH, as they are a key player in staffing the court with clinicians. Furthermore, as Mas Morimoto pointed out, the BHC should consider creating multiple courts throughout the county to handle a higher caseload of more geographically diverse clients.

### Crisis Residential Treatment Programs

Crisis Residential Treatment (CRT) facilities are often the first stop for partners in the BHC after they come out of jail. CRTs offer an approximately two weeks to one month therapeutic and non-institutional setting in which partners can stabilize to the point where they can be stepped down into appropriate housing and other forms of care. Currently there about 4-5 CRT programs in Alameda County. However, they are often all full, so the BHC waits sometimes a week or two before there is a placement for a new partner. According to Judge Syren, not only does this erode trust in the BHC program among partners as they wait in jail after being promised out-of-jail care, but this extra time they are spending in jail is often extremely detrimental to their mental condition. Mas Morimoto has seen wait times for partners in jail stretch from four to six weeks, and during that time he has seen some partners in the program simply drop out. Judge Syren's estimate is that for there should be at least twice as many CRT facilities in the county for the BHC to be able to serve everyone who could benefit from the BHC.

### Drug Treatment Programs for People with a Co-Occurring Mental Illness

Another big issue in terms of expanding the Behavioral Health Court is the need for effective drug treatment programs in the community, particularly residential programs that focus on the co-occurring disorders of drug abuse and mental illness. As of FY 2018-2019, 91% of partners in the Behavioral Health Court program experienced co-occurring mental health and substance use disorders.<sup>39</sup> The fact that the overwhelming majority of BHC partners have a substance use disorder bars them from participating in many Mental Health Services Act funded programs that they could otherwise benefit from, making the need for specific co-occurring residential programs all the more important.<sup>40</sup> One MHSA Plan Update commented: "The [BHC's] success rate of graduating partners would be exponentially higher if there were substantially more co-occurring mental health substance abuse residential programs, step-down community-based recovery support, and self-help programs."<sup>41</sup> Often, the BHC has to resort to sending their partners to residential drug abuse treatment facilities that do not tend to the partner's underlying mental health condition.<sup>42</sup> Furthermore, every individual who I interviewed who directly works with the Behavioral Health Court concurred with the need for more co-occurring community based programs in Alameda County, particularly residential ones, since waiting lists for the few that exist extend for multiple weeks.

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<sup>39</sup> ACBH, *Alameda County MHSA FY 2018-2019 Annual Plan Update*, 38.

<sup>40</sup> ACBH, *Alameda County MHSA FY 2015-2016 Annual Plan Update*, 23.

<sup>41</sup> ACBH, *Alameda County MHSA FY 2016-2017 Annual Plan Update*, 181.

<sup>42</sup> ACBH, *Alameda County MHSA FY 2015-2016 Annual Plan Update*, 23.





**Conclusion 5: There must be more political attention paid to boosting the community based mental health infrastructure of Alameda County. In specific, there is an acute need for more crisis residential treatment facilities and co-occurring disorder programs in the community. On a secondary level, once those community resources are in place, Alameda County must expand funding to ACBH to allow the court to grow and expand to more areas of Alameda County.**

**6. Is the BHC transparent and widely recognized by the public, government, and legal establishment of Alameda County?**

*Publicity of the Behavioral Health Court*

Brian Caruth, Deputy Public Defender	Mr. Caruth noted in our interview that he spends a large proportion of his job fielding questions about the Behavioral Health Court from his public defender colleagues. He believes it is imperative that the BHC be widely known among defense attorneys so more of them can refer their eligible clients to the BHC.
Judge Charles Smiley, Presiding Judge of the Collaborative Courts	Judge Smiley often feels that he has to run the Collaborative Courts like a private company, always concerned about the risk of being defunded and always pitching his courts to attorneys, judges, and policy makers in the county. Furthermore, strict judicial guidelines prevent Judge Smiley from taking political stances and soliciting funds, making publicization of the courts more difficult.
Dr. Greg Robinson, External Evaluator for the Office of the Collaborative Courts	According to Dr. Greg Robinson, the Collaborative Courts and Behavioral Health Court can do better in terms of informing and rallying the public in support of the problem-solving courts of Alameda County. With broader public recognition, family members can advocate for their loved one to be placed in a problem-solving court, and the courts themselves could tap into the resources of larger grants and government funding opportunities.

*Alameda County Behavioral Health Transparency Issues*

Almost all the individuals I reached out to who are involved in the Behavioral Health Court were more than willing to speak to me. Unfortunately, I was not able to speak with any individuals from Alameda County Behavioral Health (ACBH) because of ACBH practices which prevent most employees of ACBH from speaking to the public on ACBH issues. This proved particularly difficult for the purposes of this report, because most internal review and data collection on the BHC is conducted by ACBH.

Unlike with Alameda County's Collaborative Courts, the BHC's treatment infrastructure is largely provided by ACBH and funding from the Mental Health Services Act of 2004 (MHSA). As such, yearly updates on the usage of MHSA funds in Alameda County are published by ACBH, including updates on the Behavioral Health Court. Included in those yearly updates are short quantitative and qualitative analyses of the progress of the program, as well as a





description of challenges faced by the program. This is the only information available to the public regarding the Behavioral Health Court. Those yearly updates do provide a valuable insight into the progress of the court, but the depth, comprehensiveness, and statistical consistency of each update from year to year is highly variable (see Figure 5). For instance, from 2015-2018, I found that the MHSa Plan Updates contained detailed quantitative information on the reduction in recidivism that resulted from participation in the court program, as well as qualitative analyses of challenges faced by the court and plans for the future. On the other hand, more recent MHSa Plan Updates have included inconsistent and brief statistical reporting, as well as much briefer descriptions of challenges faced by the court.

Take, for instance, the [Behavioral Health Court of San Francisco County](#). It has its own webpage on the website of the Superior Court of San Francisco County, as well as publicly available reports on the progress and workings of the court. At the very least, San Francisco County's Behavioral Health Court should serve as a model for the level of transparency that should be expected from Alameda County's own BHC. It is understandable that, as a health agency, the ACBH is governed by stricter regulations than other agencies when it comes to information sharing. However, given that San Francisco County is able to provide much more information to the public than Alameda County while still adhering to legal regulations, this cannot be the only answer to ACBH's opacity.

***Conclusion 6: The public and lawyers in Alameda County still do not know enough about the BHC, despite the individual efforts of representatives of the BHC. Part of increasing the public's knowledge of the BHC is improving the transparency of ACBH in their reporting on the BHC and willingness to share information regarding the BHC and other related programs.***

### **7. Is the BHC representative of true compassion, rehabilitation, and transformative justice?**

The Behavioral Health Court looks completely different from any conventional criminal court, as Brian Caruth explained to me. He thinks that criminal court, with its adversarial approach, necessary lack of candor, and focus on incarceration, is ill equipped to address criminal conduct where mental illness plays a significant role. In Behavioral Health Court, the partner's goals and aspirations are placed front and center, and the judges, lawyers, and clinicians in the court foster genuine, human connections with the partners. The Court prioritizes family reunification, housing, education, and other positive aspects of a person's life that help each partner, at their appropriate level, heal in a whole way. The Court's reliance on community-based treatment transforms the notion that criminal justice must take place in institutional settings in order to preserve public safety. One must only look at the story of a BHC Partner (page 11) to see these ideals in action. Furthermore, unlike other treatment courts around the country, the Behavioral Health Court does not emphasize punishment as a primary form of motivation for clients. In earlier iterations of the Behavioral Health Court, Judge Smiley told me, the threat of jail time and discharge were used as a sanction to

"Our courts definitely humanize what the struggles are and what the achievements are [of clients]. For a lot of our clients, they've burnt so many bridges that there's no one celebrating what appears to be minor accomplishments... [the partners have] been told and labeled for so long that this is your label in our community: you are the criminal. You are the person who is draining the resources, all those things." – Andé Peña, Outgoing Drug Court Treatment Manager



incentivize participation in the court; however, as sentencing reform bills and other progressive criminal legal reform bills have been passed, the threat of jail time has become a less viable sanction. Even when a partner falls behind in their treatment and might be eligible for discharge, the BHC will almost always continue to support and work with them if they are motivated themselves. As Andé Peña says, the Collaborative Courts treat individuals as fallible and imperfect humans striving to better themselves in a way that traditional criminal court is not designed to do. Finally, one of the most rehabilitative and compassionate aspects of the court is the centering of partner's wishes and desires in the treatment plan for a partner.

However, there is another side to the BHC that indicates a less transformative and less radical shift away from traditional methods of criminal justice. The Alameda County Justice Involved Mental Health Taskforce's (JIMH) utilized the Sequential Intercept Mapping Model (SIM) to scaffold their recommendations on ways to improve services for mentally ill individuals at all stages, or intercepts, of an individual's involvement with the criminal legal system. Indeed, of the JIMH Taskforce's twenty-four recommendations, one, falling under "Intercept 2: Courts and Initial Detention," was to "increase funding for collaborative and mental health courts."<sup>43</sup>

However, along with this recommendation, the taskforce also emphasized the particular importance of "negative intercepts" which represent opportunities to expand community services that can prevent the involvement of individuals in the criminal legal system. Likewise, a report by the Prison Policy Institute found that "the most powerful diversion strategies are those that shift people out of the criminal legal system as early as possible."<sup>44</sup> While both reports see the value in expanding mental health courts, they also suggest that mental health courts should not be the sole focus of diversion efforts. In thinking about the BHC, a partner of the court has already gone through the harmful effects of encounters with the police, as well as jail time. Furthermore, a partner of the BHC always has a pending criminal charge against them, meaning if they are discharged from the program, they will be placed back in the traditional routes of incarceration. Nevertheless, investing in the BHC of Alameda County also means making major investments in community based mental health infrastructure, an investment that benefits individuals at all intercepts of involvement in the criminal legal system.

**Conclusion 7: The BHC represents a compassion-driven shift away from the traditional methods of criminal justice. By investing in the programs and services which benefit the BHC, Alameda County will also be increasing the mental health services available to individuals prior to any involvement with the criminal legal system, which is the ultimate goal.**

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<sup>43</sup> Justice Involved Mental Health Taskforce and Alameda County Behavioral Health, *Strategic Implementation Framework: Justice Involved Mental Health Taskforce*, June 1, 2021.

<sup>44</sup> Wang and Quandt, "Building exits," *Prison Policy Initiative*.



## What Needs to Happen for the Behavioral Health Court to Become More Impactful?

*Double the number of Crisis Residential Treatment Facilities (CRTs) in Alameda County.*

*Increase the number and quality of drug treatment programs in Alameda County, particularly residential facilities specializing in the treatment of individuals with co-occurring substance use and mental health disorders.*

*Increase funding for Alameda County Behavioral Health (ACBH) in order to increase the capacity of the court and the programs which it partners with.*

*Increase Behavioral Health Court (BHC) eligibility to the “higher end” of offenses, including violent offenses, as there is evidence to suggest that there is an even more significant reduction in recidivism among BHC partners who have committed violent crimes, when compared to those who have not. Furthermore, individuals with more serious pending criminal charges stand to benefit the most from averted lengthy jail sentences.*

*Have a more expansive view on what it means for there to be a nexus between an individual’s mental illness and their criminal conduct. An individual’s mental illness may have a secondary effect on the commission of their crime through the primary factors of housing insecurity, drug abuse, or other manifestations of severe mental illness. Adopting this approach is necessary in treating the full scope of individuals who commit a crime and could benefit from BHC treatment.*

*Alameda County Behavioral Health must improve its communication to the public and transparency. It must improve the consistency and depth of statistical reporting, be more willing to release information and speak to the public, as well as increase the depth of annual MHSA Plan Updates on the BHC.*

*Create a regional or statewide oversight of mental health court programs, including Alameda County’s BHC, to ensure cross jurisdictional sharing of best practices, as well as consistency in methods and outcomes across different mental health courts throughout the state of California.<sup>45</sup>*

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<sup>45</sup> Collins, “The Problem,” 1575-1582.