



Testimony of

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My name is Tom Culkin. I am a lifelong Buffalo resident, recent graduate of the University at Buffalo with a Masters in Social Work, and current Mental Health Therapy Aide at Buffalo Psychiatric Center. I have a serious mental illness and substance use diagnosis, and like so many with these medical conditions, I am a survivor of the New York prison system.

I am also a member of the Treatment Not Jail Coalition, a collective of statewide mental health care professionals, attorneys, community organizers, treatment providers, law enforcement personnel, faith-based leaders, and, most importantly, people with lived experience. This group recognizes that our state is in the midst of a public health crisis, and advocates for systemic reform at the intersection of mental health, substance use, and criminal justice to finally address these issues appropriately and effectively.

I am here to share my personal experiences about the stigma and lapses in healthcare, specifically for those with mental health and substance use challenges, which result in unhealthy individuals being warehoused and further harmed in New York's jails and prisons, ultimately to the detriment of the person and their community.

I ask the legislature to address these crises by including in this year's budget the Treatment Not Jail Act (S.---Ramos/A.---Forrest). This Act amends Criminal Procedure Law Article 216, the Judicial Drug Diversion statute, providing legislative authority to establish treatment opportunities for both substance use and mental health, ensuring equitable infrastructure funding statewide and a streamlined application throughout New York state, in accordance with clinically proven best practices and regulatory guidance by the country and state's leading treatment providers. Expanding and improving access to treatment courts in New York State will address New York State's mental health crisis, as well as public safety concerns, by offering a healthy

and stable path to rehabilitation for individuals who became entangled in the criminal legal system because of a mental health or substance use condition.

Thank you for the opportunity to testify here today.

I. New York’s Shameful History of Criminalizing and Incarcerating Those with Mental Health and Substance Use Challenges

As a result of stigma, systemic racism and misguided and abusive policies, people with mental health conditions are dramatically overrepresented in New York State’s carceral system.

Nearly 55% of the people in New York City’s Department of Correction custody are in need of mental health services,¹ and the prevalence of diagnoses of a “serious mental illness,” such as schizophrenia, schizoaffective disorder and bipolar disorder has skyrocketed in recent years.² Currently, roughly 1,200 people detained in New York City jails are diagnosed with a serious mental illness, representing nearly 20% of the total incarcerated population,³ with the number of people with mental health diagnoses exceeding those without in many of these facilities.⁴

For too long, New York State’s jails and prisons have been larger mental health providers than our state psychiatric hospitals.⁵ For example, NYC’s Rikers Island houses more people with mental illness than any psychiatric hospital in the entire country.⁶

I experienced first-hand how those with mental health and substance use concerns are subjected to inhumane conditions, abuse, neglect and a lack of access to desperately-needed medical care in New York’s carceral system, leading to a horrific rise in avoidable deaths,⁷ as evinced more recently by the horrific details of the “deadlocking” practice at Rikers Island⁸, and the gruesome, callous murder of Robert Brooks at Marcy Correctional Facility in November.⁹

¹ https://vera-institute.shinyapps.io/nyc_jail_population/

² New York City Comptroller. (August 2023). The State of New York City Jails: One Year of Measuring Jail Operations and Management on the Comptroller’s DOC Dashboard.

<https://comptroller.nyc.gov/reports/the-state-of-new-york-city-jails/>

³ Id.

⁴ Source: Vera Institute of Justice.

⁵ <https://www.treatmentadvocacycenter.org/key-issues/criminalization-of-mental-illness>.

⁶ Jan Ransom, The New York Times, How Rikers Island Became New York’s Largest Mental Institution (Dec. 29, 2023)

<https://www.nytimes.com/2023/12/29/nyregion/nyc-rikers-homeless-mental-illness.html#:~:text=As%20the%20proportion%20of%20mentally,pandemic%20swept%20across%20New%20York>.

⁷ Id.

⁸ Graham Rayman, Reports of mentally ill being locked in, denied treatment at Rikers sparks investigation, NY Daily News (Oct. 8, 2024),

<https://www.nydailynews.com/2024/10/08/reports-of-mentally-ill-being-locked-in-denied-treatment-at-rikers-sparks-investigatio>

⁹ CBS News, “Guards “systemically and casually” beat Robert Brooks to death in New York prison, lawsuit claims” (Jan 16, 2025) <https://www.cbsnews.com/newyork/news/robert-brooks-lawsuit-new-york-prison-guard-beating/>.

My story is like that of so many other New Yorkers who have dual diagnoses of mental illness and substance use. I have been navigating drug use since my teens, when first encountering the symptoms of what I would later learn to be mental illness, including uncontrollable mood swings and obsessive thoughts.

Due to the combination of stigma against openly discussing one's mental health struggles, a lack of access to medical resources to address these issues, and my own juvenile-brained-driven beliefs, I turned to the only way I knew to quiet those thoughts: self-medication through illicit drugs. This predictably resulted in my seeking illegal means to support this.

By 2012, my addiction had reached crisis-levels, leading to my multiple arrests for residential burglaries¹⁰. Recognizing my illnesses' impact on my recidivism, my lawyer tried to have me participate in "drug court," which would have allowed me to continue my recovery and avoid incarceration and re-enter society without the unaddressed medical issues which contributed to my justice involvement in the first place. However, I was deemed ineligible because - despite there being no actual violence involved in any of my cases - some of my charges were legally classified as "violent felonies." I was thus instead sentenced to 9 years in state prison.

I was suddenly thrust into one of the most hostile and chaotic environments known to man. Drugs, violence, sex, gambling, and gang affiliation are pervasive in prison, and most incarcerated people must turn to these in order to survive their time inside. While in prison, I lost several friends to death by suicide, and seriously contemplated ending my life every single day during my first year.

Those of us with underlying addiction and mental health issues were the worst off: carceral settings offer no meaningful "treatment" to those of us in need, and the conditions of incarceration are exacerbating for both. People like me who struggle with these concerns are more prone to stigma and violent abuse by both fellow detainees and corrections staff, leading to further traumatization and more use of readily-available illicit substances causing more entrenched addiction issues. People with diagnoses like mine are resultantly more likely to be released mentally gutted, and facing acute overdose risks in this most vulnerable state. Jail and prison are proven to be especially deadly for those struggling with substance use issues. Overdose is the leading cause of death among people recently released from jail and prison;¹¹ for example, the likelihood of heroin overdose death in the two weeks following release from incarceration is a staggering *74 times that* of the average population.¹² Even a year after release, the likelihood of overdose is *10-18 times higher* among formerly incarcerated individuals than for people who have not been incarcerated.¹³

¹⁰ This was a real wake-up call for me and I finally had the resolve to get a handle on my issues. I am proud to say that I have been clean since those arrests. Unfortunately, it was too late. Once the criminal legal system has you in its clutches, it is almost impossible to ever return to a healthy, stable life.

¹¹ Joudrey, P.J., Khan, M.R., Wang, E.A. et al. A conceptual model for understanding post-release opioid-related overdose risk. *Addict Sci Clin Pract* 14, 17 (2019), available at <https://doi.org/10.1186/s13722-019-0145-5>.

¹² Shabbar Ranapurwala PhD MPH, Meghan Shanahan PhD, et al, "Opioid Overdose Mortality Among Former North Carolina Inmates," *American Journal of Public Health*; (April 27, 2018) <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304514>.

¹³ Id.

Formerly incarcerated people with mental health and substance use issues like me re-enter our communities not only in this unstable state, but completely unmoored: disconnected from housing, public assistance, treatment, and services while struggling to establish livelihoods under the stigma of a criminal conviction. This is why even short periods of incarceration are proven to increase recidivism.

Unfortunately, as discussed in Section III, thousands of New Yorkers who become involved in the criminal legal system due to their mental health or substance dependence have few opportunities to exit what the Governor described as the “rinse and repeat” revolving door of incarceration and criminalization.

New York’s ongoing failure to provide treatment will only continue this vicious cycle of destabilization and trauma, which further increases recidivism, and ultimately makes our communities less healthy and less safe.

II. The Effectiveness -Yet Nonsensical Underutilization - of Treatment Courts in New York State

To mitigate the harm caused to individuals, and the risk to public health and safety by the criminalization of substance use and mental health, New York must expand access to and modernize its diversion opportunities. Such programs, also known as treatment or problem-solving courts, are specialized courtrooms with dedicated staff with particularized training that seek to address and treat the root causes that drive individuals’ involvement in the criminal legal system, like substance use disorder and/or mental health issues.

Rather than processing a case through the traditional criminal court system, which might entail a conviction and a jail or prison sentence, diversion allows individuals to resolve their cases by successfully completing a course of treatment that places them on a path towards long-term recovery.

Applicants for treatment courts are rigorously assessed by clinical teams that delve into the person’s psychosocial and psychiatric history, informing the presiding judge via written report whether there is a treatable condition that played a role in the applicant’s criminal charges. The judge then weighs whether it is in the interest of public safety for this person to receive a treatment-based disposition. If granted, diversion clinicians then devise a multi-phase treatment plan particularized to that individual’s specific needs and concerns. The problem-solving court continuously monitors each participant’s progress, with ongoing input from the clinical team and opportunities for both prosecution and defense to also be heard.

Participants in treatment courts must return to court frequently - in many cases, more often than defendants in traditional courtrooms - to discuss their progress in open court with the judge,

clinical staff, prosecutor and defense teams. If a participant is struggling, they will not be advanced to the next phase, and for some infractions face clinically-recommended sanctions.

People mandated into one of the state's 41 ad hoc mental courts are given the opportunity to resolve their criminal case without incarceration, often without sustaining a felony conviction that might serve as a barrier to obtaining housing, employment or licensing. On average, participants spend between 1-2 years in treatment before deemed by the Court to have completed their mandate. When graduating, it is most frequently after having rebuilt fractured relationships with family members and friends, and with other crucial supports in place, such as stable housing and long-term treatment plans.

It is no surprise that treatment court graduates are proven to have a significantly lower rate of recidivism.¹⁴ The prevailing data and research demonstrate that diversion programs are not only incredibly effective at making individuals experiencing substance use and mental health challenges healthier, but they are less costly than incarceration, and ultimately improve both public health and safety.

Diversion opportunities have proven to cut rearrest rates by half and grow employment rates by 50% over 10 years.¹⁵ According to a comprehensive study of New York City drug diversion courts published in 2015, “when controlling for a range of background factors, enrollment in treatment leads to statistically significant reductions in time to re-arrest,” and the “average number of felony violent rearrest was 50 percent lower for the diverted sample compared to the sentenced sample.”¹⁶ Treatment Courts also significantly reduce drug relapse rates, promoting better psychosocial outcomes in the long term.¹⁷

Treatment Courts are also wildly cost effective. While New York City alone spends \$507,317 per year to incarcerate just one person in its jail system, the New York State Office of Court

¹⁴ Michael Mueller-Smith & Kevin T. Schnepel, Diversion in the Criminal Justice System, 8 THE REV. OF ECON. STUD. 2, 883–936 (2021).

¹⁵ Id. <https://doi.org/10.1093/restud/rdaa030> (finding that diversion cuts reoffending rates in half and grows quarterly employment rates by nearly 50% over 10 years); Amanda Agan, Jennifer Doleac & Anna Harvey, Misdemeanor Prosecution (Nat'l Bureau of Econ. Res., Working Paper No. 28600, 2021), https://www.nber.org/system/files/working_papers/w28600/w28600.pdf (finding non-prosecution of a nonviolent misdemeanor offense leads to large reductions in the likelihood of a new criminal complaint over the next two years); David Huizinga & Kimberly L. Henry, The Effect of Arrest and Justice System Sanctions on Subsequent Behavior: Findings from Longitudinal and Other Studies, in, THE LONG VIEW ON CRIME: A SYNTHESIS OF LONGITUDINAL RESEARCH 244 (Akiva M. Liberman, ed., 2008); John Laub & Robert Sampson, Life-Course and Developmental Criminology: Looking Back, Moving Forward, J. OF DEV. AND LIFE-COURSE CRIMINOLOGY (2020); Shelli B. Rossman, Janeen Buck Willison, Kamala Mallik-Kane, KiDeuk Kim, Sara Debus Sherrill, P. Mitchell Downey, Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn, New York, Nat'l Inst. of Justice (April 2012), <https://www.ojp.gov/pdffiles1/nij/grants/238264.pdf>.

¹⁶ Jim Parsons, Qing Wei, Joshua Rinaldi, Christian Henrichson, Talia Sandwick, Travis Wendel, Ernest Drucker, Michael Ostermann, Samuel DeWitt, Todd Clear, A Natural Experiment in Reform: Analyzing Drug Policy Change In New York City, Final Report, National Institute of Justice, <https://www.ojp.gov/pdffiles1/nij/grants/248524.pdf>.

¹⁷ Paul S. Appelbaum, M.D., Ordering Abstinence: How Far Can Courts Go in Requiring Offenders to Remain Substance Free?, J. of Law & Psychiatry (Oct. 2018) <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201800357>.

Administration projects that for every \$1 invested in treatment courts, the state sees \$2.21 in savings.¹⁸ When accounting for reduced future criminal legal system involvement and the impact on other systems, like healthcare and child welfare, the Center for Justice Innovation estimates the cost savings to be closer to \$10/1.¹⁹

Thus, perhaps unsurprisingly, the use of treatment courts are popular, receiving support from both Democrats and Republicans;²⁰ favored by members of the public,²¹ and importantly, by the overwhelming majority of crime victim survivors.²²

Yet, despite treatment courts' significant effectiveness, cost-efficiency, and popularity, these programs are wildly underutilized in our state. While the New York state enacted Criminal Procedure Law Article 216 in 2009, establishing drug diversion in every county in the state for individuals experiencing substance use disorder, there have been no other significant legislative efforts addressing the issues of public health that intersect with concerns for public safety since then. CPL Article 216 is currently the only law in New York permitting judges to offer court-mandated treatment to people as an alternative to incarceration to address the underlying issues that brought them into the criminal legal system in the first place.

But CPL Article 216 only accepts a narrow subset of the population in need of treatment because under the statute, only a small percentage of non-violent drug and theft-related penal law charges are eligible. To compound matters, drug courts often reject people otherwise eligible if they only have a mental health, intellectual or developmental condition because "substance use" is not their primary diagnosis - as required by CPL 216. There is no analogous diversion court option for those with mental health challenges, despite the fact that mental health issues are prominent in the criminal legal system, and our society in general. As a consequence, too many people in need fall through the cracks due to all who are excluded from consideration under this law.

While some District Attorney offices throughout the state have collaborated with the courts and defense bar to create "ad hoc" mental health courts, these remain inaccessible to many - leading to more people who could be stabilized and treated instead sent to carceral settings, emerging with less stability and a greater likelihood of rearrest.

¹⁸ New York State Unified Court System, *The Future of Drug Courts in New York State: A Strategic Plan* (2017), https://www.nycourts.gov/legacyPDES/courts/problem_solving/drugcourts/The-Future-of-Drug-Courts-in-NY-State-A-Strategic-Plan.pdf.

¹⁹ Waller, M., Carey, S., Farley, E., & Rempel, M. (2013). *Testing the Cost Savings of Judicial Diversion*. NCP Research and Center for Court Innovation.

https://www.innovatingjustice.org/sites/default/files/documents/NY_Judicial%20Diversion_Cost%20Study.pdf

²⁰ United States Republican Party Committee, Bipartisan Safer Communities Act, Sept. 2022,

<https://www.rpc.senate.gov/policy-papers/the-bipartisan-communities-acts-treatment-court-funding> .

²¹ National Center for State Courts, State of the State Courts: 2022 Poll, [The Bipartisan Safer Communities Act's Treatment Court Funding](https://www.ncsc.org/2022/08/10/the-bipartisan-safer-communities-acts-treatment-court-funding) (senate.gov).

²² Alliance for Safety and Justice, Crime Survivors Speak: National Survey of Victim's Views on Safety and Justice, 2022, [Crime Survivors Speak Report.pdf](https://www.allianceforsafetyandjustice.org/reports/crime-survivors-speak) (allianceforsafetyandjustice.org).

In addition to rejecting mental health court applicants due to the person's history or underlying charges, in some counties prosecutors refuse to accept people with intellectual disabilities, developmental disabilities, traumatic brain injuries, neurological disorders and personality disorders - even when their criminal legal charges are directly related to their disability or impairment. In some cases this is due to a lack of infrastructure to address such concerns, and in others due to ongoing ignorance about these diagnoses and their continued stigmatization.

Thus, without legislation authorizing mental health courts throughout the state, our duly-elected and appointed judges have no discretion to assess whether they might admit a deserving person into these courts. To put this into perspective, in 2021, for example, there were 39 mental health courts in existence across the state, but of the nearly 275,000 individuals arrested that year, only 570 were granted admission to these courts.²³

As a result, too many deserving justice-involved New Yorkers - who have been failed their entire lives by stigma, systemic racism, lapses in health care, education, and child welfare systems - end up in jail or prison. And when they are released, they come back to their communities in worse shape mentally, without a home or health care, and predictably, with a far greater risk of re-offending.

III. New York's Treatment Courts Are In Need of Modernization To Reflect Current Best Practices

In the nearly fifteen years since CPL Article 216 was enacted, due to the emerging data from the very treatment courts created by the statute, our understanding around addiction and mental health has changed. Yet, despite the vast bodies of research regarding treatment practices which reveal new insights on best intervention and treatment strategies for both the health of the individual and the efficacy of treatment, our governing statute has not been modernized. New York's drug courts are thus without the proper guidance to further adapt on their own.

The practice of punitive treatment, widely used around 2009 is one example. Despite clinical evidence presently contraindicating its use²⁴, our Courts over rely on jail sanctions and grossly overuse restrictive treatment settings, even when such treatment is deemed medically inappropriate.²⁵

²³ Data provided from the Office of Court Administration in 2022, on file with authors and available upon request; see also New York State Unified Court System, 2020 Annual Report (2020)<https://www.nycourts.gov/legacypdfs/20-UCS-Annual-Report.pdf> (reporting only 140 people admitted into mental health courts in 2020).

²⁴ See, e.g., D. Werb, A. Kamarulzaman, M.C. Meacham, C. Rafful, B. Fischer, S.A. Strathdee, E. Wood, The effectiveness of compulsory drug treatment: A systematic review, *Intl. J. of Drug Policy* (Feb. 2016)<https://www.sciencedirect.com/science/article/abs/pii/S0955395921003066>.

²⁵ Diego García-Sayán, Dainius Pūras, Information Note: Drug courts pose dangers of punitive approaches encroaching on medical and health care matters, UN Experts say, UNCHR Special Procedures (March 2019) https://www.unodc.org/documents/commissions/CND/2019/Contributions/UN_Entities/InfoNote20March2019.pdf; Riggs, R., Parsons, J., Wei, Q. et al. From punishment to treatment: a providers' perspective on the implementation of 2009 Rockefeller Drug Law reforms in New York. *Health Justice* 2, 10 (2014). <https://doi.org/10.1186/2194-7899-2-10> (“[M]any providers interviewed expressed concern that the assessments

This not only risks overdose for individuals with substance use concerns,²⁶ but is also proven to result in worse outcomes overall, including more criminal involvement and more drug use by the participant.²⁷

Significantly, due to the lack of specific guidance under CPL Art. 216 as to how medical decisions should be made, judges assume the role of final arbiter. In too many cases, these individuals who are trained in law but not medicine, might even overrule clinically informed opinions of medical professionals regarding the devisement of treatment plans, or prescription of psychotropic medication.²⁸ Treatment providers and healthcare professionals are rightly concerned with this practice, due to usurpation of medical judgment roles,²⁹ human rights concerns.³⁰ and data-based belief that participants are harmed versus helped.³¹

CPL Art. 216 also has little guidance to ensure uniform (or even any) due process statewide. In instances of alleged noncompliance, the risk of abusive practices unfortunately increase,³² with sanctions and judicial responses to alleged noncompliance varying widely, and being overly punitive.

conducted by the various screening and referring agencies in the courts are often not clinically oriented and that decisions about treatment modalities and length often seemed to be determined by criminal justice rather than clinical concerns.”).

²⁶ Anh T. Vo, Christopher Magana, Matthew Hickman, Annick Borquez, Leo Beletsky, Natasha K. Martin, Javier A. Cepeda, Assessing HIV and overdose risks for people who use drugs exposed to compulsory drug abstinence programs (CDAP): A systematic review and meta-analysis, *Intl. J. of Drug Policy* (Oct. 2021).

²⁷ Shelli B. Rossman, Michael Rempel, John K. Roman, Janine M. Zweig, Christine H. Lindquist, Mia Green, P. Mitchell Downey, Jennifer Yahner, Avinash S. Bhati, Donald J. Farole, Jr., *The Multi-Site Adult Drug Court Evaluation: The Impact of Drug Courts, Volume 4* (Dec. 2011) <https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/237112.pdf>.

²⁸ Riggs, R., Parsons, J., Wei, Q. et al. From punishment to treatment: a providers’ perspective on the implementation of 2009 Rockefeller Drug Law reforms in New York. *Health Justice* 2, 10 (2014). <https://doi.org/10.1186/2194-7899-2-10>; Neither Justice Nor Treatment: Drug Courts in the United States, Physicians for Human Rights (June 2017), https://phr.org/wp-content/uploads/2017/06/phr_drugcourts_report_singlepages.pdf.

²⁹ Id. (“[M]any providers interviewed expressed concern that the assessments conducted by the various screening and referring agencies in the courts are often not clinically oriented and that decisions about treatment modalities and length often seemed to be determined by criminal justice rather than clinical concerns.”).

³⁰ Neither Justice Nor Treatment Drug Courts in the United States, Physicians for Human Rights (June 2017), https://phr.org/wp-content/uploads/2017/06/phr_drugcourts_report_singlepages.pdf.

³¹ Driessen, M., Schulz, P., Jander, S. et al. Effectiveness of inpatient versus outpatient complex treatment programs in depressive disorders: a quasi-experimental study under naturalistic conditions. *BMC Psychiatry* 19, 380 (2019). <https://doi.org/10.1186/s12888-019-2371-5>.

³² Honorable William Meyer (Ret.), Chapter 8: Constitutional and Legal Issues in Drug Courts, National Drug Court Institute, *Judicial Benchbook* <https://nyatcp.org/assets/pdfs/powerpoints2020/NDCI%20Judicial%20Benchbook%20Chapter%208.pdf>; Center for Justice Innovation, *A Practitioner’s Guide to Constitutional and Legal Issues in Adult Drug Courts* (May 2023) <https://www.innovatingjustice.org/sites/default/files/media/document/2023/Constitutional-and-Legal-Issues.pdf>

IV. The Treatment Not Jail Act (S.---/A.---) is the Solution New York Needs To Legislatively Modernize and Expand Access to Diversion

The Treatment Not Jail Act (S.---Ramos/A.----Forrest) would realize New York's treatment courts' untapped potential, by appropriately expanding access to, and improving upon, CPL Art. 216's treatment model.

First, Treatment Not Jail Act expands eligibility beyond substance use disorders, allowing admission consideration for people with mental health diagnoses, intellectual disabilities and other mental health challenges. Moreover, under Treatment Not Jail's model, judges are empowered to offer diversion to any person, regardless of their charge or prior criminal record, under the following conditions: 1) their underlying mental health or substance use concern contributed to their criminal legal system involvement; 2) the underlying issue is one which can be effectively treated, and there are existing resources in the community to treat that issue , and 3), that it is in the best interest of the public to offer that person community-based treatment instead of incarceration. The Court's decision would be informed by comprehensive medical assessment of the individual by the clinical staff, and to a lesser extent, arguments submitted by prosecution and defense. This approach will vastly reduce the amount of people who slip through the cracks, expanding the pool of eligible and deserving diversion candidates.

Additionally, the Treatment Not Jail model does not require every participant to enter a plea of guilty in order to access treatment. This approach is already used to great success in Manhattan's Midtown Mental Health Court, New York State's Opioid Intervention Courts, and in all mental health treatment courts in California, which was one of the first states to offer alternatives to incarceration. This pre-plea model has proven effective, not only giving more people in need access to treatment, but producing more favorable outcomes, and efficient streamlining of what is currently a lengthy and onerous admissions process.

Enacting Treatment Not Jail would equitably ensure the statewide application of what already is proven to work throughout New York state and throughout the country. In addition to expanding access to these courts, the Treatment Not Jail Act advocates for the use of evidence-based best practices. In accordance with OASAS guidelines, this Act incorporates tenets of harm reduction, which for example, recognizes substance use as illness, where "relapse" is best not met punitively or with shaming techniques, but with attention to healing and recovery.

The Treatment Not Jail Act further adopts best practices whereas healthcare professionals are tasked with developing a treatment plan, and any modifications, in accordance with peer-reviewed best practices, and OMH, OASAS, and OPWDD regulations.³³

³³ The language in the statute is largely borrowed from Insurance Law § 3216.

Moreover, the bill provides for ongoing specialized training for all treatment court personnel, with the goal on expanding understanding about evidence-based best practices in different areas important to an effective treatment court functionality, such as the latest research on rapidly evolving areas such as brain science and its impact on behavior and cognitive functions, substance use disorder treatment, certified peers, harm reduction, and the tenets of procedural justice in such collaborative settings.

Finally, the Treatment Not Jail Act ensures courts have clear and detailed due process guidelines throughout New York, ensuring clear rules around the prohibition of summary jail sanctions and other punishments without process, mandating a hearing and response-setting protocol in the event of alleged noncompliance to protect the rights of those enrolled in these programs, provide clarity and transparency for the Court, participants, and all other stakeholders while building integrity into and trust in the relationship between the court and participant.

V. Conclusion

I share my experience here in the hopes that in continuing to address crises of public health and reform the incredible damage caused to our communities by the failed War on Drugs and the criminalization of mental illness, you will work to further mitigate the legacy of these failed, deeply harmful policies.

I am also here to remind Governor Hochul that some of the most promising strategies, treatment courts like Buffalo's Opioid Intervention Court, started right here in her hometown. Erie County was the first in the country to create the groundbreaking Opioid Intervention Courts, treatment courts which embrace harm-reduction principles and a pre-plea, barrier-free, rapid-response model to save lives and break the cycle of recidivism.

Treatment Not Jail would give people in this state the opportunity for recovery and grace that I did not get. Learn from me and the thousands of others like me who were condemned to dungeons of incarceration for their sickness. Prison did not make me better. It nearly killed me.

As a formerly incarcerated person living with mental illness and in recovery from substance use disorder, and as a member of the Treatment Not Jail Coalition, I ask our Senate and Assembly to recognize the urgency of passing the Treatment Not Jail Act to allow these courts to save as many lives as we can while making our communities healthier and safer too.