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## The Perfect Storm: Substance Abuse, Mental Illness, and Rural America

Bailey D. Barnes

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Bailey D. Barnes

## The Perfect Storm: Substance Abuse, Mental Illness, and Rural America

20 U.N.H. L. REV. 317 (2022)

**ABSTRACT.** Across the United States in the late twentieth and early twenty-first century, substance abuse and mental illness have clashed with the criminal justice system to produce inequitable and tragic results. The War on Drugs especially affects rural communities, where resources for rehabilitative services, mental health treatment, and transitional housing are scarce. In these areas, the significant strain on the criminal justice system caused by the frequent intersection of substance abuse and mental illness has wrought overcrowded correctional facilities, congested criminal court dockets, exhausted public defenders, and devastated families. This Article is a case study of one such rural community's experience with the confluence of substance abuse and mental illness. Warren County, Tennessee, situated at the foothills of the Appalachian Mountains, has been acutely affected by the War on Drugs. The County lacks any meaningful rehabilitation facilities or mental health resources; this, combined with zealous policing and prosecuting practices, has produced little results in the way of crime prevention while exacerbating inequality. Notably, Warren County's recidivism rate has hovered over eighty percent, with most recidivists struggling from some combination of substance abuse and mental illness. Unfortunately, without the financial resources to treat the roots of the problems many accused persons face, the only perceived solution by those in power is incarceration. This Article surveys the effects of substance abuse and mental illness produced by the War on Drugs in Warren County, Tennessee, and demonstrates that the experience in this community is like that of other rural areas across the United States. This Article shows that the War on Drugs has failed these underprivileged regions and reform is critical to ending this inequity and injustice.

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## INTRODUCTION

The War on Drugs waged by the United States since the 1970s has failed; on its fiftieth anniversary, that much is clear.<sup>1</sup> Yet, many observers likely do not fully understand the extent of the devastation wrought by the War on Drugs in rural areas. Tragically, in rural America, the War on Drugs has largely devolved into a mechanism to incarcerate those living with mental illnesses. There are multiple reasons why the War on Drugs has led to a mass incarceration of those living with mental illness in rural areas, but the most important driving factor is a lack of resources.<sup>2</sup> Many smaller communities face funding pitfalls in mental health services, substance abuse rehabilitation facilities, social workers, and transitional housing. Moreover, because people live further apart in rural areas than urban ones, it is more difficult to find transportation to and from any services that are offered.<sup>3</sup> Unfortunately, this causes high recidivism rates and overcrowded

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<sup>1</sup> See ELIZABETH HINTON, *FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA* 307 (2016) (describing the War on Drugs, as perpetuated by United States President Ronald Reagan in the 1980s, as “a fight against crime that seemed to produce only more crime”); NICHOLAS D. KRISTOF & SHERYL WUDUNN, *TIGHTROPE: AMERICANS REACHING FOR HOPE* 86 (2020) (“America’s drug policy over the last five decades has been a tragedy that grew out of tragedies.”); RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* 229–30 (2017) (detailing how the War on Drugs disproportionately affects black people and individuals living in low-income housing, as well as how the War on Drugs has deteriorative generational effects); Jelani Jefferson Exum, *Reconstruction Sentencing: Reimagining Drug Sentencing in the Aftermath of the War on Drugs*, 58 *AM. CRIM. L. REV.* 1685, 1685–87 (2021); Gregory Fulkerson & Fida Mohammad, *The Failure of the War on Drugs: A Comparative Perspective*, 3 *PAKISTAN J. CRIM.* 55, 55–56 (2011) (“It has become increasingly clear that efforts to quell the drug problem have done nothing but exacerbate them further . . . . Incarceration leads to a myriad form of social, political, and economic damages, both personally as well as for families and communities that lose their members”) (citations omitted); Kenneth B. Nunn, *Race, Crime and the Pool of Surplus Criminality: Or Why the “War on Drugs” was a “War on Blacks”*, 6 *J. GENDER, RACE & JUST.* 381, 381–85 (2002); Kurt Schmoke, *Forging a New Consensus in the War on Drugs: Is It Possible?*, 10 *TEMP. POL. & CIV. RTS. L. REV.* 351, 357 (2001); Heather Schoenfeld, *The War on Drugs, the Politics of Crime, and Mass Incarceration in the United States*, 15 *J. GENDER, RACE & JUST.* 315, 320 (2012).

<sup>2</sup> John Gale et al., *Behavioral Health in Rural America: Challenges and Opportunities*, RURAL POLY RESEARCH INST. (2019), <https://rupri.org/wp-content/uploads/Behavioral-Health-in-Rural-America-Challenges-and-Opportunities.pdf> [<https://perma.cc/7C9Z-WFQN>].

<sup>3</sup> Erin Pullen & Carrie Oser, *Barriers to Substance Abuse Treatment in Rural and Urban Communities: A Counselor Perspective*, 49 *SUBSTANCE USE & MISUSE* 891, 892 (2014). As Pullen and Oser note, “rural areas continue to be disproportionately disadvantaged with a lack of basic services and underutilization of available services when compared to urban contexts. Exacerbating the

jails.<sup>4</sup> Based on these sad truths, it is evident that the War on Drugs is not working—rather than preventing “crime,” it has caused “crime” to proliferate. The aftereffects have wreaked havoc on Americans of all stripes, who are the very people supposedly intended to be protected from harm by crime prevention policies that aim to get drugs off the streets.

Numerous scholars have considered the problems, both intentional and unintentional, caused by the War on Drugs.<sup>5</sup> For instance, Richard Rothstein has noted that the primary objective of the War on Drugs was to control minority populations, and the War on Drugs has had the effect of incarcerating black Americans at disproportionately high rates.<sup>6</sup> Similarly, historian Elizabeth Hinton has asserted that the War on Drugs was part of the larger War on Crime that was a continuation of policies implemented by U.S. political leaders intended to oppress newly-freed slaves from the late nineteenth century onward.<sup>7</sup> Hinton’s research,

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problem of fewer facilities, rural clients are more geographically dispersed with fewer public transportation options.” *Id.* (citations omitted).

<sup>4</sup> See Richard A. Oppel, Jr., ‘A Cesspool of a Dungeon’: The Surging Population in Rural Jails, N.Y. TIMES (Dec. 13, 2019), <https://www.nytimes.com/2019/12/13/us/rural-jails.html> [<https://perma.cc/CL47-8T77>]; Rick Ruddell & G. Larry Mays, *Rural Jails: Problematic Inmates, Overcrowded Cells, and Cash-Strapped Counties*, 35 J. CRIM. JUST. 251, 255 (2007) (listing funding, overcrowding, and lack of programs for inmates as the three highest self-reported problems facing rural jails); William Wan, *Think Crowded Jails Are an Urban Problem? A New Study Says Rural Jails are Growing Fastest*, WASH. POST (June 13, 2017), [https://www.washingtonpost.com/national/think-crowded-jails-are-an-urban-problem-a-new-study-says-rural-jails-are-growing-fastest/2017/06/13/08cd91e2-4fbc-11e7-be25-3a519335381c\\_story.html#:~:text=A%20new%20study%20says%20rural%20jails%20are%20growing%20fastest.,-An%20officer%20is&text=Out%20of%20the%20740%2C000%20people,hold%20the%20remaining%2020%20percent](https://www.washingtonpost.com/national/think-crowded-jails-are-an-urban-problem-a-new-study-says-rural-jails-are-growing-fastest/2017/06/13/08cd91e2-4fbc-11e7-be25-3a519335381c_story.html#:~:text=A%20new%20study%20says%20rural%20jails%20are%20growing%20fastest.,-An%20officer%20is&text=Out%20of%20the%20740%2C000%20people,hold%20the%20remaining%2020%20percent) [<https://perma.cc/G76D-3WJD>].

<sup>5</sup> This scholarly literature review is not intended to encompass all scholarly writings regarding the War on Drugs; instead, this is a brief, albeit non-exhaustive, survey of some of the main arguments.

<sup>6</sup> See ROTHSTEIN, *supra* note 1, at 229–30.

<sup>7</sup> See HINTON, *supra* note 1, at 333. Hinton has stated, “In the shadow of Emancipation, national policymakers stopped at the extension of formal equality, and instead, new criminal laws and penal systems emerged in the form of Black Codes and convict leasing.” *Id.* He added, “The systematic criminalization and incarceration of newly freed people and their descendants shaped local and state law enforcement practices from the beginnings of Reconstruction in 1865 until the start of the War on Crime in 1965.” *Id.* Legal scholar Michelle Alexander has advanced similar claims. See generally MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2010) (arguing that U.S. policymakers effectively replaced the Jim Crow laws of the U.S. South in the mid-twentieth century with the War on Drugs and the War on Crime in the late-twentieth century as a way to control black people). For a deeper understanding of U.S. domestic policy related to newly freed enslaved persons following the Civil War, see ERIC FONER,

nevertheless, primarily focused on urban communities.<sup>8</sup> Finally, Nicholas D. Kristof and Sheryl WuDunn have detailed the real-world effect of the War on Drugs in everyday Americans' lives and have maintained that the War on Drugs cannot succeed because it does not view substance abuse as an illness rather than as criminal behavior.<sup>9</sup> This Article contributes to the existing literature by focusing exclusively on the intersection of substance abuse, mental illness, and mass incarceration in rural areas to demonstrate that the War on Drugs has had the unintended consequence of wounding generations of rural Americans living with mental illness, as well as their families.<sup>10</sup>

To make these claims, this Article proceeds in three parts. Part I, relying on population statistics and community health surveys, sets the scene by elucidating the demographics of a specific rural part of the United States—the Appalachia Region, and more specifically, Warren County, Tennessee—and demonstrates that those areas are representative of rural America. Part II outlines the well-established scientific connection between mental illness and substance abuse that makes the War on Drugs particularly tragic for those living with mental illnesses, and which leads to a cycle of incarceration for individuals living with mental illness and substance abuse disorder who are introduced to the carceral state. Part III exposes the untenable interaction between mental illness and substance abuse in rural areas by scrutinizing the dearth of resources in small communities and the corresponding overcrowded jails and high recidivism rates. Moreover, Part III uses this foundation to argue that the War on Drugs has failed to achieve its objectives and has instead harmed multiple generations of Americans, with a specific focus on those in rural populations, and highlights some proposals and strategic policies that could help end this perfect storm.

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RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION, 1863–1877 (Henry Steele Commager & Richard B. Morris eds., 1988).

<sup>8</sup> See HINTON, *supra* note 1, at 25.

<sup>9</sup> KRISTOF & WUDUNN, *supra* note 1, at 95–97.

<sup>10</sup> Rothstein has acknowledged the generational effects of the War on Drugs. See ROTHSTEIN, *supra* note 1, at 230. Rothstein has said, “A parent’s absence harms a child’s early development and academic performance. Once young men leave prison, even after short sentences (and many are not short), they may have permanent second-class status, be unable to vote, get evicted from public housing, and be ineligible for food stamps.” *Id.* Rothstein added, “Their family relationships are likely frayed if not irreparably broken. Most companies won’t hire them. Barred from legitimate jobs, they are exposed to further incarceration when they attempt to earn a living in the underground economy.” *Id.*

## I. SETTING THE SCENE: RURAL APPALACHIA'S DEMOGRAPHICS

To grapple with the concrete realities of the problem, this Article focuses primarily on the Appalachian region (“Appalachia”) of the United States with an emphasis on one community—rural Warren County, Tennessee.<sup>11</sup> According to the Appalachian Regional Commission, Appalachia consists of parts of thirteen states and encompasses approximately twenty-five million residents.<sup>12</sup> Though certainly not all counties in Appalachia suffer economically or could be classified as rural, a significant portion of the region is plagued by economic strife.<sup>13</sup> Of the 420 counties considered to be part of Appalachia, 174 (which is 41.4%) are either considered economically distressed or at-risk, which is based on a consideration of three economic factors: “three-year average unemployment rates, per capita market income, and poverty rates.”<sup>14</sup>

Warren County, Tennessee is listed as one of the at-risk counties of Appalachia, which means that the County ranks between the tenth and twenty-fifth percentile of counties with the best economic outlook.<sup>15</sup> The population of Warren County is 40,953, and around 93% of the residents are white.<sup>16</sup> Only 79.5% of the population that is over the age of twenty-five has earned a high school diploma and just 14.5% have a bachelor’s degree or more post-secondary educational attainment.<sup>17</sup> Finally, Warren County’s per capita income is \$22,802, compared to \$34,103 in the United States, and 15.9% of Warren County residents live below the poverty line, as opposed to 11.4% nationally.<sup>18</sup>

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<sup>11</sup> The author is a lifelong resident of Warren County, Tennessee.

<sup>12</sup> *About the Appalachian Region*, APPALACHIAN REG’L COMM’N (2021), <https://www.arc.gov/about-the-appalachian-region/> [https://perma.cc/UV28-MUFZ].

<sup>13</sup> *Classifying Economic Distress in Appalachian Counties: County Economic Status and Distressed Areas, FY 2022*, APPALACHIAN REG’L COMM’N (2021), <https://www.arc.gov/classifying-economic-distress-in-appalachian-counties/> [https://perma.cc/H5KU-C5XP].

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Quick Facts: Warren County, Tennessee*, UNITED STATES CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/warrencountytennessee> [https://perma.cc/N7HK-UQWV]. The percentage of white people in the population is significantly higher than the national rate of 76.3%. *Quick Facts: United States*, UNITED STATES CENSUS BUREAU (July 1, 2021), <https://www.census.gov/quickfacts/fact/table/US/PST045219> [https://perma.cc/ZL5X-2PDJ].

<sup>17</sup> *Quick Facts: Warren County, Tennessee*, *supra* note 16. Warren County residents have considerably less educational attainment than the United States as a whole, in which 88.0% have earned a high school diploma and 32.1% have acquired a bachelor’s degree or further post-secondary education. *Quick Facts: United States*, *supra* note 16.

<sup>18</sup> *Quick Facts: Warren County, Tennessee*, *supra* note 16; *Quick Facts: United States*, *supra* note 16.

In both Appalachia as a whole and Appalachian Tennessee specifically, mental health concerns are more prevalent than the national average.<sup>19</sup> Appalachia residents “report[] feeling mentally unhealthy 14% more often than the average American,” while Appalachian Tennesseans feel mentally unhealthy 28% more often than the national average.<sup>20</sup> Additionally, the rates of depression and instances of suicide are both higher in Appalachia and Appalachian Tennessee than in the United States generally.<sup>21</sup> Despite these concerning mental health statistics, there is a serious lack of mental health resources in these areas.<sup>22</sup> For instance, in Appalachian Tennessee, “[t]he supply of mental health providers per 100,000 population . . . is 34 percent lower than the national average . . .”<sup>23</sup> This dearth of mental health options tracks with a lack of physical health providers in rural areas as well.<sup>24</sup>

Substance abuse issues are also prevalent in these rural Appalachian areas.<sup>25</sup>

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<sup>19</sup> See *Appalachian Region Health Disparities and Bright Spots*, APPALACHIAN REG’L COMM’N, <https://www.arc.gov/report/appalachian-region-health-disparities-and-bright-spots/> [<https://perma.cc/KYT9-UW37>] (last visited February 22, 2022); *Tennessee Health Disparities and Bright Spots*, APPALACHIAN REG’L COMM’N, <https://www.arc.gov/report/tennessee-health-disparities-and-bright-spots/> [<https://perma.cc/Y5WC-UFYG>] (last visited February 22, 2022).

<sup>20</sup> *Appalachian Region Health Disparities and Bright Spots*, *supra* note 19; *Tennessee Health Disparities and Bright Spots*, *supra* note 19.

<sup>21</sup> *Appalachian Region Health Disparities and Bright Spots*, *supra* note 19; *Tennessee Health Disparities and Bright Spots*, *supra* note 19. Of note is Tennessee’s suicide rate, which is 32% higher than the national average. *Tennessee Health Disparities and Bright Spots*, *supra* note 19.

<sup>22</sup> *Appalachian Region Health Disparities and Bright Spots*, *supra* note 19; *Tennessee Health Disparities and Bright Spots*, *supra* note 19.

<sup>23</sup> *Tennessee Health Disparities and Bright Spots*, *supra* note 19.

<sup>24</sup> Since 2005, 181 rural hospitals have closed in the United States. *Rural Hospital Closures*, U.N.C. CECIL G. SHEPS CTR. HEALTH SERVS. RES. (Jan. 11, 2022), <https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/> [<https://perma.cc/546C-F5BD>]. Some scholars have pointed to the link between rural states failing to expand Medicaid and closing hospitals. See, e.g., Richard C. Lindrooth et al., *Understanding the Relationship Between Medicaid Expansions and Hospital Closures*, 37 HEALTH AFFAIRS 111, 119 (2018) (“A policy that eliminates the Medicaid expansion without a corresponding adjustment in DSH payments or other subsidies will likely result in hospital closures, especially in rural areas. If patients do not have access to other hospitals . . . access to health care will suffer . . .”).

<sup>25</sup> See David Lambert et al., *Substance Abuse by Youth and Young Adults in Rural America*, 24 J. RURAL HEALTH 221, 226 (2008) (“In general, substance use by youth is highest in rural-small/medium areas and highest for young adults in rural large-non-adjacent areas.”); Pullen & Oser, *supra* note



Though the percentage of persons over the age of twelve who use illicit drugs is still slightly higher in urban areas, the gap between rural and urban illegal drug use is now much smaller than it was just a few decades ago.<sup>26</sup> The types of substances used in rural America are different than those abused in urban populations.<sup>27</sup> For instance, methamphetamine is a drug that has become increasingly popular in rural communities, and it has been a substantial driving force in the rural War on Drugs in the twenty-first century.<sup>28</sup> More recently, opioid addiction has led to increased substance abuse disorders in rural America.<sup>29</sup>

The misfortunate tales of Appalachia and Warren County are fairly representative of rural America as a whole.<sup>30</sup> For instance, overall, rural communities in the United States have higher rates of depression and mental illness than their urban counterparts.<sup>31</sup> More specifically, nearly twenty percent of all adults in rural America report living with a mental illness.<sup>32</sup> Additionally, rural

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3, at 892; Karen Van Gundy, *Substance Abuse in Rural and Small Town America*, U.N.H. CASEY INST. REPS. RURAL AM. 1, 15 (2006).

<sup>26</sup> Gundy, *supra* note 25, at 13.

<sup>27</sup> *Id.* at 15.

<sup>28</sup> See Howard Berkes & Anne Hawke, *Meth A Growing Menace in Rural America: Production and Use of Highly Addictive Drug Has Exploded*, NPR (Aug. 12, 2004, 12:00 AM), <https://www.npr.org/templates/story/story.php?storyId=3805074> [<https://perma.cc/FM39-YKW3>]; Gundy, *supra* note 25, at 14; Frank Morris, *Methamphetamine Roils Rural Towns Again Across the U.S.*, NPR (Oct. 25, 2018, 1:29 PM), <https://www.npr.org/sections/health-shots/2018/10/25/656192849/methamphetamine-roils-rural-towns-again-across-the-u-s> [<https://perma.cc/T2UM-WPUC>].

<sup>29</sup> Bram Sable-Smith, *In Rural Areas Without Pain or Addiction Specialists, Family Doctors Fill in the Gaps*, NPR (Dec. 30, 2019, 5:03 AM), <https://www.npr.org/sections/health-shots/2019/12/30/786916670/in-rural-areas-without-pain-or-addiction-specialists-family-doctors-fill-in-the> [<https://perma.cc/Z2NP-AWMU>] (“Drug overdose deaths are more common by population size in rural areas than in urban ones. And rural doctors prescribe opioids more often by far, despite a nationwide decline in prescribing rates since 2012. Meanwhile, rural Americans have fewer alternatives to treat their very real pain . . .”).

<sup>30</sup> See Theresa Capriotti et al., *Health Disparities in Rural America: Current Challenges and Future Solutions*, PSYCHIATRY ADVISOR (Feb. 18, 2020), <https://www.psychiatryadvisor.com/home/practice-management/health-disparities-in-rural-america-current-challenges-and-future-solutions/3/> [<https://perma.cc/69UH-LHWW>]; Tiffanie de la Riva, *Mental Health in Rural America and the Need for More Progressive Solutions*, U. CAL. DAVIS CTR. POVERTY & INEQUALITY RES. (Sept. 7, 2014), <https://poverty.ucdavis.edu/post/mental-health-rural-america-and-need-more-progressive-solutions> [<https://perma.cc/Z3SU-96PK>].

<sup>31</sup> See Capriotti et al., *supra* note 30.

<sup>32</sup> See *id.*

areas have higher rates of drug overdose deaths than urban regions.<sup>33</sup> As is the case in Appalachia, rural America as a whole suffers from a lack of mental health providers and substance abuse rehabilitation programs.<sup>34</sup> Indeed, as it relates to access to mental health services, there is only one psychiatrist for every 30,000 residents living in rural America.<sup>35</sup>

In sum, Appalachia and Warren County represent a rural America that is poorer, more white, less educated, and more mentally unhealthy than the national average.<sup>36</sup> Meanwhile, in conjunction with these troubling demographic statistics, these same areas also face a lack of vital mental and physical health services, as well as substance abuse treatment options.<sup>37</sup> It is against this backdrop that the War on Drugs coincides with mental illness to fuel mass incarceration in small communities.<sup>38</sup>

## II. THE SCIENTIFIC LINK BETWEEN SUBSTANCE ABUSE AND MENTAL ILLNESS

There is a long-recognized psychological link between mental illness and substance abuse.<sup>39</sup> Rather unsurprisingly, therefore, there is a noted relationship between mental illness and incarceration.<sup>40</sup> Since as early as 1939, researchers have recognized a connection between the number of beds available in mental health

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See generally *supra* notes 12–21.

<sup>37</sup> See *Appalachian Region Health Disparities and Bright Spots*, *supra* note 19; Pullen & Oser, *supra* note 3, at 892; *Tennessee Health Disparities and Bright Spots*, *supra* note 19.

<sup>38</sup> See *supra* note 4.

<sup>39</sup> Gregory G. Grecco & R. Andrew Chambers, *The Penrose Effect and Its Acceleration by the War on Drugs: A Crisis of Untranslated Neuroscience and Untreated Addiction and Mental Illness*, 9 *TRANSLATIONAL PSYCHIATRY* 1, 4 (2019) (“Addictions and mental illnesses are tightly interconnected diseases both within individual brains and on population levels.”) (citations omitted).

<sup>40</sup> See Grecco & Chambers, *supra* note 39, at 4; James A. Wilson & Peter B. Wood, *Dissecting the Relationship Between Mental Illness and Return to Incarceration*, 42 *J. CRIM. JUST.* 527, 535–36 (2014); Kristen M. Zgoba et al., *Criminal Recidivism in Inmates with Mental Illness and Substance Abuse Disorders*, 48 *J. AM. ACAD. PSYCHIATRY L.* 1, 1 (2020) (“. . . inmates with substance use disorders recidivate at a higher rate than undifferentiated offenders. Inmates with both mental illness and substance use disorder recidivate at an even higher rate. Additionally, persons with serious mental illness . . . tend to have higher recidivism rates than those with other psychiatric disorders.”) (citations omitted).

institutions and prison beds.<sup>41</sup> Now, health professionals have acknowledged, “[t]he biological causal connection is involuntary and general across many types of addictions and mental illnesses. The causal connection is also bidirectional: having either illness category increases the risk of acquiring the other, and having either also worsens the severity of the other.”<sup>42</sup> In other words, individuals who start out with either an addiction or a mental illness are more likely to acquire their counterpart, and if they do, the corresponding malady will be more severe because of the interaction.<sup>43</sup> Therefore, the War on Drugs has effectively criminalized mental illness because individuals living with a mental illness are more likely to abuse drugs, and do so more severely than others.<sup>44</sup>

Rather than provide treatment options for either mental illness or substance abuse, the government has chosen to incarcerate these individuals.<sup>45</sup> Some scholars have noted that by criminalizing the dual diagnosis of substance abuse disorder and mental illness and then incarcerating those individuals, the War on Drugs has only increased the harms of both addiction and mental illness.<sup>46</sup> This is primarily due to the harsh realities of incarceration— isolation, lack of access to care, and exposure to psychological and physical violence behind bars.<sup>47</sup> Because of this “harm amplification,” it is predictable that individuals living with substance abuse disorder and mental illness are more likely to recidivate and return to incarceration once they have initially entered the carceral system.<sup>48</sup>

### III. HOW THE WAR ON DRUGS HAS FAILED RURAL AMERICA & WHAT WE CAN DO ABOUT IT

Catastrophically, when substance abuse and mental illness come together and

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<sup>41</sup> Grecco & Chambers, *supra* note 39, at 2 (“ . . . inverse relationship between national volumes of psychiatric beds and numbers of prisoners and crime measures.”) (citation omitted). This phenomenon is known as the Penrose Effect, which is named after scientist Lionel Penrose who first noted the link. *Id.*

<sup>42</sup> *Id.* at 4 (citations omitted).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 6 (“A national U.S. survey showed that individuals with a dual diagnosis were nearly 7.5 times more likely to be arrested in the last 12 months, compared to healthy individuals, with only 1.8- or 5.3-fold increases in arrests in persons with only a mental illness or an addiction.”) (citation omitted).

<sup>45</sup> *See id.* at 7.

<sup>46</sup> *See id.*

<sup>47</sup> *See* Grecco & Chambers, 9 *TRANSLATIONAL PSYCHIATRY* at 7.

<sup>48</sup> *See id.*; Wilson & Wood, *supra* note 40; Zgoba et al., *supra* note 40.

then collide with the War on Drugs, the individuals plagued with these health problems are incarcerated rather than treated. In essence, the War on Drugs attempts to put a bandage on a severed artery by jailing people with illnesses instead of attending to the underlying social and medical causes of substance abuse. For example, an individual living with bipolar disorder who relies on alcohol and illicit drugs to self-medicate will invariably be incarcerated for their addiction. In such an instance, it is the mental illness that is causing the supposed “criminal” conduct, yet the War on Drugs has no mechanism to classify the disorder as anything other than deviant or criminal.<sup>49</sup>

The harms in rural areas are especially pronounced due to a lack of resources in both the criminal justice and healthcare systems. Owing to a smaller tax base and higher poverty rates, rural areas struggle to fund many basic programs—including public education, sanitation, road construction, and others.<sup>50</sup> Faced with funding pitfalls, rural communities neglect the criminal justice system or use untenable funding proposals. For instance, in 2017 when the Warren County Commission—the governing legislative body of Warren County, Tennessee—dealt with an overcrowded and dilapidated jail, the Commission chose to fund a renovation through raising court costs.<sup>51</sup> Predictably, fees from indigent persons in court did not prove enough to finance jail renovations and a property tax increase had to be passed the following year to help fund the project.<sup>52</sup> Nevertheless, mass incarceration caused by the War on Drugs has led to overcrowded jails in rural America, which has either left inmates sleeping on floors or required small towns to find funds to expand their carceral facilities.<sup>53</sup>

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<sup>49</sup> See M. Malliori et al., *Mental Health Impact of the War on Drugs*, 12 BRITISH J. PSYCH INT'L 53, 53–54 (2015).

<sup>50</sup> See Olugbenga Ajilore & Caius Z. Willingham, *The Path to Resilience in America*, CTR. AM. PROGRESS (Sept. 21, 2020), <https://www.americanprogress.org/article/path-rural-resilience-america/> [<https://perma.cc/G98N-TBYG>]; David Gutierrez, *Little School on the Prairie: The Overlooked Plight of Rural Education*, HARVARD KENNEDY SCH. INST. POL., <https://iop.harvard.edu/get-involved/harvard-political-review/little-school-prairie-overlooked-plight-rural-education> [<https://perma.cc/H7GS-JZCW>].

<sup>51</sup> Lisa Hobbs, *County Oks \$50 Court Cost Increase*, SOUTHERN STANDARD (Aug. 24, 2017, 7:03 PM), <https://www.southernstandard.com/top-stories/local-headlines/county-oks-50-court-cost-increase/> [<https://perma.cc/S6QJ-VJ9D>].

<sup>52</sup> Lisa Hobbs, *County Finances Show Improvement*, SOUTHERN STANDARD (May 18, 2021), <https://www.southernstandard.com/top-stories/local-headlines/county-finances-show-improvement/> [<https://perma.cc/Y4M8-VVXG>].

<sup>53</sup> See Jacob Kang-Brown & Ram Subramanian, *Out of Sight: The Growth of Jails in Rural America*, VERA INST. JUST. (2017); Ruddell & Mays, *supra* note 4, at 258; Anita Wadhvani, *Report: Tennessee*

Along with jail overcrowding and funding difficulties, the criminal justice system in rural areas is also plagued by the failures in transitional housing and reincarceration. Because of lower population levels and funding disparities, there are few options for transitional or supportive housing for those who are underhoused and who are living with mental illness and substance abuse disorder in rural America.<sup>54</sup> Thus, when individuals who have been incarcerated because of the intersection of mental illness and substance abuse are released from jail, they have nowhere to live and lack stability.<sup>55</sup> This, in turn, leads to increased rates of recidivism for these populations.<sup>56</sup>

Furthermore, the problems associated with the War on Drugs in rural areas are compounded by the generational effects of mass incarceration.<sup>57</sup> Social science research has identified that students whose parents are in jail suffer mentally, emotionally, and academically.<sup>58</sup> In rural areas, with their dearth of social workers and a safety net for children of incarcerated parents, these issues are likely even more pronounced than in urban areas that have programming and social workers

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*Rural Jail Expenses Climbing*, TENN. LOOKOUT (Mar. 5, 2021, 4:00 AM), <https://tennessee-lookout.com/briefs/report-tennessee-rural-jail-expenses-climbing/> [https://perma.cc/3E43-9MPS].

<sup>54</sup> See Michele Staton-Tindall et al., *Factors Associated with Recidivism Among Corrections-Based Treatment Participants in Rural and Urban Areas*, 56 J. SUBSTANCE ABUSE TREATMENT 16, 21 (2015) (“Urban areas are likely to provide increased resources and opportunities for housing, employment, and behavioral treatment during community re-entry compared to rural areas.”). See generally Edward I. Bowman & Katherine Ely, *Voices of Returning Citizens: A Qualitative Study of a Supportive Housing Program for Ex-Offenders in a Rural Community*, 100 PRISON J. 423 (2020) (discussing the critical need for stable housing for recently released inmates in rural communities).

<sup>55</sup> See Bowman & Ely, *supra* note 54.

<sup>56</sup> See *id.*; Staton-Tindall et al., *supra* note 54.

<sup>57</sup> See generally Michael C. Campbell & Matt Vogel, *The Demographic Divide: Population Dynamics, Race and the Rise of Mass Incarceration in the United States*, 21 PUNISHMENT & SOC'Y 47 (2019); Anna R. Haskins, *Unintended Consequences: Effects of Paternal Incarceration on Child School Readiness and Later Special Education Placement*, 1 SOCIO. SCI. 141 (2014); Christopher Uggen & Suzy McElrath, *Parental Incarceration: What We Know and Where We Need To Go*, 104 J. CRIM. L. & CRIMINOLOGY 597 (2014); Ofira Schwartz-Soicher et al., *The Effect of Paternal Incarceration on Material Hardship*, 85 SOC. SERV. REV. 447 (2011).

<sup>58</sup> See Haskins, *supra* note 57, at 142 (“Paternal incarceration can affect children emotionally, developmentally, and socially through: trauma experienced as a result of parent-child separation; the isolation and shame brought on by the stigma associated with having a family member incarcerated; and the social, psychological, and economic strain imposed upon children of the incarcerated . . . .”) (citation omitted).

to help children navigate their parents' incarceration.

To remedy the ills caused by the War on Drugs in rural America, there are seven options: (1) decriminalizing drugs; (2) utilizing prosecutorial discretion; (3) enhancing substance abuse and mental health education programs in K-12 schools; (4) building transitional or supportive housing; (5) investing in rehabilitation treatment facilities; (6) improving access to mental health services; and (7) recruiting significant numbers of social workers into rural areas. The first proposed solution—decriminalization—is probably the most polarizing proposal and brings with it a myriad of its own potential unintended consequences.<sup>59</sup> Because decriminalization would minimize or altogether render unnecessary the need for the other proposals, the remaining six methods for improving the War on Drugs in rural America are considered in further detail based on the assumption that decriminalization is unlikely on either a federal level or in a majority of states in the next few years.<sup>60</sup>

Of the six proposed ways to reduce the harmful consequences of the War on Drugs in rural America, not considering decriminalization, two would require little or no additional taxpayer funding: prosecutorial discretion and substance abuse and mental health education in K-12 schools. Scholars have extensively written about prosecutorial discretion, otherwise known as selective non-enforcement, as a prospect to cure many of the ills experienced in the criminal justice system.<sup>61</sup>

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<sup>59</sup> For more on some of these issues and unintended consequences, see Thomas Lininger, *After the War on Drugs: Challenges Following Decriminalization*, 20 U.N.H. L. REV. 375 (2022).

<sup>60</sup> Certainly, federal or mass state-level decriminalization may not be too far from realization. However, to better assess the alternatives to the War on Drugs in rural America, this Article focuses on the other ways to remedy the ills the War on Drugs has caused. For more on decriminalization generally, see Bryan Altman, Comment, *Improving the Indigent Defense Crisis Through Decriminalization*, 70 ARK. L. REV. 769 (2017); Alexandra Natapoff, *Misdemeanor Decriminalization*, 68 VAND. L. REV. 1055 (2015); Jordan Blair Woods, *A Decade After Drug Decriminalization: What Can the United States Learn from the Portuguese Model?*, U.D.C. L. REV. 1 (2011).

<sup>61</sup> See, e.g., Madison Burga & Angelina Lerma, *The Use of Prosecutorial Discretion in the Immigration Context After the 2013 ICE Directive: Families Are Still Being Torn Apart*, 42 W. ST. L. REV. 25 (2014); Bruce A. Green, *Prosecutorial Discretion: The Difficulty and Necessity of Public Inquiry*, 123 DICK. L. REV. 589 (2019); Robert Heller, Comment, *Selective Prosecution and the Federalization of Criminal Law: The Need for Meaningful Judicial Review of Prosecutorial Discretion*, 145 U. PA. L. REV. 1309 (1997); Rebecca Krauss, *The Theory of Prosecutorial Discretion in Federal Law: Origins and Development*, 6 SETON HALL CIR. REV. 1 (2009); Peter L. Markowitz, *Prosecutorial Discretion at its Zenith: The Power to Protect Liberty*, 97 B.U. L. REV. 489 (2017); Anthony Neddo, Comment, *Prosecutorial Discretion in Charging the Death Penalty: Opening the Doors to Arbitrary Decisionmaking in New York Capital Cases*, 60 ALB. L. REV. 1949 (1997); Alan B. Salazar, Comment, *The Expanding Scope of Prosecutorial Discretion in Charging Juveniles as Adults: A Critical Look at People v. Thorpe*, 54 U. COLO. L. REV. 617 (1983).

Effectively, prosecutorial discretion would involve prosecutors not charging, or seeking incarceration or heavy penalties, for simple possession of illicit drugs.<sup>62</sup> Doing so would likely not only not cost anything, but would actually save rural communities money by reducing incarceration costs, law enforcement needs, inmate healthcare expenses, and court docket space and time.

Greater prosecutorial discretion in rural America is easier said than done. Because rural areas tend to be less educated, there is a greater lust for prosecutors to be tough on crime.<sup>63</sup> Thus, if elected prosecutors exercise their discretion not to prosecute certain drug crimes, such as simple possession of nearly all drugs, the voters may very well choose to go in a different direction at the next election. This is not to say that it is impossible. For instance, in Tennessee, some elected district attorneys general do not prosecute low-level marijuana offenses already.<sup>64</sup> At any rate, if local prosecutors exercised greater discretion related to the illicit drugs defined as such by the War on Drugs, it would alleviate some of the tragic effects of the War on Drugs identified here.

Another potential way to remedy the impact the War on Drugs has had in rural communities is to increase effective substance abuse and mental health education in K-12 schools. Presently, in many rural areas, as well as urban ones, there are programs such as “Just Say No” and “D.A.R.E. (Drug Abuse Resistance Education)” that attempt to teach young students the potential pitfalls of drug use.<sup>65</sup> Though “Just Say No” was a slogan popularized by First Lady Nancy Reagan, it never really evolved into serious educational programs in schools.<sup>66</sup> Unlike “Just Say No,”

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<sup>62</sup> See *Prosecutorial Discretion*, 40 GEO. L. J. ANN. REV. CRIM. PROC. 227, 227–30 (2011) (“So long as there is probable cause to believe that the accused has committed an offense, the decision to prosecute is within the prosecutor’s discretion. A prosecutor may decide what charges to bring, when to bring them, and where to bring them.”) (citation omitted).

<sup>63</sup> See Kyle J.D. Mulrooney & Jenny Wise, *Crime and Punishment: Rural People Are More Punitive Than City-Dwellers*, THE CONVERSATION (Nov. 21, 2019, 12:10 PM), <https://theconversation.com/crime-and-punishment-rural-people-are-more-punitive-than-city-dwellers-127156> [<https://perma.cc/LT4X-HZ4K>].

<sup>64</sup> Caroline Sutton, *Nashville DA Will No Longer Prosecute Minor Marijuana Possession Charges*, NEWSCHANNEL 5 (July 2, 2020, 11:14 AM), <https://www.newschannel5.com/news/nashville-da-will-no-longer-prosecute-minor-marijuana-possession-charges> [<https://perma.cc/XX5F-KNCM>].

<sup>65</sup> See generally Susan Stuart, *War as Metaphor and the Rule of Law in Crisis: The Lessons We Should Have Learned from the War on Drugs*, 36 S. ILL. U. L. J. 1, 6–7 (2011) (describing the impetus for the “Just Say No” campaign). For more on the failures of the Just Say No campaign and D.A.R.E., see Dennis P. Rosenbaum, *Just Say No to D.A.R.E.*, 6 CRIMINOLOGY & PUB. POLY 815 (2007).

<sup>66</sup> Stuart, *supra* note 42, at 7.

D.A.R.E. took hold as an avenue to teach children and adolescents about illicit drugs primarily through using law enforcement officers as teachers.<sup>67</sup> Unfortunately, neither idea has been effective at preventing drug use—and worse, no such program exists to teach youths about the interaction of substance abuse and mental illness; thus, students are left without the awareness and resources necessary to make these intervention programs effective.<sup>68</sup>

Accordingly, to effectively combat the effects of the War on Drugs, and hopefully to prevent a child from getting introduced to the carceral system in the first place, rural communities must move away from ineffective programs and get real about mental illness and substance abuse education. Doing so would not be cost prohibitive because teachers are capable of educating students about the link between substance abuse and mental illness. Moreover, teachers can talk openly with their students about how mental health issues impact nearly everyone and there is no room for stigma toward those living with mental illnesses. Being transparent with students about the realities of drug use and mental illness, rather than blindly asserting that it is as simple as saying no to drugs, is a cost-efficient way to mitigate the problems wrought by the War on Drugs in rural America.

Beyond these remedies, other methods of reducing the harm caused by the overcriminalization of substance use will require public investment of taxpayer funds.<sup>69</sup> One area of considerable need in rural communities is for transitional or supportive housing for individuals who are living with mental illnesses and suffering from substance abuse issues. For instance, in Warren County, Tennessee, there is only one organization that provides supportive housing for persons living

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<sup>67</sup> *About D.A.R.E.*, D.A.R.E., <https://dare.org/about/#MissionVision> [<https://perma.cc/FX5U-BM96>] (last visited February 22, 2022).

<sup>68</sup> Andrew Freedman, Opinion, *Just Say No to D.A.R.E.—Starting a Better Conversation About Youth Drug Prevention*, THE HILL (Aug. 9, 2017, 11:40 AM), <https://thehill.com/blogs/pundits-blog/healthcare/345888-just-say-no-to-dare-starting-a-better-conversation-about-youth> [<https://perma.cc/DN3T-UARA>]; Howard S. Adelman & Linda Taylor, *Mental Health in Schools and Public Health*, 121 PUB. HEALTH REP. 294 (2006); *Mental Health in Schools*, NAT'L ALL. ON MENTAL ILLNESS, <https://www.nami.org/Advocacy/Policy-Priorities/Improving-Health/Mental-Health-in-Schools> [<https://perma.cc/53MC-MCJK>].

<sup>69</sup> This is not to say that these programs would not ultimately be cost-effective and pay for themselves. For instance, if these programs greatly reduced incarceration numbers, the costs of incarceration—including capital projects, food, medicine, court costs, and labor—could eventually be substantially reduced and effectively pay for these initiatives.



with mental illness.<sup>70</sup> Additionally, there is only one shelter for unhoused men in Warren County, and there is one additional shelter for women and their children who have experienced domestic abuse.<sup>71</sup> With this lack of resources for housing, individuals who are addicted to drugs and living with mental illness have few places to turn to for housing and support. By investing in and providing more housing resources that also integrate stability and social services, rural communities can prevent vulnerable individuals from being incarcerated in the first place, and can assist those who have been involved in the carceral system before transition to a stable living situation after their release. This will reduce mass incarceration on the front end by reducing arrests for drug crimes, and it will lower the recidivism rate by helping released inmates find stable housing and support that they desperately need to stay out of jail. In the end, an investment in this type of housing by rural communities, and the state and federal governments, would likely be a cost-saving measure because of the reduction in funding needed for constructing carceral facilities, funding inmate healthcare, hiring and retaining correctional officers, and maintaining jail facilities.

Likewise, investing in rehabilitation facilities would have many of the same benefits, as well as potential long-term cost savings. As previously mentioned, Warren County, Tennessee has no in-patient drug rehabilitation facilities or services. So, for individuals with substance abuse issues in Warren County, the only viable plan for rehabilitation involves seeking space in facilities in other communities—which puts a strain on the limited social services in Warren County and has additional cost burdens for the patients. By having in-patient rehabilitation facilities in rural counties, potential inmates can get the care they need rather than isolation in a small, overcrowded jail. Additionally, communities could reduce transportation costs and the issues created by having to essentially beg and plead for limited spots in facilities across the state and region. Moreover, for the patients and their families, having local rehabilitation options may permit children to see their parents who are in these facilities and will permit the criminal justice system to more effectively partner with rehabilitation services because they are local rather

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<sup>70</sup> See *Supported Housing*, GENERATIONS/GAITHER'S GROUP, <http://www.generationsgaither.com/services/housing-as-treatment/> [<https://perma.cc/YH25-QZSZ>] (last visited February 22, 2022).

<sup>71</sup> For the safety and privacy of the individuals housed in the shelter for domestic abuse, the author is reserving the name of that organization and any locating information. For the men's shelter, called the "Lighthouse Ministry Men's Shelter", see *Shelter and Domestic Violence Resources*, WARREN CNTY. SCH. DIST., [https://www.warrenschoools.com/uploaded/personal/Health\\_services/Shelters\\_and\\_Domestic\\_and\\_Sexual\\_Assault\\_Programs\\_2016-2017.pdf](https://www.warrenschoools.com/uploaded/personal/Health_services/Shelters_and_Domestic_and_Sexual_Assault_Programs_2016-2017.pdf) [<https://perma.cc/WS6E-Z3BS>] (last visited February 23, 2022).

than remote.

Along the same lines, rural communities need to invest in improved access to mental health resources. This involves a commitment by more than just local governments: it requires mental health community and health networks to recognize the need for more providers in rural areas. Nevertheless, if greater access to care is not prioritized, the problems discussed here will only intensify. While telehealth mental health services could help bridge some of the gaps in coverage in rural areas, it will take serious investment in additional facilities and providers in rural communities to address the high rates of mental illness in these regions. Without this care, the link between mental illness and substance abuse will continue to wreak havoc when the War on Drugs criminalizes drug use and thereby effectively outlaws mental illness.

Finally, to help alleviate the detrimental effects of the War on Drugs in rural America, communities need to recruit significant numbers of new social workers to these areas who can help guide people and families who are impacted. Right now in Warren County, Tennessee, the only real social workers primarily work with domestic abuse victims and minor victims of sexual crimes. To reduce the harm from the War on Drugs, rural communities need social workers who are dedicated to helping those struggling with substance abuse disorder and mental illnesses find the treatment they need and offering support services that can help end the cycle of substance abuse and incarceration. Unfortunately, families of individuals suffering from these illnesses too often must fill the gaps that social workers would normally fill, and when these illnesses cause significant disruptions, family members call the police because that is all they know to do. At that point, a person living with mental illness and substance abuse disorder is either introduced to the carceral system or becomes a recidivist. By having more people dedicated to helping families and those who are ill navigate the available social services and provide stability, it is possible to reduce incarceration and recidivism rates, as well as keep families together.

## CONCLUSION

The United States' fifty-year War on Drugs has been an abject disaster for numerous reasons. Not only has the campaign to end illicit drug abuse failed to achieve its objectives (if, indeed, those objectives were truly to stop the flow of drugs in the United States), but the War on Drugs has also had numerous tragic collateral consequences. These include, as already discussed here, isolating people from society and introducing them to the carceral system; removing parents from children, which leads to emotional, mental, and educational attainment struggles; and stigmatizing and effectively criminalizing mental illness.

Remedying these problems will require significant government investment and a change in priorities for healthcare providers, especially those related to mental health. Rural communities must educate their citizens to remove some of the harmful stigmas associated with mental illness and substance abuse, and to prevent adolescents from using drugs to cope with their problems or to associate with friends. Additionally, rural communities need greater access to transitional and supportive housing, along with in-patient rehabilitation facilities, to reduce the burden on families of those suffering and keep people from living in the cycle of abuse and incarceration. Finally, rural areas need a significant number of new social workers who are solely dedicated to reducing the harm caused by the War on Drugs. If decriminalization is not to be realized in the coming years, there at least needs to be an acknowledgment by the government that the War on Drugs is not without its consequences. Once that recognition happens, the next step is to reduce the harm caused by criminalization of drugs, which should include some of the proposals outlined here.

The War on Drugs has ruined lives and families. In rural communities, it is often the families themselves that are forced to deal with the consequences of this failed criminal justice policy. Relatives have no choice but to call the police when one of their family members is suffering from mental illness and substance abuse, and from then on, the ill person becomes a criminal who is likely to recidivate. On its fiftieth anniversary, if the War on Drugs is to continue, its effects must be addressed. Rural communities should be part of that conversation—the stories of the lives destroyed in small towns across America because of the criminalization of drugs has not often been told, and it is past time that these voices are heard.