

# Treatment and Care for People with Drug Use Disorders in Contact with the Criminal Justice System: **Alternatives to Conviction or Punishment**

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For further information on the treatment and care of people with drug use disorders in contact with the criminal justice system initiative, please contact:

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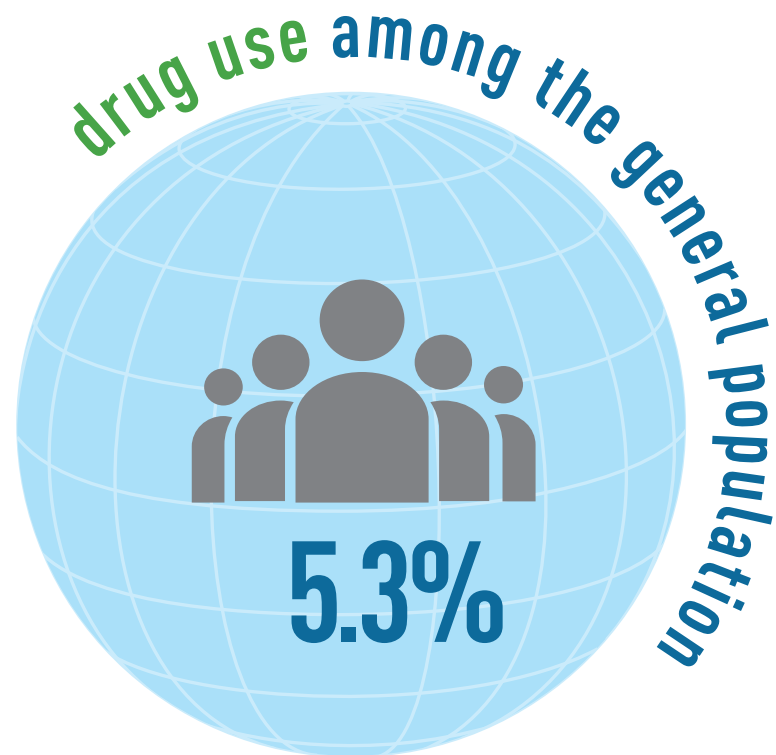
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## INTRODUCTION

The Treatment and Care of People with Drug Use Disorders in Contact with the Criminal Justice System initiative, supporting collaboration between public health and justice authorities, was launched by the United Nations Office on Drugs and Crime (UNODC) and the World Health Organization (WHO) at the Commission on Narcotic Drugs (CND) in 2016. In line with the UNODC-WHO (2016) “International Standards for the Treatment of Drug Use Disorders”, this initiative aims to support Member States in their efforts to pursue alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature.

United Nations Member States are encouraged to enhance the potential for alternative measures to conviction or punishment, as many people with drug

use disorders are in contact with the criminal justice system and many of them have a history of drug use (disorders). Drug use, including the use of heroin and injecting drug use, are commonplace in many prisons. One out of three prisoners have used an illicit substance at some time while incarcerated, with 16 per cent reporting current (past-month) use (UNODC World Drug Report, 2017). At the same time, incarceration may have severe negative consequences for those people with drug use disorders as it could worsen the underlying health and social conditions that are associated with drug use. Several Member States are therefore looking for ways to increase the number of people who receive effective treatment for drug use disorders, and to reduce the number of those who are incarcerated.



## WHY CONSIDER TREATMENT AS AN ALTERNATIVE TO CONVICTION OR PUNISHMENT?



The initiative suggests five rationales that are listed below:



**Treatment as an alternative to conviction or punishment is in line with international policy and legal frameworks, in particular the international drug control conventions:**

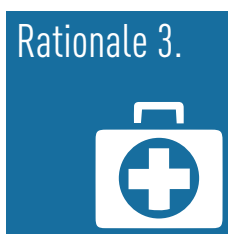
Health is a fundamental human right, indispensable for the exercise of other human rights. It is understood that the right to health is associated with the accessibility of educational, social and health services without discrimination. The right to health extends to any person in contact with the criminal justice system. It logically follows that people with drug use disorders who are in contact with the criminal justice system should thus be provided with effective treatment of drug use disorders, and the prevention and treatment of other conditions commonly found in people who use drugs such as HIV, hepatitis, tuberculosis, mental disorders and drug overdoses. The provision of treatment as an alternative to conviction or punishment can be implemented in appropriate cases of a minor nature, based on the international drug control conventions:

- **Community:** Parties shall take all practical measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved
- **Persons in contact with the criminal justice system:** Parties may provide (those measures) either as an alternative to conviction or punishment or in addition to conviction or punishment
- **Cases of drug consumption-related offences and other cases of drug trafficking of a minor nature:** Parties shall measure those cases as an alternative to conviction or punishment



**Many people with drug use disorders are in contact with the criminal justice system and many people in the criminal justice system have a history of drug use and drug use disorders:**

People with drug use disorders may be involved in different types of offences. They may engage in possession, purchase or cultivation of controlled drugs for non-medical personal consumption, drug supply-related offences and other kinds of behaviour that States parties are expected to establish as criminal offences pursuant to the international drug control conventions. They may also engage in offences such as robbery, theft, assault, burglary and more serious crimes that are driven by drug use and drug use disorders as an underlying factor.



**It is an effective public health strategy:**

Drug use disorders should be seen as health-care conditions and should be treated in the health-care system. People with drug use disorders need the availability of accessible, affordable and evidence-based drug dependence treatment and care services along a continuum of care, including outreach, screening and brief interventions, assessment and treatment planning, psychosocial and pharmacological treatment interventions at the outpatient and inpatient level, and continued support for recovery through rehabilitation and reintegration. Treatment requires the involvement of the health-care system and may benefit from the involvement of the larger community and social support systems.



**It is an effective criminal justice strategy:**

Prison overcrowding severely impacts the quality of nutrition, sanitation, prisoners' activities, physical and mental health conditions, and the care available for vulnerable groups, in addition to generating prisoner tension and violence. When alternatives to conviction or punishment are used to replace imprisonment, they contribute directly to the reduction of the prison population. A further advantage of using alternatives to imprisonment is that they can help reduce reoffending, and thereby lower the prison population in the long term. For people with drug use disorders in contact with the criminal justice system, treatment as an alternative to conviction or punishment can be applied in all appropriate cases to benefit public health and public safety.



**It contributes to public health and public safety in an integrated way:**

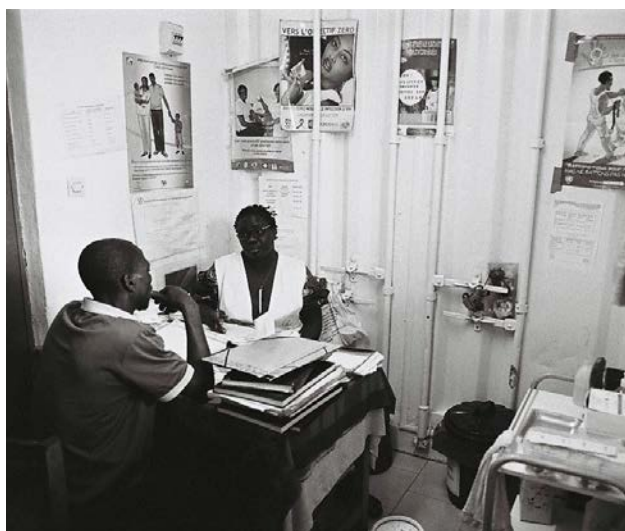
Drug use disorders and associated negative health and social consequences may also bring about significant costs to society, including loss of productivity, security challenges, crime and lawlessness, and increased health-care costs. Treatment in the community is cost-effective. Every \$1 spent on drug treatment in the community is estimated to return \$18.52 in benefits to society in terms of reduced incarceration rates and associated crime costs (Washington State Institute for Public Policy, 2006). The Commission on Narcotic Drugs resolution 58/5 promotes the collaboration of justice and health authorities on alternative measures to conviction or punishment for appropriate drug-related offences of a minor nature (CND resolution 58/5, 2015). It is essential that police, prosecutors, judges and other officials are aware of the potential benefits of available non-custodial measures and apply them. It is equally essential that qualified and well-trained health and social service providers implement evidence-based treatment, care and other services with a keen understanding of the realities that patients face in their interactions with the justice system.

The initiative was developed within the framework of the UNODC-WHO Programme on Drug Dependence Treatment and Care, which aims to promote and support, with a particular focus on low- and middle-income countries, evidence-based and ethical treatment policies, and strategies and interventions to reduce the health and social burden caused by drug use and dependence.

## HEALTH FOR JUSTICE – JUSTICE FOR HEALTH



EXAMPLES OF SUPPORTING HEALTH/JUSTICE EXCHANGE AT COUNTRY LEVEL



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UNODC set up a series of workshops on the role of the health and justice sectors in Côte d'Ivoire and Kenya to discuss non-custodial measures at different stages of criminal justice proceedings. This is in line with the African Union Action Plan on Drug Control (2013-2017), which promotes the scale-up of evidence-based treatment services to address the health and social impact of drug use in Member States and diversion programmes for drug users in conflict with the law, especially alternatives to incarceration for minor offences.

Since 2017, UNODC has provided technical assistance to support the revision of the national drug law in Côte d'Ivoire, with specific focus on the treatment and care of people with drug use disorders in contact with the criminal justice system. Discussions with local policymakers focused on implementing United Nations standards and norms, both in the legal and health sectors, to inform the revision of Côte d'Ivoire law towards a health-focused approach and to

reduce prison overcrowding by providing for and applying non-custodial measures at different stages of criminal justice proceedings.

In 2018, UNODC organized a workshop in Kenya for justice and health-care practitioners to promote treatment and care as alternatives to conviction or punishment for people with drug use disorders in contact with the criminal justice system. Health-care professionals and justice practitioners had an unprecedented opportunity to interact and exchange experiences, in line with the Sustainable Development Goals. The Kenyan drug law is currently under review with the aim of including low-threshold treatment services and thus better reflecting a health and human rights-based perspective. UNODC continues to support the government of Kenya in its efforts to provide non-custodial options and treatment and care as an alternative to conviction or punishment, as well as considering the specific needs of women.



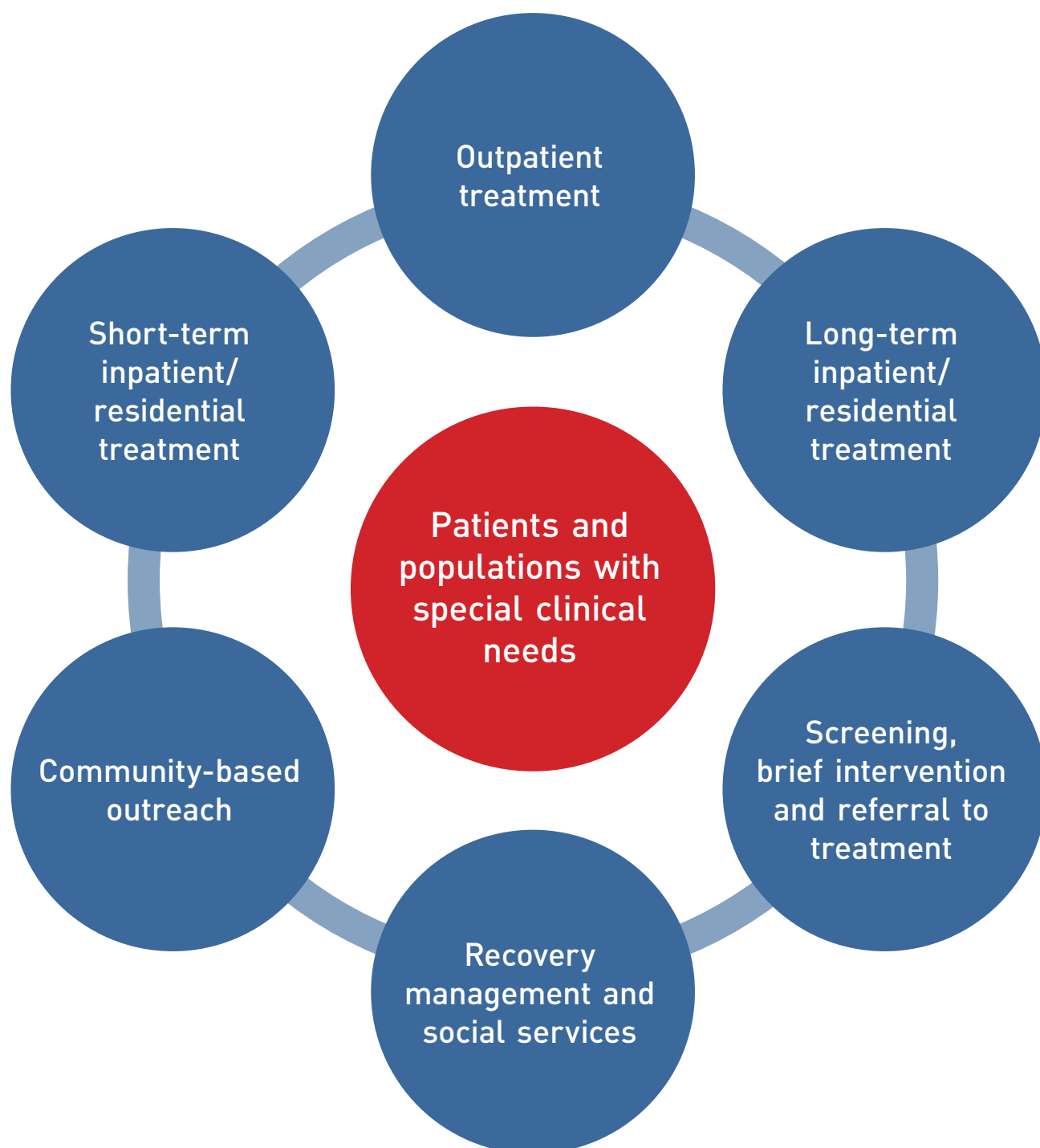
## HOW TO IMPLEMENT?



From the justice perspective, treatment can be implemented as an alternative to conviction or punishment throughout the criminal justice system from pretrial to trial to the post-sentencing stage.

ADMINISTRATIVE RESPONSE	CRIMINAL JUSTICE RESPONSE		
Pre-arrest Police	Pretrial Police, prosecutor, defence, examining magistrate	Trial/sentencing Judge, probation officers	Post-sentencing Prison director, parole board, minister of justice
Administrative response with information/referral to treatment	Caution with a diversion to education/treatment	Postponement of the sentence with a treatment element	Early release/parole/pardon with a treatment element
	Conditional dismissal/conditional suspension of the prosecution	Deferring the execution of the sentence with a treatment element	
	Conditional bail (alternative to pretrial detention)	Probation/judicial supervision	
		Special courts/docks (e.g., the Drug Treatment Court)	

From the health perspective, alternative strategies depend on a network of accessible, evidence-based treatment services in the community, in line with the International Standards for the Treatment of Drug Use Disorders.



## SEVEN PRINCIPLES

1. Drug use disorders are a public concern requiring responses that are health-centred. Individuals with drug use disorders should not be punished on account of their drug use but provided with appropriate treatment.
2. The use of alternatives to conviction or punishment at all stages of the criminal justice system for offenders with drug use disorders based on an assessment of established criteria should be encouraged.
3. Proportionality is required during all stages of the diversion and supervision process.
4. A diversion to treatment should be made with the informed consent of the offender.
5. The implementation of alternatives to conviction or punishment should respect legal and procedural safeguards.
6. Specific attention should be paid to special groups and their access to treatment as an alternative to conviction or punishment in order to avoid discrimination.
7. Prisoners with drug use disorders may not be deprived of their right to health and are entitled to the same level of treatment as the general population.



## CONCLUSIONS

Investing in treatment as an alternative to conviction or punishment has been found to be an effective public health and public safety strategy. Moving from a coercive to a cohesive approach requires the involvement of all relevant stakeholders including close collaboration among the health, social and justice sectors as well as a concerted investment in evidence-based treatment services in the community.

The provision of treatment as an alternative to conviction or punishment can be implemented at all stages of the criminal justice process (pretrial, trial, post-trial) in line with the international conventions and other relevant legal documents (Tokyo/Bangkok Rules), as well as in coordination with international standards for the treatment of drug use disorders. The approach is being applied in countries with different legal systems and socioeconomic conditions.

