

HOW TO STOP A JAIL IN YOUR TOWN

A COMPILATION OF
RESOURCES FROM
FIGHTS AGAINST
JAIL EXPANSION



Dear Allies,

Here in California many sheriffs are planning to expand county jail systems, and in most of those counties residents are questioning whether a bigger jail and more county spending going to the sheriff's budget is necessary. Almost 2/3 of the people in California jails last year were being held pre-trial, meaning that they hadn't been convicted yet.

CURB believes that expanding the number of jail or prison cells is terrible public policy. We incarcerate too many people for too long, already. Tax dollars that were used a generation ago to pay for schools and public housing have been diverted to pay for more law enforcement and incarceration.

If you're wondering whether your county really needs more jail cells – or if you're already determined that it doesn't, we have put together some resources to help you and your neighbors sort through what some of the key issues are, what the policy alternatives to jail expansion are and what you can do to move your county away from a disastrous jail expansion project.

There are a lot of reports and fact sheets about jails. We've selected 10 of the best. They're easy to read and will give you a solid overview of what can be done in your county, and how you can take steps to put your county on the right path.

All are available for free download at: www.curbprisonspending.org (Resources and Tools).

We've listed some other resources for those of you who want to dig a little deeper into public policy questions about jails.

We've been working on stopping prison and jail expansion in California for about 15 years. Feel free to contact us with questions.

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Californians United for a Responsible Budget (CURB) is a statewide alliance of over 50 organizations working to curb prison spending by reducing the number of people in prison and the number of prisons in California.

What's here

Short and simple guides and fact-sheets from Community Alternatives to Jail Expansion

- CAJE: A How-to-Guide to Organizing for Alternatives to Jail Expansion in Your Community 6-9
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A chapter from CPMP's How to Stop a Prison in Your Town on organizing basics

(the rest of their manual is available for free in English & Spanish at:

http://www.calipmp.org/media/docs/2011_pmphdbk1-22.pdf)

- CPMP: Organizing the Opposition 15-30

Sample tools from recent jail fights in California

- CURB: 10 Alternatives to Building a New Jail in San Mateo County 31
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- YJC: Los Angeles "Jails Are Crushing the Heart of the Community" 45
- Riverside Letter to the Editor 46

Summary of a recent report on how and why to abolish bail, the simplest way to reduce the 'need' for more jail cells

- Justice Policy Institute: Bail Fail: Why the U.S. should end the practice of using money for bail. Executive summary 47-54

Great overview of what's wrong with jail expansion & what the alternatives are

- Amanda Patteruti & Nastassia Walsh: Jailing Communities: The Impact of Jail Expansion and Effective Public Safety Strategies 55-89

The human cost of holding people in jail because they can't raise bail money

- Albert Samaha: Barred from Freedom: How Pretrial Detention Ruins Lives 90-100

Other resources

- **James Austin** Assessing and Managing Your Jail Population: A Toolkit for Practitioners
http://www.ca-ilg.org/sites/main/files/file-attachments/jailassessmenttoolkit10_31_12.pdf
- **Robert C. Boruchowitz/NACDL** Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts
[http://www.nacdl.org/public.nsf/defenseupdates/misdemeanor/\\$FILE/Report.pdf](http://www.nacdl.org/public.nsf/defenseupdates/misdemeanor/$FILE/Report.pdf)
- **BJS** A Second Look at Alleviating Jail Crowding: A Systems Perspective
<http://www.ncjrs.gov/pdffiles1/bja/182507.pdf>
- **CPMP** How to Stop a Prison in Your Town (in English or Spanish)
<http://www.calimp.org/documents>
- **Craig Gilmore/Real Cost of Prisons Project** "How to Pay for a Prison" (on bonds)
- **Dana Kaplan/CAJE** Impacts of Jail Expansion in New York State: A Hidden Burden
http://www.ccr-ny.org/v2/reports/docs/CCR_NYS_Jail_Report.pdf
- **Magnus Lofstrom and Katherine Kramer/PPIC** Capacity Challenges in California's Jails
http://www.ppic.org/main/publication_quick.asp?i=1034
- **Sarah Lyons and Nastassia Walsh/Justice Policy Institute** Money Well Spent: How Positive Social Investments Will Reduce Incarceration Rates, Improve Public Safety, and Promote the Well-Being of Communities
http://www.justicepolicy.org/images/upload/10-09_REP_MoneyWellSpent_PS-DC-AC-JJ.pdf
- **Los Angeles Conservancy** Using CEQA to Protect Your Community
http://www.laconservancy.org/preservation/CEQA_english.pdf
- **Vera Institute** Making the Transition: Rethinking Jail Reentry in Los Angeles County: Fact Sheet
<http://www.vera.org/sites/default/files/resources/downloads/making-the-transition-fact-sheet.pdf>
- **Ana Yanez-Corera and Molly Trotman/TCJC** Costly Confinement & Sensible Solutions: Jail Overcrowding in Texas
http://www.criminaljusticecoalition.org/files/userfiles/TCJC_Jail_Overcrowding_Report.pdf

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A How-to-Guide to Organizing for Alternatives to Jail Expansion in Your Community

Step One: Getting the Facts

One thing that tends to unite communities across the United States who are facing jail construction projects is the overwhelming sentiment that they are not receiving full information - on the need for the jail, on the impacts it will have on the community, or on the fiscal costs. Any effort to make smart decisions regarding jail expansion needs to start with some research to answer these questions – with the number one rule being not to believe what jail proponents claim without looking for the research to back it up. When you first learn of a proposed new jail, all the unanswered questions might seem overwhelming – but a good starting point at making sense of the impacts of the new jail are the following:

What is the evidence to support the need for a new jail?

Frequently, even the justifications for new jail expansion are questionable when looking for the facts. Some jail proponents will offer overcrowding of current facilities, projections of future jail populations, or poor conditions to back the supposed need for a new jail. However, before trusting these claims, you need to do the research on the situation. If the jail is in fact overcrowded, what are the reasons? What is causing overcrowding? What is the breakdown of the population of the people in jail – pre-trial, parole violators, misdemeanor versus violent offenses, etc? Are there options that can reduce jail populations that haven't been tried? If the jail is not overcrowded but proponents are projecting future growth – what is their claim? Is crime going down in the community? Are arrest rates going up? If arrest rates are going up, what can account for this change? Jail populations are an extremely difficult thing to project, so any hard prediction should be looked at with a great deal of skepticism, particularly if it is based on nebulous claims such as “in the past they have increased, so we are projecting a future rise.” If proponents are claiming that the current jail is in poor condition, how was that determined? Has there been an assessment done of the cost of renovation? Do maintenance records and budgets indicate that they have been making repairs?

Where to find this information: The Sheriff's office should provide records of who is in the jail and daily snapshots, as well as arrest rates. If your jail has a Pre-Trial Services staffperson, they can often give information regarding what reforms could be implemented to reduce the population and what programs are underfunded. You can also ask the Sheriff's office for maintenance records and budgets, as well as their criteria for maintenance or replacement.

How much will the jail actually cost, including construction, debt service, and operating costs?

While proponents of the jail will give a projected price-tag, many communities find after the fact that the costs of the jail were far higher than initially expected. When calculating the actual costs, look for the cost of construction, *plus* the cost of debt service on the loan. This can add an additional millions to the price tag of the project. You also need to factor in the cost of operating the jail each year, as well as any additional costs that are associated with rebuilding local roads and infrastructure to accommodate the project. If

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your town is considering a private jail, a common myth is that it won't cost the local community – but private companies don't like to risk their own money to build prisons, and often ask the local government for tax breaks, free infrastructure, and construction costs.

Where to find this information: Office of the Budget, City or County Planners and Manager, public utility and service officials.

What are the environmental impacts of the jail on the local community?

There are numerous potential environmental hazards that are associated with the construction and maintenance of detention facilities, including wastewater treatment, hazardous waste and trash disposal, asbestos management, pesticide use, vehicle maintenance and power production. These hazards are equally associated with both prisons and jails, which do not differ in environmental impacts. Has your town completed an assessment of the environmental impact on the local community, which is usually mandated by law? Has it evaluated what the impact of the new jail will be on water supply, traffic patterns, visibility of the night sky? Are there any considerations to make that are specific to the proposed site – waterfront, other industry, proximity to agricultural or tourist destinations?

Where to find this information: City and county planners, the Environmental Impact Report

Step Two: Getting Information Out and Developing a Strategy

The hardest part of your job is getting accurate information on the project. Once you have some facts, all you have to do is make sure that it gets out to the rest of your community – by writing letters to the editor, making up fliers and fact sheets to disseminate, telling the media, and holding community meetings on the topic. Other communities that have been successful at stopping proposed jail expansions said that the most important thing that they did was get the facts – which made them reliable sources for information on the jail proposal.

Once you have answered some of the questions about the impacts of the new jail and begun to circulate this information, you should also be developing your strategy. *A strategy is your blueprint to meeting your goal – in this case, what is your plan to getting alternatives to jail expansion in your community?*

As you develop this blueprint, there are more key questions to ask.

What are the steps in the decision making process of building the jail?

In trying to have a voice in the decision of whether to build or expand a jail in your community, you have to determine who the decisionmakers are and what the timeline is on their decision. At each step of the decision, you can intervene and alter the outcome. Some questions to consider are: Who currently owns the land under consideration and what is the process in making it available for the new jail? What committees in the local government must approve the plan, and what other regulating bodies have a say? What is the timeline for the project? With this information, you can also develop a strategy to

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intervene. It might never be too late to have a say in a jail project, but the earlier you can start the more opportunities you have for success – so figure out who you need to target if you want to stop the jail – and develop your strategy to do so.

Where to find this information: If your local government keeps online records of meetings, read through all the past discussions of the jail. You can also usually look online for the description of how your local government functions, who is on each committee, and a schedule of upcoming meetings.

Who are your allies and who are the jail proponents?

If you are concerned about the impact of a new jail in your community, chances are high that other residents and community groups are as well – and some of them might be the most unlikely of allies. Small business owners, environmentalists, educators, fiscal conservatives, and the faith community are just some examples of the people that in the past have come together against proposed jail expansions. You also want to find out who are the biggest proponents of the jail and what their investment is in the project. Some people who are pushing for the jail might think that it will be good for their communities but are working with poor information – such as community members who think that building a jail will decrease crime rates in town when that has never been demonstrated to be true, or construction unions that think it's the only way to get new jobs for the community. Other people might have a very personal investment in the construction of the jail – private jail companies, the correctional officers union, elected officials with ties to either one. You want to work closely with your allies to build support for alternatives, make sure people who are undecided have accurate information, and expose the underlying motives of people who say that the jail will be good for the community.

Where to find this information: To locate other community members concerned with the jail proposal, first you can look for people who have spoken out in public meetings or who have written letters to the editor, who are the most obvious sources of immediate support. After that, you can contact many allies by offering to send community organizations or groups information on the topic, or making presentations to other people in your town. If they share your concerns, and feel comfortable getting involved, they will contact you. Jail proponents might be the easier ones to locate – they are the ones speaking in favor of the project at public meetings – but do some additional research to find out more of their motivations. Campaign contributions are public records – so if any elected official is receiving funding from any of the companies that might stand to gain – construction, architects, private prison companies – you want to know.

Step Three: Have an alternative plan.

While it is possible to prevent a jail from being constructed just by highlighting the harmful consequences, you can also use this as a time to come together as a community to propose something different. There are alternative solutions for all the problems that produced the jail proposal, and you can use this moment as an opportunity to put those in place. If the local jail population is rising, come up with alternatives to reduce overcrowding – and make sure those alternatives and reforms are funded. If your community needs economic development, use the momentum to support development and jobs that are good for the community and sustainable for the environment. New schools, roads, and community centers are all things that can be built with the same pot of

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capital funds that were designated for jail construction.

Where to find out more: Communities across the United States have been working to come up with alternative solutions, to both jail overcrowding and economic need. Just some examples of these alternative models and reforms are available on www.cajeproject.org, where you can start for both practical solutions and creative ideas.

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This How-to-Guide to Organizing for Alternatives to Jail Expansion in Your Community is by no means a conclusive document on the topic, nor does it contain all the information you may want. However, hopefully this can get you started asking the right questions and figuring out your strategy, and there are many more resources out there to help you on your way.

If you haven't already, check out the fact sheets and resources available on www.cajeproject.org to get some more information and see what is happening around the country, or give us a call or email to ask for advice or some help.

Good Luck!

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Rising Detention and Growth of Local Jails

As the number of people incarcerated in the United States has risen exponentially in the last twenty-five years, growing to 2.2 million by 2004, both the causes of this growth and its social and economic impacts have been increasingly well-documented. Fiscally, the spiraling cost of corrections - \$40 billion in 2000ⁱ - has placed mounting pressure on state budgets, forcing trade-offs in other aspects of state spending and pushing elected officials and policymakers to seek out more cost-effective reforms to corrections. Socially, increased recognition of the consequences of mass incarceration for the communities in which prisoners disproportionately come from, as well as the environmental consequences for the communities in which prisons are housed, has also produced a relative slowdown in the state prison population. While the population incarcerated continues to grow, some reforms in sentencing policies, as well as increased interest in re-entry, has at least begun to slow the level of growth.

However, while the increase in the population of people incarcerated in state prisons grew at the level of 1.3% between mid-year 2003 and 2004, the number of people held in the federal prison system has increased exponentially, by 6.3%, as has the number of people housed in local jails. The large increase in the population of people in local facilities has placed a particularly heavy burden on county budgets, with the number rising from 256,615 people held in local jails in mid-year 1985 to close to three times that, or 713,990, in mid-year 2004.ⁱⁱ There are a number of factors that have led to such a startling increase in the local jail population, including:

- ∞ Changing arrest policies at the front end that have driven up the arrest rate for low-level, “public disorder” crimes – meaning that frequently, people are getting arrested and detained for offenses that in the past would have received only a citation or desk appearance ticket, and filling up jail beds as they are booked through the system

- ∞ Changing sentencing policies, including truth in sentencing laws, “three strikes you’re out” laws and mandatory minimum sentencing laws that all have increased the number of people in jail pre-trial

- ∞ The deinstitutionalization of the mentally ill in the last decades, which has resulted in a spiraling increase in the number of people in prison and jail suffering from mental illness, causing many to comment that “jails have become the new mental institutions of the United States”. 16% of people housed in local jails are diagnosed as being mentally ill, with many in for low-level, public disorder offensesⁱⁱⁱ

- ∞ Inefficiencies in the criminal justice system, which cause people to move more slowly through the system and stay in far longer than necessary. The large number of poor people who sit in jail because they are unable to make bail, as well as inadequate public defender systems that make fast access to counsel and trial difficult, are both examples of how system inefficiencies lead to large numbers of pre-trial populations in local jail systems

- ∞ The rising number of immigrants who are held in detention; there are currently 22,000 immigrant detainees in the United States, with 60% of them housed in local jails.^{iv}

While there is no single explanation for why local jail populations are increasing, an analysis of local jail populations throughout the country tends to reveal that these are some common factors. However, what might be most important to note, is that the increasing number of

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people in jail in the United States is *not* caused by increased levels of crime in the community. Were this to be the case, the demands for jail space would have *decreased* during the 1990s, as crime throughout the country was going down. When trying to understand what has caused an increase in the local jail populations, communities should focus their attention first on these factors.

ⁱ Kenneth E. Kerle. “Exploring Jail Operations.” Maryland: American Jail Association (2000), p. 109.

ⁱⁱ Allen J. Beck. “Prison and Jail Inmates at Mid-Year 2004.” *Bureau of Justice Statistics Bulletin*. US Department of Justice, Bureau of Justice Statistics. April 2005, NCJ 208801.

ⁱⁱⁱ Paula M. Ditton, *Mental Health Treatment of Inmates and Probationers*, Washington DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 1999.

^{iv} Lutheran Immigration and Refugee Service, http://www.firrp.org/documents/DWN_FACTS.pdf.

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Why Not in My County? Cost-Effective Solutions to Jail Overcrowding

Across the country, communities faced with the problem of crowded jails and strained local finances have begun looking for ways to curb jail population growth and increase space. These communities have sought to avoid the need for larger facilities without compromising community safety, and many have been successful in doing so by using a combination of system efficiency measures and carefully considered alternative programs. These same efficiency measures and alternative programs can be implemented in other jurisdictions throughout the country. Although the list of possible reforms is long, some examples of these measures include:

Pre-Arrest Programs:

Citation programs: Programs that give citations to offenders without booking them through the arrest process. These citations can entail a notice to appear or a desk appearance ticket, and eliminate unnecessary jail bookings. Offenders are booked only when they present a flight risk, present a clear and present danger to their community, or are unable to prove their identity. This solution has been used in the case of low-level, misdemeanor crimes.

Examples of such programs: Bernalillo County, New Mexico: Sheriff Joe Bowdich 505-768-4100 Jefferson County, Kentucky: David Nicholson, Jefferson County Crime Commission 502-574-5088

Programs for mentally ill: Through hiring civilian police employees with mental health training and by creating training programs to help officers recognize mental illness, counties can divert people with mental illness away from jail and into emergency mental health care programs instead. Trained officers identify mental illness and work with other agencies to provide the necessary treatment outside of detention facilities.

Examples of such programs: Fairfax County, Virginia: Mobil Crisis Unit 703-246-2253 Santa Fe, New Mexico: Fred Sandoval, Crisis Mobile Team 505-984-6672 San Diego, California: Lt. Brenda Herbert, Crisis Intervention Team 408-277-4631

Improving Release Procedures for the Pretrial and Sentenced Populations

These improvements decrease jail populations by ensuring that people are moving through the system in a timely fashion. Examples include setting time limits for releasing pre-trial defendants brought in on certain charges (i.e.: public drunkenness), transferring committed offenders (state- readies) to state facilities rapidly, and transferring mentally ill inmates to state hospitals in a more timely fashion.

Examples of such programs:

Saginaw County, Michigan: Steve Garza, Jail Population Manager 517-790-5408
Broward County, Florida: Sheriff Ken Jenne 954-831-8300 Salt Lake County, Utah: Captain Robert Beenus, County Jail 801-743-5500

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Monitoring / Expediting Detention Cases:

Hiring case monitors to continuously review jail inmates to identify those who could be diverted from the jail or individuals whose cases could be diverted in some manner.

Examples of such programs:

Jackson County, Mississippi: Beth Michaels, Community Corrections 517-768-5812

Pre-Trial Diversion

Pretrial services programs can help alleviate jail crowding by releasing inmates before trial and by providing three essential services. First, they provide information about the defendant to help decision makers make an appropriate pretrial release / detention decision. Second, they provide the decision maker options for safely releasing the defendant. Finally, they have the capacity to monitor and supervise defendants released before trial.

Examples of such programs:

New York, New York: Jerome McElroy, Criminal Justice Agency 212-577-0500 Pima County, Arizona: Kim Holloway, Pretrial Services 520-740-3310 Montgomery County, Ohio: Thomas Muhleman, Pretrial Services 937-225-3473

Bail Reform

National studies show most pretrial inmates are those who cannot post a money bond, or bail. Instituting bail reform is a means of alleviating overcrowding in this population. Examples of such reform include increasing the frequency of initial appearance hearings that set bail, and holding bond review hearings several days after defendants enter jail to determine whether they might qualify for case disposition, bond reduction, or pretrial release consideration.

Examples of such programs:

Mecklenburg County, North Carolina: Janie Beaver, Court Services Department 704-336-2027 Maricopa County, Arizona: Marcus Reinkensmayer, Superior Court 602-506-3190

Specialty Courts

Including drug courts, domestic violence courts and mental health courts, specialty courts were developed as a means to provide individuals with a sanction that includes treatment that would not be provided through the standard criminal justice system.

Examples of such programs:

Salt Lake County, Utah: Michael DeCaria, Treatment Unit, Criminal Justice Services Administration 801-799-8466

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Alternatives to Incarceration

In response to increased jail populations, probation agencies are working with other criminal justice agencies to develop alternative punishment programs, which are court sanctioned programs that mandate supervision but do not hold individuals in secure detention. The most widely used alternative to incarceration program is supervised probation, which allows a person found guilty of an offense to stay in the community, usually under the conditions and supervision of a probation officer. Other alternatives to incarceration include measures such as electronic monitoring or court mandated treatment programs.

Examples of such programs

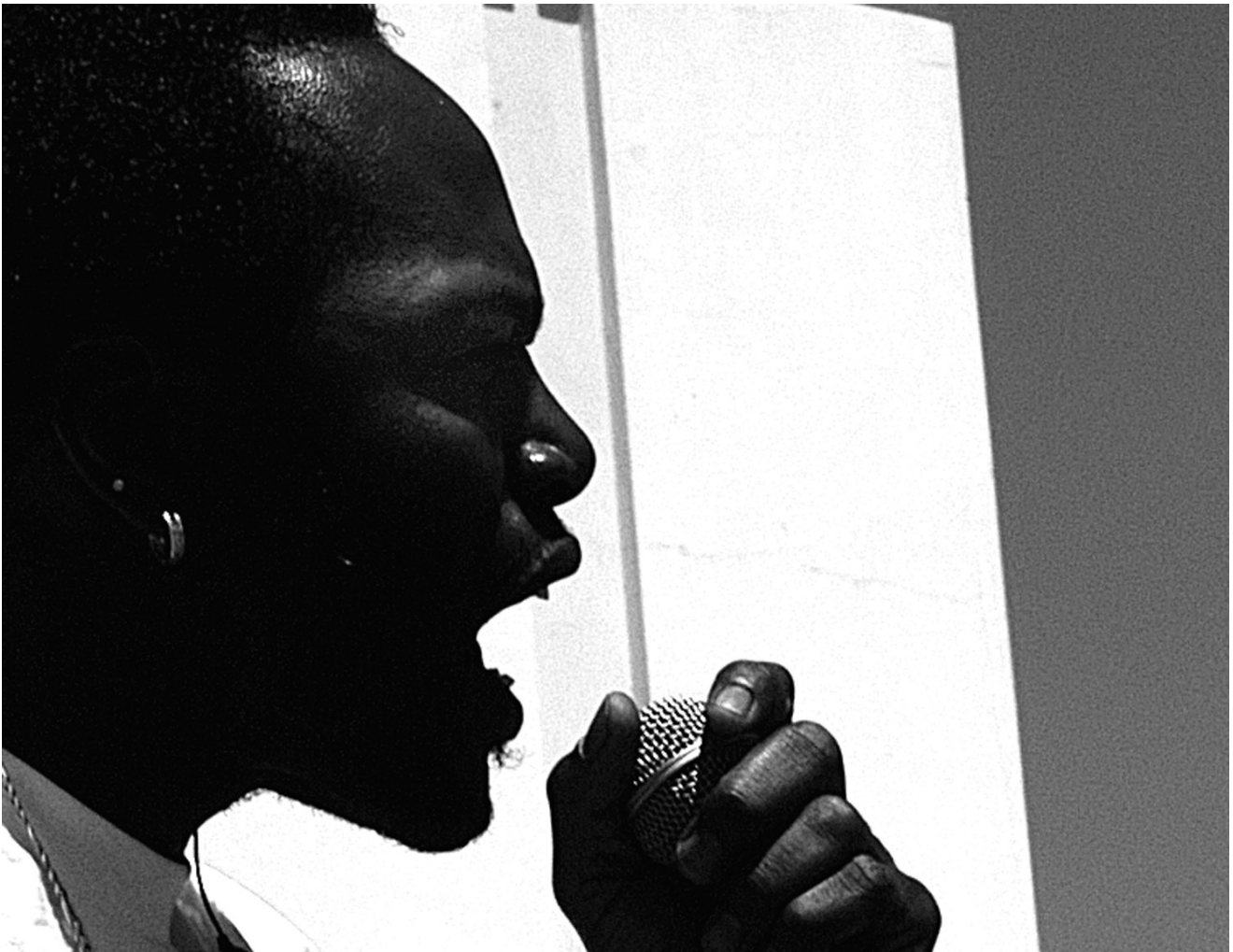
Monroe County, New York: Edward Nowak, Public Defender 716-428-5531
Boulder County, Colorado: Claudia Brown, Community Corrections 303-441-4585

*It should be noted that while all of these initiatives will improve both the efficiency and the effectiveness of the local criminal justice system, none should be viewed as a singular solution for jail overcrowding. These initiatives should be coupled with a commitment to the timely processing of defendants through the court system in order to avoid overcrowding.

Information on jail reform programs and efficiency measures was taken from the Bureau of Justice Assistance report, *A Second Look at Alleviating Jail Crowding: A Systems Perspective*, issued in October 2000. To download a full copy of the report, visit <http://www.pretrial.org/publications.html>

For further reading on jail reform, including information on successful programs currently in operation, visit the Pre-Trial Services Resource Center webpage at www.pretrial.org.

ORGANIZING *the opposition*



WHAT IS ORGANIZING AND HOW DO I DO IT?

Having the facts and knowing your allies are a couple of very important steps in the fight against a new prison. Now you've got to figure out how to use these tools to do a few other important things: spread the word so that more people in your town will be informed, increase the number of people who agree with you and are willing to help out, create and carry out a strategy to keep the prison out, and use the local and regional news media to cover your side of the issue. When put together and done well, these four things are "organizing". We can't guarantee that organizing will keep a prison out of your town, but we can guarantee that if you don't do it, you will lose your opportunity to influence the decision.

Just as with research, what you might lack in experience, you can make up for with commitment and perseverance. At bottom, organizing is really about only two things — communication and persuasion — with a good dose of creativity thrown in. In this chapter, we've laid out many of the basics for organizing. As you begin to organize, you'll find that some of what we've suggested doesn't apply to your situation or that it doesn't work in your town, and you will develop your own strategies that weren't mentioned in this handbook. We hope that you will let us know what did and didn't work for you, so that we can make future versions of this handbook better. With that, let's talk about the pieces of organizing. A lot of what's in this chapter comes from

Organizing for Social Change: A Manual for Activists in the 1990s by the Midwest Academy.

CALLING AND HOLDING MEETINGS

Meetings are the basic building-block of any organizing campaign. Meetings are the place where community members come together to meet one another, make plans for a campaign, make decisions on goals, and determine how they can achieve those goals. They are the places where people new to the issue find out what you're all about. And, they are the place where people begin to see the power that they have simply by coming together in common cause and letting others know about it. This may seem a little on the touchy-feely side for some of you, but you'll have to keep in mind that one of the most common reasons for inaction is isolation. Your job as an organizer is to make sure that no one in your town feels isolated from the debate around the new prison.

Having said that, many examples of successful organizing against prison construction in California have started with just one or two people, meeting over coffee and talking about why they do and do not want a prison in their community. These informal discussions can develop into campaigns and meetings that bring the force of the community together to fight for common goals and a common vision for their town. Because meetings are so important, we thought we'd talk a little about how to hold one, how to get things accom-

plished once you've gathered, and some logistical stuff for making them run smoothly.

Goals

First, **every meeting should have a goal**. It is important for participants to feel like they are accomplishing something toward their overall goals. For instance, an initial meeting to stop a prison might have the goal of developing a plan for the campaign to stop the prison, finding ways for community members to express their opposition, finding avenues for directing that opposition, and making a timeline for implementing those actions. Or a meeting might focus on the subject of how to bring more people in the community into the campaign. Keep your goals simple at first. While you all, ultimately, want the same thing (no prison), you'll get there through the many small steps you take as a group. There's no sense rushing ahead if the group isn't ready, since your greatest strength is in the group itself.

- Have you set concrete, realistic goals?
- Have you made sure that your goals allow everyone to participate?

Logistics

Meetings should be held in places that are comfortable and familiar to the folks you want in attendance. It doesn't work to hold a meeting at a spacious community center if it's not a convenient distance for the majority of the residents in your town or for the groups

you hope to draw to a particular meeting. Here are some other things to consider:

- Newsprint and markers
- Easel and chalkboard
- Outlets for audio-visual equipment
- Sign-in sheets and table
- Refreshments
- Microphone set-ups
- Have you arranged for childcare?
- Do you have transportation for those who need it?
- Do you have a plan to increase your turnout and enough people making calls to insure a good turnout?
- Do you have a system for comparing those who said they would come with those who actually come?

As you plan your meeting, it can help to determine roles for people already involved in the campaign. For instance, every meeting should have a chairperson — someone who helps to develop the agenda of the meeting, encourages everyone to participate in the meeting, and directs discussion towards making decisions or accomplishing particular goals.

Though it may not always be convenient, it's best to change the chairperson from meeting to meeting. Chairing a meeting is a leadership opportunity, and by giving many members of your group the opportunity to be the chairperson, you will build your group's

capacity to lead. This leadership experience will be important as your group grows. For instance, if a single person has always chaired your meetings, when your group becomes sufficiently large to split into two subgroups, there will be no other person with chairing experience to take over with the new subgroup. Chairing a meeting is also an opportunity to practice public speaking — something you'll want many of your members to have some experience with. In the end, each aspect of the work you do to stop the prison is some kind of opportunity to increase your group's ability to act and organize. The stronger the skills of the entire group are (as opposed to the skills of a single or select few individuals), the stronger are your chances for success. Have you asked people to serve as the:

- Chairperson/facilitator?
- Note-taker?
- Timekeeper?
- Presenters?
- Tone-setters — to open and close meetings?
- Greeters — to welcome people and get names, phone numbers, addresses and e-mails?

Many of the small towns in California that have faced a prison have a significant population of non-English speakers (and English-only elected officials). By holding meetings exclusively in English or forgetting to accommodate other languages, you may be cutting yourself off from a potentially rich source of support for your campaign. In doing so, you'd be repeating exactly

what prison officials and their supporters do in virtually every attempt to build a new prison. They figure, the fewer people involved in the debate, the easier to control the debate — and they're right. More people joining your group will increase your chances for success.

Other considerations

- Is the site familiar, accessible, representative and adequate?
- Are the date and time good for those you want to attend?
- Do you have a chairperson for the meeting? Has the chairperson been involved in preparing the agenda or been fully briefed?
- Do you have adequate translation for non-English speakers?

Agendas

You can think of an agenda as something like a script. Try to imagine how much you'd get done as the director of a multi-million dollar movie without a script. Not very much. Similarly, meetings need agendas to make them efficient. When you create an agenda, consider beginning the meeting by presenting a particular proposal for the group to act on. It is a good way to make your meeting move toward concrete goals, to generate discussion, and to keep large gatherings manageable. Imagine a small community group that has made headway in its effort to convince a city council member that a new prison will not bring any of the promised benefits to their community. The group sponsors a meeting and invites the council member. Because a large

number of people attend and there is no clear agenda, the meeting deteriorates into a shouting match and the opportunity to gain an elected official's support is lost. Score one for the prison supporters.

- Does the agenda:
 - Accomplish your agreed-upon goals?*
 - Encourage commitment and involvement?*
 - Provide visible leadership roles?*
- Do you need:
 - Printed agendas?*
 - Background materials?*
 - Proposals?*
 - Assignments*

A key component to a meeting is determining what steps need to be taken next and who will do what. This can be done either by assigning and/or asking for volunteers for particular tasks or by creating "workgroups" to handle various aspects of a campaign. If your group is large enough, you might have workgroups for research, fundraising, outreach and canvassing, media, and many others. However you organize your tasks, be sure to leave plenty of time at meetings to go over actions and split up responsibilities for tasks. When you end your meetings, make sure everyone is crystal clear about:

- Who will do what tasks?
- How long will each task take?
- Who else will help?

SETTING A STRATEGY

A strategy is a plan to getting to your goal. It is about understanding who can help you achieve your goal, and who will be opposed to what you are doing. It is also the "how" part of the organizing equation — How will you win? What will you need to do in order to win? Will you pressure city council and other local government agencies to cancel the hosting of the prison through media work and attending hearings? Will you hold a demonstration? Who will get in your way and what kind of power do they have? How can you win opponents to your side, and with what arguments?

More than any other part of the anti-prison work you will do, strategies depend upon the specifics of your situation. While the details of organizing change from community to community, there are some general guidelines that we can refer to for meetings, outreach, fundraising and media that we can be reasonably sure you will use in your community. But strategy is a little trickier — it always depends upon the specifics of a situation. The fact that someone in your group is a good friend with one of the city council members might play an important role in your strategy. Or maybe your kid punched the City Manager's kid in the mouth a couple years ago, so she/he won't be your ally. The point is that strategizing

is hard to teach and almost impossible to learn by memorizing a set of rules.

Having said that, we don't want to leave you without any advice. Here are some things you can do to make sure your strategizing is effective:

- Assume everything will take longer than you think.
- Murphy's Law is, as usual, in full effect: Anything that could possibly go wrong will go wrong. Always have a backup plan.
- Never over-commit yourself to any one particular strategy. When circumstances change, you should be able to change your strategy along with them...
- ... Which means you should strategize and re-strategize. Make a habit of re-examining your campaign strategy at regular intervals.
- With changes in goals will come changes in strategy.
- In general, strategies that rely upon the strengths of the group will be more sound than strategies that depend upon the work of individuals.

As with everything else in a campaign that has a definite end-point, timing is always important. So make sure to ask yourselves these key questions when putting together a campaign strategy:

What is the schedule for implementing the plan to build the prison?

How and when will you intervene in the plan?

What tasks will need to happen and in what order?

FINDING AND DEVELOPING ALLIES

While it may be obvious, the importance of allies bears repeating in the organizing context. The more people you have on your side, the more likely you are to stop a prison from being built in your town. Broad support for keeping a prison out of town translates into real political power. While there are many different kinds of allies, we're going to focus on the two most likely to be the bread and butter of your group — residents just like yourselves and other organizations.

Outreach

Outreach is basically talking to people, over and over and over. While it is a crucial part of any effective campaign, it is often the most time-consuming and basic part of your organizing efforts. To get a lot of people to hear your message and agree with you, you have to start at the beginning — letting them know what is going on. As you

get people interested, you can let them know what they can do to help out. Be creative in finding different ways for people to become involved in the campaign. There will be people who cannot be involved in everyday planning but would come to a protest. Those people will be important when it comes time to show city officials how much support you have, and they need to be kept in the loop about your actions.

A general plan for outreach often starts by getting basic information to as many people as possible, and following up with those people. As more people become involved, your network will expand, and you will start to build a circle of organizers and a circle of supporters. Always use the connections the members of your group have to conduct outreach in new places. If some of you work at the local high school, have those people make announcements at staff meetings. If some of you are in the Parent-Teacher Association for the elementary school, make announcements there.

When building a mental picture of the various connections the members of your group have to other groups, it is important to think about who you are trying to reach and what the best way is to reach them. You may have to use different strategies for different audiences. Making announcements at meetings may be effective for one community, but going door-to-door may be necessary to get another community on board. Maybe everyone attends church, and by getting the support of the churches you will get the support of

everyone involved. Maybe a lot of people in your town work for one employer, and getting the workers there to support you would be really important. Do a lot of people speak another language besides English? Try to find leaders in communities of all language groups, so that you can reach out to all of your potential supporters.

Doing outreach is like offering an opportunity to everyone you talk to — it's about making people excited, mad, curious, and giving them a place to focus these emotions. Always leave your contact information and the date, time and location of the next meeting so people feel like there is some action to be taken. Here are a few first steps to doing outreach that you may be able to use or modify in your town:

- **Develop a flier that sets out your basic reasons why a prison is a bad idea:**

Are the points short and easy to read? Do they let people know why they should care about the prison? Is it visually striking....will your flier catch people's eye? Do you have contact numbers in an obvious place so people know who to call if they want more information? Does your flier suggest a next step, like attending one of your meetings or a town hall meeting?

- **Distribute your flier:**

Everywhere. Hand out fliers at places that receive a lot of foot traffic — popular stores, local shows or fairs. Put them up on bulletin boards, in schools, at City Hall, in

the library – anywhere that you can pin it up, pin it.

- **Sign everyone up:**

At every meeting and every time you talk to someone, get contact information so you can let them know about other things you are organizing. Keep a master list of all the phone numbers or emails you have.

- **Call everyone on your list:**

Call them when you have a meeting or when you have a large event taking place. Send out a mass email. Remember, however, that although emails are a good way to let a lot of people know what is going on quickly, many people do not have email access.

Coalitions

Another way that you can strengthen the influence of your group is to join with other groups engaged in common or overlapping causes. When two groups come together in common cause we call this a coalition. Why form them? Because two groups are better than one. Because building a coalition might effectively increase your group's membership. And because coalitions have the power to reach many more individuals with their message than do individual groups.

The state of New York was developing plans to build a new youth prison in upstate New York. Youth and adult activists from New York City, who were

trying to curb the incarceration of youth (the vast majority of whom came from a few neighborhoods throughout New York City) began to look at intervening in order to force the state to fund youth programs rather than youth prisons. At the same time, residents of Bainbridge, one of the upstate towns targeted for the siting of the prison, began organizing against the prison. Soon thereafter, urban youth activists and the rural residents of Bainbridge joined forces, demanding that the \$75 million that the prison would have cost be spent on real economic development in rural New York and real programs, jobs and housing. In May of 2002, under the pressure of the coalition and their organizing work, New York State removed the prison from the budget.

This alliance may seem unlikely, but remember: prisons benefit no one, so potential allies are everywhere. As the Farmersville story demonstrates, it is important to think about what you have in common with other people that you can use to unite people for a common good.

Just as with strategizing, there are no hard and fast rules for building coalitions. You take them where you can find them and use them to further your goals. The important thing to keep in mind here is that you should always be looking to form coalitions. With so many potential negatives involved with a prison, there will be any number of potential groups that might want to join in coalition with you —organizations of parents worried about increased traffic, farmers concerned

Here is an example of a petition local organizers put together as part of an on-going campaign against a federal prison in the small town of Mendota, California.

We, the residents of Mendota, demand that the City Council and Mayor cease all proposal negotiations with the Federal Bureau of Prison to build a federal prison in our community. We demand that the City Council and Mayor immediately run front-page advertisements in the Mendota Newspaper and all other Fresno county Spanish and English media notifying all residents of the March 8, 2004 deadline for comments to the Federal Bureau of Prisons.

We, the residents of Mendota and Fresno County demand that new hearings be held regarding the proposed prison in Mendota, after the publication of a new environmental impact report fully in Spanish. We demand that these and all hearings concerning prison construction in and around Fresno County be conducted in at least both Spanish and English. We challenge all levels of government, Local, State and Federal elected officials, to extend fair and timely notification to all the residents of Fresno County and Mendota so that concerned citizens can plan to address environmental justice issues concerning the building of excessive prisons in Fresno County and the surrounding Central Valley.

with the loss of groundwater, environmentalists who want to prevent the loss of native habitat for wildlife, etc. Because the prison will help almost no one and will harm many, almost everyone is a potential ally and the possibilities for creating new coalition partners is unlimited.

Publicity

A major factor in your success will be how well you get the word out to as many people as you can. You can think of this as educating your neighbors, as publicity, as public relations, or as selling your ideas. However you imagine it, you must inform more people about the real effects of the proposed prison and convince them to take action.

It is useful to think of every part of the campaign in terms of publicity or education value. **When you're stuck about what to do next or how to choose among a list too long to finish, ask which actions will get the word out most effectively.** When planning any sort of activity, think about how to use it to publicize the campaign.

There are dozens of creative ways to get out the word: putting up signs in people's yards and businesses; printing up T-shirts with slogans; hanging banners across the fronts of buildings; and holding parties, concerts, and speeches. But before we talk about any of the means of getting your message out, let's spend a minute talking about your message.

First, who are you? It is fine to speak for yourself, but it's also useful to have an organizational identity. A name should catch people's eye and imagina-

tion and tell them a little about you and/or the campaign. Stop This Outrageous Prison (STOP) is one example from a group in rural California.

Second, spend a little time defining your group. Who are you? The Education not Incarceration Coalition defines itself like this:

Education Not Incarceration is a group of teachers, parents, students, and community members who are outraged by the current cuts in education funding. We believe that the state budget needs to prioritize education funding, as well as funding for other important social services, over increased spending on prisons.

Try to express a positive message in your group's definition. You're not just against a prison. You are residents who want to see development with real benefit to the community.

Third, you need to develop your coalition's key talking point. A talking point is a simple, one or two sentence statement which summarizes the arguments against the prison in as straightforward a manner as possible. Here are a couple of examples:

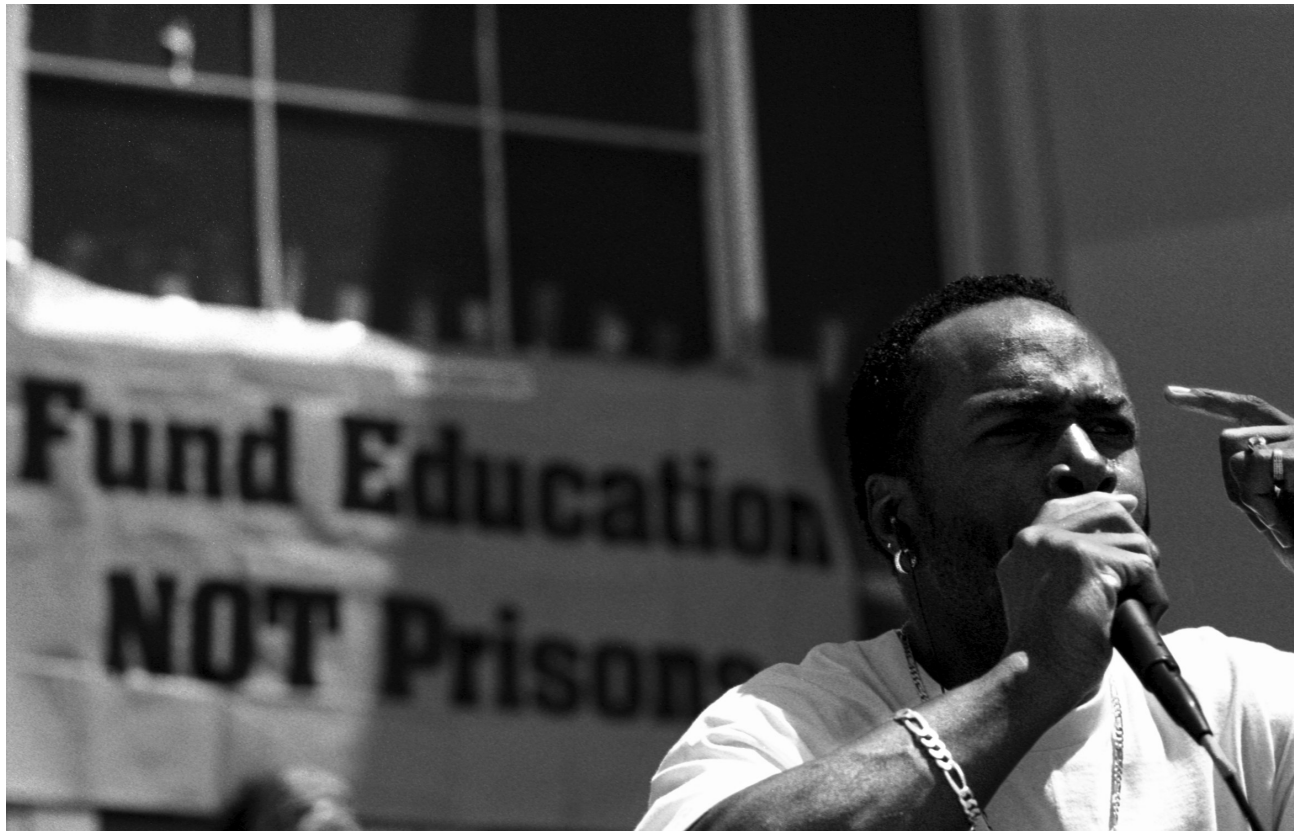
Studies show that local residents won't get most jobs at the prison, and that most of the people who get them won't live here.

The proposed prison will cost the city/county \$X million in infrastructure improvements, which won't benefit any local residents.

You should put together a list of talking points and pass them out to members of your group.

Now that you have a name, an identity, and a message, you're ready to blast that message out. Some of your outreach, especially in the early stages, will be one-on-one or in small groups that you invite to lunch or coffee, to the park, or to your home. That's how you pull together your initial organizing group. Later in the campaign, you'll still do one-on-one outreach, especially to individuals who you've identified as potentially very useful to have as part of the coalition — perhaps your group doesn't yet include a local farmer or rancher and you think other ranchers would hear the message more readily from one of their own. Or maybe you don't have any Spanish speakers to do outreach to residents who are not comfortable speaking in English.

As important as those small-scale encounters are, you also have to reach out to larger groups. One of the most effective ways to do that is to use local and regional media. Get TV or radio to report on the proposed prison. Get newspapers to write stories about your group. Use public meetings to raise your views in front of the media. Go on talk radio and local TV interview shows to talk about the proposed prison.



**A PRISON WILL HELP ALMOST NO ONE AND
WILL HARM MANY...**

**...ALMOST EVERYONE IS A POTENTIAL
ALLY IN YOUR FIGHT.**

The media is a powerful tool both in local campaigns to stop specific prisons, as well as in the long-term work of changing the “terms of debate” about prisons in this country. Often times, the myths about prisons and the “benefits” of prisons are the prevailing message in the media, whether in local papers and radio or in the national media. In your efforts to gain publicity, you can move the issue in a direction you would like it to go. For instance, if a prison is presented as a solution to hard economic times and a quick solution for jobs, you can move the debate to the issue of what *kind* of jobs will be generated. Activists all across the country have effectively used the media to educate the public about the real effects of prisons on rural and urban communities. Rather than thinking of the media as friend or enemy, you might consider how you can best use it to further your goals. Therefore, an organizer’s job is not just to make the media cover her or his issue, but to create and implement a plan for using the media.

It’s helpful to think about all of your organizing work as a publicity campaign. In a way, what you’re doing is trying to convince people of your point of view. Every time you call a friend, potential ally, or elected official, pass out a flyer at a meeting, or make a sign, you’re doing publicity. In other words, you’re presenting your views to other people, and making a case for why they should agree with you. So every time you communicate with people, it’s important that your information is easy to understand. It’s also important that the information and arguments you

make are consistent with your final goals

GETTING THE MEDIA ONBOARD

In order to get the local media to even cover your story in the first place, you have to convince them that your campaign is newsworthy. It’s not helpful to just call the local newspaper and say, “There is a meeting where the City Council is going to discuss whether or not to build a prison.” They’ll think to themselves: “So? Why should someone come for that? Don’t those kinds of meetings happen all the time?” Instead, you need to present whatever newsworthy event is taking place from a certain angle – a “hook” – something that would catch the media’s interest.

What sorts of things make a good “hook”? One way is to connect your local story to a larger problem, that is, show how something happening right in your own community is an example of a national issue. For instance, you can focus on how prisons get sited just like hazardous waste facilities — in poor, rural, and seemingly “powerless” communities, underneath the public’s radar. Or, if a local politician, who supports the prison, has some kind of conflict of interest (for example, he owns a construction company that would likely get a contract to help build the prison), that could be a potential hook for talking about the lack of accountability and lack of democratic decision-making that happens in the process of siting a prison. Those sorts of hooks can help your story have “legs,” bringing the media back to it over and over. For

many local papers, the fact that a group of local residents is opposing a project can be enough, especially if they know there will be multiple people speaking

in public. If you want to draw TV coverage, give them something visual to shoot — banners, posters, signs, T-shirts, puppets. At any public event to which you’ve invited the press, make sure to have some of your group members easily identifiable as “press contacts.” These are people who the media can approach and interview. Remember your talking points and repeat them. Are there other short term goals for any particular event? Can you use the press to announce your next meeting?

It will be worth your while to spend some time putting together a media list — newspapers, radio and TV stations, local, county-wide, regional and so on. What papers do people in your town read? People in the county seat? National media can be helpful too. When *The Los Angeles Times* and *New York Times* wrote major stories about the Delano II prison, the campaign got a big boost.

However, reporters are just like everyone else in this world. You need to have a relationship with your local media if you want to get really complete, consistent coverage. This requires a little background work. First, identify what reporters and editors cover the kinds of stories you will be pitching. If your strategy is to highlight the backroom politics of the prison deal, look through the papers for a few weeks and identify writers who cover similar stories.

Second, cultivate a relationship with these reporters and editors. If you tell them you have a great “human interest” story and they should cover the town meeting next week on the prison siting, call them afterwards and follow up with them. Call them and thank them if they came, and ask them if they have any other questions. Just like you build a relationship with the allies in your struggle, build a relationship with specific members of the press.

Press Releases

One of the most important forms of getting the media's attention is by issuing a press release. You should put out a release around a newsworthy event, like a big meeting, or a demonstration. You need to think carefully about what kind of event you are hoping to draw the press to, and if you realistically expect reporters to come. The release should pitch your issue, incorporating all your hooks and strategies as reasons why this particular event is a great news story. Here are some quick tips to guide your press release.

- Is the release on organizational letterhead? Since you've given your organization a name, it is easy with today's computers to create simple letterhead, with your group's name, address, phone number, etc.
- Is the release dated and marked either 1) “for immediate release” or 2) to be released at a later, specific day and time?
- Is the contact person's name and phone number (day and evening) listed at the top of the release? If

you have a cell phone, list it, along with the name of the person who will be carrying it at the event/press conference.

- Do you have a bilingual or multilingual contact person, especially if your community is bilingual? Have you done outreach to media in languages other than English?
- Is the headline short and to the point? (Don't struggle too hard in coming up with a headline. The media probably won't use yours anyway.)
- Is the copy double-spaced?
 - Does the first paragraph explain who, what, why, when and where?
 - Have you quoted key leaders in the second and third paragraphs?
 - Have you cleared the quotes with them first? (Remember that who you quote is an organizational decision. Often, the quotes will come from members of your group you have become local experts on the proposed prison. You are the experts.)
- Have you listed your organization's name several times?
- Are all names, titles, and organizations spelled correctly?
- Is each sheet marked with an abbreviated headline? (Try to keep your release to two pages. One is better.)
- Is a PHOTO OPPORTUNITY mentioned if there is one? (If so, send a copy of the release to the photo editor.)
- Did you put “-30-” or “#####” at the end of the press release? (Why?

It's just the way press releases are supposed to end, and it makes your press release look official.)

Another great thing about having a press release is that it's easy to transform into an opinion piece for a paper, or a short article for any organization's newsletter. Make each point from the press release into a short paragraph. That way, when organizations need something to print quickly, they can use the expanded press release and take the points that are most suitable for their issues. This also allows plenty of room to tailor your article to a specific organization. For instance, if a teachers' association wants to publish an article on why a prison would not help the town's youth in their newsletter, you can pick the points from the article that work the best. Maybe you have already written that a prison doesn't address the needs of people in your town, and you could simply add onto this statement so that it specifically emphasizes the needs of your schools and children.

The Press Conference

Press conferences are great ways to follow up on a release and to create a stir. They make you highly visible and get your point of view out in public. Think of press conferences as mini demonstrations – they need to be very public and open, with articulate, concise speakers who can present your talking points in a way that is easy for everybody to digest. Press conferences usually consist of a few speakers who briefly address different aspects of your issue and represent your organization. They need to be located in a place that is easily accessible. You also need to have press pack-

Sample Press Release

For Immediate Release: June 14, 2001

Contact: Stephen Raher, (719) 475-8059 or stephen@epimethian.org

NEWS RELEASE

Community group charges State with cutting corners in Fort Lyon prison planning process

COLORADO SPRINGS: The Colorado Prison Moratorium Coalition (CPMC) has announced a challenge to the state's plans to convert the Fort Lyon Veteran's Hospital into a prison. Today the CPMP sent a letter to the state Department of Corrections (DOC) requesting a more thorough study of the potential impacts that the new Fort Lyon correctional Facility (FLCF) could have on the people of Bent County.

Before the hospital can be converted into a prison, a federally-mandated environmental review must be completed. The DOC released a Draft Environmental Assessment in May concluding that the conversion would have little impact on the environment, but the CPMC asserts that the document does not contain a sufficiently thorough discussion of the possible social and economic effects.

According to Stephen Raher, the Co-Coordinator of the Coalition (and author of the letter), "rural towns in Colorado all too often view a prison as a wonderful way to spark economic development. Unfortunately the reality is that prison towns are burdened with many long-term collateral costs in return for a handful of jobs."

Raher explains on the most severe effects could be on local medical agencies. "the whole state and southeastern Colorado in particular is experiencing a severe nursing shortage, and DOC wants to hire 110 nurses to work at Fort Lyon. If they are going to meet their goal, it almost certainly will be at the expense of local hospitals and health care facilities, which can't offer wages and benefits that compete with the state's compensation plan."

In addition to outlining areas for further study, the CPMC's letter asks the DOC to prepare an Environmental Impact Statement, which goes into greater detail than the Environmental Assessment that the Department has already completed. "My primary concern," said Raher, "is that the people of Bent County are not getting a full and fair

explanation of what might happen. The environmental review process is supposed to be about gathering public input, but it's a meaningless activity if people aren't given a balanced presentation of the facts."

After Governor Owens expressed strong public support for the jobs that FLCF would bring to southeastern Colorado, the legislature approved the prison over the objections of Senator Penfield Tate (D-Denver) who warned his colleagues that "if we continue to look at prison construction as a form of economic development in our state, we're lost."

The Rural Prisons Initiative was created at the CPMC when Coalition members saw that prisons are being marketed to rural towns as economic development tools. The Coalition is a network of over 80 organizations and faith communities from across the state who have come together to call for an end to further prison expansion in order to redirect funding and policy priorities to crime prevention, drug, alcohol and mental health treatment, and alternatives to incarceration.

Coalition Co-Coordinator Christie Donner explains that Fort Lyon is just one of several new prison projects which are currently underway. "The Department of Corrections is the fastest growing department in the state government," commented Donner, "and it is growing at the expense of education, health care, transportation, and other areas the Coloradans are concerned about." In fact, the DOC received a 13.4% increase in General Fund dollars for Fiscal Year 2001-02, the second largest increase of any department.

Donner warns that "for the long term health of Colorado, we must begin to follow the lead of other western states and reevaluate our use of prisons as a panacea for social problems."

###

ets on hand. These are folders of information that provide reporters with background material on your issue, your organization, and contact information.

When organizing a press conference, here are some things to think about.

- Have the date, time, and place been cleared with all the speakers?
- Are there other media conflicts (e.g. another major event or press conference)?
- Do you need to reserve the space days in advance?
- Is the room large enough?
- Will you need a public address system?
- Have volunteers been recruited to set up and clean up the room before and after the press conference?
- Who is sending the press releases?
- Do you have a good list of local and regional press contacts? Newspaper, radio & TV?
- Can you do outreach to media in languages other than English? Do you have press contacts who speak other languages? Can you produce materials in other languages? Most Spanish language radio and TV will respond to an English language press release if it lists a Spanish speaking contact.
- Who is making follow-up phone calls to the media?
- Is there a script and/or talking points available for those making

follow-up calls to the media?

- Are there visuals, charts, or graphs needed at the press conference?
- Who is writing each person's presentation? Are there good, quotable sound bites?
- Is someone drafting a question and answer sheet for anticipated questions at the press conference?
- Is a time set for speakers to rehearse their presentations and answers to the anticipated questions?
- Are materials being prepared for the press kit?
Press release
Background information on speakers
Fact sheet
Organizational background
Copies of speakers' state ments
- Will your organization's name be projected well through signs, posters, buttons and so forth?
- Is there someone to greet the media?
- Is someone in your group going to take photographs?
- Are volunteers assigned to watch for stories in various media?

BEYOND THE MEDIA

As we said in the beginning of this section, a lot of the organizing work you do doubles as publicity. Don't think that getting your message in papers and on television is the only way to get the word out. While having a strategy for attracting media is important, outreach

is just as important. Many of the strategies we listed in the outreach section are also other ways you have to spread the word. Here are a few other things we have seen towns do that you can use to help get your message out:

- Sponsor an event with a local artist
- Hold a community forum to discuss the prison and related issues. Invite both sides to a forum in which you've determined the agenda, the questions to be discussed etc. This will keep the meeting open to everyone, but also allow you to keep some control over the meeting.
- Hand out fliers at popular events in town
- Set up a table with a few informational fliers at fairs, outside of supermarkets, other foot-traffic friendly place and staff it so you can talk to people who express interest
- Make announcements at other meetings
- Hold a house party

How to have a house party

Since organizing often begins among friends who share a common cause, hosting a house party can be a good way to draw all of you together, raise awareness and enthusiasm, and get new people involved. It also shows your campaign is people-friendly, which can win a lot of points when you are fighting a bureaucratic, impersonal arm of the government. If you have ever thrown a party before, which many people have, you'll know it requires a little more planning than you think it will, but it always ends up being worthwhile.

- What are your goals for the party? More volunteers? Fund raising? Persuading certain people that the prison is a bad idea? Make sure that everyone working on the party is clear about the goals.
- Make sure you pick a good date to have your party. Check if there is another big event people will want to go to, or maybe host it on a long weekend.
- Tell people far in advance - that way the date will stick in their heads. Call and remind people close to the date.
- Do you have some sort of entertainment? Make sure you have music - whether it is a big pile of CD's or a great DJ.
- Be certain you collect people's names and contact information with a sign-in sheet.
- Who will speak? It is good to have some time for everyone as a group to ask you - the experts - questions, as well as to have unstructured time for one-on-one conversations.
- Pick a good location.
- Do you want to have food? If so, will there be a buffet or will there just be some snacks? Do you have plates, forks, knives, cups, etc?
- Do you have some sort of decorations? Remember why you are hosting the party - any fliers, banners, or signs you have against the prison can be set out.
- Make fun fliers that also draw attention to why you are hosting the party.
- Leave yourself plenty of time the day of the party to get ready. The worst feeling is to be rushing around with a million odds and ends to finish up.
- Do you have someone to help you set up and clean up? A little moral support is always welcome.
- Anyone who has had a party also knows they cost money. You could also have a box for donations, pass the hat at the party, or charge a cover at the door.

Using the Internet



Some of us don't have access to computers, and some seem unable to live without them. But these days, a lot of people learn news and get involved politically through initial contact through the Internet.

There are a couple ways you can use e-mail and the internet to help organize. At every event you hold, you'll have a sign-in sheet. Make sure that you collect people's email addresses along with their phone numbers. It's a good idea to have a checkbox for people to mark whether they prefer to be contacted via email or phone. Set up at least two lists (or groups) of email addresses. One should include the organizers, those who have been attending coalition meetings and who are working actively on the campaign. The second should include the sign-ins who aren't active in the day-to-day but who might be turn out for a meeting at city hall, a march to the high school, or a demonstration. As you set up subcommittees, those groups might also have their own email lists.

If you have an Internet savvy high school student or small business owner or teacher among you, you probably have the skills to set up a simple web site. At first it might contain only your organization name, contact phone and email and the next meeting date. As you develop press releases and other written material, you can post them on your website, along with photos of your activities. Many Internet providers offer space for a simple website to their email subscribers for little or no cost. As an example, take a look at the Education not Incarceration site at: <http://www.ednotinc.org>

PUBLIC SPEAKING

You'll notice that many of these ideas require speaking in front of many people, unafraid to argue for your cause. Many people dread public speaking because they think they "just aren't good at it," but all it requires is a little practice. A good way to get the necessary practice is by using a standard speech at all your public speaking opportunities – that way you get plenty of practice saying it!

Start by spending some time on your speech. Write it in advance and practice it with everyone you know. Write it using statements you are very comfortable making, the ones that you say over and over to people when trying to prove your point.

Your standard speech should have a few opening paragraphs that lay out your key talking points. First, list the reasons the proposed prison is bad for the town and the region. Explain why the prison-supporters miss the bigger picture. But you can then insert a few paragraphs that tweak the speech for the audience. Using these guidelines, you can take a basic speech that you develop on why you don't want a prison and simply adjust the way you dress it up.

Write versions of different lengths. Sometimes you'll have 5 minutes to speak at an event. Other times you'll have 15 or 30. Once basic talks of different lengths are written, all members of the group can use them. Using this plan will make you comfortable with

the material and help you to be a better public speaker....and save you tons of time by not writing a new speech every time!

Public speaking is all about finding the best way to approach people, similar to when you find allies. Think about who you are addressing. What is your audience's main concern? What do they care about and how does it relate to a prison being built? What tone is most appropriate for them – are they younger, older, more conservative, more grassroots? Will they be most swayed by big words or a strong plan of action?

Once you have a basic speech that covers your reasons for why a prison is a bad idea, you can use it for many different occasions. Much like adjusting your press release, you will have to adjust your speech for different audiences.

Remember, public speaking doesn't have to be at official meetings or in official halls. Any place you think of to conduct outreach, you could also give a modified version of your speech. Try to set up an opportunity to make a brief presentation on why your town doesn't need a prison at organizational meetings or conferences.

FUNDRAISING

Organizing costs money, though not necessarily very much. Those who do it over the long-haul have a variety of fairly sophisticated methods for raising money for their causes. But because most campaigns to stop prisons are on

a very tight timeline, you might find that you are not able to develop a full strategy for raising funds for your campaign. Therefore we're giving suggestions for only a few, very specific ideas and resources for short-term and last-minute fundraising.

First, call us, the California Prison Moratorium Project. We have a small nest egg for just this kind of thing, so please don't hesitate to ask. If we don't have it, we may have specific ideas about emergency grants and other organizations, like the National Resource Center for Prisons and Communities, that may be able to provide emergency funding support to prison moratorium campaigns.

Second, many social justice foundations have what they call Emergency Funds. They are relatively easy to apply for and you can get a response pretty quickly. For ideas about funds such as these you can begin by asking us at PMP, as well as other organizations that you begin working with.

Third, look to your own members, and see if they have networks of people to approach for money. As you'll quickly find out, every dollar counts and money can come from unlikely places. The only sure bet is that if you don't ask, you won't get any.

And lastly, think of all the ways in which you've raised money for your other community groups, churches, mosques, etc. Bake sales, dinners, concerts, ads in programs, garage sales, and

in-kind donations (such as the use of space, a car, a sound system, etc.) – all of these are ways to raise funds for your group. There are individuals and organizations in your town who can and will contribute financially who might not be able to help in other ways. Don't be shy about asking for financial help. The point here is to try to be as creative as possible and to remember that these efforts, though they may seem relatively unimportant, are, again, opportunities to learn leadership and organizing skills.

RECAP

We've really only scratched the surface of organizing. Many of the most useful lessons you'll learn by diving in and trying it yourself. Don't be afraid to make mistakes. Each mistake is a chance to learn from it so that you don't make it again. As we said earlier, organizing is about communicating — communicating with your neighbors, communicating with city officials, with the media, and with other organizations. The more you do it, the better you'll get. From here we'll be giving you a more comprehensive look at the siting process and the opportunities for intervening and gaining leverage to stop it.

Advice from Brian Sponsler and Debbie Hand, two activists who successfully fought off a prison in Tehachapi, California.

'...work the local press as much as you can. You need to present it as 'we have a hot story for you.'

'We needed a good agenda at the meetings to keep everyone from straying off because emotions were high...'

At the city council meeting: "We arranged for people to speak on ten areas...that the prison would affect us."

"If anything did it for us in the organizing it was the phone tree."

"You basically have to show a good show of force."

"You have to jump on it right away."

"It is important you keep your main points clear and stress these points over and over."

10 ALTERNATIVES TO BUILDING A NEW JAIL IN SAN MATEO COUNTY

1. Expand community-based treatment options for individuals with substance abuse and mental health issues. For example, expand the Pathways Mental Health Program already operating in the County.
2. Institute alternatives to imprisonment for people who are charged with sex work, or minor property crimes.
3. Reduce the number of people who are thrown in jail because of parole and probation violations
4. Expand programming and alternatives to incarceration for sentenced individuals.
5. Expand re-entry services for former prisoners.
6. Dismantle barriers to employment, housing and social services for former prisoners.
7. Prioritize funding for community-based programs led by formerly imprisoned people and their family members instead of the Sheriff's and Probations departments.
8. Expand access to higher education, affordable housing, mental and medical healthcare, public transportation, and living wage work.
9. Institute an evidence-based pre-trial assessment program so people are not unnecessarily jailed because they cannot afford to pay bail.
10. Stop honoring ICE holds. 12.7% of people in San Mateo jails are on voluntary ICE holds.

INTERESTED IN JOINING THE FIGHT?

CONTACT CALIFORNIANS FOR A RESPONSIBLE BUDGET (CURB) TODAY!

www.curbprisonspending.org • (510) 435-1176

10 REASONS TO FIGHT THE NEW JAIL IN SAN MATEO COUNTY

1. The San Mateo County Jail System is Racist. Black people make up 24% of the jail population even though they comprise only 3% of county residents. Similarly, Latinos make up 35% of the jail population, but comprise only 26% of the county residents.
2. San Mateo can't afford a new jail. The jail will cost \$160-200 million to construct (including debt), plus \$30 million a year to operate. The former County Controller called this jail "a budget buster."
3. Crime Rates are Going Down. Crime rates in the county have been dropping steadily for 30 years.
4. The jail is being built on a toxic waste dump. The site for this jail is so environmentally toxic that the Department of Toxic Substances Control issued a covenant forbidding residential use of the land.
5. San Mateo Jails are locking people up before they go to trial. San Mateo County's percentage of pretrial detainees tripled in the last 20 years to 71% of the jail population. A large proportion of this population simply cannot afford bail.
6. Building jails does not solve overcrowding. California has tried to build its way out of an overcrowding crisis for 30 years and failed. Rather, it just spread terrible conditions over more buildings and more lives.
7. The new San Mateo Jail would directly result in social service cuts. The County Manager and the ACLU of Northern California both concluded that jail construction and maintenance will inevitably require cuts in county spending on housing, education, healthcare, and transit infrastructure.
8. Jails are socially toxic. When people go to jail, they can lose their jobs, housing, and even their children. Their families lose desperately needed economic and emotional support. Spending time living in a cage also exacerbates mental and medical health problems that follow people back into the community.
9. 35-40% of the jail population have mental illness. The County's Health System states: "The research evidence is strong that despite the best treatment that can be provided while people are in custody, people with mental illness do not get better in institutions, particularly in jails, which tend to be difficult even for people without mental illness."
10. We have clear alternatives. We could close the deplorable Women's Correctional Center without building a new jail by implementing a pre-trial release program, expanding the county mental health programs, and expanding pre-booking diversion into programs and services for people who are charged with simple drug possession and low-level drug sales, sex work, or minor property crimes.



Californians United for a Responsible Budget

Oakland Office:

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510-435-1176 (c)
510-839-7615 (f)

Los Angeles Office:

1137 E. Redondo Blvd. Inglewood, CA 90302
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For Immediate Release: September 11, 2012

Hundreds of Community Members Pack Supervisors Meeting, Demand End to New Jail

Press Contact: Emily Harris, Californians United for a Responsible Budget

Redwood City—At least 200 people from across San Mateo County packed San Mateo County Board of Supervisors this morning giving hours of testimony against \$44 million in new jail spending slated for approval in the 2012-2013 budget. Through a range of personal stories, expert testimonies, and impassioned pleas, residents described the trade offs at stake should the county move ahead with funding for a controversial new jail. From lack of funding for full school days at Redwood City High School, to a deficit for treatment and training programs, to environmental impacts on the construction site, residents from across the county described the dire consequences at play should funding for construction on the proposed jail remain in the budget. Residents also laid out dozens and dozens of alternative strategies for reducing the County's jail population and demanded that the Supervisors take these up in a formal hearing.

San Mateo County is surrounded by counties that have made decisions not to expand their jail systems. Just last week, Contra Costa County reversed its plans to construct a new jail amidst community opposition. "San Mateo County is clearly bulldozing the will of the people," stated Dorsey Nunn, East Palo Alto resident and Executive Director of Legal Services for Prisoners with Children. "When we are repeatedly told that there is less and less money for education, drug treatment, mental health services, and homeless shelters, but the County can find resources to build more cages, they are sending a clear message that their priority is not in a healthy future for our communities."

Chanting, "No new jails!" as they left the Supervisors' chambers, opponents of the proposed jail sent a clear message that a new jail is not welcome in the county. "It's not too late to make a principled, courageous decision to halt this plan," said Daly City Resident Manuel La Fontaine. "The Board of Supervisors still has time to listen to their constituents and make smart choices for all San Mateo County residents." As opposition to the jail builds, Supervisors are set to vote on budget allocations on September 25. Residents vow they will be back to ensure their voices are heard.

###



May 16, 2013

The Honorable Board of Supervisors
San Joaquin County
44 N. San Joaquin Street
Board Chambers, 6th Floor
Stockton, CA 95202

Dear Supervisors Vogel, Bestolarides, Elliot, Ruhstaller, and Villapudua:

We write to urge you to reject the current plan for a new 1,280-bed jail facility and relinquish the \$80 million of AB 900 funds conditionally awarded by the state for this purpose. Building a facility this large will be a waste of taxpayer dollars, will do nothing to improve public safety, and is unnecessary given the more cost-effective alternatives the County can use to manage the jail population.

Rather than continuing to hold the roughly \$20 million already reserved for AB 900 construction, the County should use this money for pretrial services, expanded work alternative, and other rehabilitative services proven to safely reduce the jail population and reduce recidivism.

A. The jail expansion will cost \$116 million of taxpayer money to construct, and \$70 million each year to operate, leaving dramatically less for rehabilitative services proven to reduce repeat crime and help formerly incarcerated individuals reenter society.

In 2008, the Sheriff's Office received a conditional award of \$80 million in state taxpayer money to construct a 1,280-bed jail facility that, together with the existing facilities, would nearly double the current capacity of the County Jail. Sheriff Steve Moore planned to use another \$36 million of county funds for construction, for a total construction cost of \$116 million – none of which covers staffing or operational costs. In February of last year, the Board directed the County Administrator to estimate operating costs for all county departments related to the new jail and determine the overall fiscal impact if the project was implemented. The results of the County Administrator's report were clear: operational costs for the new facility would be at \$70 million every year, or about \$20 million over the Sheriff's original estimate.¹

¹ Office of the County Administrator, Report on Operating Costs of Proposed Jail Expansion, April 10, 2012, http://www.sjgov.org/board/board%20meetings/minutes/MG87980/AS88004/AI89218/DO89219/DO_89219.pdf.



Californians United for a Responsible Budget

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February 12, 2013

Matthew Rodriguez, Secretary for Environmental Protection
Arsenio Y. Mataka, Assistant Secretary for Environmental Justice and Tribal Affairs
California Environmental Protection Agency
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Debra Raphael, Director
Department of Toxic Substance Control
1001 I Street
P.O. Box 806
Sacramento, CA 95812

Charles Hoppin, Chairman
State Water Resources Control Board
1001 I Street
P.O. Box 100
Sacramento, CA 95812

Barbara Cook, Branch Chief
Berkeley Regional Office
Department of Toxic Substance Control
700 Heinz Avenue Suite 200
Berkeley, CA 94710-2721

Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

To Secretary Rodriguez, Assistant Secretary Mataka, Director Raphael, Chairman
Hoppin, Branch Chief Cook and Executive Officer Wolfe:

We oppose the construction of a new jail in San Mateo County. We believe that there are cheaper, more humane and more sustainable alternatives to incarceration that could lock less people up, reduce the current jail population and build stronger and healthier families and neighborhoods in our county.



Californians United for a Responsible Budget

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Jails are socially, economically and environmentally costly, and low-income communities of color pay the highest costs. Black people make up 24% of San Mateo's jail population even though they represent only 3% of the county's population. Similarly, Latinos constitute 35% of the jail population, but only 26% of the county's population. These same communities suffer the highest rates of unemployment, poverty, health problems, environmental pollution, inadequate housing, disenfranchisement, and lack of access to education.

The proposed jail is an environmental justice issue. The Board of Supervisors claims that this will be a "green jail" because it will be LEED certified. Yet this same jail is sited on land so toxic that the Department of Toxic Substances Control issued a covenant in 1990 declaring that it couldn't be used for residential use. That covenant hasn't been lifted and the county's remediation plan does not include a Human Health Risk Assessment which measures all of the potential exposure to harmful chemicals that people in the jail would face. This is a clear example of environmental racism. Communities of color are disproportionately exposed to severe and harmful pollution in places where they are expected to live.

No amount of solar panels, water conserving toilets, or recycled furniture can hide the truth about jail construction: building new jails and locking people up is not good for anyone's environment--particularly those people locked up inside.

In addition to the specific harms associated with housing people on contaminated land, enormous amounts of research and the testimony of scholars, policy analysts, criminal justice experts, social and health workers, and current and former prisoners show that imprisonment is bad for mental, physical, family, and community health. As one study puts it, "The incarceration experience often contributes to a downward cycle of economic dependence, social isolation, substance abuse, and other physical and mental health problems."¹ In contrast, alternatives that reduce the jail population--such as drug treatment, mental health support, affordable housing, education and job placement--interrupt these cycles and build healthier communities.

These alternatives are clear, concrete, and can be implemented almost immediately. A report from the San Mateo County Manager² outlines alternatives recommended by the

¹ *Adverse Effects of US Jail and Prison Policies on the Health and Well-Being of Women of Color*, Dr. Nicholas Freudenberg. Distinguished Professor of Urban Public Health at Hunter College, City University of New York.

² *Responses to Jail Planning Questions*. County of San Mateo Inter-Departmental Correspondence, County Manager's Office. September 26, 2011.


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County's Health System, including expanding short-term residential treatment for mental illness or drug detox, expanding the number of people served through alternative sentencing, expanding successful mental health programs, and expanding re-entry services. The Health System's detailed recommendations would take only 3-6 months to get up and running, serve 2,100 residents and cost the county \$8.38 million a year. By comparison, the new jail would not open until 2015 and will cost \$160 million to build and at least \$30 million a year to operate. The same report states:

Approximately 35-40% of the adults in custody in San Mateo County have significant enough mental illness that they are on Correctional Health's caseload...The research evidence is strong that despite the best treatment that can be provided while people are in custody, people with mental illness do not get better in institutions, particularly in jails, which tend to be difficult even for people without mental illness.

Over the last year, thousands of people, many of whom have had their families harmed by imprisonment, have voiced deep concern about construction of a new jail. We join them in urging you to enact sustainable solutions to the real problems our communities face.

We respectfully request that the San Francisco Bay Regional Water Quality Control Board hold a public hearing prior to the Board becoming the signatory on an amended restricted covenant for 70 Chemical Way. We hope that this hearing would cover a series of issues of concern raised by community members. Examples include: 1) Why a Human Health Risk Assessment was not conducted if people will be living long-term in the jail? 2) Whether remediation levels that are appropriate for commercial use are proper for the construction of a jail, when the covenant bans residential use.

Additionally, we would like to request that the Department of Toxic Substances Control hold a public hearing prior to the lifting, modifying or rescinding of the modified covenant to ensure public participation and that broader concerns raised by community members are heard before the DTSC signs-off on a revision of the covenant.

Sincerely,

Emily Harris
 Statewide Coordinator
 1322 Webster St # 210
 Oakland, CA 94612-3217
[510-839-7615](tel:510-839-7615) (f)



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Ron Ahnen, California Prison Focus
Hafsah Al-Amin, California Coalition for Women Prisoners
Bradley Angel, Green Action for Health and Environmental Justice
Vanessa Aramayo, California Partnership
Pat Aties, Campaign to End the Death Penalty
Fanya Baruti, All of Us or None – Southern California
Morgan Bassichis, Community United Against Violence
Elizabeth Blaney, Union de Vecinos
Gail Brown, Life Support Alliance
Barbara Brooks, Sentencing and Justice Reform Advocacy
Susan Burton, A New Way of Life Reentry Project
Dolores Canales, California Families to Abolish Solitary Confinement
Kim Carter, Time for Change Foundation
Katina Castillo, Community Justice Network for Youth
Manuel Criollo, Labor/Community Strategy Center
Carol Cross, Peninsula Branch of the Women's International League for Peace and Freedom (WILPF)
Orlando Chavez, United for Drug Policy Reform
Craig Courtney, Conservatives for Social Change
Patrisse Cullors Coalition to End Sheriff Violence in L.A. Jails
Charli Eaton, Grandmothers of the Light
Tommy Escarcega, Projecto Common Touch
Caroline Farrell, Center on Race, Poverty & the Environment
Frank Fontes III, California Prison Moratorium Project – Fresno
Amanda Garces, Enlace
George Galvis, Communities United for Restorative Youth Justice
Ruth Wilson Gilmore, the Graduate Center, CUNY
Paul George, Director, Peninsula Peace and Justice Center
Margie Ghiz, Art Release
Stephen Gutwillig, Drug Policy Alliance
LeaJay Harper, Center for Young Women's Development
Emily Harris, Californians United for a Responsible Budget
Kenneth Hartman, The Other Death Penalty Project
Dolores Huerta, The Dolores Huerta Foundation
Angie Junck, Immigrant Legal Resource Center
Gloria Killian, Action Committee on Women in Prison
Manuel La Fontaine, All of Us or None
Jim Lindburg, Friends Committee on Legislation California
Liz Lozano, Juvenile Offenders Committee (JOC) – California Central Women's Facility



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Laura Magnani, America Friends Service Committee
 Nile Malloy, Communities for a Better Environment
 Miss Major, Transgender, Gender Variant, and Intersex (TGI) Justice Project
 Sharon Martinas, Prisoner Hunger Strike Solidarity Coalition
 Marc Mauer, The Sentencing Project
 Kim McGill, Youth Justice Coalition
 Jacqueline Miller, Women for Change Foundation
 Eli Moore, Pacific Institute
 Marilyn Montenegro, CA Chapter NASW Women's Council
 Julia Negrón, A New PATH LA – Parents for Addiction Treatment and Healing
 Vanessa Nelson, Life Support Alliance
 Brandy Novak, California For Abolishing Solitary Confinement & CARES for Youth
 Dorsey Nunn, Legal Services for Prisoners with Children
 Reverend Julia Older, The Unitarian Universalist Fellowship of Redwood City
 Savannah O'Neill, Berkeley Needle Exchange Emergency Distribution
 Imelda Padilla, Pacoima Beautiful
 Brent Plater, Wild Equity Institute
 Sheila Pinkel, emeritus professor, Pomona College
 Mary Ratcliff, San Francisco Bay View newspaper
 Silvia Ramirez, Migration and Immigration task force in San Mateo County
 Debbie Reyes, California Prison Moratorium Project
 Renee Saucedo, La Raza Centro Legal
 Amanda Scheper, Justice Now
 Bob Slakey
 Leah Sakala, Prison Policy Initiative
 Penny Schoner, Prison Activist Resource Center
 Geri Silva, Families to Amend California's Three Strikes
 Deborah Small, National Lawyers Guild
 Elizabeth Stewart, Families to Amend California's Three Strikes – San Diego
 Jesse Stout, Drug Policy Committee of the National Lawyers Guild
 Mary Sutton, Critical Resistance – Los Angeles
 Raphael Sperry, Architects / Designers / Planners for Social Responsibility
 Diana Sylvestre, OASIS Clinic
 Jimmie Thompson, Fair Chance Project
 Nichola Torbett, Seminary of the Street
 Mari Rose Taruc, Asian Pacific Environmental Network (APEN)
 Anna Turner, Youth United for Community Action
 Carole Urie, Returning Home Foundation
 Amy Vanderwarker, California Environmental Justice Alliance
 Sumayyah Waheed, Ella Baker Center for Human Rights
 Mailee Wang, Community Works West – Project WHAT!



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Roger White, Critical Resistance

Clarissa Woo, American Civil Liberties Union of California

Central California Environmental Justice Network

Chuco's Justice Center

Development Services

Dignity In Schools: Golden Gate School of Law Chapter

El Cerrito Democratic Club

Free LA Highschool

Hastings Race and Poverty Law Journal

Interfaith Communities United for Peace and Justice

Iraq Veterans Against the War – San Francisco

Justice Policy Institute

Occupy for Prisoners

The Peninsula Interfaith Coalition on Immigration

Progressive Democrats of Los Angeles

Progressive Democrats of the Santa Monica Mountains

Quaker Friends – Santa Cruz

RUACH

San Gabriel Valley Progressives

Silicon Valley De-Bug

Sisters of St. Joseph – Los Angeles

Southern California Library

Students for Sensible Drug Policy – National Board of Directors

Women's International League for Peace and Freedom – Santa Cruz

Youth Communist League of California

CC:

Randy Lee

San Francisco Bay Regional Water Quality Control Board

1515 Clay Street, Suite 1400

Oakland, CA 94612

Claude Jemison

Berkeley Regional Office

Department of Toxic Substance Control

700 Heinz Avenue Suite 200

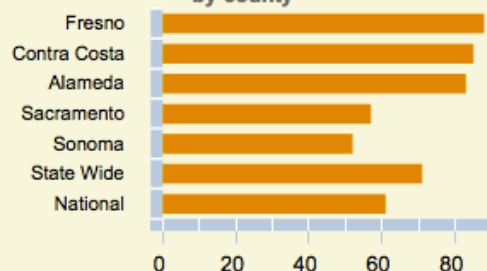
Berkeley, CA 94710-2721

CONTRA COSTA COUNTYS REVOLVING DOOR TO PRISON

Contra Costa is at a crossroads, and can either cling to past habits and perpetuate the revolving door that has given California one of the highest recidivism rates in the country, while the county has some of the highest rates of incarceration and deportation in the US, or instead seize the new opportunities presented by realignment to transform the way they address crime, public safety, punishment and rehabilitation.

85% of Contra Costa County's Jail Population is Unsentenced, the 2nd Highest percentage in California

Percentage of unsentenced jail population
by county

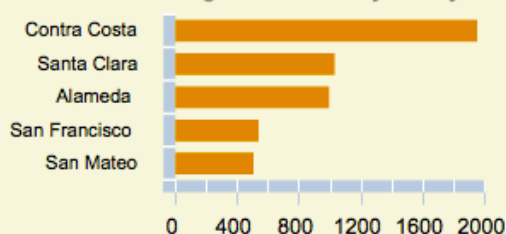


California spends \$750 Million annually on low level offenders who have committed, non-violent, non-sexual, and non-serious crimes

It costs \$100 a day to keep someone in jail waiting
Vs.

\$2.50 per day to monitor people with pretrial programs

Number of immigration arrests by county



California has a



recidivism rate of 57.8%

Evidence Based Strategies Can Reduce Recidivism Rates by 50%

Approximately \$45.1 Million in realignment funding provided to the 25 largest counties in California has already been allocated for jail capacity expansion costs including 7,002 new jail beds and 722 new corrections related staff

Incarceration:
\$50,000 per person per year
vs.
Supportive reintegration
program:
\$7,000 per person

If the state of California reduced its recidivism rate by 10% it would save the state \$233.1 Million Annually

INVEST IN PEOPLE NOT PRISONS

Lets work to build a new Contra Costa, where people coming home have job, and educational opportunities to transform their lives. The Safe Return Project is one example where formerly incarcerated people are community organizers, researchers and policy advocates making an impact in Richmond today.

Invest in People, Not Prisons!

STOP the Proposed Jail Expansion

Come to this key Community Corrections Partnership Meeting to let them know that the \$19 million in funding should be used to INVEST IN PEOPLE, NOT PRISONS!



WHEN: Thursday, September 6, 2012

TIME: 8:00am

WHAT: Community Corrections Partnership Budget Meeting

CCP determines how the state funding for criminal justice realignment is spent

WHERE: Martinez, Location to Be Determined

TRANSPORTATION: Buses leave at 7:00am from New Hope Missionary Baptist Church, 321 Alamo Avenue and St. Mark's

Did you know that:

- 85% of Contra Costa County's jail population is unsentenced, the 2nd highest percentage in California
- Contra Costa has the highest number of immigration arrests of any county in the San Francisco Bay Area, with almost twice as many arrests made compared to Alameda and Santa Clara counties.
- Incarceration costs \$50,000 per person per year vs. Supportive reintegration programs which cost \$7000 per person per year



For more information: Claudia Jimenez (510) 414-9025; claudia@ccisco.org

BUILD STRONG COMMUNITIES NOT PRISONS AND JAILS!



**THE PRISON CRISIS IN CALIFORNIA IS NOT OVER.
PEOPLE ARE ORGANIZING AND FIGHTING BACK!**



WWW.CURBPRISONSPENDING.ORG | INFO@CURBPRISONSPENDING.ORG

DESIGN BY DIGNIDADREBELDE.COM

¡CONSTRUYA COMUNIDADES FUERTES NO PRISIONES Y CARCELES!



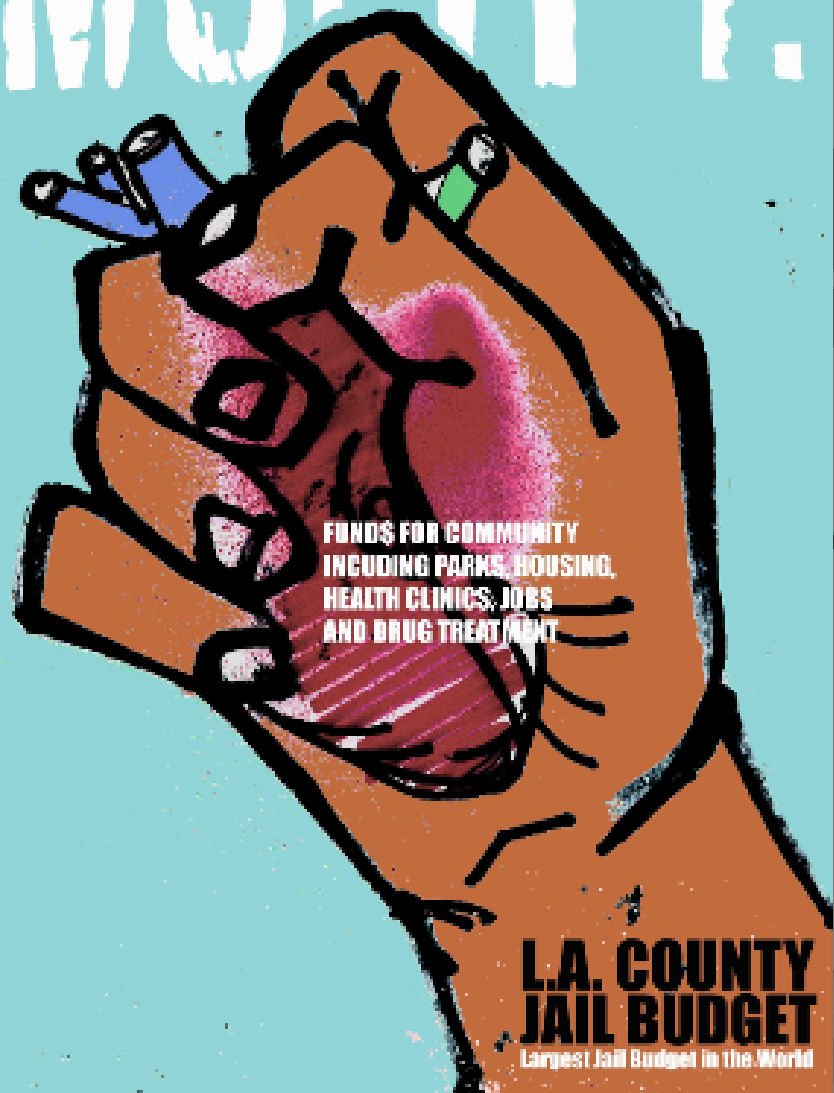
**! LA CRISIS DE PRISIONES DE CALIFORNIA NO HA TERMINADO.
LAS COMUNIDADES ESTAN ORGANIZANDO Y LUCHANDO!**



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DESIGN BY DIGNIDADREBELDE.COM

JAILS ARE CRUSHING THE HEART OF THE COMMUNITY.



FUNDS FOR COMMUNITY
INCLUDING PARKS, HOUSING,
HEALTH CLINICS, JOBS
AND DRUG TREATMENT

**L.A. COUNTY
JAIL BUDGET**
Largest Jail Budget in the World

NO MORE JAILS!

RIVERSIDE LETTER TO THE EDITOR

Dear supporter,

Yesterday, the Desert Sun Editorial Board wrote an editorial titled "Our Voice: Riverside County needs more jail space, but not at Whitewater." The editorial applauded the county for their vision of adding 13,500 new jail beds in Riverside County.

We need you to join us today in pushing back on the Editorial Board and letting them know that the community in Riverside doesn't want a new jail and doesn't need a new jail!

We know a new jail will bankrupt an already stretched county budget. Instead we need to use realignment funding to invest in smart alternatives to incarceration such as mental health services, drug treatment programs, affordable housing, and other alternatives that will reduce the number of people in jail in Riverside county.

Help us send 25 letters to the Desert Sun today - and make sure our side of the story is being told.

In solidarity,

Emily Harris, Californians United for a Responsible Budget

Riverside doesn't need more jail space!

Please see the draft letter to the editor below. Please edit the letter, keeping it to a max of 200 words and send it in. Then forward this action to anyone in Riverside County that will help us oppose this new jail expansion!

Editorial Board

Riverside Desert Sun Newspaper

Email: letters@thedesertsun.com

Subject: Riverside County doesn't need more jail space

Dear Desert Sun Editorial Board,

I am writing with strong concern about the editorial from 6.12.13 "Riverside County needs more jail space, but not at Whitewater." I strongly agree that we should protect the critical wildlife corridor in Whitewater, but let's be clear we don't need 13,500 new jail beds anywhere in Riverside County. A new jail will bankrupt an already stretched county budget. Instead we need to use realignment funding to invest in smart alternative to incarceration such as mental health services, drug treatment programs, affordable housing, and other alternatives that will reduce the number of people in jail in our county. Realignment is an opportunity for us to do things differently in our County and if we build new jails we are only going to fill them. Jail expansion will only lead to more lawsuits, we need real solutions now!

Bail Fail:

Why the U.S. should end the practice of using money for bail.

September 2012



INTRODUCTION

The vaguely understood pretrial process of bail costs the taxpayers of the United States billions of dollars and infringes on the liberty and rights of

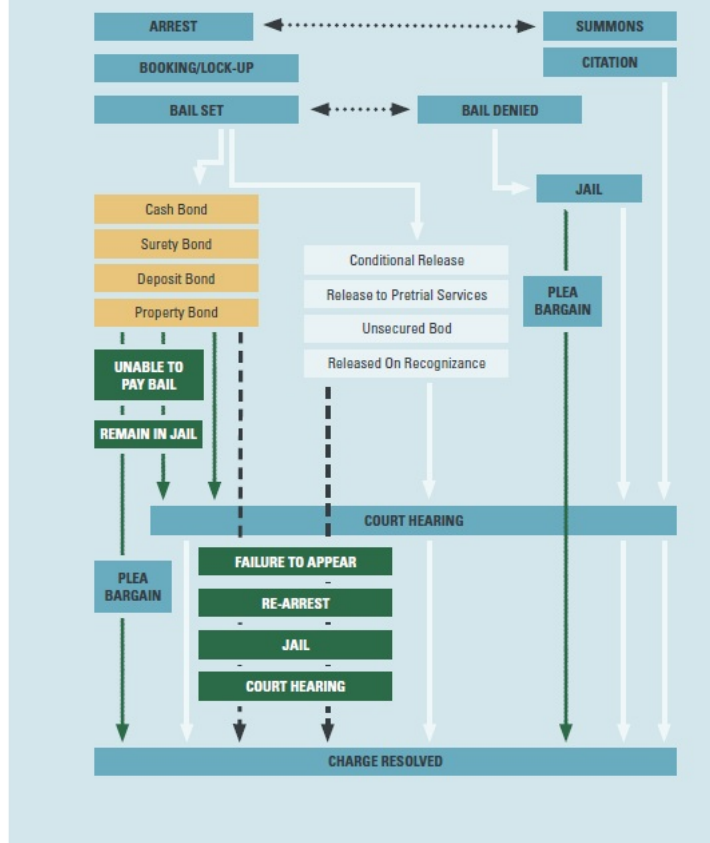
millions of Americans each year. Fortunately, there are alternatives that states and localities can pursue that have been shown to effectively promote safety, deliver justice, and reduce the number of people in jails.

The use of money bail is among the primary drivers of growth in our jail populations. Between June 2010 and June 2011, nearly 12 million people were processed through jails across the United States. U.S. jails have operated at an average of 91 percent capacity since the year 2000.¹ On any given day, 60 percent of the U.S. jail population is composed of people who are not convicted but are being held in detention as they await the resolution of their charge. This time in detention hinders them from taking care of their families, jobs and communities while overcrowding jails and creating unsustainable budgets. In 2011, detaining people in county jails until their charge was resolved cost

counties, alone, around \$9 billion a year.²

The ability to pay money bail is neither an indicator of a person's guilt nor an indicator of risk in release. The focus on money as a mechanism for pretrial release means people often are not properly screened for more rational measures of public safety: their

THE GENERAL PRETRIAL PROCESS



"What has been demonstrated here is that usually only one factor determines whether a defendant stays in jail before he comes to trial. That factor is not guilt or innocence. It is not the nature of the crime. It is not the character of the defendant. That factor is, simply, money. How much money does the defendant have?"

~ U.S. Attorney General Robert Kennedy

propensity to flee before their court date or their risk for causing public harm. Meanwhile, those too poor to pay a money bail remain in jail regardless of their risk level or presumed innocence. Evidence suggests that up to 25 percent more people could be safely released from U.S. jails while awaiting trial if the proper procedures are put in place,³ including valid risk assessments and appropriate community supervision.

THE PRETRIAL PROCESS: FROM ARREST TO HAVING A CHARGE RESOLVED

What pretrial process a person will go through depends on the state and jurisdiction in which he or she is arrested. States and jurisdictions have varying laws on detainment for capital offense charges, consideration of safety, and requirements around imposing the least restrictive bail conditions. The American Bar Association and the National Association of Pretrial Service Agencies have provided standards to guide pretrial activities; however, at this time, many practices do not yet comply with these recommendations.

As the flow chart shows, a person may be released from jail to await his or her trial through a variety of mechanisms. Financial release options require a person to post a bond that will pose an expense to them: cash bond (pay the full bail amount), deposit bond (pay a percentage of the bail amount), property bond (submit a deed that allows the court to place a lien on a property), or surety bond (a for-profit bail bonding company provide a promissory note for a non-refundable fee). Non-financial release options include release-on-recognizance (a promise to return to court), conditional release (release under stipulations), release to pretrial services

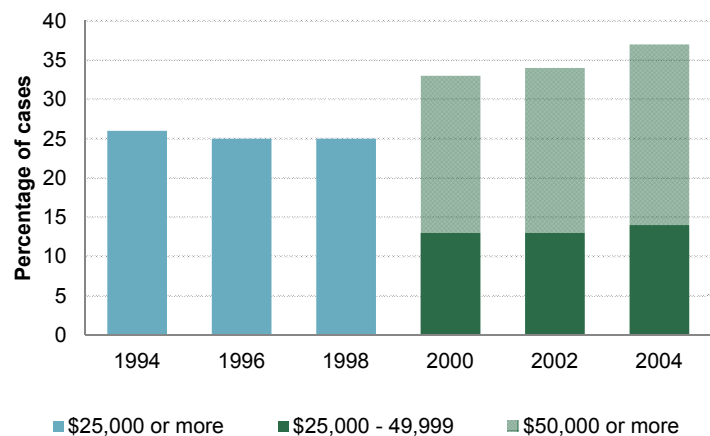
(conditions set by a supervising pretrial service agency), and unsecured bond (the person will be liable for a fee if he or she missed the court hearing).

THE USE OF MONEY BAIL

From 1992 to 2006, the use of financial release, primarily through commercial bonds, increased by 32 percent. Release on recognizance was the most common type of pretrial release in 1992; however, its use had declined by 33 percent by 2006. Overall, 70 percent of people charged with a felony were assigned money bail in 2006.

Bureau of Justice Statistics data show that average bail amounts have increased by over \$30,000 between 1992 and 2006.⁴ In 2006, jail population in the 75 most populous U.S. counties had a median bail amount of \$10,000 which means that at least half of the population was assigned a minimum of \$10,000 in bail.

An increasing number of cases are assigned high bail amounts.



The use of money bail disproportionately impacts low-income communities. People with few financial resources may not have the capacity to pay a cash bond or even to pay a 10 percent

fee to a bondsman to secure their release. As a result, they will remain in jail until their charge is resolved (typically through a plea deal.) Pretrial detention has a documented negative impact on pretrial and case outcomes.

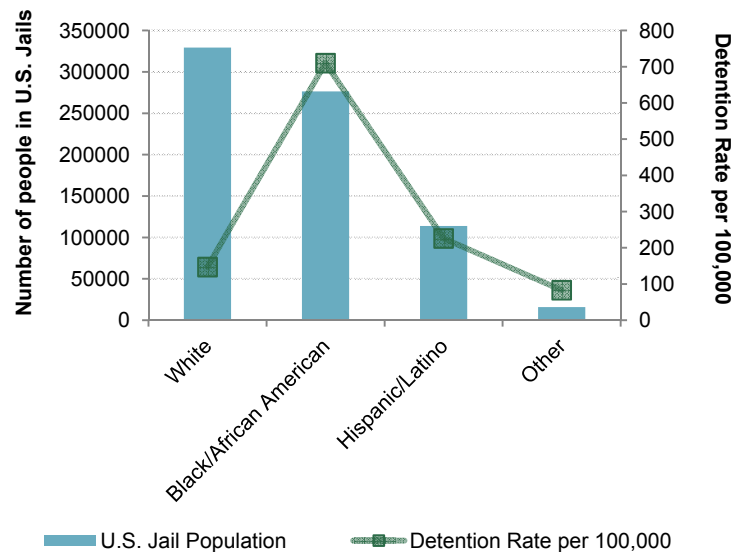
Those held pretrial are more likely to be convicted of a felony,⁵ receive a sentence of incarceration, and be sentenced longer than those released pretrial.⁶ When held in jail, a person is not able dress as presentably as one who is able to come from their own home dressed and prepared.⁷ Jurors who see people in jail uniforms and shackles may be biased as being in jail is equated to dangerousness and guilt.⁸ People held in jail are not able to work with their counsel to prepare their defense, gather witnesses, and other activities needed to present a strong case due to limited phone use, obligations to work long shifts in jail programs,⁹ placement in jails long distances away from their counsel,¹⁰ and other reasons.

People in pretrial detention may lose their job due to their absence;¹¹ and if they are self-employed, pretrial detention effectively shuts their business down. Pretrial detention causes some people to lose their housing.¹² They may suffer a disruption in their medical care and may even lose their health insurance due to being in jail.¹³ Their families are often adversely impacted, as their children may have to move to another parent or relative's home, suffering disruptions in their education and home life, as well as the trauma of having an incarcerated parent.¹⁴

Due to disparities in the pretrial process, African American and Latino populations are more impacted by the use of money bail.

Annual jail populations show that a higher number of white people are in jail; however, considering that the black population only

The racial and ethnic breakdown of detention rates reveal serious racial disparities in pretrial detention.



comprises 12 percent of the total U.S. population, it is disturbing that they comprised 38 percent of the U.S. jail population in 2012. Estimates show that the rate of Black/African American people being detained in jail was nearly five times higher than white and three times higher than Hispanic people.¹⁵

Studies provide conflicting findings on whether “race” directly predicts pretrial decisions, but research does show that the relationship or “interaction” between race and other factors, such as age, gender, and socioeconomic status, can directly impact pretrial decisions. For example, although a judicial officer may not give a high bail amount specifically because of a defendant’s

race, the person may have had difficulty getting a job due to his race, and thus, was rated as a higher flight risk due to an unstable source of income. As result, research shows that:

- African Americans were less likely to be released on their own recognizance than white people.¹⁶
- African Americans ages 18 through 29 received significantly higher bail amounts than all other ethnic and racial groups.¹⁷

Awareness of how this may happen at the bail setting stage is crucial for reducing disparities due to pretrial decisions, particularly as there is little oversight of decision making processes at this phase. The U.S. Supreme Court has affirmed the pretrial process as “perhaps the most critical period of the proceedings”,¹⁸ so the relationship between race and decisions at this phase is of particular importance.

The use of money bail is arbitrary and not guided by the use of risk assessments or national standards.

Each jurisdiction has a measure of discretion in determining how money bail will be used in the criminal justice process. Consequently, each jurisdiction differs on how they determine what types of bail to set, how much money bail is set, and the payment methods allowed to secure one’s release.

Some jurisdictions use “bail schedules” or “bond schedules” to determine money bail amounts. Bail schedules are intended to standardize how much bail is set for an alleged offense regardless of the person’s personal characteristics or demographics.¹⁹ There is no official guideline for the judges and officials who make up the schedules; consequently, even within a state, the amount of bail set for a charge may vary widely. The use of bail schedules is problematic because

there is no definitive association between a particular charge and the amount of money that would guarantee appearance at court or deter future criminal activity. Hence, the bail amounts are arbitrary and cannot guarantee safety in the community, and are unrelated to a person’s financial means.

MONEY BAIL AFFECTS THE JUDICIAL PROCESS

The proportion of people in pretrial detention increased by about 14 percent to a high of 42 percent of all those charged with felonies in 2006 (only 5 percent of these were held without bail).²⁰

An inability to pay the money bail may coerce people to plead guilty so that they can get out of jail sooner despite being innocent. People detained due to money bail are also put under greater pressure to enter a plea bargain, which has become the *de facto* standard in resolving more than 95 percent of cases each year. For various reasons, prosecutors can and often do ask judges for pretrial detention as leverage in plea-bargaining discussions with people of limited financial resources. People with children at home, a job or housing at stake, or a desire to avoid harmful jail conditions could be and have been coerced into entering a guilty plea to avoid pretrial detention even if they were innocent. A plea may be particularly appealing if the time they have already spent in jail will count toward the prospective sentence.²¹

Conviction rates for people charged with felonies stood at 68 percent in 2006 with 96 percent of those convictions a result of guilty pleas. Only 3 percent of those cases actually went to trial.²²

A 2012 study suggested that in an effort to avoid the ominous maximum penalties of a

potential conviction in an inherently coercive²³ and unfamiliar system, more than 50 percent of innocent defendants pled guilty to get a lower sentence rather than risk a conviction, albeit faulty, that would lead to the maximum penalty.²⁴ This means that in 2006, over 16,875 people could have been wrongly convicted.²⁵

THERE ARE EFFECTIVE ALTERNATIVES TO MONEY BAIL

Research shows that in many of the largest U.S. jurisdictions, around half of those kept in jail would have been less likely to be rearrested than those who had been released.²⁶ With proper screening mechanisms, an additional 25 percent of people could be released pretrial without increasing offenses or failures to appear.²⁷

There are vastly more effective and cost-saving practices that should replace money bail as our primary release mechanism. By implementing more effective and efficient programs and services, various jurisdictions across the U.S. are demonstrating the cost savings and enhancement of community safety that could be gained.

- Valid risk assessments
- Citations and summons instead of arrest and booking
- Informed Release-on-Recognizance
- Appropriate, informed conditional release
- Effective pretrial service agencies risk assessments and supervision services
- Court notifications

A Pew Center on the States study showed that 84 percent of surveyed American voters believed that community-based programs could be better used instead of relying on incarceration for people convicted of low-level, nonviolent offenses.²⁸ A study of people

Up to **25 percent** more people could be safely released from jail while waiting for their charge to be resolved.



in a large, Southern metropolitan area showed that 60 percent believed that writing a citation would be preferred over arresting a person for a low-level, nonviolent charge. They also supported the idea of releasing people to pretrial supervision over requiring a money bond or releasing on recognizance alone.²⁹

Measures of pretrial detention should be implemented to provide national measurements of our pretrial processes and drive pretrial reform efforts.

Because national data for measures of pretrial performance and outcomes are not collected, it is difficult to understand how pretrial processes affect the system, develop meaningful policy to drive change and protect effective services already in existence. Currently, no data is being collected in a standardized way regarding neither pretrial detention nor pretrial services across the nation.

RECOMMENDATIONS

1. **Eliminate money bail.** To ensure a strong, fair, and cost-effective pretrial justice system, jurisdictions should take the necessary steps to eliminate the use of money bail. This can be accomplished by a reduced reliance on financial release options and a return to non-financial release such as release on recognizance. The growing use of validated risk assessments make the need for money bail even less necessary as people can be ranked according to potential risk and released appropriately. Elimination of money

bail should also be achieved to ensure that thousands are not needlessly detained each year because they cannot afford to pay for release – causing a burden to their families, their communities, and jurisdiction budgets.

2. Ban for-profit bail bonding companies.

For-profit bail bonding companies have an interest in preserving the use of money bail as it is the source of their income. Jurisdictions should do away with this unnecessary third party in the judicial system by relying on non-financial bail options and utilizing safer not-for-profit pretrial service agencies.

3. Include the voices of all involved parties to ensure that reforms to the pretrial process are meaningful and effective. As the impact of harm varies depending on the offense, a systematic consideration of the victims and their advocates' perspectives or guidance could enhance bail decisions and improve safety in the community. The use of money bail should be examined so that it does not lead to further harm on victims; this will require close communication with victims and their advocates.

4. Expand community education programs, such as the Neighborhood Defendant Rights programs, that inform people in the community about how to navigate the pretrial process. Communities, particularly those disproportionately impacted by the criminal justice system, should be informed about the pretrial process, their legal rights, and what to practically expect should they or a loved one be arrested.

5. Use citations and summons to reduce the number of people being arrested and processed through jails. Police officers should be enabled to give

citations or summons in place of arrest and booking for certain offenses, particularly misdemeanor offenses. The use of risk assessment and technology allowing finger printing and positive identification of a person accused of an offense can enable officers to implement this practice safely.

6. Use standardized, validated risk assessments to determine who to release and how to release. Every jurisdiction should invest in a validated risk assessment for their locality. Validated risk assessments should be implemented to provide judicial officers an objective, informative tool with which to drive their pretrial decisions. These tools are also useful in citation programs when police officers want to ensure the person they “cite and release” will not pose a risk to the safety of the community.

7. Implement measures of pretrial detention and release services to evaluate current programming and better inform pretrial reform efforts. The U.S. and each jurisdiction should gather more robust data regarding pretrial detention and release to better assess and reform their practices.

8. Require for-profit bail bonding businesses to report on pretrial measures that better track forfeiture rates, FTA rates, and other pretrial performance and outcomes indicators. Should for-profit bail bonding companies be allowed to continue, they should be required to provide data that is crucial to maintaining the safety of our communities, including bond amounts of people released, forfeitures, and failure to appear rates of their clients. Notes should also be made if a bond is posted on behalf of someone who is also on conditional release or

under the supervision of a pretrial service agency.

9. Expand pretrial service agencies.

Pretrial service agencies should be expanded to assist judicial officers in pretrial determinations, as well as, provide pretrial supervision services to those who may be at risk for not being able to successfully complete the pretrial process on their own.

10. Use court notifications.

Court notification systems should be a part of every court budget to ensure dollars are not spent trying to track or punish people for failures to appear unnecessarily.

11. Research the effectiveness of current and proposed pretrial practices to ensure the activities will lead to desired outcomes. More research should be conducted to objectively confirm the impact of current pretrial

practices on those who are accused of offenses and their families, but also on society and the costs incurred

12. Amend the Bail Reform Act and policies to comply with the Equal Protection Clause.

Current practices should be changed to ensure that all people accused of similar offenses receive the same pretrial treatment regardless of their access to money or financial resources.

13. Better utilize technology to improve pretrial processes.

Technology should be used to overcome barriers and more easily implement safer practices. Technology can be used for conducting risk assessments, obtaining positive identification, as well as, creating and testing models for potential pretrial changes to predict potential benefits.

¹ Todd D. Minton, "Jail Inmates at Midyear 2011 – Statistical Tables," Bureau of Justice Statistics, NCJ 237961, 2012, <http://www.bjs.gov/content/pub/pdf/jim11st.pdf>.

² Eric Holder, "Attorney General Eric Holder Speaks at the National Symposium on Pretrial Justice," June 1, 2011, U.S. Department of Justice, <http://www.justice.gov/iso/opa/ag/speeches/2011/ag-speech-110601.html>.

³ Ibid (shima), 2011.

⁴ Ibid.

⁵ Mary T. Phillips, "Pretrial Detention and Case Outcomes, Part 2: Felony Cases," New York City Criminal Justice Agency, Inc., March 2008.

⁶ Marian R. Williams, "The Effects of Pretrial Detention on Imprisonment Decisions," *Criminal Justice Review*, 28(2):299-316.

⁷ Douglas J Klein, "The Pretrial Detention 'Crisis': The Causes and the Cure," *Journal of Urban and Contemporary Law*, 52(1997): 14.

⁸ Ibid, 1997, p. 293.

⁹ <http://abcnews.go.com/US/man-alleging-prison-labor-violated-anti-slavery-amendment/story?id=16970464&page=2#.UCqso0S5J3M>

¹⁰ Douglas J. Klein, 1997, p. 294.

¹¹ Robert F. Kennedy, "Testimony by Attorney General Robert F. Kennedy on Bail Legislation Before the Subcommittees on Constitutional Rights and Improvement in Judicial Machinery of the Senate Judiciary Committee," Department of Justice, August 4, 1964, <http://www.justice.gov/ag/rfkspeeches/1964/08-04-1964.pdf>, p. 3.

¹² The Abell Foundation, 2001, p. 25.

¹³ Amanda Gullings, "The Commercial Bail Industry: Profit or Public Safety?," Center on Juvenile and Criminal Justice, May 2012.

¹⁴ David Berry, 2011, 29.

¹⁵ Estimates based on population statistics from Table 1 in Karen R. Humes, Nicholas A. Jones, and Roberto R. Ramirez, "Overview of Race and Hispanic Origin: 2010," *2010 Census Briefs*, March 2011,

<http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf> and jail population statistics from Table 6 in Todd Minton, 2012, p. 6. Estimates are lower than actual rates as they are based on total population statistics and not limited to adult population statistics.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ <http://law.justia.com/constitution/us/amendment-06/17-right-to-counsel-in-nontrial-situations.html>

¹⁹ Lindsey Carlson, "Bail Schedules: A Violation of Judicial Discretion?" *Criminal Justice* 26 (2011).

²⁰ State Court Processing Statistics data as retrieved from the Felony Defendants in Large Urban Counties reports, 1992 – 2006.

²¹ Barry Mahoney and others, 2001, p. 16.

²² State Court Processing Statistics data as retrieved from the Felony Defendants in Large Urban Counties reports, 1992 – 2006.

²³ Q&A session of The Burden of Bail: Addressing Challenges to Indigent Defense at Bail Hearing.

²⁴ Lucian E. Dervan and Vanessa Edkins, "The Innocent Defendant's Dilemma: An Innovative Empirical Study of Plea Bargaining's Innocence Problem", May 31, 2012, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2071397.

²⁵ This estimate made by calculating 50 percent of the 65 percent of defendants who plead guilty in 2006; Thomas H. Cohen and Tracey Kyckelhahn, "Felony Defendants in Large Urban Counties, 2006," (Washington, D.C.: U.S. Bureau of Justice Statistics, May, 2010).

²⁶ Shima Baradaran and Frank McIntyre, 2011, p. 24.

²⁷ Ibid, 2011, p. 24.

²⁸ Public Opinions Strategies and The Mellman Group, "Public Opinion on Sentencing and Corrections Policy in America," Pew Center on the States, March 2012.

²⁹ Marketwise, "Charlotte-Mecklenburg 2012 Criminal Justice System Survey Presentation of Results," Charlotte, NC, April 1, 2012.



The Justice Policy Institute is a national nonprofit organization that changes the conversation around justice reform and advances policies that promote well-being and justice for all people and communities. To read the full report, *Bail Fail: Why the U.S. should end the practice of using money for bail*, please visit www.justicepolicy.org or contact us at Justice Policy Institute 1012 14th St. NW, Suite 400 Washington, DC 20005 Phone: (202) 558-7974 or at info@justicepolicy.org.

Justice Policy
INSTITUTE



Jailing Communities

*The Impact of Jail Expansion and
Effective Public Safety Strategies*

A Justice Policy Institute Report
April 2008

By Amanda Petteruti and Nastassia Walsh

About the Authors

Amanda Petteruti is a researcher and policy analyst with approximately seven years of combined experience in education and criminal justice policy. Early in her career, she organized a writing program for youth at the National Campaign to Stop Violence and provided general support to the National Juvenile Defender Center. Prior to joining the staff of the Justice Policy Institute, she conducted research on issues pertaining to urban education at the Council of the Great City Schools. Petteruti earned a Master of Arts in education policy and leadership from the University of Maryland College Park and a Bachelor of Arts in sociology from Bates College. Petteruti has contributed to several reports related to education policy and co-authored *The Vortex: The Concentrated Racial Impact of Drug Imprisonment and the Characteristics of Punitive Counties* and JPI's Public Safety Policy Brief series.

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Introduction: Jails Are Part of the Country's Mass Incarceration Challenge

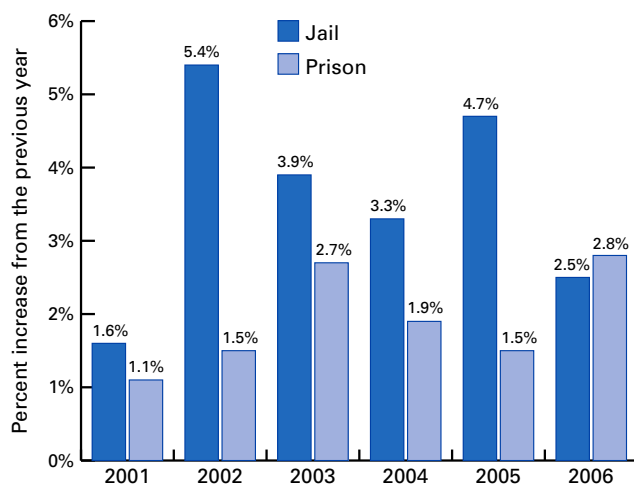
Jails have historically been overlooked as a contributing factor to the United States' addiction to incarceration. While the prison population continues to grow steadily, albeit at a slower pace than 10 years ago, the jail population has increased dramatically. Although the United States still has the highest incarceration rate in the world,¹ prison population growth has slowed since the 1990s. In 2006, prison population growth was half what it was in 1996, but in recent years, jail population growth has exceeded that of prisons. Public attention has been focused on prisons, with increased support for reducing prison spending, sentencing reform, and treatment rather than incarceration for drug addiction.² However, the same attention has not been leveled at jails and the impact that they have on the people held in them, the communities surrounding them, and the counties that must bear the financial burden.³

With prisons growth rates leveling off in the past decade, are jails now driving mass incarceration? Jails once had a focused role in detaining people awaiting trial or in incarcerating people who received short sentences. But as Americans chose to deal with drug abuse, mental illness, homelessness, and concerns over immigration through the criminal justice system, the country has also filled the nation's jails beyond capacity—a fact that has serious consequences for both the communities that now pay billions to maintain large jails and the millions of people who face serious, lifelong consequences once they have been jailed.

Since 2001, jail population growth exceeded prison growth, with a slight reversal in 2006. Between 2001 and 2006, prison populations grew 11 percent, while jail populations grew 21 percent.⁴ The one-day count of 766,010 people in jail in 2006 under-represents the reality, which is that the majority of people who experience locked custody in the United States do so in jail. With 219,000 people admitted to America's jails in just one week in the 1990s,⁵ there could be as many as 11 million jail admissions every year.

Changing crime rates do not explain the surging growth seen in jail incarceration. Between 1993 and 1999, a period in which violent crime rates fell, the nation added 10 new jails⁶ a year and the jail population grew by 146,000.⁷ Since 2000, when crime rates were basically flat,⁸ the U.S. added 145,000 more people to its jails. Thus, jail growth does not appear to be a function of crime trends.

Jail populations have been increasing at higher rates than the prison population.



Source: Harrison, Paige M., and Allen J. Beck. 2007. *Prison and jail inmates at midyear 2006*. Washington, DC: Bureau of Justice Statistics.

Why are America's jail populations on the rise?

As the responsibility of running America's jails falls to the country's more than 3,000 counties, it is hard to generalize practices and roles to each locality. Traditionally, jails only held people deemed a threat to

public safety pending trial, people who were thought to be unlikely to return to court, and people sentenced to a term of incarceration of usually less than a year. But as the United States has come to respond to a variety of social problems through the criminal justice system, jails are taking on new and expanded roles.

Today, 10 percent of the people in jail on any given day are people who have been sentenced to *prison*, a population that has increased 16 percent in just five years.⁹ Jails may be housing more sentenced prisoners because of overcrowding in the prison system, the inability of the corrections system to move people from jail to prison, and a shifting of responsibility for housing prisoners from the state to counties. As the country has chosen to respond to drug addiction through the criminal justice system, instead of the public health system, the number of people in jail for drug crimes has increased from 10 percent to just under a quarter of the jail population.¹⁰ The bold vision to deinstitutionalize America's psychiatric hospitals and shift the delivery of mental health services to the community failed to be realized. Jails have been likened to the "new asylums," where six out of 10 people in jail suffer from a mental health problem.¹¹ And, during the last decade—as the country has become more anxious about immigration—the jailing of people for immigration violations grew by 500 percent.¹²

U.S. jail populations may be on the rise because society has simply become more punitive—we are more likely to detain people pretrial for longer periods of time and less likely to use alternatives to pretrial detention. In blurring the lines between prison and jail, the public and media often forget that the majority of people held in jail have *not* been found guilty of any crime. According to the Bureau of Justice Statistics, 62.1 percent of people in jail in 2006 were unconvicted—a percentage that has grown and is still increasing.¹³ More people are being held pretrial than once were. During a time when the jail population increased by a quarter of a million people, the proportion of those jailed who were unconvicted grew by 20 percent.

People are less likely to be released pretrial. Fewer people detained for violent offenses are being released, but the three quarters of people in jail who are awaiting trial for property, drug, and public order related charges are also significantly less likely to be released. Overall, fewer people are being released from jail on their own recognizance, and the courts are more likely to impose bail amounts that fewer people can afford to pay. Once, more than half of those jailed received bail amounts of \$5,000 or less;

today, just about half of the people in jail receive the highest bail amounts (\$10,000 to the maximum).¹⁴ Since eight out of 10 people jailed made less than \$2,000 in the month before they were jailed,¹⁵ steep bail obligations make it harder to release the vast majority of people arrested for low-level, nonviolent offenses who crowd United States jails.

Many counties and local governments have developed a rich array of alternatives to jail incarceration and community-based corrections that supervise people outside of the jail environment. But during a time when jail populations have grown, the number of people in community corrections programs and under county community supervision has fallen. When a county invests the bulk of its local public safety budget in jails, it limits funds for less expensive, and often more effective, community-based programs.

Why are growing jail populations a concern for communities?

"What's a couple of days in jail?" As most people who are jailed are there for shorter periods of time than people sentenced to state prison, it is easy for those who do not know the facts to minimize the impact of jail time. But the days, weeks, months, and years that some people spend in jail carry significant consequences for the individuals jailed and the communities that have to house, maintain, and pay tens of billions of dollars to maintain the jails. In fact, the first day that someone is admitted to jail is usually the most expensive because of administrative needs, assessments, and often increased surveillance due to a high risk of suicide within the first 24 hours.

Jail incarceration has a negative impact on health, mental health, employment, and the family and community connections of people incarcerated. Jails rarely have adequate resources available to treat people with physical or mental health problems and, according to the National Association of Counties, jail often "*traumatizes persons with mental illness and makes them worse.*"¹⁶ No surprise, then, that the suicide rate in jails is nearly four times the rate in the general population.

Jail incarceration is an expensive proposition for counties, with hidden financial costs and impacts on the environment. Between 1983 and 2002, local spending on corrections grew from \$3 billion to \$18 billion a year—a 500 percent increase.¹⁷ When small counties cannot manage an overcrowded jail properly,

they can face multimillion-dollar lawsuits over poor conditions—lawsuits whose judgments create more fiscal obligations that the community must shoulder. Even when counties try to offset costs by leasing jail beds to the state or federal government, some communities are still awaiting the cash windfall. Several communities have been stuck with million-dollar tabs because they must pay for jail beds they do not need even as state and federal contracts vanish.

In return for the billions being spent on jails, are increasing jail incarceration rates making communities any safer? The places with the highest incarceration rates have not necessarily seen violent crime rates fall. New York City decreased its jail population and has experienced a drastic reduction in crime rates.¹⁸ Research from the Washington State Institute for Public Policy suggests that when the costs and benefits of incarceration in terms of reduced crime and savings to taxpayers are taken into account, jailing people for drug offenses is a net money loser.¹⁹ In contrast, for every dollar invested in community-based drug treatment, \$18 is generated from reduced crime and improved public safety savings to taxpayers. Since three-quarters of people in jail are there for property, drug, or public order offenses, and drug treatment or mental health needs are prevalent among people in jail, community-based supervision and treatment holds more promise than does a jail bed in helping people improve their life outcomes.

While all communities may suffer when jail populations increase, the impact of increased jail imprisonment is not borne equally by all members of a community. Though the proportion of people held in jail who are white is higher than in prison (44.3 percent and 34.6 percent, respectively),²⁰ people of color are disproportionately confined in jail. Jail incarceration rates for whites are 170 per 100,000 compared to African Americans at 815 per 100,000 and Latinos at 283 per 100,000.²¹ Women are also slightly more likely to be held in jail (12.9 percent) than in prison (7 percent),²² though men continue to constitute the vast majority of jail populations. New data reveal that Latinos are more likely than are whites or African Americans to have to pay bail, and they have the highest bail amounts, are least likely to be able to pay,²³ and are by far the least likely to be released prior to trial.²⁴

This report summarizes recent research findings on jails, the changing nature of jail populations, and the known impact of jails on communities and individuals. The Justice Policy Institute (JPI)

performed an extensive literature review and original data analysis and found that jail populations are increasing at a time when county budgets are tight and more cost-effective solutions are available. While this report does not make extensive recommendations, communities facing new jail construction should think twice about the various costs of that policy choice and consider the myriad alternatives to incarceration and community corrections that could be implemented to reduce jail overcrowding without spending millions of dollars building and operating new jails. Making different policy choices can help individuals get healthy, return home, return to work, and make contributions to their families and their communities.



Background: What Are Jails and How Are They Used?

Jails are correctional facilities operated and funded by counties and localities, and they are usually centrally located in a community. In comparison, prisons are usually state-operated and located outside city limits. Jails and prisons originally had very distinct roles, but these roles are beginning to blur due to longer sentences and the overcrowding of prisons.

Prisons are meant to hold people who are generally sentenced to more than one year, and jails are intended to hold people who are at risk of reoffending, are unlikely to return for their court date, and/or are sentenced to a year or less. Some prisons provide programming and rehabilitative services, but because jails have historically been intended to hold people for short lengths of time, they typically have no or few services or programming. Today, jails hold people for more reasons and purposes than they once did.²⁷

Historically, jails have served two main purposes:

- To detain people prior to trial and pending conviction or sentencing. These people either have not been released pretrial because they have been deemed a threat to society or themselves, or they have not been able to post bail. They comprise the largest proportion of people held in jails.
- To hold people sentenced to county time (usually less than one year).

Today, new obligations have fallen on jails:

- To hold people in space leased from the federal government, state, or another county, usually due to overcrowding in prisons.
- To hold people who are awaiting pickup from other places such as Immigration and Customs Enforcement, the federal government, or mental health facilities.
- To provide protective custody for those in contempt of court and for court witnesses.²⁸

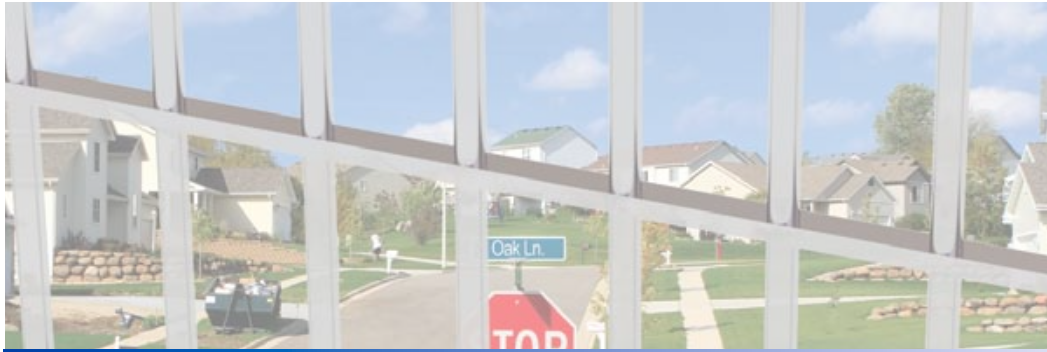
The growth in prison populations and the resulting overcrowding have caused jails to hold more people for longer periods of time and to provide the services

and programming needed by people serving longer sentences. The National Association of Counties (NACo) says that jails are now providing psychiatric services, vocational and educational programming, drug treatment, and other services usually without compensation from the state.²⁹ Counties have said that the role of jail is changing but that few fiscal resources are available to support the change.³⁰

The First Jails

The concept of jail as it is understood now can be traced to “gaols” that were used in 12th century England. Early English gaols were the first to be locally run and administered by local officials. Gaols were meant to hold drunkards, prostitutes, thieves, debtors, and orphaned children. Those who had violated the law were held in gaols until a trial could be held and a punishment established. Often, people were gaoled at their own expense and expected to pay a fee to the sheriffs and gaol keepers.²⁵

In an effort to reform U.S. prisons, Quakers founded the Walnut Street Jail in 1787 in Philadelphia. The Quakers separated prisoners based on the seriousness of the offense and also by gender. Men, women, and children were no longer housed together. Prisoners were given employment and men received a small wage. Many of the jails and prisons that followed were based on the Walnut Street model.²⁶



Why Are Jail Populations Growing?

"We're putting too many people in jail... We're putting people in jail who need to be in treatment for addiction. We'll save a lot of money if we treat them instead of jailing them."³²

Rep. Kathy Stein, D-Lexington,
Chair of the House Judiciary
Committee, Kentucky

Jail populations have been increasing, and the number of people in jails has nearly doubled since 1990.³¹ Many factors contribute to the increase in jail populations and they vary greatly by county and state.

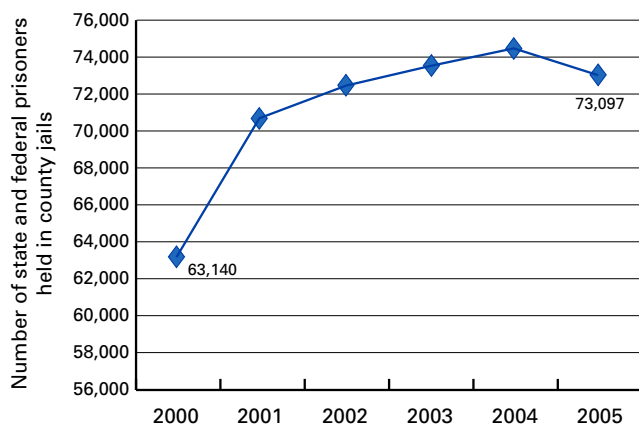
Prison overcrowding

Although the percentage increase in the number of people incarcerated in prison has leveled out over the last five years, more than 1.4 million people are still held in prison.³³ Prisons across the country continue to be overcrowded. In 2000, federal prisons were at 134 percent capacity and state prisons had reached 101

percent capacity.³⁴ Among the other negatives associated with prison overcrowding, such as unsafe and unsanitary conditions and loss of programming, prison overcrowding impedes the transfer of sentenced individuals from jails to prison facilities, thus overcrowding jails. The number of state and federal prisoners being held in local jails has increased more than 15 percent in the last five years.³⁵

County jails are being called upon to hold people who would have previously been sent to the state or federal prison.³⁶ In some cases, counties lease jail beds to other government agencies in an effort to alleviate prison overcrowding and to bring in extra revenue for the county to maintain the jail. As a result, some jails are filled to capacity. At midyear 2006, 35 of the 50 counties with the largest jail capacities had filled their jails to 90 percent or more.³⁷ More than half of those jails reported being over capacity.

The number of state and federal prisoners being held in local jails has increased more than 15 percent in the last five years, now constituting nearly 10 percent of the entire jail population.



Source: Harrison, Paige M., and Allen J. Beck. 2006. *Prisoners in 2005*. Washington, DC: Bureau of Justice Statistics.

Changes in policing practices

Changes in policing practices contribute to the steady increase in arrests for low-level offenses, such as drug offenses. These low-level offenses usually result in some amount of jail time. Two important changes in policing occurred in the 1990s.

Increase in drug arrests

Through federal legislation, thousands of law enforcement officers were hired across the country, greatly increasing the capacity of law enforcement agencies to make arrests. While programs like the Community Oriented Policing Services (COPS) grants have been shown to have a small impact on the overall crime rate,³⁸ they have increased the ability of law enforcement to identify illegal behaviors, such as behaviors related to drugs. Coupled with the escalation of the war on drugs, resources were widely available for police to focus on drug offenses, as other crimes were declining during this time.³⁹ Drug offenses re-

quire proactive policing. Officers must find people who are using or selling drugs, whereas violent crime or robbery requires a response, often because the crime is reported.⁴⁰ A recent Justice Policy Institute study shows that counties with the highest per capita spending on law enforcement and the judiciary have the highest drug admission rates, regardless of the lack of variation in drug use rates across counties.⁴¹

In other words, counties that spend more on police lock up more people for drug offenses.

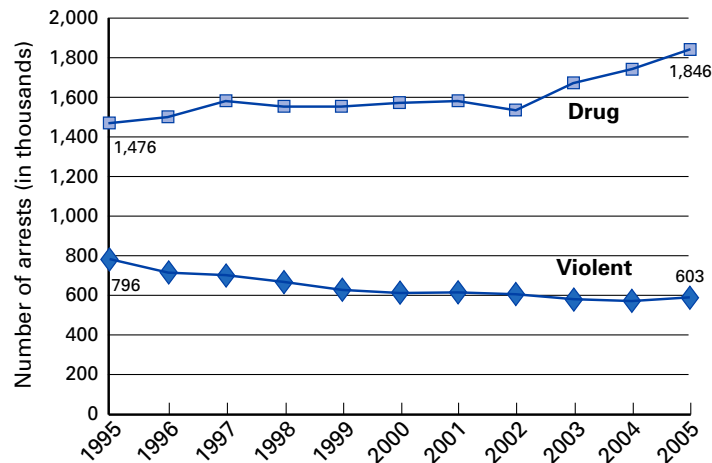
As violent crime started to decline after 1993, police were able to further focus on proactive policing, particularly in regards to drug offenses.

- Between 1986 and 2005, the number of drug arrests increased 150 percent, whereas violent arrests only increased 26 percent over this time period,⁴² although there is no evidence that imprisoning people for drug offenses significantly decreases violent or property crime rates.⁴³
- Just in the last decade, drug arrest rates have increased 7 percent, whereas property and violent arrests have each decreased more than 30 percent.⁴⁴

- In 2005, 81.7 percent of all drug arrests were solely for possession, and nearly half of these charges were for marijuana possession.⁴⁵

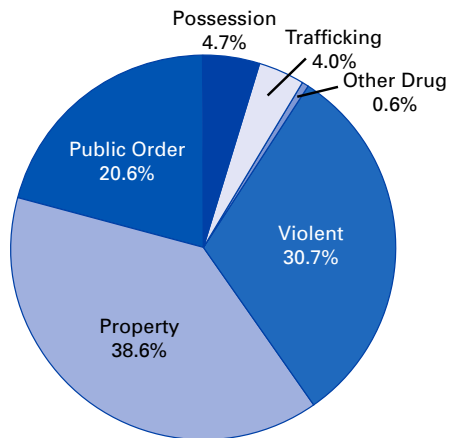
Additional evidence of increasing punitive policies toward drug abusers is shown by the changing demographics of the jail population, where there are now nearly as many people held for drug offenses as

The number of arrests for drug offenses has increased 25 percent since 1995, while arrests for violent offenses have decreased 24 percent.

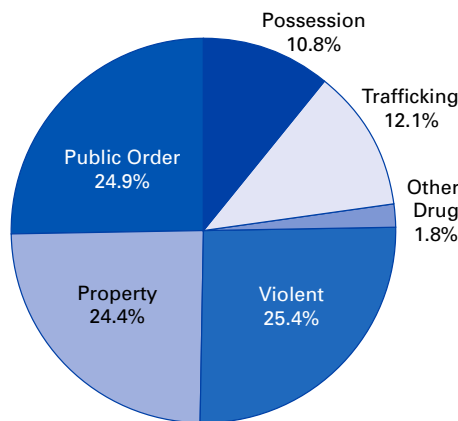


Source: FBI Uniform Crime Reports, *Crime in the United States*, Table 29.

In 1983, fewer than 10 percent of people in jail were incarcerated for any drug offense.



In 2002, almost a quarter of people in jail were incarcerated for a drug offense.



Note: Public order offenses include drunkenness, vagrancy, disorderly conduct, unlawful assembly, morals, and commercialized vice, amongst other nonviolent, nondrug offenses.

Sources: 2002: James, Doris J. 2004. *Profile of jail inmates*, 2002. Washington, DC: Bureau of Justice Statistics; 1983: Harlow, Caroline W. 1998. *Profile of jail inmates*, 1996. Washington, DC: Bureau of Justice Statistics.

for violent offenses. In 1983, fewer than 10 percent of all people in jails were held for drug offenses. By 2002, almost a quarter of all people in jail were held for drug offenses, over 10 percent of which were for possession only. In 2002, the United States imprisoned more than 155,000 nonviolent drug offenders in local jails across the country.⁴⁶

Zero tolerance policies

Second, many cities and communities have moved toward “zero tolerance” policies for quality of life crimes, such as prostitution, graffiti, loiterers, and panhandlers. As indicated in the previous section, people arrested on public order offenses, which encompasses zero tolerance offenses, have increasingly been detained in jails. These policies have been driven by the theory that “broken windows” or the appearance of disorder in a neighborhood fuels criminal activity. In the 1990s, the New York Police

“These zero tolerance policies often lead to longer sentences of low-level offenders, which may offer a short-term resolution to the crime problem, but does not address the latent community problems that caused this behavior.”⁵³

Judith Greene, Justice Strategies

Department, under the direction of then-police commissioner William Bratton and former mayor Rudy Giuliani, employed such zero tolerance policies and were highly praised for their ability to “clean up the streets” and lower crime rates.⁴⁷

San Diego: An alternative to zero tolerance policies

In contrast to policies in New York City, San Diego witnessed a comparable decline in crime during the same period, without implementing a zero tolerance policy.⁴⁸ Instead, San Diego favored a neighborhood policing approach in which police and citizens share the responsibility for identifying and solving crimes and form connections to help share information and provide communities with resources to combat crime problems. Using this method, crimes declined 36.8 percent from 1990 to 1995 and arrests fell 15 percent. The evidence from San Diego shows that cooperative problem-solving can provide effective crime control while promoting positive ties to the community. According to researcher Judith Greene who reviewed both the New York City and San Diego policies, “The San Diego strategy seems better designed to support and sustain vital elements of community social organization that can inhibit criminality and build safer neighborhoods over the long run.”⁴⁹

Most states have implemented laws specifically directed toward the punishment of the homeless population, and this can result in more people being admitted to jails. The National Coalition for the Homeless and the National Law Center on Homelessness and Poverty issued a report in 2006 that surveyed 224 cities around the country on their laws involving the criminalization of the homeless.⁵⁰ This report found that city ordinances frequently serve as a prominent tool to criminalize homelessness through “quality of life” crimes and that these laws are increasing.

- 28 percent of cities surveyed prohibit “camping” in particular public places in the city and 16 percent had city-wide prohibitions on “camping”
- 27 percent prohibit sitting/lying in certain public places
- 39 percent prohibit loitering in particular public areas and 16 percent prohibit loitering city-wide
- 43 percent prohibit begging in particular public places; 45 percent prohibit “aggressive panhandling” and 21 percent have city-wide prohibitions on begging

Directly drawing from “broken windows” theories and William Bratton’s experiences in New York, the Los Angeles Police Department expanded the Safer Cities Initiative (SCI) in 2006, which added 50 additional officers to police Skid Row, an area of less than a square mile. Skid Row has the highest concentration of homeless people in the United States. Although the increase in officers was supposed to be coupled with an increase in services for homeless people, a study by the University of California Los Angeles indicates that more resources and energy have been put into citing and arresting people on Skid Row.⁵¹

In the first year of the concentration of SCI on Skid Row, the study found that police issued 12,000 citations, primarily for walking against the light (57 percent) and jaywalking (31 percent). The total penalty for such citations is \$159. However, recipients of General Relief—a county-funded program that provides financial assistance to indigent adults who are ineligible for federal or state programs—in Los Angeles receive only \$221 per month. The penalty for unpaid fines is jail or prison time. The officers working on Skid Row also made 750 arrests per month, the largest percentage of which were for drug offenses. Increased arrests translate directly into an increase in the number of people held in jails.⁵²

Jails have become institutions for people with mental illness

Over the last 35 years, the mental health system has undergone tremendous changes. The closing of mental health facilities and an increased reliance on medication have changed the way mental illness is managed in communities. People with mental illness may often be left to manage their illness on their own, with fewer options for treatment. With few treatment options available for people living with mental illness, many end up in the criminal justice system.

Prisons and jails in the United States have been depicted as the “new asylums.”⁵⁴ Currently, the majority of people held in state prison or jail have some type of mental illness.

- Almost half (49 percent) of state prisoners have “symptoms of a mental disorder [that were] based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV),”⁵⁵ and 60 percent of people in the custody of jails suffer from a

“Jails and prisons are swollen with people suffering some form of mental illness.”

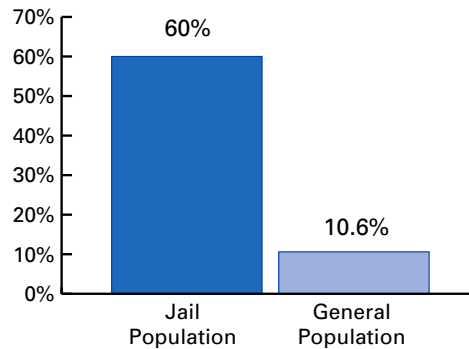
Consensus Project, Executive Summary

mental health problem. Comparatively, only 10.6 percent of the general population exhibits symptoms of a mental health disorder, including major depressive disorders, mania disorders, or psychotic disorders.⁵⁶

- The Los Angeles County Jail, one of the largest jails in the country, holds as many as 3,300 people with mental illness on any given day.⁵⁷
- A study conducted in New York State found that men involved in the public mental health system over a five-year period were four times as likely as men in the general population to be incarcerated; for women, the ratio was six to one.⁵⁸
- Seventy-five percent of women in jail in the U.S. have a mental health problem.⁵⁹ As will be discussed later in this report, this has particular consequences for families and children.

Further increasing the chance that people with mental illness will be in contact with the criminal justice system is the general lack of affordable or supportive housing for this population. Estimates from the Na-

Sixty percent of the jail population suffers from a mental health disorder,* compared to 10.6 percent of the general population.



*Major mental health disorders include major depressive disorder, mania disorder, and psychotic disorders.

Source: James, Doris J., and Lauren E. Glaze. 2006. *Mental health problems of prison and jail inmates*. Washington, DC: Bureau of Justice Statistics.

tional Coalition for the Homeless show that 20 to 25 percent of homeless people have some type of serious mental illness.⁶⁰ Homeless people with mental illness are more likely to be the target of “zero tolerance” policies, because behaviors that may be manifestations of untreated mental illness, such as public urination, disturbing the peace, and drug abuse, will be on public display. According to a recent Bureau of Justice Statistics study, 17 percent of people in jail were homeless at the time of arrest and also suffered from a mental health problem.⁶¹

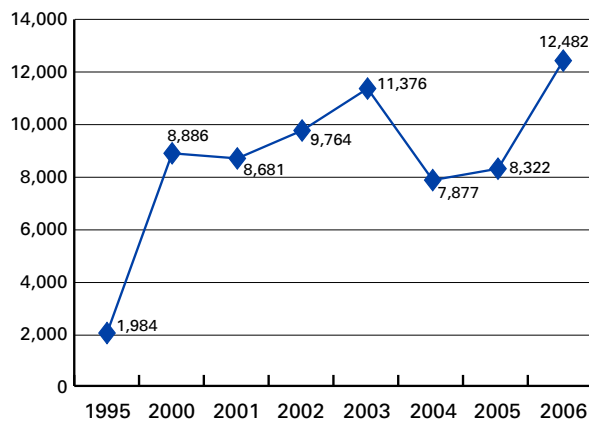
“The nation’s largest mental health facilities are now found in urban jails in Los Angeles, New York, Chicago, and other big cities.”⁶²

Heather Barr, Urban Justice Institute

People detained for immigration violations are increasingly held in jails

Concerns about immigration have driven an increased focus on the status of non-citizens in the United States. The heightened attention on immigration may have led to an overall increase in detention of people for immigration violations under the jurisdiction of U.S. Immigration and Customs Enforcement (ICE). In 2006, ICE detained slightly more than 40 percent more people than it did in 2000.⁶⁴ The majority of people in ICE custody are held through intergovernmental agreements in state prisons or local jails. In 2006, local jails held 45 percent of the people under

Between 1995 and 2006, the number of people held by ICE in local jails increased more than 500 percent.



Source: Sabol, William J., Heather Couture, and Paige M. Harrison. 2007. *Prisoners in 2006*. Washington, DC: Bureau of Justice Statistics; Pastore, Ann L., and Kathleen Maguire, eds. *Sourcebook of criminal justice statistics online*, Table 6.61.2005. <http://www.albany.edu/sourcebook/pdf/t6612005.pdf>.

"If in the course of their day-to-day duties a state or local law enforcement officer encounters an immigration status violator who may pose a threat, Section 287(g) authority allows an officer to question and detain the suspect if necessary. Currently, [Immigration and Customs Enforcement] is focusing 287(g) authority for use in state and local jails."⁶³

U.S. Immigration and Customs Enforcement, 2006 Annual Report

ICE custody, the largest portion of all facilities used by ICE.⁶⁵ Jails have seen the largest increases in people held under the jurisdiction of ICE. From 1995 to 2006, the number of people held in local jails under ICE custody has increased more than 500 percent.⁶⁶

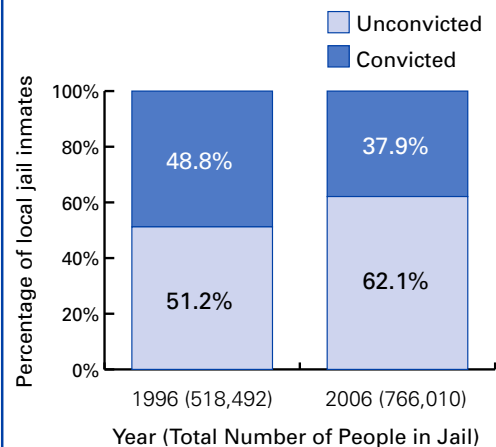
More people are being held pretrial

The vast majority of people held in jail have not been convicted and are being held prior to trial for a variety of reasons, including their own safety, the safety of the community, their risk of flight, or because they have not been able to post bail. The proportion of people held in jail who have not been convicted and are being held pretrial has increased steadily over the last 10 years, during a time when the jail population grew

from 518,492 in 1996 to 766,010 in 2006.⁶⁷ The increase in the number of unconvicted people held in jails accounts for 85 percent of the total increase of the jail population between 1996 and 2006.

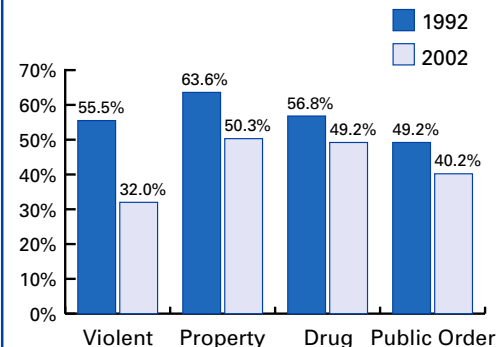
As expected, people arrested for violent offenses are the least likely to be released pretrial. However, only about half of people arrested for property or drug offenses are released, and this number has declined in the past 10 years.⁶⁸

The percentage of people being held pretrial in jails has increased more than 20 percent in the last decade.



Source: Harrison, Paige M., and Allen J. Beck. 2007. *Prison and jail inmates at midyear 2006*. Washington, DC: Bureau of Justice Statistics.

The percentage of felony defendants being released pretrial has been declining in the last decade across all offense types.



Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

More people are denied pretrial release and of those who are granted bail, fewer can afford to post it

Research and data on pretrial release, bail, bail practices, and bail bondsmen is relatively limited, however the State Court Processing Statistics (SCPS) series prepared by the Pretrial Justice Institute for the Bureau of Justice Statistics provides data on bail and pretrial release for those accused of felonies.

SCPS data indicate that since 1992, fewer people have been released pretrial without bail, fewer have been granted bail at all, and, of those granted bail, fewer have been able to make the payment.

There are two primary ways that a person accused of a felony can be released pretrial: 1) financial and 2) nonfinancial release. Nonfinancial release usually requires no transaction of money in exchange for release from jail. Financial release, or bail, requires that money be provided to the court or bail bondsman in exchange for release. Often these funds must be guaranteed by the person posting the money.

Nonfinancial release

People who are released by nonfinancial means usually fall into one of four categories:⁶⁹

- *released on their own recognizance (ROR) or citation release*: usually administered by law enforcement;
- *conditional release*: the person has to contact or report to someone to ensure compliance with the conditions of release (i.e., drug treatment);
- *unsecured bond or bail*: a person does not have to back up his or her bonds with collateral as in a surety bond; or
- *emergency release*: usually due to jail crowding.

In 2002, the most recent year available, fewer than half (49.6 percent) of all nonfinancial conditions of release set by judges were on their own recognizance. This number was down 21 percent from just a decade before in 1992, when 62.8 percent were on their own recognizance. In 2002, 14 percent of all releases were on their own recognizance compared to 24 percent in 1992.⁷⁰

Financial release

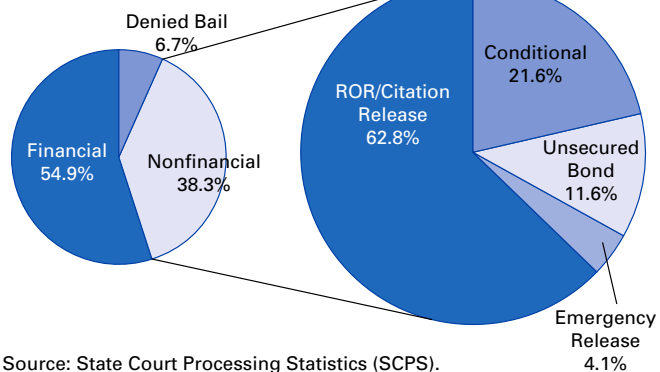
There are four types of bail:⁷¹

- *full cash bail*: requires that the full bail amount be paid;

- *surety bail*: requires that 10 percent of the bail be paid to a bondsman, attorney, or similar party to be released;
- *deposit bail*: the defendant secures release by posting a percentage of the bail amount directly to the court; and
- *property bail*: property is posted as collateral with the court.

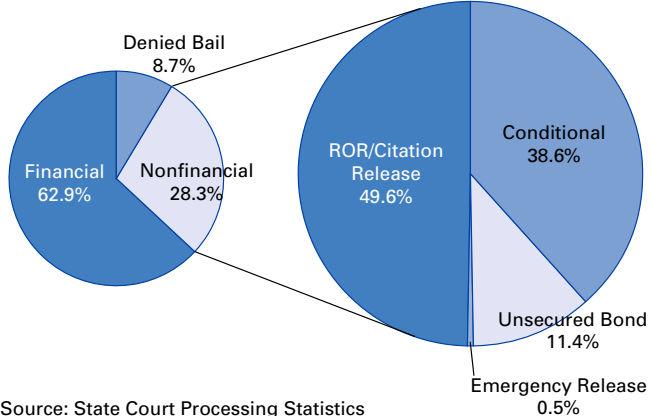
Timothy Murray, executive director of the Pretrial Justice Institute in Washington, D.C., says that the vast majority of unconvicted people in jail are there because they could not post bail. As much as 65 percent of those held pretrial are there because they

The majority of all nonfinancial releases of felony defendants were on their own recognizance (ROR) in 1992.



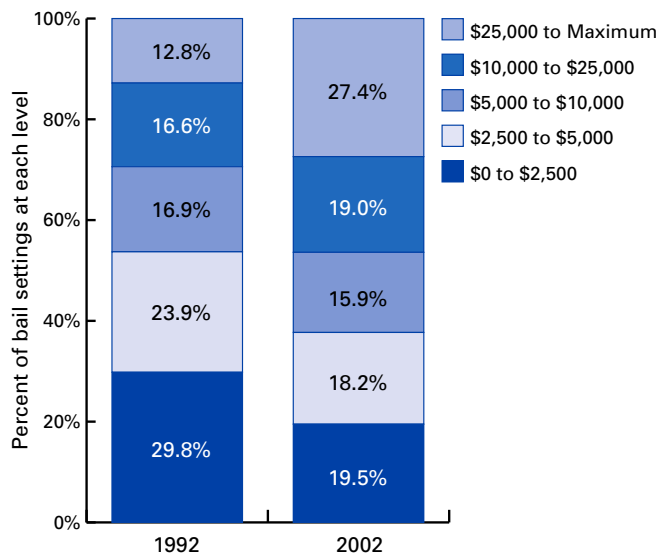
Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

Fewer than half of all judge-set nonfinancial conditions of release of felony defendants were on their own recognizance (ROR) in 2002.



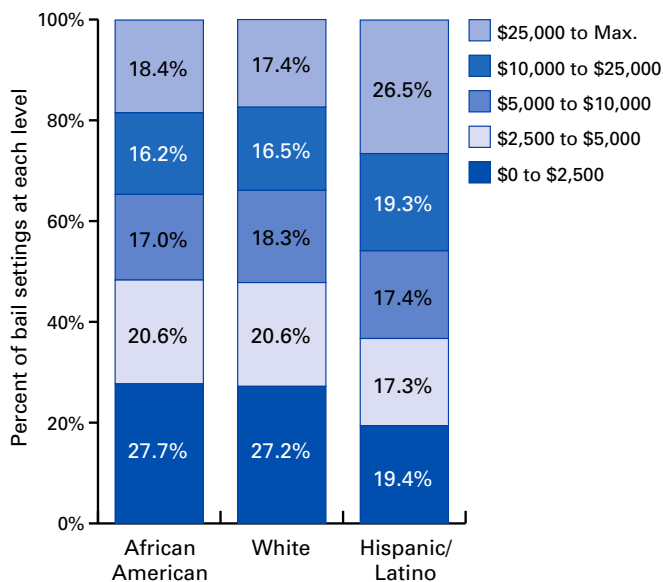
Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

The average bail amount set has been increasing in the last decade.



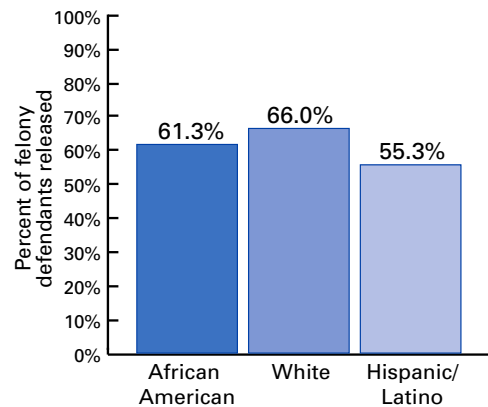
Note: These data are not adjusted for inflation. Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

Latino felony defendants receive the highest bail amounts set by the court.



Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

In general, whites are more likely to be released than people of color.



Source: State Court Processing Statistics (SCPS). Provided by David Levin, Pretrial Justice Institute, September 4, 2007.

could not post bail, for reasons that include a lack of funds, high bail amounts, or not being approved by a bail bondsman.⁷² Statistics from the Bureau of Justice Statistics may substantiate that idea: 83.5 percent of the jail population in 2002 earned less than \$2,000 per month prior to arrest.⁷³ With bail amounts increasing over the last 10 years, it may be difficult for people to post bail, and therefore more people are kept locked up in jails prior to trial.⁷⁴

According to a recent study, Latinos, more than whites or African Americans, are more likely to have to pay bail, have the highest bail amounts, and are least likely to be able to pay.⁷⁵

Latinos are by far the least likely to be released prior to trial.⁷⁶ This may be due to the fact that as a group, they face higher bail amounts. Research suggests that limited English proficiency, immigration status, lack of understanding of the judicial process, lack of access to counsel, and racial and ethnic stereotypes, among other factors contribute to these disparities.⁷⁷

Outcomes of people released pretrial

Advocates for higher bail amounts and keeping people in jails pretrial voice concerns that people who are released pretrial do not return to court. There is particular concern that people who had been charged with felonies will commit more crime or fail to return for court,

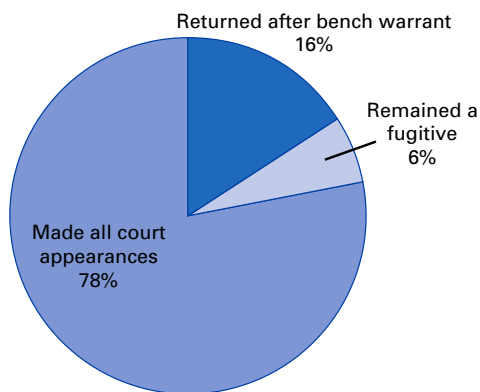
also known as bail risk. A 1976 study of Charlotte, N.C., court records revealed no significant difference in bail risk between people released pretrial on felony or misdemeanor charges.⁷⁸ Recent data from the SCPS database further substantiate that felony defendants return to court: more than nine out of 10 felony defendants released pretrial returned to court in 2002.⁷⁹

SCPS data also show that felony defendants are not likely to be rearrested while on pretrial release. Statistics from 2002 show that more than eight out of 10 defendants who are released pretrial remain arrest-free.⁸⁰ Defendants charged with violent crimes are

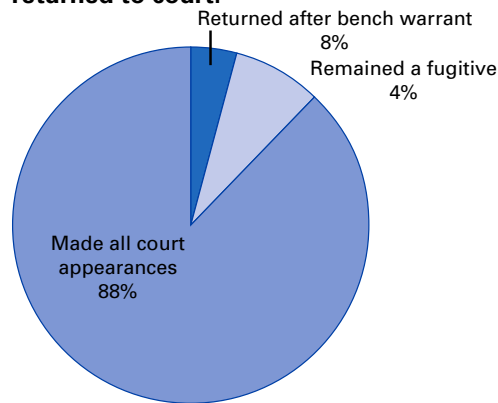
“Financial conditions other than unsecured bond should be imposed only when no other less restrictive condition of release will reasonably ensure the defendant’s appearance in court. The judicial officer should not impose a financial condition that results in the pretrial detention of the defendant solely due to an inability to pay.”

American Bar Association
Criminal Justice Section Standards, Standard 10-5.3(a)

94 percent of felony defendants released pretrial returned to court.

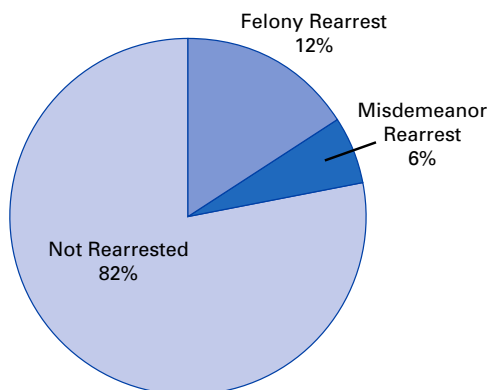


96 percent of felony defendants charged with violent crimes and released pretrial returned to court.

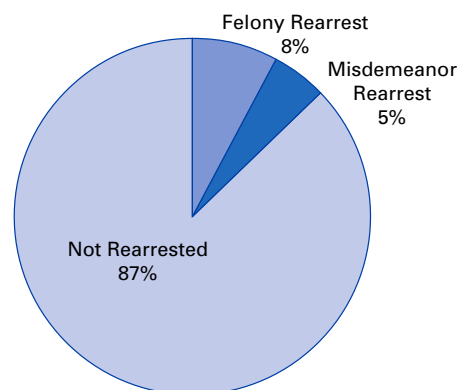


Source: Cohen, Thomas H., and Brian A. Reaves. 2006. *Felony defendants in large urban counties, 2002*. Washington, DC: Bureau of Justice Statistics. Table 20. <http://www.ojp.usdoj.gov/bjs/pub/pdf/fdluc02.pdf>.

82 percent of felony defendants released pretrial remain arrest-free.



87 percent of felony defendants charged with violent crimes and released pretrial remain arrest-free.



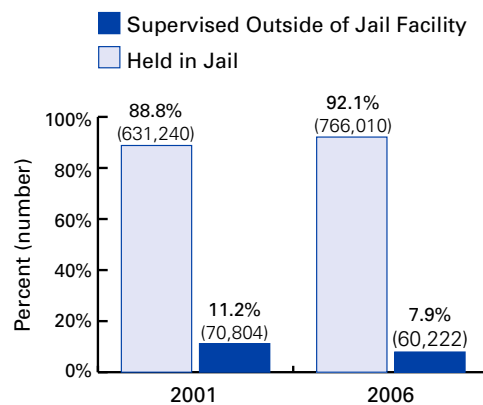
Source: Cohen, Thomas H., and Brian A. Reaves. 2006. *Felony defendants in large urban counties, 2002*. Washington, DC: Bureau of Justice Statistics. Table 21. <http://www.ojp.usdoj.gov/bjs/pub/pdf/fdluc02.pdf>.

even less likely to commit a crime while on pretrial release; 87 percent will remain arrest-free.

Fewer people are serving sentences in the community

Since 2001, there has been a steady decrease in the number of people under jail supervision who have been enrolled in programs outside the jail, also known as community corrections. In 2001, 11.2 percent of those under the supervision of the jail were serving their sentences outside the jail, but in 2006, that percentage had decreased to 7.9 percent during a time when the jail population grew by 21 percent.⁸¹ Nine thousand fewer people were supervised outside the jail facility from 2005 to 2006, and the number of people serving sentences in treatment programs for substance abuse or mental health problems outside of jail facilities decreased by 25 percent from 2005 to 2006.⁸²

The percentage of people supervised outside of jail has fallen over 29 percent in the last 5 years.



Source: Harrison, Paige M., and Allen J. Beck. 2001. *Prison and jail inmates at midyear 2001*. Washington, DC: Bureau of Justice Statistics; Sabol, William J., Todd D. Minton, and Paige M. Harrison. 2007. *Prison and jail inmates at midyear 2006*. Washington, DC: Bureau of Justice Statistics.



What Are the Consequences of Over-Using Jails?

Although the original purpose of jails was to hold people for short periods of time, these periods often vary as many people are admitted for only a day, while others are in the jail for a year or more. Thus, many people reenter the community from jail every day. Some people will enter, exit, and reenter the jail many times within a given time period. As a result, people in jails often have many interactions with the community around the jail facility, in a way that people held in prisons do not. This has implications for the health and well-being of the people in the jail as well as of the people in the community.

Jails have a harmful effect on people who are held in them

The increase in the volume of people going to jail may be putting new stress on these institutions and the people in them. Jails house a large number of people at any given time and often those people are held for only short periods of time. As mentioned, the majority of people in jails also live with some form of mental illness and many also struggle with substance abuse.

Conditions in all jails have a negative impact on the health and well-being of the people in them; however, the impact of older jails can be even more damaging. In the 1990s, researchers revealed that more than 700 of the jails in the U.S. were more than 50 years old, and of those, 140 were 100 years old.⁸³ Older jails tend not to be built for the purpose of providing services and may suffer from many of the problems associated with older buildings, including mold, poor ventilation, lead pipes, asbestos, and other problems. These problems can be extremely detrimental to the health and rehabilitation of people in them.

Physical health

The proximity of a jail to the community, the frequent comings and goings of people and prisoners in the jail, and the closeness of the inhabitants make

it possible for disease to be easily transmitted. Serious infections and sexually transmitted diseases are highly concentrated in jails.

- HIV/AIDS is four to six times higher in the jail population than in the general U.S. population.⁸⁴
- In 1997, the rate of infection of tuberculosis was 17 times higher in jail than it was in the general U.S. population.⁸⁵ A study of tuberculosis in New York City in the early 1990s found that one year of jail time increased the odds of contracting tuberculosis by 2.2, suggesting that the jail system may have been an important amplification point in New York City's tuberculosis epidemic.⁸⁶ Furthermore, inadequate treatment of tuberculosis in correctional facilities has been shown to contribute to the spread of drug-resistant tuberculosis strains.⁸⁷
- Staph infections have plagued jails around the nation, including large jails in Maricopa County, Ariz., and Gloucester County, Pa.⁸⁸ These staph infections spread through close contact and contaminated surfaces, require medical treatment, and can sometimes be fatal. Staph infections not only affect people imprisoned in jails, but also correctional staff, who take these infections home to their families. As most of these infections go untreated, the likelihood of a person carrying the infection into the community upon release is high.

Additionally, county administrators find it difficult to provide healthcare to people who will only be staying in the jail for a limited amount of time. Many jails do not have adequate facilities to provide healthcare. Sometimes jail officials do not have time to even test someone being admitted to jail before that person is once again returned to the community.⁸⁹ In some cases, jails will postpone medical diagnoses because the jailed person will soon be the responsibility of another system, whether it is prison, the community, or the person's family.⁹⁰

Many people who are admitted to jails had limited access to healthcare prior to arrest and may be suffering from untreated diseases or illnesses. When people

with illness are released from jail, they often return to the community with these conditions, which may have gone untreated for long periods of time. The stress of incarceration frequently exacerbates existing physical ailments. Given the crowded, close-quartered conditions in jails, some people return home having contracted serious disease. Most jails do not provide assistance in planning for health conditions upon release from the jail.⁹¹ People emerging from jail with

“On any given day, the Los Angeles County Jail holds as many as 3,300 individuals with mental illness—more than any state hospital or mental health institution in the United States.⁹² Without adequate planning to transition inmates with mental illness back into the community, many will quickly return to jail or prison; recidivism rates for inmates with mental illness can reach over 70 percent in some jurisdictions.”⁹³

Consensus Project on Mental Health

infectious diseases may be unable to find treatment successfully once they are back in the community, and those with chronic conditions that may have been managed in the jail are left to deteriorate on the outside without access to public health services.

Mental health

According to the Consensus Project on Mental Health,⁹⁴ a collaboration of mental health professionals, corrections and law enforcement officials, crime victims, and advocates who work to improve outcomes for people with mental illnesses involved with the criminal justice system, the majority of people in jail with a mental illness have not committed a serious crime; rather, they have been arrested for displaying manifestations of untreated mental illness in public that involve some aspect of criminality.⁹⁵ The Bureau of Justice Statistics recently reported that 73.5 percent of people in jail with mental health problems are there for property, drug, or public-order offenses.⁹⁶

Incarceration tends to further harm people with mental illness, often causing them to decompensate and making them more at risk of harming themselves or others. According to the National Association of Counties, jail often “traumatizes persons with mental illness and makes them worse.”⁹⁷ Upon release, community health professionals say they then have to work “twice as hard to get them back to where they were before they entered

the jail.”⁹⁸

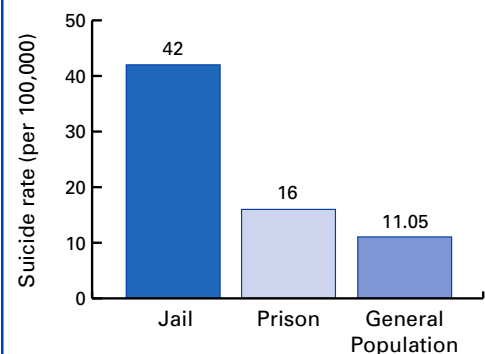
Suicide is a close second to illness in the leading cause of death in jails.⁹⁹ The chance that a person will commit suicide in jail is more than double than for people in prison.¹⁰⁰ The suicide rate in local jails is 42 per 100,000 and the suicide rate for the general U.S. public is 11 per 100,000.¹⁰¹ Researchers have found that people with mental illness who are admitted to jail experience amplified feelings of shame, isolation, stigma, distrust, and fear of the unknown.¹⁰²

Such high suicide rates are associated with untreated depression, which is common in correctional facilities. Several studies suggest that jails have insufficient mental health resources to meet the needs of inmates.¹⁰³ The Department of Justice reports that in 2004, less than half of people in jail with a mental illness received some type of treatment.¹⁰⁴ Overcrowding and the concentrated needs of people in jail make it difficult for counties to provide adequate services.

Lack of treatment due to an overburdened jail system also means that people who go untreated are likely to have difficulty following jail rules and may have their sentences elongated as a result. For example, in the 1990s on Riker’s Island, New York City’s largest jail, the average stay for all prisoners was 42 days, but the average stay for people with mental illness was 215 days.¹⁰⁵ Mental illness and long jail stays also make it more likely that someone with a mental illness will be victimized by another prisoner or jail staff.¹⁰⁶

When released from jail, people with mental illness are rarely given adequate resources or options for lo-

The suicide rate in jails is almost 4 times that of the general population.



Source: Mumola, Christopher J. 2005. *Suicide and homicide in state prisons and local jails*. Washington, DC: Bureau of Justice Statistics; Center for Disease Control and Prevention. 2007. *Suicide facts at a glance*. <http://www.cdc.gov/ncipc/dvp/suicide/SuicideDataSheet.pdf>.

cating and utilizing treatment outside of jail.¹⁰⁷ Frequently, when leaving jail, a person with a mental illness is provided only a short course of medication (two weeks or less) and only enough money to take a one-way trip on public transportation. Upon leaving jail, it is also often difficult for a person to find housing and to access appropriate treatment.¹⁰⁸ A criminal record may prevent someone with mental illness from receiving treatment.¹⁰⁹ Without social supports and treatment, people with mental illness are likely to return to jail: 65 percent of those in jail with mental illness had a prior sentence.¹¹⁰

Employment

Jail disrupts the employment and economic outcomes of a person who is admitted. Youth are especially affected by time spent in jail. A study by Bruce Western and Katherine Beckett shows that youth who spent time in jail experienced three less weeks of work than youth who had not been in jail. The impact of incarceration was still felt fifteen years later. People formerly held in jail were still working between three and five weeks less in a year than people who had never been in jail.¹¹¹ An arrest also leads to approximately a 4 percent decrease in average earnings.¹¹²

Jails, like prisons, are damaging to a person's employment and economic outlook and do not provide adequate opportunities for education or job training. In 1999, 60 percent of all jail systems offered some type of educational programs, and only 3.4 percent of jails offered college courses.¹¹⁴ Jails not only interrupt the employment track of a person, but they also prevent him or her from gaining skills or experience that would otherwise have been gained while still working in the community.¹¹⁵

Upon reentering the community, people held in jail face the additional challenge of finding employment. The social stigma associated with being incarcerated often hinders a previously incarcerated person's ability to find meaningful employment.¹¹⁶ People with a record of incarceration are banned from some occupations, such as certain healthcare or childcare services,¹¹⁷ and some employers are reluctant to hire someone who has been convicted or has been held in jail without conviction. In a 2005 study of people leaving New York City jails, only about a third had formal employment within one year of release.¹¹⁸

Recovery from addiction

Approximately 50 percent of convicted people in jail were using alcohol or drugs at the time of the offense, and 53 percent of people entering jails have

some form of addiction.¹¹⁹ People with mental illness are even more likely to wrestle with addiction. Only 30 percent of jail inmates who met the criteria for substance dependence or abuse had participated in substance abuse treatment while under correctional supervision, and only 7 percent participated while incarcerated.¹²⁰ Further, the jail system is ill-equipped to detoxify people admitted to jail with an addiction. The U.S. Substance Abuse and Mental Health Services Administration (SAMHSA) found that almost all jails in the country report that they never detoxify arrestees.¹²¹ Many people struggling with addiction will begin to feel symptoms of withdrawal before they are formally charged with a crime.¹²² Those who are not given the opportunity to overcome addiction are more likely to return to jail.

Disruption of families

Families are deeply affected by the placement of a family member in jail. With more than 11 million admissions to jail a year, many children have parents who have spent time in jail. For example, the Cali-

***"Areas with the most rapidly rising rates of incarceration are areas in which youths, particularly African-American youths, have had the worst earnings and employment experience."*¹¹³**

Bruce Western and Katherine Beckett,
The American Journal of Sociology

fornia Research Bureau estimates that approximately 97,000 children have parents in jail.¹²³ Most children, 90 percent, are able to stay in the custody of their mother when their father is sent to jail, however, only 25 percent of children are able to stay in the custody of their father when their mother is sent to jail.¹²⁴

Though approximately 88 percent of people in jail are men, women make up a higher percentage of the population in jails than in prisons at 11 percent,¹²⁵ compared to 7 percent in prisons.¹²⁶ Given the low percentage of children who are able to stay in the custody of their father when their mother is in jail, children of women who are in jail are likely to be displaced. The combined cost of foster care and other social services for those children greatly increases the financial cost of imprisoning women in jail.¹²⁷

Family members of people in jail may experience a great deal of stress, financial strain, social stigma, increased risk of illness, and other emotional burdens. Often family members must adjust their lives to take

care of a displaced child and may be under new financial stress.¹²⁸ Not only do family members of the person in jail experience emotional and economic hardships, but some also have reported physical ailments and declining health. A study by researchers at Virginia Polytechnic Institute and State University showed that 48 percent of the people participating in their study on family members of people in jail experienced declining health after the person was jailed, and 27 percent reported that their children's health had declined.¹²⁹

Disruption of relationship with the community

Connections and attachments to the community are severely damaged as a result of incarceration or jail time. The ability of a person to secure housing is the most obvious example of the disconnection that a person may feel upon reentry. A survey, conducted by the Center for Poverty Solutions and sponsored by the Open Society Institute, of people who reported not living in a traditional housing situation in Baltimore City found that 63 percent of people surveyed had owned or rented a home prior to incarceration, but only 29 percent owned or rented a home after release.¹³⁰ Housing and housing assistance are very restricted for people who are returning from correctional facilities. Often, family members receiving public assistance are prohibited from sheltering someone who has been incarcerated for any

reason or for any period of time.¹³¹

Jails are also much less likely than prisons to offer services that would help a person reenter society when released. Because people are usually held in jail for short periods of time, jail administrators are less likely to enroll them in programs that require a time commitment. At the same time, those held in jail for longer periods of time or instead of being sent to prison will be unable to benefit from programs and opportunities offered in prisons.

Jails are costly and negatively impact communities

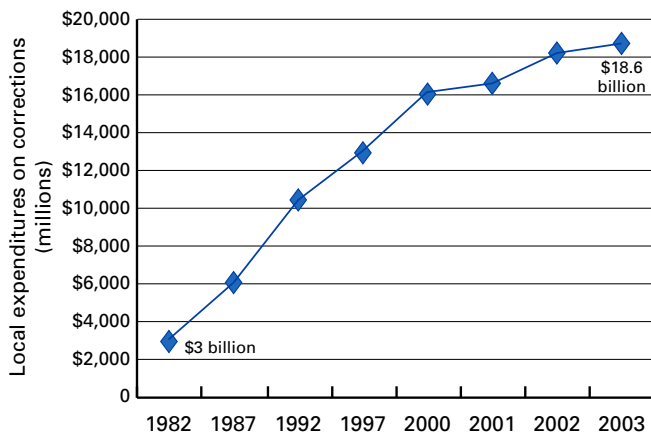
Jails are expensive for counties and localities

Today, many counties are considering expanding their jails or building new jails to alleviate overcrowding without seriously considering the negative consequences of jail expansion, especially on the county budget, as jails represent a tremendous cost to local governments. Local governments experienced a 347 percent increase in criminal justice spending between 1982 and 2003, including a 519 percent increase in corrections spending.¹⁴⁹ In 2004, local governments spent a staggering \$97 billion on criminal justice, over \$19 billion of which went to corrections alone.¹⁵⁰ By way of comparison, during the same time period local governments spent just \$8.7 billion on libraries and only \$28 billion on higher education.¹⁵¹

The most recent numbers available for calculating the average cost per person in jail come from the 2002 *Corrections Yearbook*, using 2000 data. According to the *Yearbook*, the average daily cost per person in jail custody was \$68.58 for the largest jail systems (greater than 2,000 prisoners), with an average cost of \$58.64 per person per day for all jails.¹⁵⁶ If this one person were to be in jail custody for one year, he or she would cost the county a minimum of \$21,403. Comparatively, the average cost of community-based substance abuse treatment is \$2,198, and surveillance-oriented intensive supervision is \$3,296 per year.¹⁵⁷

With more than 200,000 people being admitted to jail in one week,¹⁵⁸ the costs of housing each of these inmates for just one day is staggering. Assuming that each of these admissions remains in jail custody for just one day, a situation that is highly unlikely, the cost to counties for this one week would total

Local* spending on corrections has increased over 519 percent since 1982.



*Local spending includes counties and municipalities.

Source: Sabol, William J., Heather Couture, and Paige M. Harrison. 2007. *Prisoners in 2006*. Washington, DC: Bureau of Justice Statistics; Pastore, Ann L., and Kathleen Maguire, eds. *Sourcebook of criminal justice statistics online*, Table 6.61.2005. <http://www.albany.edu/sourcebook/pdf/t6612005.pdf>.

“Crime flourishes where the conditions of life are worst.”

— *President’s Commission on Law Enforcement and the Administration of Justice*¹³²

Los Angeles County Men’s Central Jail

Known as the “largest jail in the free world,”¹³³ the Los Angeles County Men’s Central Jail (MCJ) is notorious for dangerous overcrowding. The overwhelmed facility “house[s] some 7,000 inmates—for a capacity generously estimated at 5,200 after converting classrooms, gymnasias, bathrooms and broom closets into cells – crammed six together in 4-by-3-meter ‘multi-cell units’ and stuffed in gigantic dormitories where up to 150 men jostle idly...with a single television set for sole distraction.”¹³⁴ After touring the facility as part of a suit in which the ACLU cited “almost unspeakable conditions,” U.S. District Judge Dean D. Pregerson wrote, “...inmates, particularly pretrial detainees who are imbued with presumption of innocence, deserve better than to be housed in a system which has defaulted to the lowest permissible standard of care.”¹³⁵ In the fall of 2007, the same judge ruled that by forcing those held in the jail to sleep on the floor, the jail officials had violated the right of protection from cruel and unusual punishment, and handed down a hefty fine for the jail.¹³⁶

In a recent study, UC Berkeley scholar Loic Wacquant described the MCJ as a filthy place, devoid of natural light, where inmates get only one 2-hour outdoor recreation session per week on the jail’s roof.¹³⁷ Wacquant highlights that MCJ endangers inmates by grossly violating municipal fire code; despite repeated court orders to fix this problem, changes have not been made.

Maricopa County (Phoenix, Ariz.) Tent City Jail

Sheriff Joe Arpaio, also known as “America’s Toughest Sheriff,” opened Maricopa County’s Tent City Jail in 1993 as a response to jail overcrowding.¹³⁸ The jail is located in central Phoenix, where harsh desert temperatures reach upwards of 100 degrees in the summer.¹³⁹ Despite these conditions, inmates are housed outdoors in military tents without air conditioning.¹⁴⁰ Sheriff Arpaio’s jail policies are strict and intentionally demeaning. Banned items include cigarettes, coffee, and hot lunches. Inmates are forced to wear pink underwear and old fashioned black-and-white striped outfits, and use only pink towels.¹⁴¹ Additionally, inmates work in chain gangs, providing thousands of dollars of “free labor” to the community each year.

Although Sheriff Arpaio’s website boasts that inmates are fed 15-cent meals only twice a day to cut costs (the guard dogs’ meals cost more than this), the county has faced hundreds of inmate-related lawsuits, incurring millions in legal damages. A 1998 U.S. Department of Justice report “harshly criticized the use of excessive force at [the Tent City jail].”¹⁴² In 2002, an Arizona Court of Appeals decision held Sheriff Arpaio accountable for an incident in which an inmate went into a coma and suffered permanent brain damage following a severe beating by other inmates. Judge Lankford wrote the following in the case decision: “The Sheriff admitted knowing about, and in fact intentionally designing, some conditions at Tent City that created a substantial risk of inmate violence: i.e. the lack of individual security and inmate control inherent in a tent facility; the small number of guards; a mixed inmate population subject to overcrowding, extreme heat, and lack of amenities. The history of violence, the abundance of weaponry, the lack of supervision, and the absence of necessary security measures supports the jury’s finding of deliberate indifference to inmate safety.”¹⁴³

Washington, D.C., Central Detention Facility

The Washington, D.C., Central Detention Facility has had a host of sanitation and maintenance problems since it opened more than 30 years ago, despite inmate lawsuits and persistent court orders for improvement.¹⁴⁴ A recent inspection by the Health Department revealed the following hazards: mouse feces throughout the facility, little to no air circulation in four cellblocks, broken showers, and cells without running water. Although improvements motivated a federal judge to lift a 17-year-old population cap in 2002,¹⁴⁵ the inmate population then grew nearly 50 percent within six months.¹⁴⁶ During this half-year period, outbreaks of violence resulted in three stabbings within four days, leaving two detainees dead and another wounded. Philip Fornaci, executive director of the D.C. Prisoners’ Legal Services Project, noted that along with the increased violence, the overcrowding resulted in “more squalid living conditions, and even more inadequate healthcare.”¹⁴⁷ Ongoing problems with women’s health services, including denials and delays for essential healthcare such as HIV medication, have proved “a clear threat to inmate health,” according to a study run by the D.C. Prisoners’ Legal Services Project and the Johns Hopkins Bloomberg School of Public Health.¹⁴⁸

\$11,728,000.

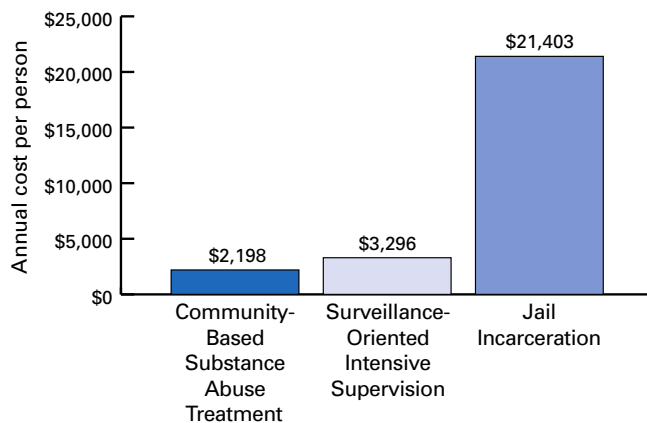
Jail construction comes with hidden costs to taxpayers and citizens

Although counties are normally responsible for jail construction costs, even when states do provide

Increasingly, general county budgets are directed toward corrections. The following are some examples of what counties spend on public safety and corrections.

- Atlantic County, N.J., spends 26 cents of every dollar on law and public safety, including 4 cents of every dollar for the Sheriff's Office, which includes the county jail.¹⁵² By comparison, the county spends less than 8 cents per dollar on human services and only 7 cents on educational institutions.
- Mecklenberg County (Charlotte), N.C., spends 6.8 percent of its budget on the Sheriff's Office, which includes jails, compared with 2.2 percent on public health.¹⁵³
- Wayne County (Detroit), Mich., spends over 16 cents of every dollar of its general funds on the county jail.¹⁵⁴ Less than 4/10 of a percent of the general funds goes to youth homes for mental health and a quarter of a percent goes to health and community services.
- Cook County (Chicago), Ill., spent over half a billion dollars (16.9 percent of its total budget) on corrections in 2007.¹⁵⁵

Counties can save thousands of dollars by using community-based services over incarceration.



Sources: Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001. *The comparative costs and benefits of programs to reduce crime*. Olympia: Washington State Institute for Public Policy; Corrections Yearbook, 2002. Data provided by Sandy Schilling, National Institute of Corrections, September 7, 2007.

funding for building the jails, the county is still responsible for maintenance and operations, the processes that go into building the jails, and any other financial consequences that result, including lawsuit settlements over conditions inside jails.

Aside from the costs that are assumed because of the increase in use, there are costs associated with simply building and operating jails, such as administrative and court-related costs, that are different from the associated costs for prisons. Because jails are largely financed by counties, they are drawing from different resources to construct the jail.

A primary method for financing prisons is by using bonds. Although some local jurisdictions finance jail construction from taxpayer revenues, this method has become less common since the 1980s.¹⁵⁹ As corrections costs increased, municipalities looked for alternative ways to build jails.¹⁶⁰ Today, municipalities raise the bulk of the money for jail construction by issuing bonds to investors, a risky action that could lead to negative impacts on bond ratings for counties.

A bond is a loan made to a company or government entity by an investor. The length of a bond, known as its maturity, can range from one day to more than 30 years. When a bond is issued, an agreement between the debtor and lender establishes how and when the interest and principal will be paid. Unlike a typical or traditional loan, a bond is a security that can be bought and sold and its value fluctuates.¹⁶¹

A county government may want to issue bonds to pay for a capital project that it cannot finance with money raised from taxes. For elected officials, there are also incentives in issuing bonds as opposed to paying for the project directly. First, bonds are politically more appealing than imposing higher taxes on voters. Second, politicians can get around voter disapproval for a project by issuing bonds that do not require a referendum.

For more information on the costs associated with using bonds to finance jail construction, see the Appendix.

Jail lawsuits can reach millions of dollars—a bill that counties must pay

Though the Prison Litigation Reform Act created barriers to some types of prison litigation, lawsuits continue to be filed against counties resulting from overcrowding, lack of treatment, and undesirable jail

conditions. The suits can reach into the millions of dollars, money that counties pay alone, without help from the state. In other cases, plaintiffs seek to have conditions improved, an endeavor that may be costlier after courts are involved. In either instance, the county must bear the additional costs associated with court and litigation.

- Carl Moyle, who was picked up on misdemeanor traffic charges and placed in jail, was murdered by another inmate. The investigation into the incident determined that jail staff failed to properly assess the risk posed by the other inmate. Moyle's family sued Sherburne County, Minn., and the sheriff in February 2007, seeking \$30 million in damages in the U.S. District Court of Minneapolis.¹⁶⁸

- On March 10, 1999, a federal jury imposed \$5.4 million in compensatory and punitive damages against the Sparta, Wis., jail administrator and supervising sheriff for depriving Scott Lawson, who has schizophrenia, of mental health treatment while he was in the jail. Lawson was held in solitary confinement for more than 65 days.¹⁶⁹

- In January 1999, Maricopa County, Ariz., settled a wrongful-death suit filed by the family of Scott Norberg for \$8.5 million. He died, reportedly of asphyxiation, as he struggled with correctional officers in 1996.¹⁷⁰

- In Harrison County, Miss., a \$3.5 million lawsuit was settled against Harrison County supervisors and the sheriff in connection with the death of Jessie Lee Williams, who was held and beaten to death in the Harrison County Jail in February 2006.¹⁷¹

Jails are harmful to the environment

A facility that houses many people over the course of the year has an impact on the surrounding environment. Correctional facilities are like small towns and have their own water, waste, and energy systems. According to the United States Environmental Protection Agency (EPA), correctional facilities must be aware of their impact on the surrounding environment, paying particular attention to wastewater treatment, hazardous wastes, power production, and emissions.¹⁷² Older facilities are likely to be inefficient and may have problems with asbestos or lead.

Further, overcrowding in jails puts pressure on sewer systems not only from day-to-day use, but also from misuse of facilities. In San Mateo County, Calif., peo-

What are the dangers of county jails leasing beds to the state and other entities?

With the recent problem of overcrowding in state and federal prisons and falling county budgets, many counties lease beds to state and federal prisons to supplement their shrinking budgets. These counties receive per diem rates ranging from \$20 to \$60 per prisoner housed in their jails, often helping the county turn a profit.¹⁶² Some counties, such as Bernalillo County, N. Mex., have even built larger jails in anticipation of the excess state prisoners who would need housing.¹⁶³

Bernalillo County, N. Mex.

When the jail was constructed in 1998, the hope was that it would generate enough revenue not only to pay off the bonds that financed the project, but also to cover payments to the private company operating the facility. The 648-bed jail was very expensive to build (\$22 million) and expensive to run, and it did not fill up with state prisoners as anticipated. Multiple counties and states have been approached to lease these beds, but not one has signed a contract. This has become such a problem that Bernalillo County has had to lower its per diem rates to attract "business" and have a competitive edge, with little success. Furthermore, the state has been housing prisoners in this jail and not paying the lease, causing the county to have to approve a new tax increase in 2007 in order to support the jail.¹⁶⁴ The cost of housing state prisoners in New Mexico's county jails approaches \$26 million per year, a cost that counties have been absorbing for several years, and will continue to absorb until the jail is able to lease out its beds and get the money owed from the state.

Reeves County, Tex.

Other counties have constructed new jails or expanded the jail they already had because the state or the federal government has told them that they would pay for their prisoners to be housed there. Counties are responsible for the full cost of the construction, as well as the gross expenditures of running the facility—whether it contains state prisoners or not. Reeves County in Pecos, Tex., built a \$40 million, 960-bed expansion to its detention center with the idea that it could lease the beds to the federal government. The expansion, titled Reeves County Detention Center (RCDC) III was the third phase of the center's expansion; RCDC I and II hold thousands of prisoners on contracts from the Federal Bureau of Prisons and the U.S. Marshals Service. However, after the center was built, Reeves could not fill the beds and federal officials repeatedly claimed that they had made no assurances to the county that they would be able to provide the facility with prisoners. Without the funds from leasing beds to the government, the county was at serious risk of defaulting on the bond used to build the facility and owed \$475,000 on its first payment.¹⁶⁵ By November of that same year the county's bond rating had been downgraded to that of a junk bond,¹⁶⁶ and in order to save the county and the jail, Reeves signed a 10-year agreement with a private prison company—Wackenhut Corrections—which immediately fired 91 of the county's 435 employees.¹⁶⁷

ple held in the local jail had been regularly flushing clothes, linen, plastic bags, and toothbrushes down the toilet as an act of rebellion and to express frustration with overcrowding at the jail. The foreign objects clog city drains, potentially forcing sewage into homes and businesses. The waste management agency responsible for the jail billed the county \$700,000 to increase maintenance and fix damage.¹⁷³

Jails may be located directly in the city limits, also adding to already stressed traffic and congestion, sewage and water capacity, and the availability of land for housing or tax purposes.



Building More Jail Beds and Holding More People in Jail Has Not Been Shown to Make Communities Safer

Currently, the United States is experiencing record low crime rates, however some counties continue to jail people at growing rates. Over the last five years, counties that have increased their jail populations the most have not necessarily witnessed the biggest decreases in crime. In fact, New York City decreased its jail population the most and experienced a drastic decrease in crime rates over the last five years.¹⁷⁴

Despite the availability of less restrictive options such as electronic monitoring, day reporting, and community service, 91 percent of people held under the supervision of jails are held in facilities.¹⁷⁵ Those populations comprise mostly people who have not

committed a violent offense. In 2002, 74.6 percent of people held in jails had committed a nonviolent offense such as a property, drug, or public-order offense. Three percent of people in jail reported a probation or parole violation as their most serious offense.¹⁷⁶

"In most cases, correctional facilities should be reserved for higher risk offenders who have been sentenced or are being held for violations of supervision conditions, while their lower risk counterparts should be supervised within the community."¹⁷⁷

Gary Christensen, PhD, Dutchess County Jail and
Elyse Clawson, Crime and Justice Institute.

Declining jail incarceration rates are associated with declining violent crime rates in the country's largest jails.*

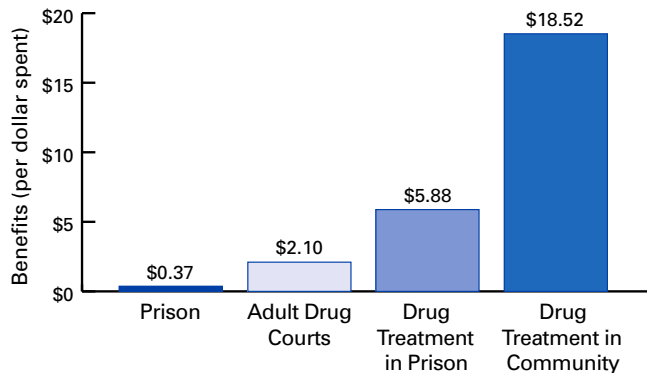
	2005		Percent Change 2000-2005		
	Number of Inmates	Incarceration Rate (per 100,000)	Number of Inmates	Incarceration Rate (per 100,000)	Violent Crime Rate (per 100,000)
Los Angeles County	19,732	198	-1.1%	-5.0%	-23.8%
New York City**	13,153	162	-7.7%	-11.9%	-31.2%
Cook County, Ill.***	9,872	186	-4.7%	-3.3%	-26.6%
Harris County, Tex.	9,031	240	45.7%	32.3%	37.4%
Philadelphia City, Pa.**	7,769	527	10.2%	8.6%	-6.6%
Dade County, Fla.	6,558	276	-2.4%	-7.2%	-30.1%
Orange County, Calif.	6,493	217	44.4%	37.8%	-23.7%
San Bernardino County, Calif.	5,753	293	10.2%	-3.6%	-12.5%
Broward County, Fla.	5,618	315	12.2%	2.8%	-44.1%
San Diego County, Calif.	5,186	177	8.3%	4.1%	16.7%

*These localities constitute the Top 10 Counties/Cities with the largest jail populations in the U.S. Maricopa County, Ariz., and Dallas County, Tex., were excluded due to incomplete crime data. Orleans Parish, La., was excluded due to incomplete crime and population data after Hurricane Katrina.

**City populations came from the FBI UCR, Table 8; County populations came from the U.S. Census Bureau.

***Chicago was substituted for Cook County for violent crime rate calculations; incarceration rate calculations are based on U.S. census data for Cook County. Chicago does not count rape as a violent offense.

Sources: FBI Uniform Crime Report, *Crime in the United States 2000, 2005*; U.S. Census Bureau; Harrison, Paige M. and Allen J. Beck. 2007. *Prison and jail inmates at midyear 2006*. Washington, DC: Bureau of Justice Statistics.

Community-based drug treatment provides bigger returns than prison.

Sources: Aos, Steve, Marna Miller, and Elizabeth Drake. 2006. *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia: Washington State Institute for Public Policy. <http://www.wsipp.wa.gov>; Aos, Steve. 2003. *The criminal justice system in Washington State: Incarceration rates, taxpayer costs, crime rates and prison economics*. Olympia: Washington State Institute of Public Policy.

People were held in jail the longest for violent and drug offenses in 2002. The average maximum sentence is longest for drug offenses.

JAIL (Most Serious Offense)	Maximum jail sentence length (Average)	Time expected to be served in jail (Average)
All Offenses	24 mos.	9 mos.
Violent Offenses	33 mos.	14 mos.
Property Offenses	23 mos.	9 mos.
Drug Offenses	35 mos.	11 mos.
Public-Order Offenses	10 mos.	5 mos.

Source: James, Doris J. 2004. *Profile of jail inmates, 2002*. Washington, DC: Bureau of Justice Statistics.

Whether convicted or not, the majority of people in jail custody in 2002 had not committed a violent offense.

Most Serious Offense	Total	Convicted	Unconvicted	Both*	1996
Violent Offenses	25.4%	21.6%	34.4%	22.3%	26.3%
Property Offenses	24.4	24.9	21.5	27.4	26.9
Drug Offenses	24.7	24.0	23.4	30.2	22.0
Public-Order Offenses	24.9	29.1	20.2	19.2	24.4
Violation of Parole/ Probation**	2.9	3.5	1.5	3.3	2.6
Other	0.5	0.4	0.6	0.9	0.5
Number of Jail Inmates	623,492	342,372	178,035	100,348	496,752

* Includes inmates with a prior conviction, but no new conviction for the current charge.

**Includes parole or probation violations, escape, AWOL, and flight to avoid prosecution.
Source: James, Doris J. 2004. *Profile of jail inmates, 2002*. Washington, DC: Bureau of Justice Statistics.

People incarcerated for nonviolent offenses make up the majority of people in jail

Acknowledging that people convicted of violent offenses are more likely to be sentenced to prison time, people convicted of drug offenses can expect to serve the most amount of time in *jail*, surpassing even that of violent offenders who are sentenced to jail time. Even people convicted of a public-order offense could expect to receive almost a year of jail time.¹⁷⁸

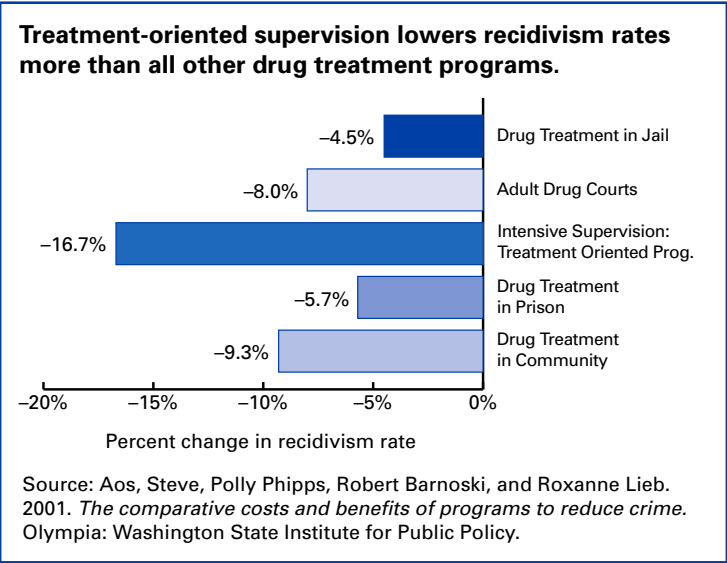
Community supervision can be a more effective public safety strategy than incarceration

Community supervision has been shown to reduce the chance that a person will participate in criminal activity in the future and has the added benefit of being more cost-effective than incarceration. Research from RAND and the Washington State Institute for Public Policy (WSIPP) have both issued reports revealing the public safety and cost benefits of providing treatment over incarceration.

- In its 1997 study, RAND Corporation, one of the nation's leading research organizations, estimated that treating cocaine users reduces serious crime 15 times more effectively than incarceration.¹⁷⁹
- The Alcohol and Drug Abuse Administration (ADAA) found that in Maryland both ADAA-funded and non-funded treatment programs reduce substance abuse, crime, and homelessness, while increasing employment.¹⁸⁰
- WSIPP conducted a meta-analysis and cost-benefit analysis revealing that drug treatment in the community is the most beneficial in terms of costs as well as crime reduction. Drug treatment not only provided \$10,054 in benefits per participant after deducting costs of treatment, but also lowered the chance that a person will commit crimes in the future by 9.3 percent.¹⁸¹
- A 2003 WSIPP study found that every dollar invested in prison in Washington State for a convicted drug user produced \$.37 in crime reduction benefits.¹⁸² However, the 2006 study revealed that drug courts, drug treatment in prison, and drug treatment

in the community yielded much better public safety results for the cost.¹⁸³

Diverting nonviolent offenders, particularly drug offenders, into community programs would relieve the stress on overcrowded facilities, save money, and provide space for people charged with more serious, violent crimes. By allowing people convicted of non-violent offenses to return to the community, they will be less likely to commit crime in the future and more likely to return to work, family, and community obligations.¹⁸⁴





The Impact of the Increased Use of Jails in the U.S. Is Not Borne Equally

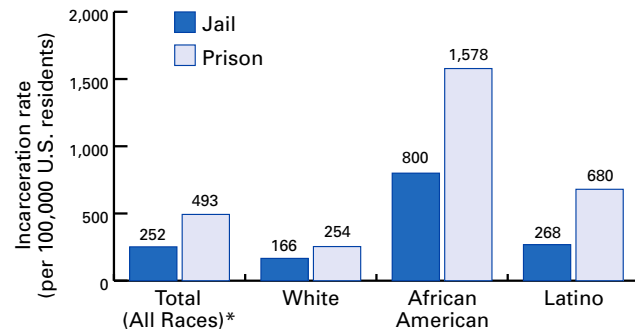
Bureau of Justice Statistics data on the U.S. jail population indicates that African Americans are disproportionately affected by jail incarcerations. Per capita, African Americans are four times more likely

than whites and close to three times more likely than Latinos to have been in jail in 2005.¹⁸⁵ Although African Americans were approximately 12.7 percent of the U.S. population in 2005, they comprised 38.9 percent of jail inmates.¹⁸⁶

Though African Americans and whites use and sell drugs at similar rates, African Americans are imprisoned for drug offenses at higher percentages than whites.¹⁸⁷ Almost a quarter of the people held in jail in 2002, either convicted or unconvicted, are held for drug offenses.¹⁸⁸

The reasons for the disproportionate imprisonment of people of color in jail are varied and can be traced to longstanding social problems, law enforcement practices, and judiciary systems. Law enforcement is more likely to focus its efforts on low-income neighborhoods or racial or ethnic minority neighborhoods. Police are far more likely to observe an offense occurring on the street than in a suburban home.¹⁸⁹ In addition, whites tend to have better access to counsel, programs, and services than do people of color, without which disadvantages quickly accrue.¹⁹⁰

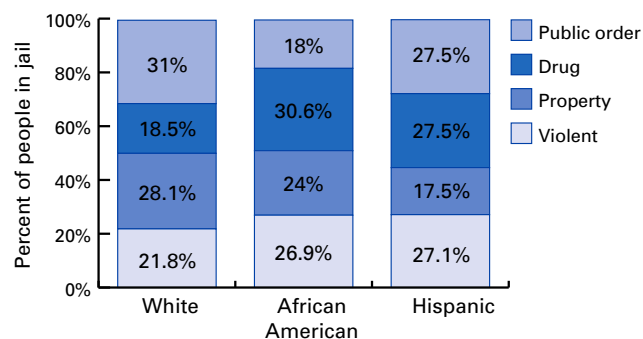
Prison incarceration rates are more racially disparate than jail incarceration rates, but African Americans are still more than four times as likely as whites to be in jail.



*Jail total includes "other" category, prison total does not.

Source: Harrison, Paige M., and Allen J. Beck. 2006. *Prison and jail inmates at midyear 2005*. Washington, DC: Bureau of Justice Statistics; Harrison, Paige M., and Allen J. Beck. 2006. *Prisoners in 2005*. Washington, DC: Bureau of Justice Statistics.

People of color make up the largest percentage of the jail population incarcerated for drug offenses.



Source: James, Doris J. 2004. *Profile of jail inmates, 2002*. Washington, DC: Bureau of Justice Statistics.



Recommendations: Communities Can Take Action to Reduce Jail Populations

The steady increase in the use of jail for both convicted and unconvicted people has directed county money away from other county services that benefit all citizens and that may reduce the chance that someone commits a crime. Counties can do many things to lower jail populations, increase public safety, and support healthy communities.

- **Improve release procedures for pretrial and sentenced populations.** Implementing pretrial release programs that release people from jail before trial can help alleviate jail populations. Reforming bail guidelines would allow a greater number of people to post bail, leaving space open in jails for people who may pose a greater threat to public safety.
- **Develop and implement alternatives to incarceration such as community-based supervision for people who would have been given a prison or jail sentence.** Community-based corrections would permit people to be removed from the jail, allowing them to continue to work, stay with their families, and be part of the community, while still under the supervision of judicial officials. Someone serving a sentence through community corrections could contribute to society while continuing family, community, and work connections and also taking advantage of treatment opportunities that are not accessible in the jail setting.
- **Re-examine policies that lock up individuals for nonviolent crimes.** First and foremost, counties should determine which policies and practices are causing more people to go to jail for offenses that do not create a public threat such as zero tolerance or “broken windows” policies that incarcerate people for quality-of-life offenses. By reducing the number of people in jail for these types of offenses, resources and space could be directed toward people who may need to be detained for a public safety reason.
- **Divert people with mental health and drug treatment needs to the public health system and community-based treatment.** People who suffer from mental health or substance abuse problems are

better served by receiving treatment in their community. Treatment is more cost-effective than incarceration and promotes a positive public safety agenda.

- **Divert spending on jail construction to agencies that work on community supervision and make community supervision effective.** Reallocating funding to probation services to allow people to be placed in appropriate treatment or other social services is a smart and less costly investment in public safety.
- **Avoid building additional jails by changing pretrial release policies and using community-based alternatives.** By allowing more people to be released pretrial and putting more money into treatment programs and community-based alternatives, jails that are struggling with overcrowding can ease this problem, provide more services for people who are in jails, and avoid the expense and harmful consequences of building more jails.

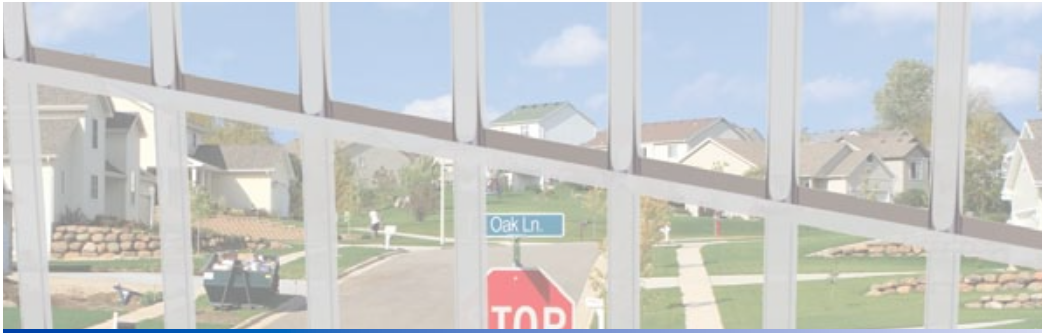
Alternatives to Incarceration

Alternatives to incarceration programs emphasize rehabilitation rather than punishment, providing a broad set of services to their clients, including drug treatment, counseling, and employment or job placement services. These programs are a court-ordered sanction that allows clients to stay in their communities under supervision. Some examples of effective alternatives to incarceration include:

- Electronic monitoring
- Drug treatment in the community
- Treatment-oriented intensive supervision
- Employment and job training

These alternatives have been shown to be cost-effective options for reducing jail and prison populations while promoting public safety.

- **Provide more funding for front-end services such as education, employment, and housing.** Research has shown that education, employment, drug treatment, health care, and the availability of affordable housing coincide with lower crime rates. Jurisdictions that spend more money on these services are more likely to experience lower crime rates. An increase in spending on education, employment, and other services not only would improve public safety, but also would enhance and enrich the community to the benefit of all citizens.



Appendix: Types of Bonds¹⁹¹

General Obligation Bonds (GOBs) – The government (borrower) issues bonds to investors such as banks or corporations (lenders) who will receive payments covering the principal and interest. GOBs are paid out of a state's general fund, which is supported by tax revenues. Many states, including California, require voter approval to issue GOBs and limit the amount of debt that can be incurred from such bonds. Elected officials can circumvent these obstacles by issuing two different types of bonds: *revenue bonds* and *lease-revenue bonds*.

Revenue Bonds – Revenue bonds are backed by the revenue from a project. For example, the revenue generated by leasing extra bed space in a jail would be used only for the repayment of the principal and interest on the bonds. Revenue bonds are not backed by the full faith and credit of the state and generally do not require voter approval.

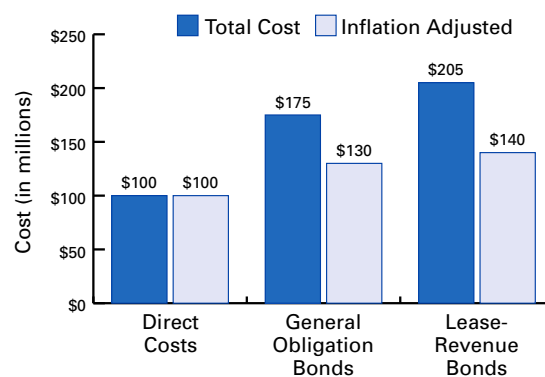
Lease-Revenue Bonds (LRBs) – LRBs allow an agency created by the government to build a prison or jail by issuing tax-exempt bonds and then leasing the right to use the facility back to the government. The government, which generally gains ownership of the project at the end of the lease period, uses funds appropriated by the legislature to make lease payments. These bonds do not require voter approval. Certificates of Participation (COPs), a form of lease-revenue bond, are often used to finance prison and jail. Investors who buy COPs are essentially purchasing a share of the lease payments for the prison or jail. The county makes lease payments to the lessor (private or public), who relies on a trustee to prepare and execute the certificates and make payments to certificate holders. Ownership of the facility is granted to the county once repayment of the certificates is complete.

Lease-revenue bonds are extremely costly because they carry high interest rates resulting from the lease agreement that backs the loan. Other bonds are backed by the state and do not carry high interest rates. Lease financing agreements provide a way to hide the true costs of a project. These bonds are not considered debt because a municipality can decide to stop making lease payments. In reality, localities are often locked into payments because breaking the lease could lower their credit rating.

Revenue bonds and lease-revenue bonds are not as accountable to the public as general obligation bonds. With general obligation bonds, voter approval affirms public support for the construction of a jail. Revenue and lease-revenue bonds, however, are not approved by the public. In fact, many elected officials favor these types of bonds *because* they can bypass the public. The drawback is the removal of an additional check on excessive borrowing or the construction of projects that are not in the public's interest.

Counties that rely on revenue bonds to finance jail construction may encounter financial difficulties if they overestimate revenues.

A \$100 million project costs more if funded through a general obligation or lease revenue bond, because interest will accrue on the bond and inflation will affect the cost of the bond as it is paid over a long period of time.



The figure compares the direct cost of a \$100 million project financed on a pay-as-you-go basis and with the total principal and interest payments for the same project using general obligation and lease-revenue bonds.

Graph from: Pyle, Kevin, and Craig Gilmore. 2005. *Prison town: Paying the price*. Northampton, MA: The Real Cost of Prisons, <http://www.realcostofprisons.org>; Data from: *A primer on state bonds*. Jan 1996. California: Legislative Analysts Office. <http://www.lao.ca.gov>.

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Barred from Freedom: How Pretrial Detention Ruins Lives

By **Albert Samaha**

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Michael Short



Angel Garcia, unable to pay the \$450,000 bail, sat in jail for six months before he was acquitted at trial. His family lost their apartment and his kids became ill.

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Illustration by Anthony Freda

He lost his apartment and his car. Most of his possessions were in a dump somewhere. His debt was in the thousands. The brother he provided for was sent into transitional housing.

Anthony Dorton was finally out of jail. But his path to freedom had come with a cost.

He would re-enter society on an August night, relieved that the San Francisco jury believed his side of the story. He couldn't erase the anger, though, hardened and entrenched by 10 months locked up for a crime he didn't commit and hadn't been convicted of.

A sheriff's deputy swung open the bulky steel door.

"Ten months and just like that, huh?" Dorton muttered.

The deputy patted his back and said, "You should just be happy you're free."

Dorton clenched his jaw. The deputy walked him into a small room to change clothes. Dorton traded his inmate orange for the white T-shirt and blue jeans that had been waiting for him. They still fit, even though the jailhouse workouts had given him some added bulk. "If I gotta be in jail," he'd told himself during his stay, "I might as well look like it."

Soon he was outside in the chilly darkness. He carried a plastic bag heavy with belongings accumulated in his cell: books, magazines, and papers filled with notes on the auto mechanic business he planned to start once he got out. He looked skyward and took a deep breath. He'd forgotten what fresh air smelled like.

The legal system had worked out the way it was designed to. A woman accused Dorton of assaulting and pimping her. The prosecution's case fell apart when jurors learned that the woman had no marks on her face a few hours after the assault supposedly occurred, and that she had continued working as a self-employed prostitute in the months leading up to the trial. The jury acquitted Dorton on the assault allegation and hung on the pimping count. The district attorney chose not to re-try.

Now Dorton was as free as the day before he first stepped into the stark, gray Hall of Justice. Most everything else in his reality, however, had drastically changed.

Judge Gerardo Sandoval had set his bail at \$300,000, which meant Dorton's freedom hinged on paying a bondsman a \$30,000 non-refundable fee. The 23-year-old, who had recently been laid off from his job installing cable for Comcast, didn't have it.

So he lingered behind bars, awaiting the chance to prove his innocence, as the court process lumbered forward. Jail meant no job applications or picking up unemployment checks, no making rent or car payments, and, by extension, eviction and repossession. By the time justice was served, Dorton's life was in ruins.

It's the filthy secret of the American judicial system: A majority of county jail inmates have not been convicted of any crime. They sleep and eat among the proven criminals, and are treated as such, packed in crowded barracks and transported in chains, because they did not have enough money. More than 60 percent of America's jail population has not been convicted, more than 70 percent in California. In San Francisco, 83 percent of county jail inmates have not stood trial. (The DA's office doesn't keep stats on what percentage of those charged end up convicted.)

"There are many people that, keeping them in custody doesn't improve our public safety," says District Attorney George Gascón. "Many of those people are only in there because they could not afford to pay bail."

Those inmates are casualties of a bail system in which freedom is determined not just by a

person's perceived risk to society but by the wealth to their name. It is an institutional flaw that has existed in America since the colonists brought over the concept of bail from England, where it had been law for centuries. The Founding Fathers wrote in the Eighth Amendment that "excessive bail shall not be required," but for decades public officials and reform advocates have stretched and twisted the exact meaning of "excessive."

"We see lives destroyed on a regular basis," says Carmen Aguirre, an attorney at the Public Defender's Office.

People who live paycheck to paycheck lose their paycheck and all that comes with it. Some lose their homes. Others lose custody of their children. Many see their family struggle to make ends meet. Banished to constitutional limbo, they see the world proceeding as their lives remain locked down and frozen.

"It's a trap," says Dorton. "It's wrong. It's cruel. It's just hella fucked up."

The basic purpose of bail is to ensure that a person shows up to court. But in order to achieve this, the system must address two conflicting goals: to support the maxim that a person is innocent until proven guilty and to keep off the streets those defendants perceived by law enforcement to be dangerous. Debates over American bail policy have been debates over shifting the weight of this complicated see-saw, from protecting the public to protecting the rights of the accused.

The birth of the modern bail reform movement came in 1927, when sociologist Arthur Lawton Beeley published a study on pretrial detention in Chicago. He concluded that the monetary bail practice had produced a system where freedom was primarily based on wealth. Academic studies over the next few decades furthered Beeley's findings, and by the 1960s reforms emerged.

"The rich man and the poor man do not receive equal justice in our courts," U.S. Attorney General Robert Kennedy told the Congressional Subcommittee on Constitutional Rights and Improvements in Judicial Machinery in 1964. "And in no area is this more evident than in the matter of bail."

In 1961, the Manhattan Bail Project sought to quantitatively measure a defendant's flight risk in an effort to increase the rate of releases on the defendant's own recognizance (OR), where the accused just has to promise to show up for his court date. Following this trend, the Bail Reform Act of 1966 declared that defendants in non-capital crimes (all but the most heinous murders) had a right to be released on OR. If a judge determined that additional conditions were necessary to ensure the person's court appearance, then the judge had to select the least restrictive conditions possible, such as travel limitations, home detention, or monetary bond. Pretrial incarceration would be the last resort, used after a judge deemed all other alternatives insufficient. The legislation ruled that a judge's only pretrial goal was securing a defendant's appearance in court.

Rising crime rates through the 1970s and '80s, however, shifted this paradigm, as law enforcement officials argued that judges must also consider the potential danger a defendant poses to society. States, including California, amended their laws so that public safety would also be a primary factor in pretrial decisions. Congress followed suit with the Bail Reform Act of 1984, rolling back previous reforms.

As criminologist John Goldkamp wrote in the *Journal of Criminal Law and Criminology* in 1985, "The social and historical shift in the recent decades, away from poverty and civil liberty concerns and toward a climate marked more by heightened public fear of crime and 'law and order' politics may explain the evolution of the danger-oriented agenda of bail and pretrial detention practices."

Within three days of a person's booking into county jail, he stands before a judge for an arraignment hearing, where the judge releases him on his own recognizance, sets a bail amount, or denies him bail eligibility. To make this decision, the judge reviews the person's criminal history, any past cases of skipping court dates, and the police report of the current crime.

The bail amount is often based on the charge. Judges usually refer to the county's bail schedule, which suggests figures for different crimes. Those like Dorton who have been charged with multiple counts receive particularly high bail because of "bail stacking," the judicial practice of combining the bail amounts for each of the charges. Those without the cash or property to put up as collateral must go to a commercial bail bondsman, who will post the bail for, generally, a 10 percent fee.

Many don't have enough money for that. In San Francisco, judges have the option to order probation-style supervised release for those defendants, through the nonprofit San Francisco Pretrial Diversion Project. This alternative is limited. Because the organization operates independently, without a law enforcement arm, it does not have "the teeth," says the program's Chief Operating Officer Allison McCovey, to risk supervising those accused of violent or sex crimes. From January through September 2012, judges have referred 286 defendants to SFPDP. Program workers interviewed them for around half an hour, then sent the judge a report detailing the person's community ties. The report is purely informational and does not make any recommendation. Of those 286 cases, judges approved supervised release for 33.

Anthony Dorton had never been in jail before. The cramped dormitories, the regimented days, the inevitable conflicts with other inmates, the absence of privacy and quality food — it all hit him like a first round uppercut. On day one, he figured he'd be free soon. "They've got nothing on me but this bogus-ass story," he kept telling himself, as he replayed the previous two weeks in his mind.

Twelve days before, he met the woman who would accuse him of assault and pimping. His girlfriend introduced them. The woman (the DA's office requested that her name not be

disclosed due to the nature of the accusation) said she had recently become homeless. Dorton told her she could crash at his apartment for a couple nights, while she sorted things out. But a few days turned into over a week, which was longer than Dorton anticipated. He dropped hints — "So what's your plans?" And she'd tell him she was just waiting for a call back from her sister or a friend. On the 11th day, Dorton told the woman that she had to leave. He dropped her off in the Mission.

Around 3 a.m., the woman called him, he says. She was crying, saying something about a guy she had gotten into an altercation with. Dorton had an idea how she made her money, but didn't want to pry. The woman asked him to pick her up. He refused and hung up. She kept calling. He picked up on the fourth or fifth try. She was pissed, he recalls, screaming at him and threatening to call the police if he did not come get her.

"The police?" he said, bewildered. "Bitch, call 'em. What the fuck you gon' tell the police?"

"Imma tell 'em you beat my ass!"

Not wanting to deal with the hassle, Dorton went and picked her up. She exploded on him as soon as she got into his car, he says, furiously cursing at him for nearly leaving her stranded.

"Fuck this," Dorton seethed. He stopped the car and ordered her out.

"Fuck you!" the woman shouted.

She looked into the back seat, grabbed a fork from the floor, and began stabbing the seat cushions, he says. Dorton, panicking, jumped out of the car, ran around the front, opened the passenger side door, and grabbed the woman's arm, pulling her onto the sidewalk. She screamed incoherently as he raced back to the driver's seat and gassed it.

The next day, the woman called Dorton and apologized. She said she'd give him some money — to fix his car or for his hospitality, he assumed. He didn't know that the woman made the call from the police station, and that he was being set up for an arrest.

The police report stated that the accuser had entered the police station that morning "hysterical, distraught, and had visible cuts on her legs." It claimed that Dorton "dragged [the accuser] out of the vehicle by her hair and started punching and kicking [her] in the head and stating that he was 'not going to leave any marks' so [she] could not prove anything." There were no witnesses. He went to jail.

Dorton soon learned the nuances of the American justice system. The string of hearings: arraignments, status checks, motions, pretrial testimonies. For a felony case, the court process takes at least three months before the trial begins. Dorton wanted to get to trial as soon as possible, but his public defender, Qiana Washington, suggested he waive his right to a speedy trial. He was facing 12 years, she stressed, and it was important that they take the time to build a solid case, taking nothing for granted. Building a defense can take months, particularly for those represented by a public defender. Washington had to balance Dorton's

case with the two dozen others on her desk.

The weeks slogged on. "If they could keep me in here this long for nothing," Dorton wondered, "Why couldn't they keep me in here for 12 years?" He pushed the thought out of his mind, occupying himself with reading, writing, and push-ups. But at night, when he closed his eyes, those 12 years hammered at his mind.

He'd think about his childhood, growing up with his grandmother in the Sunnydale housing projects — mom on drugs, dad not ready to be a father. Dorton's half-brother lived in foster care. A teenage Dorton told his brother, who was five years younger, that he'd pull him out and get them their own place one day.

While some of his friends turned to drug-dealing, Dorton knew he'd need a clean record to get a real job. So he hustled his own way. He bought candies wholesale and sold them to classmates. He hawked bootleg DVDs, repaired cars and TVs.

His grandma died when he was 17, leaving him homeless. Fresh out of high school, he took on two jobs. In the mornings, he says he'd install cable for AT&T, then take a quick nap in the car before clocking in as the night watchman for a security company. Then he'd take another nap before starting the cycle again. After two years, he'd saved up enough for an apartment and an '80s model BMW.

On some of those nights in jail, the shouts of guards would jolt Dorton awake. A couple of inmates in the 45-person dormitory had been caught talking after lights out. The guards would rush in and corral the whole group into a small room, with no beds or chairs, just bright lights. The prisoners would sit there, drowsy and shell-shocked on the cold concrete, for what felt like hours.

Jail can be too much for some people, and that's an advantage for prosecutors, who leverage it for a plea bargain.

It was too much for Clyde Frazier. The way he tells it, one night he saw a drunk couple stumbling out of a bar. The woman was having trouble leading the man into a cab. So Frazier helped guide the man across the sidewalk. The man did not take kindly to this and, according to Frazier, punched him in the face. Frazier swung back, sending the man tumbling, his head smacking the taxi. The man ended his night in the hospital and Frazier was charged with assault.

Witnesses to the incident had only seen the second punch — Frazier's. He wanted to go to trial, confident the jury would believe his side. After 104 days in jail and still no trial date, he didn't feel that way anymore. He'd had enough. Prosecutors offered him a deal: misdemeanor assault and time served. He could walk out of jail that day if he pleaded guilty. So he did.

Dorton didn't even consider it. The DA's offer required him to register as a sex offender

because of the pimping charge. No way, he said. The decision paid off. The accuser proved to be unreliable, her stories shifting and her testimony self-damning. It didn't help that her Facebook page listed her employment as "PIMPIN SINCE PIMPIN BEEN PIMPIN ... HEAD PIMPTRESS IN CHARGE" and her education as "Advanced Pimpin ... keepin hoes in LINE!!!" Worse, the defense team revealed that the accuser had continued working as a prostitute through myredbook.com even as the city paid for her hotel accommodations during the court proceedings. Media outlets noted that the DA's office spent over \$2,000 of taxpayer money on her.

Dorton's 10 months in jail cost the city \$30,000.

Angel Garcia was locked in jail for six months before the jury acquitted him. His wife had told her psychiatrist that she may have seen Garcia inappropriately touching their 8-year-old niece. The psychiatrist called the police. Garcia claimed that his niece and son had been fighting over a video game, and he was pulling her away from him. There were no other witnesses. Even though Garcia had no criminal history, Judge Nancy Davis set bail at \$450,000. (Several San Francisco judges did not reply to interview requests for this story.)

His family visited the first few weeks in jail. It would always end in tears — his sister's, his wife's, his 6-year-old son's, his infant son's. So he asked them to stop coming.

Garcia, 32, had been the breadwinner, holding down two jobs — custodial work at a movie theatre and manual labor at a farmers market. With him gone, Garcia's wife moved into her brother's house. She and her sons slept on the couch. The boys, missing their dad, lost their appetite and became anemic. The 6-year-old began struggling in school.

Once free, Garcia got his job at the farmers market back, but he had to start at the lowest pay grade, which was \$5 an hour less than what he was making before. The family moved into a small apartment, which they share with two other people. Five months after the May verdict, the 6-year-old still asks his dad, "When are you gonna leave again?"

"It feels like I'm starting my life all over again," Garcia says. "Starting from zero. Everything's different."

The legal system treated Garcia as a guilty man before it proved him innocent.

"That we're going to punish a person before they're even convicted to keep them off the street — I believe that's offensive to the presumption of innocence," says Public Defender Jeff Adachi. "If your freedom depends on how much money you have — a fact that has no correlation to the charges against you — that system begins with a fundamental inequality based on wealth."

Dorton, Frazier, Garcia, and many others ended up stuck in jail not because of any single lapse in the justice system, but because of a convergence of factors. Law enforcement efforts to make San Francisco less appealing for out-of-town criminals led to an across-the-board

increase in bail rates in the late 1990s. Lobbying from the bail bond industry pressured state politicians to reject legislative efforts to encourage OR releases, which would cut into bondsman profits. Prosecutors' habit of throwing a filing cabinet's worth of charges at a defendant to induce a plea bargain led to stacked bail. Public defenders' long case lists led to longer court proceedings. Cops gave the accusers the benefit of the doubt, and the judges gave the cops the same thing. The lack of background information provided to judges at arraignment made OR releases less worthwhile gambles for them.

"They treated me like I was already guilty," says Dorton. "Like you're nothing. Nothing but paperwork."

To Scott MacDonald, criminal justice policy is all about managing risk. In any pretrial detention system, there is the risk of jailing innocent people and setting dangerous people loose. And the latter tends to make headlines more often than the former.

"The problem with the system is that we're risk-averse," says MacDonald, Santa Cruz County's chief probation officer. "If we ran our lives the way we traditionally run the justice system, we probably wouldn't get out of bed in the morning. The culture is, 'When in doubt, lock them up.'"

MacDonald was assistant chief when Santa Cruz faced an overcrowded jail crisis in 2004. There was talk of constructing a new complex — an expensive endeavor. From working in the juvenile justice department in the '90s, MacDonald had seen data-driven risk assessment policy used to keep youth defendants out of detention before trial. Research into the defendant's background helped officials determine which ones were most likely to skip a court date. So, in 2005, MacDonald ushered a similar risk assessment tool into the adult system, using evidence-based methods. With the jail problem becoming a fiscal problem, he faced little resistance.

So when a defendant is booked into Santa Cruz County jail, the Probation Department interviews him, calls his employer and relatives, studies his criminal history, and contacts the victim. The investigation focuses on the risk factors in a defendant's life: Is he employed; does he have people looking out for him; does he have a stable residence; does he have a family he provides for; does the victim fear his release?

Officials enter the facts into a formula, which spits out a score. That score determines the type of recommendation the probation department makes to the judge. In addition to OR and detention, there are multiple levels of supervised release — including daily phone check-ins, mandatory drug counseling, and electronic monitoring — overseen by the probation department.

In the years since, the jail population in Santa Cruz's main facility dropped by 25 percent. The Sheriff's Department closed one of its jails, saving the county around \$1 million a year. Fewer than 5 percent of released defendants were charged with another crime before their

court date. And 91 percent of them appeared for trial — though most successful bail bond companies secure court appearances at a rate several percentage points higher.

While the risk assessment wouldn't necessarily set guys like Dorton free, it could ensure them a fair shot based on facts. MacDonald says that 21 other counties, from Illinois to Oregon, have contacted him for tips on implementing pretrial risk assessments. Over the past decade or so, Marin, Napa, Sonoma, Yolo, and Santa Clara counties have installed similar systems. San Francisco has not.

The U.S. Supreme Court order for California to fix its overcrowded prisons has sent a rush of inmates to county jails over the past year, spurring local and state attempts to reduce pretrial incarceration rates. State Senate Bill 210 would have mandated that every county establish a pretrial risk assessment body, in an effort to encourage more OR releases. The California Bail Bonds Association (CBAA), one of several industry lobbyist groups that have together donated more than \$400,000 to state campaigns since 2000, sent legislators a letter explaining that the organization "strongly opposes" the bill. Law enforcement officials in southern and central California also rejected the policy. By September, CBAA's website noted that S.B. 210 "died on Assembly Floor, thanks to CBAA's opposition efforts."

San Francisco, which boasts one of the lowest incarceration rates in the state, has been able to follow the realignment plan without pain. Still, every local law enforcement official has supported pretrial detention reform. They all signed the 2011 realignment "Implementation Plan," which recommended to the Board of Supervisors that the sheriff administer electronic monitoring for certain pretrial inmates. The policy has not been implemented.

"We're still working through that process," says Gascón.

"I don't feel like my life's back to normal," says Dorton, a month removed from his acquittal. He sits in the living room of a friend's house, where he and his brother now stay. Dorton's thinking about leaving town.

"I gotta start from square one. And I'm angry now."

He'd been a few months away from paying off his used BMW. But after the cops took it to look for clues, he couldn't afford the impound fees — around \$2,000 a month — and didn't have the income to make the car payments anyway. Dorton still has his motorcycle and his mattress, though, among the few possessions his brother and girlfriend were able to salvage — most everything else ended up on the curb after the landlord kicked him out. The credit card late fees have piled up and the missed car payments have shattered his credit rating.

"It sucks that they could take 10 months of my life and just say, 'Okay, bye, you're free,'" he says. "A lot of the things I lost when I was in jail, I worked my whole life to get. I worked my way up from the bottom and it's crazy that what this one person says can tear that all down."

He checks his watch. He got his security job back and has to start soon. He stands up, zips

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his jacket, and grabs his helmet. A minute later he is on the bike, revving the engine. He zooms off, accelerating down the empty road, with the speed of a man trying to catch up to something.