

BACKGROUND

The words “jail” and “prison” are often used interchangeably in popular discourse about incarceration, but they actually represent distinct institutions that deal with very different populations and problems. Thus, understanding the differences between the two is critical for anyone who wants to influence jail policy and the course of the criminal justice system more generally.

Although local jails hold fewer individuals than state prisons on an average day—about 612,000 compared to 1.3 million—their footprint is even larger, given that each year there are over 10.6 million jail admissions across the United States. Furthermore, the majority of individuals held in jails are part of the pretrial population, meaning they have yet to be convicted of whatever crime is alleged. The remainder are usually serving relatively short sentences (months rather than years) for low-level offenses.

The policies that affect the size and composition of jail populations are wide-ranging. From arrest practices to bail procedures to misdemeanor sentencing, there are many pressure points for policymakers to push. This means that comprehensive reform is necessary to right-size jail populations, but any number of intermediate steps can nevertheless have a large impact by reducing jail admissions and reversing jail growth.

CURRENT DEBATE

Four concepts are key to discussing jails and the potential for reform: human dignity, public safety, fiscal prerogatives and due process. Although these ideas are not mutually exclusive by any stretch, how policymakers think about and prioritize each of them inevitably shapes the resulting policy landscape.

Central to the debate about jail-related policies is the human toll that incarceration takes. While a jail stay

SUMMARY

- Jails primarily hold individuals prior to trial or for low-level offenses.
- Effective jail reform can simultaneously advance human dignity, public safety, fiscal restraint and due process.
- Policymakers should endorse policies aimed at reducing jail admissions through more fair and effective police and prosecutorial practices as well as revisions to misdemeanor sentencing and pretrial laws.
- Data collection and analysis is necessary to understand each jurisdiction’s unique jail landscape and adequately address its needs through policy change.
- Jail reform is not a zero-sum game. It can benefit law enforcement, defendants, taxpayers and the wider public, and should incorporate the input and views of each.

obviously affects the incarcerated individual quite significantly, the effects also ripple out to that person’s community. Even a short jail detention can throw childcare and employment obligations into chaos, significantly disrupting family and workplace dynamics. Policymakers have often addressed this issue by improving jail conditions, eliminating short jail stays and altering bail policies to facilitate an individual’s fulfillment of familial and societal obligations.

Although it is arguably incarceration’s primary purpose, research has suggested that detention does not necessarily increase public safety. In fact, the unnecessary detention of low-risk individuals prior to trial can actually reduce public safety by increasing the odds of re-arrest after release. Furthermore, the prosecution of individuals for low-level offenses can draw scarce resources away from the pursuit of more serious offenses. Therefore, public-safety-minded policymakers should focus on policies

that eliminate unnecessary detentions and otherwise free up law enforcement resources by increasing diversion and revising charging policies for low-level offenses.

Jails draw on limited local resources. Practically speaking, every dollar spent on incarceration is one denied to schools, roads and other important programs. As a result, the costs of incarceration are inseparable from wider debates about how to address jail issues. Jail costs range tremendously depending on the jurisdiction but routinely amount to hundreds of dollars per day for a single detainee. While the need to cut jail budgets has led some officials to lower the quality of care at facilities, it is more productive and sustainable to reduce jail populations and constrain jail growth.

The significant number of pretrial detainees held in jails pushes due process concerns to the forefront of jail-related policy discussions. Every one of these individuals retains the presumption of innocence while their case awaits trial. For this reason, the default position, in theory if not always in practice, is to release defendants prior to trial under the least restrictive conditions possible. Therefore, policymakers who want to safeguard individual liberties often recommend revisions to bail practices, speedy trial rules and plea-bargaining.

ACTION ITEMS

Gather data. It is incredibly difficult to effectively address jail populations without a complete picture of who is entering jails and why. Unfortunately, even basic information is often left uncollected or disaggregated to the point of uselessness. As such, jurisdictions should prioritize the collection and analysis of data on jail populations as well as their sources, including prosecutorial charging and bail decisions as well as policing practices, especially as they apply to arrests. This information can reveal a jurisdiction's unique challenges and help ensure that reform policies are effective.

Reduce jail admissions. There are too many individuals unnecessarily admitted to and detained in local jails. This places an unnecessary burden on individuals, their families and communities, and the public at large. Jurisdictions should explore ways to increase the diversion of individuals in crisis to substance abuse and mental health treatment centers or other appropriate services. Lower jail populations will not only protect the liberty of thousands; they will save taxpayer dollars and free up law enforcement and court resources for more pressing criminal justice needs.

Improve pretrial practices. Our pretrial system currently detains individuals who could be safely released prior to trial. These unnecessary detentions are an affront to the presumption of innocence and a waste of taxpayer dollars. Jurisdictions should reduce their pretrial populations through careful reforms to existing bail practices, stressing pretrial release as the default presumption and empowering pretrial services to engage in less-invasive interventions, such as text reminders to defendants about upcoming court dates.

Mutually beneficial policies. Jail reform can be a unifying issue, able to garner support from across the political spectrum and from actors as varied as law enforcement officers and defense attorneys. An inclusive stakeholder process can harness the expertise of each of these groups and ensure effective reform that reflects the goals and earns the approval of all interested constituencies.

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