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# Wayne County Jail – Report and Recommendations

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# Preface

Since this report was written, the world has changed dramatically due to the COVID-19 pandemic. As the pandemic has spread rapidly across the country, the importance of reducing the population of local jails has heightened. Jails are unique incubators for viral spread, as the people incarcerated in them are unable to engage in social distancing and usually lack access to preventative measures like hand sanitizer, masks, or regular handwashing. Jails also have the potential to become significant vectors for the spread of COVID-19 in their communities. Because jail populations have such high turnover, with many people spending only a few days or weeks incarcerated, and because jail staff work every day in these highly contagious environments and then return home, it is extremely likely that people will become infected in jails and then spread the virus to their communities when they leave. A recent epidemiological model that accounts for these factors projected that the number of deaths from COVID-19 nationally could be almost 100,000 higher than previously predicted if jail populations are not drastically reduced, with the majority of those additional deaths occurring in the communities to which people leaving jails return.<sup>1</sup>

Wayne County, and especially Detroit, has been hit hard by COVID-19. By early May, Wayne County had almost 18,000 cases and over 2,000 deaths, with over 9,000 of those cases and more than 1,100 of those deaths in Detroit.<sup>2</sup> Responding to concerns about the spread of COVID-19 in the Wayne County Jail, stakeholders have engaged in extensive efforts to reduce the jail population. In addition to judges considering individual motions for bond reductions, stakeholders have been meeting five to six days a week to expedite administrative jail releases for broad categories of people, including those who are at high risk for contracting the virus due to underlying medical issues or pregnancy, people in on charges related to driver's licenses or child support, and people charged with ordinance violations, most nonviolent misdemeanors, and many nonviolent felonies. As a result of these efforts, the Wayne County Jail has seen a remarkable decrease in its population, dropping from 1,410 people at the end of February to 840 on May 8<sup>th</sup>, a reduction of 40 percent.<sup>3</sup>

With this sharp drop in the population of the Wayne County Jail, the landscape has changed significantly from the pre-pandemic analysis laid out in this report. We believe, however, that the analysis and recommendations contained in this report can still be useful to Wayne County as it looks to the future. The pandemic has disrupted the way the criminal justice system ordinarily operates and made clear how an overreliance on jail incarceration can threaten public health. Mitigating this threat and prioritizing public health for the future will require a concerted effort to prevent jail population growth once the immediacy of the crisis subsides.

In some of the areas highlighted in the report, like reducing pretrial incarceration and the criminalization of civil issues, Wayne County has already taken significant steps towards what is recommended. For example, stakeholders report that custodial arrests are down by almost half compared to a year ago, and monetary bonds are being reduced. Practically everyone who was in the jail on ordinance violations, failures to appear, charges related to license suspensions, registrations, or lack of insurance, and nonviolent misdemeanors has been released. In these areas, we believe that the recommendations in the report can help Wayne County to think about how to institutionalize these changes when the current crisis eventually ends. This is particularly important as the disruption caused by

the pandemic could exacerbate problems that led to the overuse of jail incarceration detailed in this report. Failures to appear, for example, could increase significantly when courts reopen, as it may be difficult for people to figure out when their new court dates are, and the courts will be dealing with a huge backlog of cases. Moreover, a spate of evictions that had been held in abeyance could lead to displacement and chaos for many low-income people, which could make it even harder for them to keep track of court dates and for courts to contact them. The likely economic fallout from the crisis, such as budget cuts resulting in reduced services and continued high levels of unemployment, might also contribute to increased numbers of offenses based on economic need and desperation, and it will require coordinated efforts to address this without relying on incarceration. When the immediate need for crisis response begins to abate, Wayne County will need to plan for how the criminal justice system can start to resume operations without returning to previous levels of incarceration.

In some other areas highlighted in this report, the response to the pandemic has not changed the situation or may have even exacerbated it. For example, the use of tether has expanded significantly with the increased number of administrative jail releases.<sup>4</sup> While this may have been a way to quickly release large numbers of people from the jail, we believe Wayne County still needs to review and reduce its extensive use of electronic monitoring as a means of releasing people from jail pretrial. We have also heard from community advocates that they have had difficulty finding information about the county's efforts to reduce the jail population in response to the pandemic. They feel that there is a lack of transparency around who is being released, who remains in custody, and how those decisions are being made, underscoring the importance of the report's recommendations around providing oversight for the criminal justice system and increasing transparency and accountability. Creating an online jail dashboard like the examples highlighted in this report, for example, would be a simple way of providing this information to the public.

Additionally, while we have not been able to determine how the recent reduction in the Wayne County Jail population has affected racial disparities, it is likely they have increased, as most other jurisdictions which have been able to significantly reduce their jail populations in response to COVID-19 have also seen increases in racial disparities among the population that remains. If so, this would heighten the importance of following the recommendations for establishing a framework for action on racial equity.

Finally, it appears that most of the people who are still in the Wayne County Jail are there on violent charges. This demonstrates the current lack of alternatives for dealing with violence and the need to consider this report's recommendations to partner with communities to develop non-carceral approaches to address violence.

The COVID-19 pandemic has brought devastation and tragedy. However, it has also shown us that significant jail decarceration is possible within an extremely short period of time. Wayne County, like other jurisdictions across the country, has an opportunity to use lessons from this rapid jail population reduction to continue to decarcerate as regular life resumes. This systemic shift will require new structures for oversight and transparency, ongoing learning grounded in data-driven decision-making, and deeper collaboration with community-based organizations representing Wayne County's residents. We hope that this report will assist Wayne County in thinking about how to avoid returning to previous ways of operating and, instead, create a new normal where individuals can have their needs met without the use of incarceration.

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# Introduction

This report presents findings and recommendations from the Vera Institute of Justice’s (Vera’s) study of the Wayne County Jail and the policies and practices of the local justice system that affect who goes in and how long they stay. This work was completed in collaboration with the Wayne County Jail Population Study Working Group, chaired by the chief judge of the Third Circuit Court, Timothy Kenny, and funded by the Hudson-Webber Foundation.

This study comes at an important moment, as Wayne County is on the verge of constructing a new jail and juvenile detention complex, with the goal of resolving longstanding problems in existing facilities. For almost 50 years, the Wayne County Jail has been the subject of a lawsuit brought on behalf of inmates at the jail, *Wayne County Jail Inmates v. Wayne County Sheriff*, challenging conditions and overcrowding. At the time the suit was brought in 1971, the jail consisted of one facility, built in 1929. Over the years, as the sheriff’s office was challenged to improve conditions and reduce overcrowding to comply with successive court orders, two additional facilities were built, each constructed with the hope of solving these problems and ending the suit, without success. The Andrew C. Baird Detention Facility was built in 1984, but double-celling was instituted shortly thereafter, with many of the same violations that existed previously; the William Dickerson Detention Facility was added in 1991. Third Circuit Court oversight has continued to the present day.

Through more recent consent orders in this case, the court has sought to address overcrowding by setting an “effective capacity” for the three jail facilities. It has done so by closing or opening specific pods or floors within the facilities and, most significantly, authorizing the conditional release of individuals from the jail when the effective capacity is reached under set priorities for who is to be released. In recent years, the county has facilitated the use of this release valve through extensive use of electronic monitoring, as well as efforts to connect people to residential drug treatment. These efforts have achieved results. The population of the Wayne County Jail has been steadily decreasing since 2014. The average daily population (ADP) for July 1, 2018 through June 30, 2019 (the “study period” for this report) was 1,701, which is approximately 25 percent lower than the same period in 2014 and 2015.<sup>5</sup>

Wayne County’s present jail construction project follows on the unsuccessful attempt to build a new 2,000-bed facility on Gratiot Avenue to replace the existing jails, which was begun in 2011 but was suspended in 2013 due to massive cost overruns and ultimately abandoned in 2017. The Wayne County Criminal Justice Complex, currently being built through a deal with Rock Ventures, is projected to house a 2,280-bed jail, the sheriff’s office and the prosecutor’s office, a criminal courthouse, and a juvenile detention facility, on a site about four miles away from the current Division I and II jails. Community members have raised concerns about the lack of transparency in the process and that building a new jail will unnecessarily expand the use of incarceration and reverse the steady decline of the jail population, especially if the population cap is lifted. These concerns have resonance not only based on Wayne County’s previous experience of quickly filling and often exceeding capacity in newly built jail facilities, but also on experience nationally, where jail incarceration rates often rise to fit expanded jail capacity.<sup>6</sup>

Given the history of jail expansion in Wayne County, and the failure of prior jail construction to solve the population and conditions issues, the Wayne County Jail Population Study Working Group has taken an important step in developing long-term solutions that respond to the drivers—not just the effects—of jail population growth. Moreover, this study is taking place in the context of a statewide effort to improve the administration of justice and the overuse of local jails. In January, the Michigan Joint Task Force on Jail and Pretrial Incarceration, convened by the governor, released its report and recommendations, which provide direction for state-level reforms that can support Wayne County’s efforts to shift practices locally. Other jurisdictions around the country are engaged in similar efforts that have successfully reduced the use of jails, increased safety, and improved the fairness, equity, and efficiency of local justice systems.

The Vera Institute has been pleased to support the work of the Wayne County Jail Population Study Working Group, which first convened in April 2019 and includes many of the leaders and other individuals who have been actively working to improve the operation of the justice system and the jail. Over the course of 2019 following that first meeting, Vera’s team analyzed five years of administrative data from the Wayne County Jail and collected qualitative data on policies and practices of the local justice system from stakeholders inside and outside of the local justice system. Vera also met with community members in Detroit who have direct experience with the local justice system and advocates who have been working for years to make their communities safer and healthier.

The findings in this report highlight that there are many opportunities to further reduce the jail population and support the county’s interest in safety and fairness. The recommendations focus on decisions that are made at the local level by county officials, police, judicial leadership and judges in the district and circuit courts, prosecutors, and others. Some of the recommendations can be enacted relatively quickly, while others will take a longer period of time and require broader engagement. Throughout, we have highlighted where the recommendations for Wayne County correspond with changes recommended by the Michigan Task Force on Jail and Pretrial Incarceration.

Some areas are not covered in depth here, because of the limits of time or the limits of data, or because the work is already in motion. Vera had access to administrative data from the sheriff’s office but not to other potentially useful sources such as court or law enforcement data. We also do not devote much attention here to the important topic of behavioral health, because the administrative data on this was very limited and because Wayne County is participating in the national Stepping Up Initiative and the Third Circuit Court, Wayne State University School of Social Work’s Center for Behavioral Health and Justice, and the Ethel & James Flinn Foundation are already collaborating on a number of important efforts in that area.

This report presents its findings and recommendations in five sections which focus on topics we believe Wayne County should prioritize: “Providing Oversight for the Criminal Justice System,” “Reducing Pretrial Incarceration,” “Reevaluating Approaches to Community Supervision,” “Reducing the Overrepresentation of Black People in the System,” and “Partnering with Communities to Address Violence and other Harm.” We believe there is significant potential for change in these areas which can further reduce the jail population and improve the efficacy and equity of Wayne County’s criminal justice system.

# Summary of Recommendations

1. **Provide oversight for the criminal justice system by creating a standing criminal justice coordinating council and improving system transparency and public accountability.**

Wayne County lacks a formal structure for stakeholder collaboration and coordination across the criminal justice system. There is also a shortage of publicly available information and data about the criminal justice system, which undermines system legitimacy and accountability. To address this, Wayne County should create a permanent criminal justice coordinating council (CJCC) that would allow for collaboration across justice agencies to effectuate and sustain system change and ensure shared accountability for outcomes. A CJCC should be staffed and include representatives from county and local government, criminal justice agencies, non-justice agencies whose work affects the criminal justice system, and community members. The CJCC's role should include collecting and analyzing criminal justice system data and sharing information with the public through the creation of online dashboards and/or the release of public reports.

2. **Reduce pretrial incarceration by reducing custodial arrests, increasing pretrial release, reducing the criminalization of civil issues, and expanding pretrial diversion.**

Pretrial incarceration is the single biggest factor driving the Wayne County Jail population. Most admissions to the jail are for lower-level offenses, with charges related to suspended licenses, registrations, and lack of insurance making up the largest category of jail bookings. Very few people booked into the jail are released without having to post a cash bond, and even when bond amounts are relatively low many people remain in jail until their case has been resolved. To reduce pretrial incarceration, Wayne County should take steps to reduce custodial arrests leading to jail bookings by reducing the number of warrants for issued for failure to appear in court, issuing appearance tickets more frequently, and expanding alternatives to arrest. Wayne County should minimize the number of people being held in jail on cash bond by expanding the use of personal recognizance bonds and pretrial supervision (not electronic monitoring), providing effective representation at first appearance, and implementing early bail reviews. The county should reduce the criminalization of civil issues related to suspended licenses, vehicular registrations, lack of insurance, and nonpayment of child support by developing responses that don't rely on incarceration. Wayne County should also increase and expedite pretrial diversion by conducting early and routine screening of cases for diversion, and by expanding the range of community-based diversion options.

3. **Reevaluate approaches to community supervision by reducing use of pretrial electronic monitoring and improving its administration and reducing incarceration for probation violations.**

Electronic monitoring, or tether, is widely used pretrial in Wayne County, but there is not compelling evidence that it increases public safety and its use is facing increased scrutiny nationally. Wayne County should limit the use of tether to cases where there is a specific justification for monitoring. In cases when tether is ordered, release to tether should be expedited, the amount of time a person is ordered to wear a tether should be limited and should count towards pretrial credit, and the financial burden on those being monitored should be minimized. Probation violations also constitute a significant number of bookings into the Wayne County Jail, most often for what appear to

be technical violations of probation conditions. Wayne County should reduce these bookings by applying non-carceral, graduated sanctions for probation violations, limiting probation terms, and granting early discharges from probation whenever possible.

4. **Reduce the overrepresentation of Black people in the system by establishing a framework for action on racial equity.** Black people are disproportionately represented in the Wayne County Jail and among those on tether, although the tether population is whiter than the jail population. Racial disparities appear to be driven more by admissions than length of stay, and disparities in jail admissions are worse outside of Detroit. Simply reducing the jail population, without making a deliberate effort to address racial disparities, will not advance greater racial equity. Wayne County has the capacity to undertake this effort and can begin to address racial disparities in the justice system by establishing a framework for change that tracks progress towards measurable goals. County leadership must publicly acknowledge the problem of racial disparities and commit to changing it. They should then create a collaborative structure that is inclusive of community members and grounded in quantitative, qualitative, and historical data about the origins and lived experience of these disparities. Such a group can work together to collect and analyze system data, design and implement interventions, and track outcomes.
5. **Partner with communities to address violence and other harm.** Violence and public safety are of great concern to both community members and system stakeholders in Wayne County, but current approaches to addressing violence are inadequate. Over 40 percent of the average daily population of the Wayne County Jail have a top charge that could be considered violent. However, very few of the individuals booked on violent charges were ultimately sentenced to the Michigan Department of Corrections, which suggests that many were determined not to be a large enough threat to public safety to warrant a prison sentence. Direct service providers and community advocates in Wayne County are calling for more effective solutions to violence than incarceration but often feel excluded from decision-making on criminal justice matters that affect them. Wayne County should shift this dynamic by creating inclusive structures for collaboration that allow it to benefit from the expertise of nongovernmental stakeholders and by partnering with community-based organizations to develop programs that are rooted in restorative justice principles that build accountability and healing while centering human dignity.



# Data Sources

Vera received administrative data from the Wayne County Sheriff's Office for all people held in the Wayne County Jail from the start of calendar year 2014 through the second quarter of 2019, which was used for analysis of admissions to, releases from, and overall population statistics of the jail. Unless otherwise specified, our analysis of the jail population is based on the most recent 12-month period for which we had data—that is, July 1, 2018 through June 30, 2019. Wherever possible, our analysis also separates out and excludes people who have holds from other jurisdictions or outside agencies, both because these holds could bias estimates related to pretrial release and length of stay (LOS) and because the outside holds mean that Wayne County has a limited ability to affect this part of the jail population.

Vera supplemented analysis with demographic estimates of the Wayne County population from the U.S. Census Bureau's American Community Survey five-year estimates. This data was used primarily for demographic comparisons between the jail population and the overall population of Wayne County, as well as demographic comparisons between Detroit and the rest of Wayne County.

The administrative jail data did not accurately track individual ethnicity, which made it difficult to assess the scope of incarceration among Latinx populations and raised concerns that this may result in an overestimation of the white population.<sup>7</sup> To address this, Vera employed a name-matching algorithm to estimate the number of Latinx individuals booked into Wayne County custody, using a corpus of names gathered by the U.S. Census for which 90 percent of respondents self-identified as Latinx.<sup>8</sup>

In addition to quantitative data, Vera reviewed policies and practices and spoke with key stakeholders from across Wayne County's criminal justice system through meetings of the Wayne County Jail Population Study Working Group and a meeting with district court judges and probation officers held at the 23<sup>rd</sup> District Court in Taylor. Vera also held a series of meetings with service providers, criminal justice advocates, and community organizers between September and December 2019. These non-governmental stakeholders were identified specifically because of their unique knowledge of the local justice system based on their professional and personal experience with the criminal justice system in Wayne County and the residents who are processed through it. To better understand how the local criminal justice system functions and the various steps in the process, Vera conducted a system-mapping exercise in June 2019 with representatives from criminal justice agencies and service providers. The system map created through this exercise, and refined through subsequent discussions with stakeholders, is included in Appendix A.

# I. Providing Oversight for the Criminal Justice System

The decisions that influence the population of the Wayne County Jail are made by multiple, largely autonomous system actors. Implementing reforms like the ones recommended in this report will require the collaboration of stakeholders from across the criminal justice system, county and local governments, service providers, and community organizations. To date, a framework for this kind of collaboration, at least among some of the key Wayne County system stakeholders, has been the litigation originally brought in 1971, *Wayne County Jail Inmates v. Wayne County Sheriff*, which addressed conditions and overcrowding. The most recent consent orders in the case have provided for ongoing jail population management by the court, in consultation with the litigants, including the sheriff. While it is a valuable framework for maintaining oversight of the jail population (and conditions of confinement), the litigation has not encompassed all the decisions made throughout the local justice system that affect the jail, as well as the decisions and processes that affect equity and fairness in the system more broadly, and it should not continue to be the only vehicle to manage and improve the criminal justice system in the county. The Wayne County Jail Population Study Working Group has provided an opportunity for a broader group of stakeholders to come together to consider the drivers of the jail population, but Wayne County needs a permanent structure to allow for the collaborative action that is necessary to effect and sustain system change and ensure shared public accountability for outcomes.

## **Recommendation 1: Create a standing criminal justice coordinating council**

Many jurisdictions that have successfully implemented lasting reforms to their local criminal justice systems have done so through multi-agency bodies commonly referred to as criminal justice coordinating councils (CJCCs).<sup>9</sup> The benefits of a CJCC include “better understanding of crime and criminal justice problems, greater cooperation among agencies and units of local government, clearer objectives and priorities, more effective resource allocation, and better quality criminal justice programs and personnel.”<sup>10</sup>

Most CJCCs are countywide and therefore include representatives from both county government and the cities contained within the county, and they are typically independent of the county and city administrative structures. A CJCC might be established by a resolution of county government, a joint resolution of county and local governments, or a joint powers agreement, which sets out the purposes, powers, duties, and responsibilities of the CJCC, as well as how it will be funded.<sup>11</sup> A CJCC’s bylaws, which may be included in the authorizing resolution or agreement, should set out its structure, operating procedures, and membership. Membership typically includes representatives from county and local government, criminal justice agencies, non-justice agencies whose work affects the criminal justice system, and community members.<sup>12</sup> To function effectively, a CJCC needs full-time staffing; at the very least it needs a director or administrator who can oversee the operations of the CJCC and any subcommittees, collect and analyze data CJCC members need, and help to design, implement, and evaluate pilot projects and initiatives the CJCC approves.<sup>13</sup> Some jurisdictions have further enhanced their

criminal justice analysis and planning capacities by creating “data warehouses” that combine data from multiple criminal justice agencies and sometimes other sources.<sup>14</sup>

A CJCC for Wayne County should involve at least the county and Detroit, and ideally should include one or more of the other large municipalities within the county. Membership could include representatives from the Wayne County Executive’s Office and the Wayne County Commission; the mayor’s office and/or city council for Detroit and any other municipalities involved; the chief judge and/or presiding criminal judge, and court administration for the Third Circuit Court, the 36<sup>th</sup> District Court, and one or more other district courts; the Wayne County Sheriff; the Wayne County Prosecutor; Neighborhood Defender Service and the criminal defense bar; the Detroit Police Department and law enforcement agencies from any other municipalities involved, or perhaps a representative chosen by the chiefs of police of all law enforcement agencies in the county; the State Court Administrative Office; the Michigan Department of Corrections and local probation; service providers like the Detroit Wayne Integrated Health Network, Detroit Rescue Mission, and Team Wellness, all of which participated in the Wayne County Jail Population Study Working Group; and community-based organizations working on criminal justice issues.

## **Recommendation 2: Improve criminal justice system transparency and public accountability**

Wayne County should commit to making the justice system more transparent. Many nongovernmental stakeholders reported having little to no access to aggregate-level data regarding prosecution, policing, changes in the jail population, or judicial decision-making or information about decisions regarding new facilities, diversion programs, and investments. This is a significant problem. The legitimacy of local criminal justice systems is enhanced when stakeholders regularly share information with the public about system outcomes and hold themselves accountable for doing so. The creation of a CJCC not only would allow for collaborative and coordinated action, it also could provide a mechanism for promoting greater transparency and accountability in Wayne County’s criminal justice system. CJCC meetings should be open to the public so that community members can observe the decision-making process and learn about progress towards goals, and time should be provided for public comment. In most jurisdictions with CJCCs, meetings are public; while some subcommittees hold private meetings, they share information publicly when they provide updates on their work at the main CJCC meetings.

Additionally, as one of the most common functions of a CJCC is collecting and analyzing criminal justice system data, a CJCC can play an important role in sharing information with the public through the creation of online dashboards and/or the release of public reports. Agencies should partner with local advocates, organizers, service providers, and other relevant nongovernmental stakeholders to first identify what aggregate-level criminal justice information would be most useful for the individuals they serve. This step can help avoid information dumps that are inaccessible or otherwise fail to address the concerns and most pressing questions of residents. Once it is clear what information is useful, county government should work with these nongovernmental stakeholders to establish a process for ensuring the regular provision of that information.

A number of jurisdictions use online dashboards to provide public information about their jail populations, and this approach would be a good goal for Wayne County and a demonstration of the

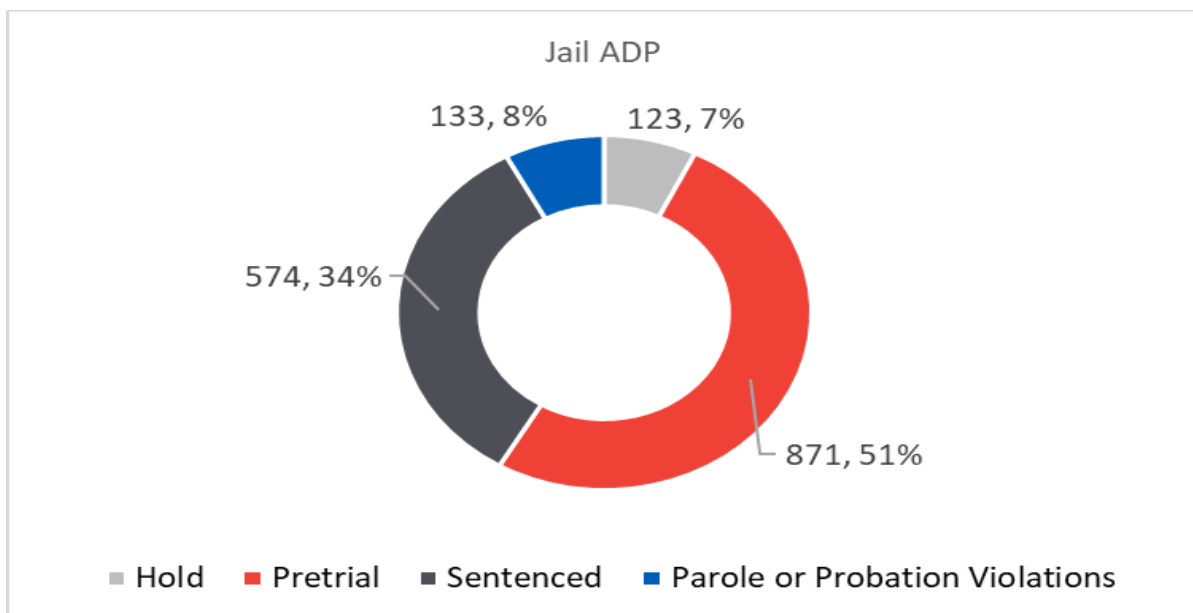
commitment of justice system agencies to public accountability. These dashboards typically include information like average jail populations; breakdowns by legal status, race, and gender; numbers of bookings and releases; and average length of stay. They often include interactive features that allow the public to explore the information and view trends by selecting specific criteria and date ranges. Some of these dashboards are updated daily, such as the Salt Lake County (UT) Sheriff’s Office’s Jail Population Dashboard or the Allegheny County (PA) Jail Population Management Dashboards.<sup>15</sup> Others are updated weekly, like the Buncombe County (NC) Sheriff’s Office Dashboard, or monthly, like the Missoula County (MT) CJCC’s Jail Population Dashboard.<sup>16</sup> Rather than using dashboards, some jurisdictions make this sort of information available in downloadable public reports, such as Philadelphia’s Monthly Jail Population Report.<sup>17</sup> Many CJCCs also publicly release annual reports, strategic plans, and other reports or analyses on specific topics related to the criminal justice system.<sup>18</sup> The release of public data reports or dashboards need not be limited to jail population data. For example, the Cook County (IL) State’s Attorney’s Office has an online dashboard showing how the office has handled felony cases from initiation to sentencing.<sup>19</sup> The office has also released public data reports and makes case-level datasets available online with the explicit goal of facilitating analysis of that data by members of the community.<sup>20</sup>

## II. Reducing Pretrial Incarceration

### Key findings

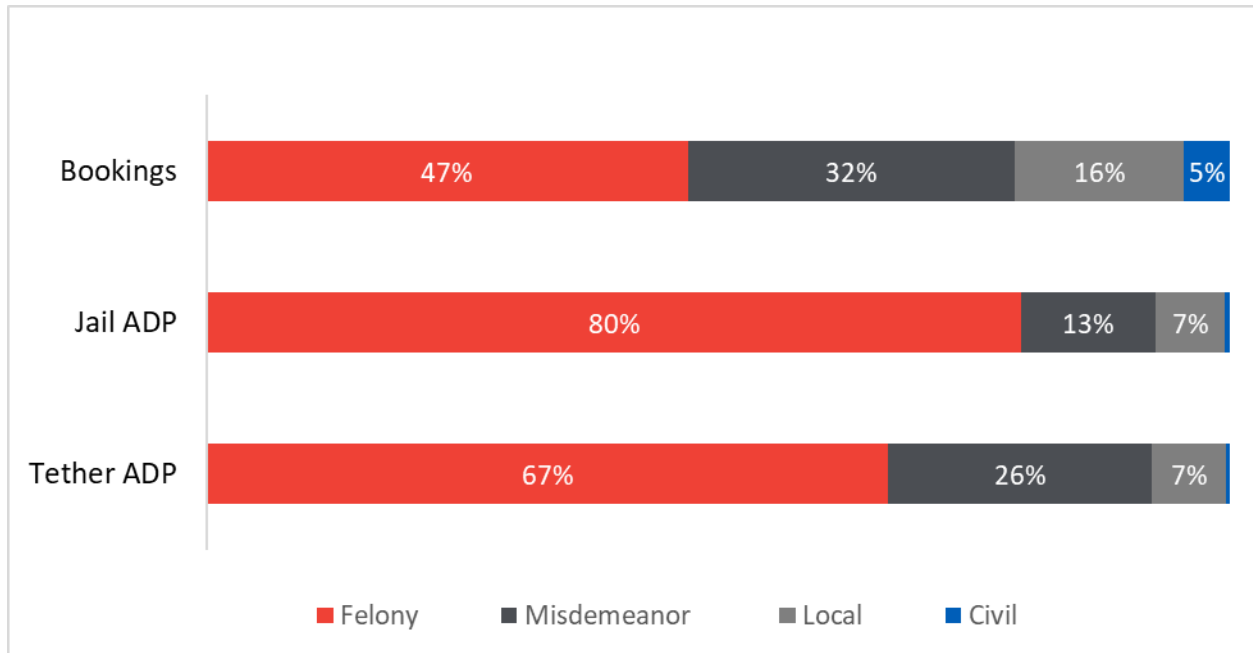
**1. Pretrial incarceration is the single biggest factor driving the Wayne County Jail population.** As shown in Figure 1, people being detained pretrial without other holds make up just over half of the average daily population of the jail. People with outside holds and those held on probation or parole violations make up another 15 percent, while people serving sentences constitute 34 percent of the jail population.

**Figure 1.**  
**ADP by Legal Status**



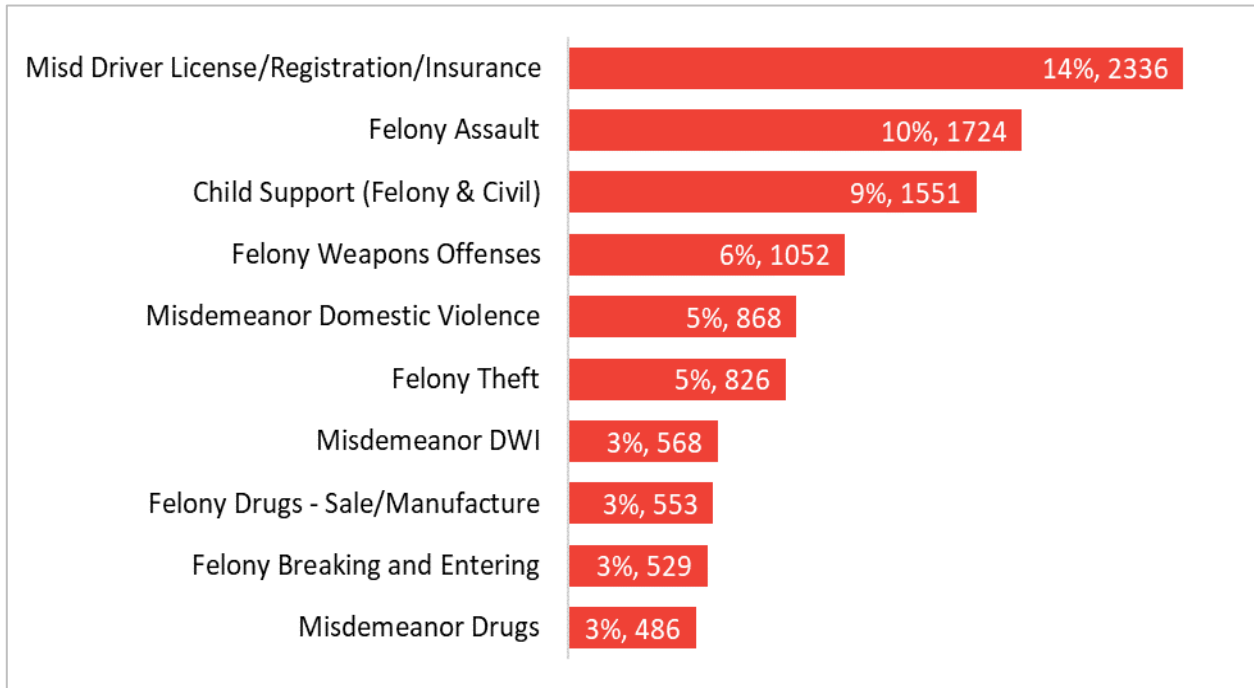
**2. The majority of admissions to the jail are for lower-level offenses.** Figure 2 shows that 53 percent of jail bookings are for misdemeanors, local ordinance violations, or civil offenses.<sup>21</sup> Because the people charged these offenses do not stay as in the jail as long, they make up a smaller proportion of ADP than those charged with felonies. It is important to note, however, that, because the Wayne County Jail is a post-arraignment facility, even people who are released fairly quickly usually have spent one to three days in the Detroit Detention Center or local lockups before even getting to the Wayne County Jail.

**Figure 2.**  
**Bookings, Jail, and Tether ADP by Top Charge Severity**

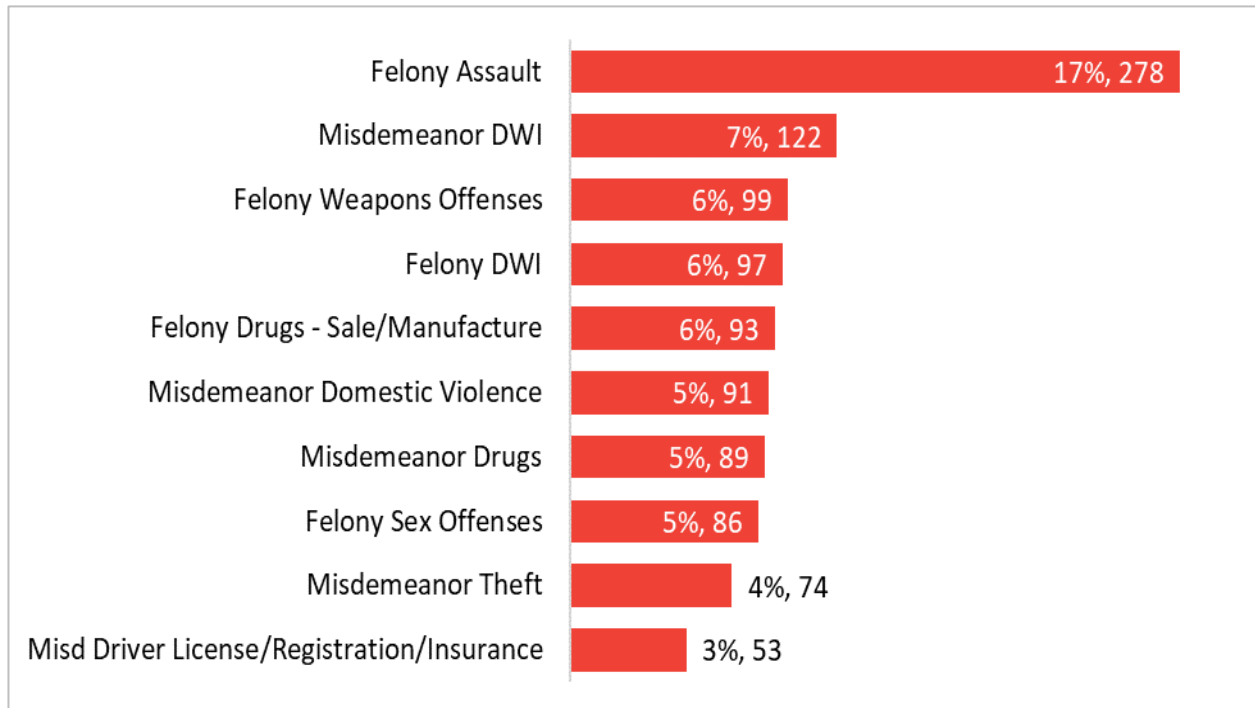


**3. Charges related to suspended licenses, registrations, and lack of insurance are the single biggest category of admissions to the jail.** Figure 3 shows the top 10 charge categories that make up the highest number of jail bookings, with driver’s license, registration, and insurance charges constituting 14 percent of all bookings.<sup>22</sup> Even though people charged with these offenses are not as significant a proportion of ADP, as shown in Figure 4, these and other misdemeanor offenses still make up five of the 10 charge categories contributing the most to ADP.

**Figure 3.**  
**Bookings by Top Charge Category**

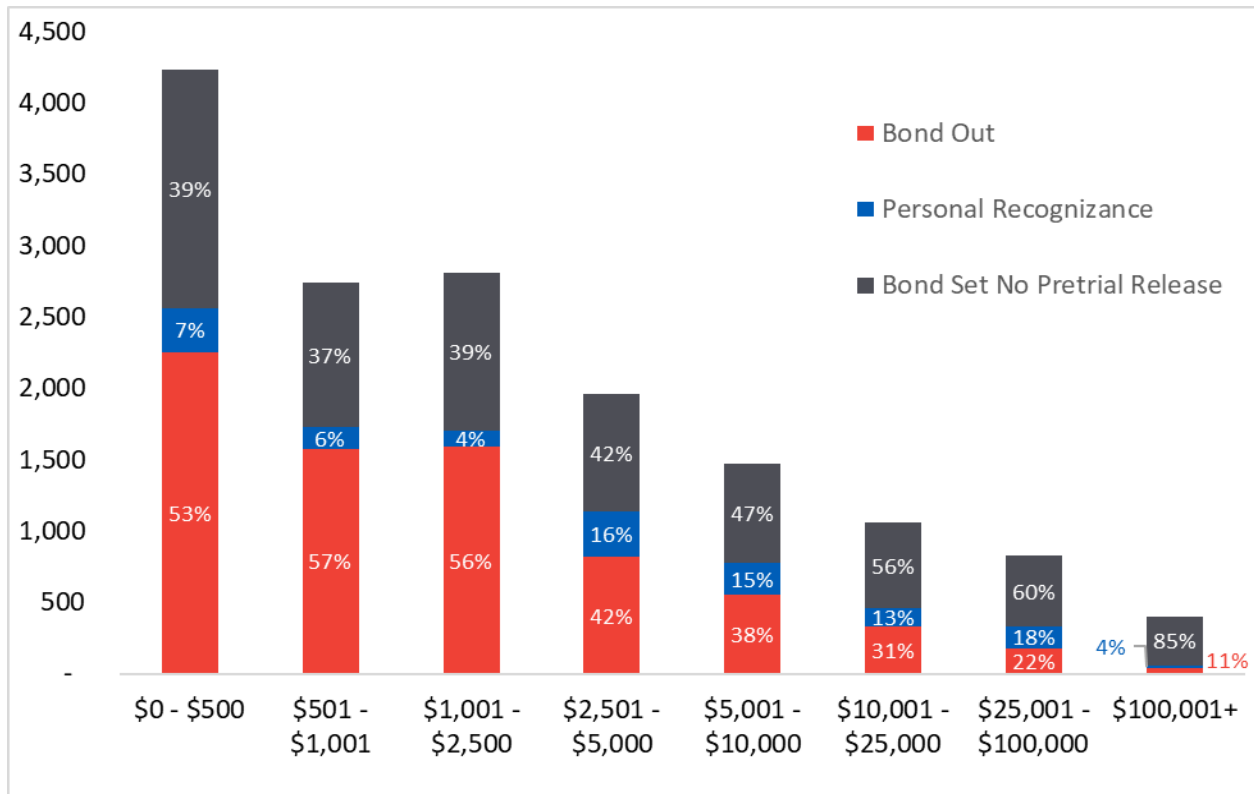


**Figure 4.**  
**ADP by Top Charge Category**



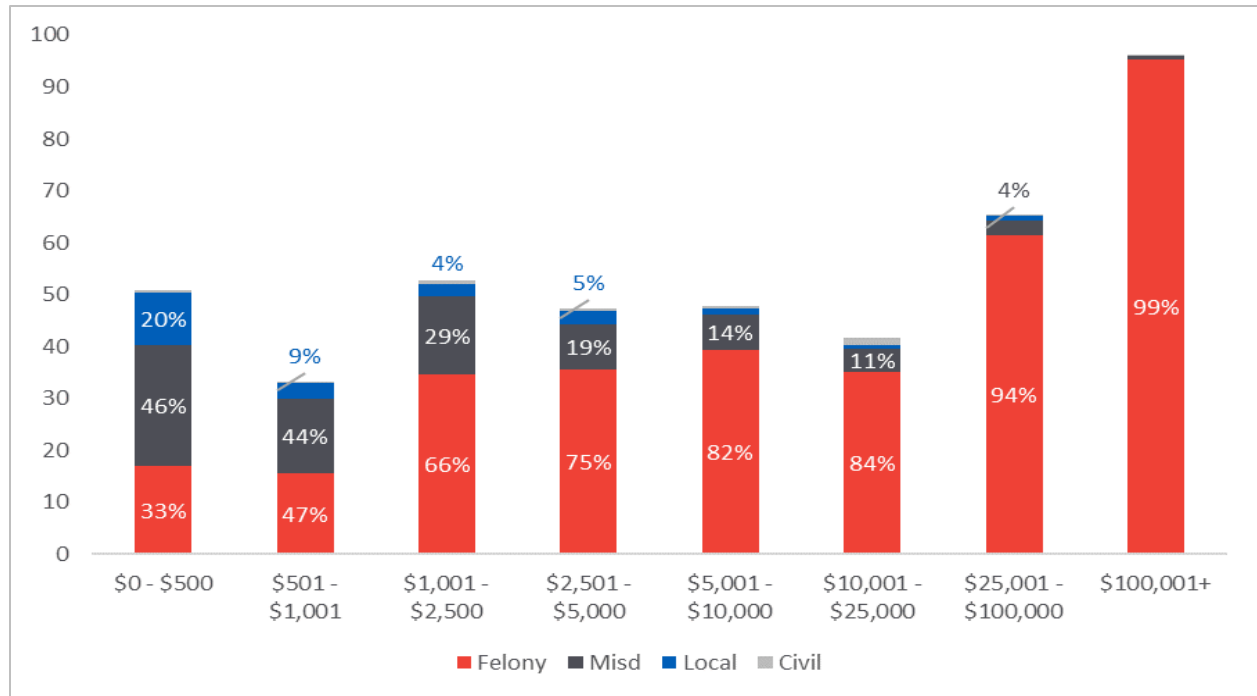
**4. Even for a post-arraignment facility the number of people released without having to post a cash bond is very low.** Only nine percent of people booked into the jail are released on personal recognizance. Figure 5 shows the pretrial outcomes for people by the bond amounts set that is, for people with bonds set within different ranges of dollar amounts, how many were released on personal recognizance, how many posted bond, and how many were not released pretrial.

**Figure 5.**  
**Pretrial Outcomes by Bond Amount**



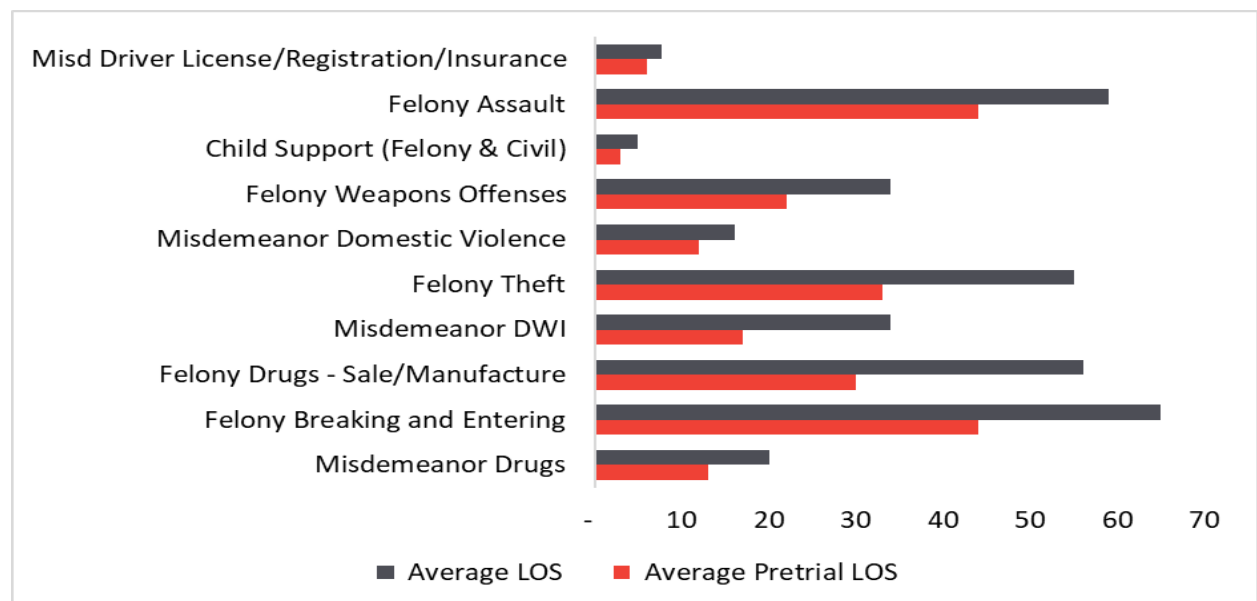
**5. Many people are not released pretrial, even on relatively low bond amounts.** Thirty-nine percent of people with bonds of \$5,000 or less remained in jail until their cases were resolved. Figure 6 further breaks down this population who are not released pretrial by both bond amounts and charge severity, showing that for a significant proportion of those detained pretrial on relatively low bond amounts on any given day, the most serious charge holding them in jail is a misdemeanor or less.

**Figure 6.**  
**ADP by Bond Amount and Charge Severity for Individuals Not Released Pretrial**



**6. While many people are held in the jail pretrial and then released on time served, even people who are ultimately sentenced to jail time frequently spend most of their time in jail before being sentenced.** As Figure 7 demonstrates, for the 10 highest top charge categories in bookings, people are serving at least half of their time pretrial. In other words, these people are spending more time in the jail when they are legally innocent than when they’ve been found guilty.

**Figure 7.**  
**Average LOS and Pretrial LOS by Top Charge Category**





To reduce the population of the Wayne County Jail, it is essential to reduce the large number of people being held pretrial. Further, as research has shown that pretrial incarceration can increase both the likelihood of a sentence to incarceration and the length of that sentence, increase the likelihood of failing to appear after being released, and increase the likelihood of new arrests, reducing the pretrial jail population could reduce overall ADP indirectly as well as directly.<sup>23</sup> The following recommendations highlight steps Wayne County can take to reduce the pretrial population of the jail.

### **Recommendation 3: Reduce custodial arrests**

A large number of pretrial admissions are for people facing relatively low-level charges, most of whom do not stay long in the jail. Holding individuals for these short stays is costly and injurious to them and to their families and also costly to the county, and likely provides no public safety benefit; to the extent that these short jail stays diminish the employability and health of people who are incarcerated and destabilize their families and communities, they may actually decrease public safety. A key step in reducing unnecessary incarceration is thus reducing admissions.

#### **3a. Reduce warrants for failure to appear**

One of the main reasons people charged with low-level offenses are arrested rather than ticketed, or are held or don't bond out, is outstanding bench warrants for failure to appear in court (FTA). While we were unable to determine from the administrative jail data the precise number of admissions to the Wayne County Jail on FTA warrants, according to data provided by the Wayne County Sheriff's Office, there were 362,499 open bench warrants in the county in 2018, 70 percent of them from the 36<sup>th</sup> District Court.<sup>24</sup> Even if only two percent of those bench warrants resulted in arrest and incarceration, that would be equivalent to approximately one-quarter of the bookings for that entire year. We also heard from district court judges and staff, as well as community advocates and members of the Wayne County Jail Population Working Group, that arrests on warrants for FTA are a significant problem in Wayne County, and that one of the major reasons people don't show up for court is that they're afraid they'll be sent to jail because they don't have the money to pay fines and fees or to address underlying issues like a lack of car insurance, a suspended license, or unpaid child support. Community advocates provided other common reasons for FTAs, including people being turned away from courtrooms or the courthouse itself because of restrictive dress codes and lists of prohibited items (including cell phones); lack of transportation or childcare; lack of accurate information about when and where to report; and the inability to get time off from work. All of these are issues that research shows are frequent causes of FTAs nationally.<sup>25</sup>

To reduce warrants for failure to appear, Wayne County should

- **Implement automated court date reminders:** Almost 30 years of research has shown that court date reminders reduce FTAs by as much as 25 to 50 percent.<sup>26</sup> All defendants in Wayne County should be sent automated court date reminders, either by individual courts or, as discussed below, through an expanded pretrial services program. An automated reminder system can be developed by the court itself or through a contract with an external provider.

- Reorient court policies and practices to support appearance and compliance: There are a number of clear steps Wayne County courts at all levels can take to encourage compliance rather than simply punish noncompliance. Courts should set and publicize clear policies that people will not be sent to jail if they show up to court but are unable to pay fines and fees or other costs. Consider partnerships with community-based organizations that can both help get the word out and assist individuals to develop strategies to resolve outstanding financial issues in court or before they get there. Allow people to set up or revise payment plans and reschedule court dates online, as some Wayne County jurisdictions are doing.<sup>27</sup> This is particularly important in suburban jurisdictions where public transportation is limited and distances are far. Allow people to bring children to court appearances when necessary or provide short-term childcare in courthouses (as many jurisdictions do). Relax dress codes and reduce the number of prohibited items.<sup>28</sup> Consider holding hearings outside of regular work hours in the evenings and/or on weekends, as other jurisdictions have done with success.<sup>29</sup>
- Provide alternative responses to FTAs: Studies have shown that many people who FTA do return to court voluntarily within a few days or weeks, so courts should adopt policies allowing a grace period before issuing a bench warrant and notify people that they need to come to court to resolve the FTA in order to cut down on the number of warrants that are actually issued. New York's revised bail laws have implemented a grace period like this, and the Michigan Joint Task Force on Jail and Pretrial Incarceration has proposed a similar policy.<sup>30</sup> When bench warrants are issued, courts should allow people to clear the warrant and request a new court date online, and send automated messages informing people that they can avoid arrest either by using that online system or by voluntarily appearing in court.<sup>31</sup> Courts could also indicate that bench warrants are non-arrestable or could set personal recognizance bonds either in the warrants themselves or by administrative order for all FTA warrants.<sup>32</sup>
- Implement warrant amnesty and abatement programs: To clear large numbers of outstanding bench warrants, Wayne County should consider both warrant amnesty events and warrant abatement programs. Warrant amnesty events are usually scheduled on specific dates or periods of time, in courthouses, other government buildings, or community centers. These events provide people with an opportunity to clear up warrants; meet with attorneys and attempt to resolve old cases; pay outstanding fines, usually with additional penalties and fees waived; or work out payment plans.<sup>33</sup> Warrant abatement programs, on the other hand, involve efforts to vacate large numbers of outstanding warrants. These usually apply to old warrants for low-level offenses and can be initiated either by the courts or by prosecutors.<sup>34</sup>

### **3b. Increase the use of appearance tickets**

Appearance tickets, commonly referred to as citations, can be an effective alternative to custodial arrests. They can help reduce jail populations and criminal justice system costs and also save officers time.<sup>35</sup> MCL 764.9c authorizes officers to issue appearance tickets for most offenses with a maximum penalty of 93 days or less. This is a more limited scope than in other states, as the majority permit the use of citations for almost all nonviolent misdemeanors and a few even permit their use for some felonies.<sup>36</sup> Wayne County should also encourage legislative change to expand the range of offenses for which appearance

tickets can be issued, such as the recommendation by the Michigan Joint Task Force on Jail and Pretrial Incarceration to allow officers to issue appearance tickets for all misdemeanors, except domestic violence, and to create a presumption for citation in lieu of arrest for a range of nonviolent misdemeanors.<sup>37</sup>

In the absence of statutory guidance, stakeholders should work with Wayne County law enforcement agencies to develop policies encouraging the use of appearance tickets whenever possible. Such policies should include at least a presumption for the use of appearance tickets except when certain disqualifying factors are present and should lay out those factors to guide officers' discretion. It is critical, though, that the measures recommended above to support appearance and reduce warrants for FTAs accompany efforts to expand the use of citations.

### **3c. Expand the use of alternatives to arrest**

- Increase law enforcement alternatives to arrest and pre-arrest diversion options: There are some existing alternatives to arrest that police officers can use, particularly for individuals with mental illness or in a mental health crisis, such as taking people to the emergency room, mental health urgent care, or Team Wellness's Crisis Addiction Response Team program.<sup>38</sup> We also heard, however, that many officers may not know much about these options and thus are unlikely to take advantage of them. Wayne County needs to make sure police officers learn more about current alternatives to arrest so that they are used as much as possible. The Detroit Police Department will be starting a Law Enforcement Assisted Diversion pilot program in one neighborhood, which has proven an effective way to divert more people to services rather than arresting them in other jurisdictions, and other law enforcement agencies within the county should be encouraged to create similar programs.
- Expand non-law enforcement alternatives to arrest: Wayne County should also develop alternatives that don't depend entirely on law enforcement. For example, many jurisdictions have found success with co-responder teams, composed of specially trained officers and crisis workers or clinicians who respond to calls for service for people in behavioral health crisis, or mobile response teams, composed solely of crisis workers or clinicians who respond to calls for service instead of law enforcement.<sup>39</sup> Triage or crisis care centers can also be an effective alternative to arrest and criminal justice system involvement.<sup>40</sup> Team Wellness's recently opened Psychiatric Urgent Care Unit is an example of this type of center, though it is unclear if this unit has sufficient capacity to meet the needs of all county residents in crisis or if it is a viable option for people outside of Detroit. Wayne County should do an assessment of issues like needed bed space and location and should invest in expansion and/or additional triage centers in other parts of the county as necessary. As a way of preventing arrests for people with behavioral health issues more generally Wayne County should invest in the expansion of community-based mental health and substance use treatment to reduce the number of people who end up in crisis that might require a response by law enforcement.

### **Recommendation 4: Increase pretrial release**

Another important step in reducing unnecessary incarceration is changing bail practices in Wayne County to ensure that individuals are not incarcerated because they are poor or because opportunities to release

them safely into the community don't exist or haven't been considered. Across the country, jurisdictions such as New Jersey, New Mexico, New York, and the District of Columbia have moved towards the elimination of cash bail, if not for all defendants then at least as the default for misdemeanors and many felonies. This is based on a recognition that bail has historically been a detain-or-release decision without the use of secured bonds, that release is the default and detention requires a full adversarial hearing, and that appropriate pretrial supervision is more effective than monetary bonds at ensuring pretrial success. The Michigan Joint Task Force on Jail and Pretrial Incarceration has similarly recommended that Michigan transition to a pure detention-and-release system, though it acknowledged that this would likely require a state constitutional amendment.<sup>41</sup>

#### **4a. Increase the use of nonfinancial release**

Money plays a huge role in who gets held at the Wayne County Jail. As noted above, only nine percent of people booked into the jail are released on personal recognizance, and 39 percent of people with bonds of \$5,000 or less remained in jail until the resolution of their cases, suggesting that there are a lot of people judges aren't trying to detain for public safety reasons who are staying in jail because they can't afford to post bond. The Wayne County Jail is a post-arraignment facility, so individuals who are booked have had bail set but were not able to bond out from the Detroit Detention Center or other pre-arraignment detention facilities. While monetary bonds are effective at keeping people in jail pretrial, there is little reason to believe that they serve any other purpose.<sup>42</sup>

To increase nonfinancial release Wayne County should

- Expand the use of personal recognizance bonds: Although MCR 6.106 (C) already creates a strong presumption for personal recognizance, this is clearly not having the desired effect. The most effective way to increase the use of nonfinancial release is to enact policies that require release on personal recognizance for categories of offenses or for lists of specific offenses.<sup>43</sup> As an immediate step, however, Wayne County should provide training on pretrial justice for all judges and magistrates that covers topics like constitutional requirements of release on the least restrictive terms, equal protection concerns about incarcerating people solely due to an inability to pay, the relative effectiveness of nonfinancial bonds, and the negative consequences of pretrial incarceration, which some jurisdictions have found helps reduce reliance on monetary bonds. Other actions that could be taken include collecting data on success rates for people released on monetary bonds and regularly sharing that with judges and magistrates, tracking and publicizing rates of nonfinancial release by judge or magistrate, or requiring consideration of the likely sentence when setting bail so that people who are not likely to receive a sentence of incarceration don't get held simply because they can't afford to post a monetary bond.
- Expand pretrial supervision options—not including electronic monitoring—that can help ensure pretrial success and give judges confidence: The most basic of these, as noted above, is automated court date reminders. While the Third Circuit Court has just begun a court reminder service, all of the county's courts should be sending reminders to every defendant.<sup>44</sup> To maximize the effectiveness of these reminders people should be given a choice of their preferred method (e.g., mail, phone, email, or text) and they should be required to receive notifications unless they explicitly opt out. Research has shown that reminders that combine information about planning

to get to court, what to expect, and the consequences of not appearing achieve the best results.<sup>45</sup> Additionally, as decades of research has shown that supervision not tied to individual risk and needs can result in worse outcomes, other options should include varying levels of supervision based on levels of pretrial risk and case management plans that connect people with services and resources based on their individual needs.<sup>46</sup> The most effective way to provide appropriate pretrial supervision is through a countywide pretrial services program that follows national standards and best practices for achieving pretrial success.<sup>47</sup>

While Wayne County does already have a dedicated Pretrial Services office, it is relatively small for a county the size of Wayne. Because of limited resources, Pretrial Services primarily works in the 36<sup>th</sup> District Court and the Third Circuit Court and is able to offer only one level of supervision for all defendants. In order to offer effective supervision options for all of the county's courts, Wayne County will need to provide additional resources to Pretrial Services. With appropriate funding and staffing levels, Wayne County's Pretrial Services office could oversee the provision of court date notifications to all defendants in the county, provide universal screening and recommendations for every in-custody defendant in all of the county's courts, and offer multiple levels of supervision tailored to people's risks and needs, all of which would give judges confidence to release more people on nonfinancial bonds.

#### **4b. Provide effective representation at first appearance**

Effective legal representation of defendants at first appearance can have a significant impact on increasing pretrial release. Attorneys are far better able to gather the essential information and make a convincing argument identifying the statutory factors and appropriate conditions that would support release on personal recognizance and can more effectively present information about defendants' financial resources to support an argument for an affordable monetary bond.<sup>48</sup> Empirical data supports the difference that legal representation can have on pretrial release. A study of representation at first appearance in Baltimore found that represented defendants were over two and a half times more likely to be released on recognizance, were more than four times more likely to have their bond reduced, and the average amount of their bond reduction was over six times greater.<sup>49</sup> In Allegheny County, Pennsylvania, a pilot project providing public defenders at arraignment during evening and overnight shifts found that judges used monetary bonds 39 percent less often when defendants were represented.<sup>50</sup> After Haywood County, North Carolina, started providing attorneys to defendants at first appearance, more than half of the defendants had their bonds modified from what a magistrate had set; for almost three-quarters the bond changed from monetary to unsecured, while for the others the average secured bond amount was reduced by almost 90 percent.<sup>51</sup> Closer to home, stakeholders involved in pilot projects in Ingham, Kent, and Huron Counties in Michigan reported that having counsel at first appearance not only resulted in increased use of personal recognizance bonds and reduced monetary bond amounts, but in many cases also led to quicker case resolution, a higher number of dropped or reduced charges, greater courtroom efficiency, and even a reduction in FTAs.<sup>52</sup>

To provide effective representation at first appearance, Wayne County should

- Provide sufficient attorneys and give them enough time to meet with defendants: Wayne County is taking steps in the right direction towards providing effective representation at first appearance

with the start of the house counsel program, but we heard from advocates that attorneys often do not have enough time to meet with each defendant at arraignment. In order for representation at first appearance to be truly effective, Wayne County needs to take steps to make sure that there is a sufficient number of attorneys and that they have enough time to meet with each defendant so they can get the essential information needed to make persuasive bail arguments. The counsel at first appearance pilot program in Huron County’s 73B District Court found that attorneys spent between 15 and 30 minutes meeting with each client prior to arraignment in most cases.<sup>53</sup> Wayne County’s courts should survey attorneys who provide representation at first appearance to determine the amount of time needed per case and should then look at the average number of arraignments each day to determine how many attorneys are needed and how much time must be provided before arraignments begin for arraignment attorneys to meet with all of the defendants.<sup>54</sup>

- Ensure that information gathered at first appearance is available to appointed attorneys at later stages: We also heard from advocates that attorneys appointed after the arraignment did not always receive essential information and notes that attorneys who represented people at first appearance had gathered. The loss of such information can hamper attorneys’ ability to argue for bail modifications at later stages and can reduce the overall effectiveness of representation. The best way to avoid this problem is for the attorney who handled each case at arraignment to follow that case through to disposition. To the extent that is not practical, however, Wayne County should establish policies and procedures to make sure that the attorney appointed after arraignment receives the necessary information, for example by using a standardized form for an arraignment attorney to record the information gathered during the meeting with the defendant and sending that form, along with any additional notes from the arraignment, to any subsequently appointed attorney.<sup>55</sup>

#### **4c. Implement early bail reviews**

For defendants still incarcerated after first appearance, Wayne County should implement regular and expedited reviews of bail determinations so that people aren’t held in jail simply because they are unable to afford the bond that was set. As a general matter, Wayne County’s judges should start automatically reviewing bail for in-custody defendants at all post-arraignment hearings to consider whether the bond previously set was appropriate and whether there are changed circumstances or additional information available that support modification.

To implement early bail review, Wayne County should

- Establish sequential bail reviews: A sequential bail review, or “second look” hearing, process involves providing expedited bail review hearings for people meeting certain criteria, usually based on type of charge, bond amount, and/or pretrial recommendation. Philadelphia, for example, has an Early Bail Review (EBR) program, which gives individuals charged with nonviolent offenses who are still incarcerated after arraignment on bonds of \$50,000 or less a bond review hearing within three days.<sup>56</sup> In Allegheny County, people charged with misdemeanors and nonviolent felonies for whom pretrial services had recommended release but who the arraignment court had held are put on a “motions docket” in the trial court where their



bonds are reviewed within 24 to 48 hours.<sup>57</sup> Both of these programs have resulted in a significant number of defendants being released after having their original bonds amended. Wayne County's courts should establish a formal process and specific criteria for expedited "second look" bail review hearings, ideally within 24 to 72 hours, as an immediate way to reduce the number of people who continue to be held on bond after arraignment.<sup>58</sup>

- **Create a jail population review team:** Another approach to bond review is through the creation of a jail population review team. These are generally teams made up of judges, prosecutors, defense attorneys, law enforcement, pretrial services staff, service providers, and sometimes community advocates, that meet weekly to review cases of people held in jail who meet certain criteria, usually based on type of charge, bond amount, or specific behavioral health needs. After reviewing the cases, these teams can recommend bond modifications, expedited cases resolutions, or referrals to community-based programs. Jurisdictions such as Lucas County, Ohio, St. Louis County, Missouri, and Pima County, Arizona, have all found success reducing their jail populations through the use of these teams.<sup>59</sup> While jail population review teams, because they usually meet only weekly, can take longer than sequential bail review to get people out of jail, they can provide an opportunity for more in-depth review of cases and for consideration of additional things like expedited case resolution and service needs.

## **Recommendation 5: Reduce the criminalization of civil issues**

### **5a. Reduce admissions for suspended licenses, registrations, and lack of insurance**

As highlighted above, people with charges related to suspended licenses, registrations, or lack of insurance make up the single largest category of admissions to the Wayne County Jail. These types of charges can become a vicious cycle as people rack up fines and fees but need to drive in order to work to be able to pay those fines and fees before they can be reinstated.<sup>60</sup> Incarcerating people for these offenses, even for relatively short periods, can cause them to lose employment and make it even harder to pay everything off and get their licenses back, while at the same time wasting criminal justice system resources that could otherwise be focused on offenses that actually affect public safety.<sup>61</sup> Ironically, even when people are trying to pay off their fines and fees, the inability to get their licenses reinstated while on a payment plan makes it harder for them to come up with those payments.<sup>62</sup>

It is not entirely surprising that charges related to suspended licenses are such a significant issue, as Michigan requires license suspensions for a wide range of actions, many of which have nothing to do with unsafe driving, including failure to appear, failure to pay fines and fees, convictions for drug offenses, and failure to pay child support.<sup>63</sup> Addressing this will require legislative changes, and the Michigan Joint Task Force on Jail and Pretrial Incarceration has recommended that the state eliminate suspension of driver's licenses for anything other than specific moving violations directly related to unsafe driving.<sup>64</sup> Wayne County should support this recommendation and any other legislative changes to reduce the number of license suspensions and, thus, the number of people arrested for offenses related to suspensions.

In addition to supporting legislative change, Wayne County should

- Adopt policies requiring or creating a strong presumption for nonfinancial bonds for charges related to suspended licenses, registrations, and lack of insurance. As noted in section 2, increasing access to online opportunities to vacate bench warrants and work out payment plans will also reduce arrests and admissions.
- Create specialized dockets for people with suspension and insurance charges to address specific issues and consolidate payments owed to different courts.
- Create cross-county programs to dismiss old motor vehicle charges and unpaid fines and fees that resulted in suspensions. In Durham, North Carolina, for example, a collaboration between the city, courts, district attorney, public defender, legal services providers, and community organizations has led to the dismissal of more than 70,000 old cases and the waiver of more than \$200,000 in fines and fees that were unpaid after many years, allowing tens of thousands of people to get their licenses reinstated.<sup>65</sup>
- More broadly, Wayne County should invest in reliable and affordable countywide public transportation so that people whose licenses or registrations are suspended or who can't afford insurance are able to work and take care of their families without having to drive.

## **5b. Reduce admissions for child support**

People charged with nonpayment of child support, both civil and felony, make up the third largest category of admissions to the Wayne County Jail. Using incarceration to address nonpayment of child support can be counterproductive. While incarceration might result in a one-time purge payment, there is no evidence that incarceration results in more reliable payment of child support overall.<sup>66</sup> In fact, incarceration often has the opposite effect, causing those who are employed to lose their jobs, reducing future earning potential, making it more likely that people will exit the formal economy, and discouraging future cooperation with child support agencies.<sup>67</sup> Finding better ways to address nonpayment of child support not only could help reduce the use of the Wayne County Jail but potentially could lead to increased future compliance with payment obligations.

Because Vera did not study the child support enforcement system in Wayne County, we do not make specific recommendations here. However, Appendix B includes a summary of strategies that have been found effective for improving child support enforcement outcomes without incarceration.

## **Recommendation 6: Increase and expedite pretrial diversion**

### **6a. Perform earlier and more routine screening of cases for diversion**

There is no routine screening for diversion eligibility in the Wayne County court process: according to judges and practitioners, cases can be referred for diversion at any point in the process and, in practice, referrals often happen fairly late. This can unnecessarily extend the court process and can result in longer length of stay for people who are in jail whose cases might be diverted. Cases are usually referred by defense attorneys. While defense attorneys might often be in a position to know which cases are appropriate for diversion, prosecutors shouldn't wait for them to refer cases.



To ensure that cases are regularly diverted at the earliest possible point in the case, Wayne County should

- Ask prosecutors to take the lead: The Wayne County Prosecutor's Office should establish a procedure to screen cases for diversion when charges are being filed, or shortly thereafter, and should offer to divert appropriate cases at the earliest possible opportunity. Other jurisdictions have established different models for accomplishing this. In San Francisco, the district attorney's charging unit reviews cases to determine which ones are eligible for diversion to the Neighborhood Court Program, often offering participation to defendants at arraignment, while in Los Angeles a single assistant city attorney reviews all cases that fit the eligibility requirements to decide which ones will be offered pre-filing diversion to the Neighborhood Justice Program.<sup>68</sup> Milwaukee County uses a universal screening and assessment protocol through which every defendant booked into the jail receives a risk and needs assessment to assist the district attorney's office in routing people to either its pre-filing Diversion Program or its post-filing Deferred Prosecution Program, and the Cook County State's Attorney's Office recently adopted a similar protocol for its Misdemeanor Deferred Prosecution Program.<sup>69</sup>
- Ensure other parties are considering diversion: While the prosecutor's office should conduct this sort of routine, early screening, that should not limit defense attorneys from referring cases that they think were overlooked. Additionally, to make sure that as many cases as possible are diverted, judges should routinely ask both parties at pretrial hearings whether cases have been considered for diversion and require such consideration if not.

## **6b. Expand diversion options to reduce criminal justice system involvement**

The goal of diversion programs should be to limit contact with the criminal justice system as much as possible, as even brief contacts with the system can have negative effects that can lead to additional system involvement in the future.<sup>70</sup> While the Wayne County Prosecutor's Office's Pretrial Diversion Program does offer people without prior records who are charged with lower-level offenses the opportunity to have their charges dismissed, the majority of existing diversion options, like specialty courts, keep people inside the criminal justice system and require guilty pleas, which are frequently not dismissed. This means that many people who successfully complete these programs still end up with convictions on their records, which runs counter to the overarching purpose of diversion.<sup>71</sup>

Wayne County should work to expand the number of diversion options, with a particular focus on programs that divert people outside of the criminal justice system. Such programs could involve referring people for treatment or services in the community without regular court appearances or correctional supervision.<sup>72</sup> Another alternative is community-based restorative justice programs, which usually involve panels or mediators drawn from the community who work with defendants and victims to develop plans focused on taking accountability and working to repair the harms caused.<sup>73</sup> The Wayne County Prosecutor's Office's recently announced juvenile mediation program could serve as a model for a similar program for adults.<sup>74</sup> Other models include San Francisco's Neighborhood Court Program and Los Angeles's Neighborhood Justice Program, both of which focus on nonviolent misdemeanors, and New York's Common Justice, which works with people charged with violent felonies.<sup>75</sup> Since the needs of each community and the services available can vary considerably, Wayne County stakeholders should work

with community organizations and service providers, perhaps through a task force or committee, to determine the appropriate models and criteria for diversion programs outside of the criminal justice system.

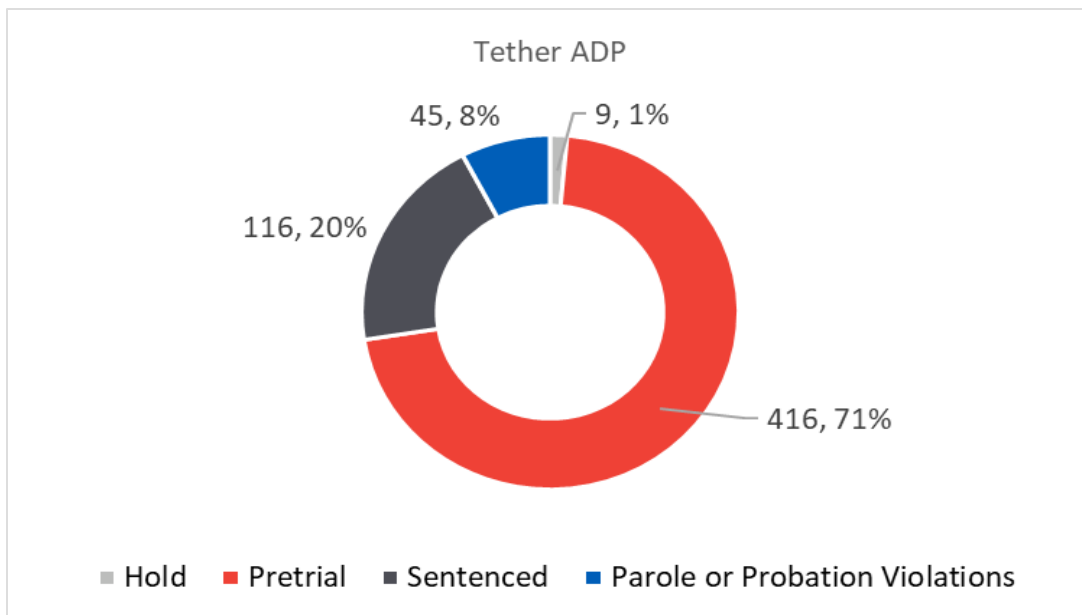
Whether inside or outside of the criminal justice system, the purpose of diversion should always be to limit future system involvement. Requiring people to plead guilty and have convictions on their records defeats this purpose by saddling them with collateral consequences that can make it harder to reintegrate into society and can also provide less incentive for people to participate in programs and successfully complete them. Wayne County stakeholders should work to ensure that people who participate in existing programs like specialty courts have their pleas vacated and charges dismissed upon successful completion and should use a pre-plea or plea-and-vacate model for any additional diversion programs created.

### III. Reevaluating Approaches to Community Supervision

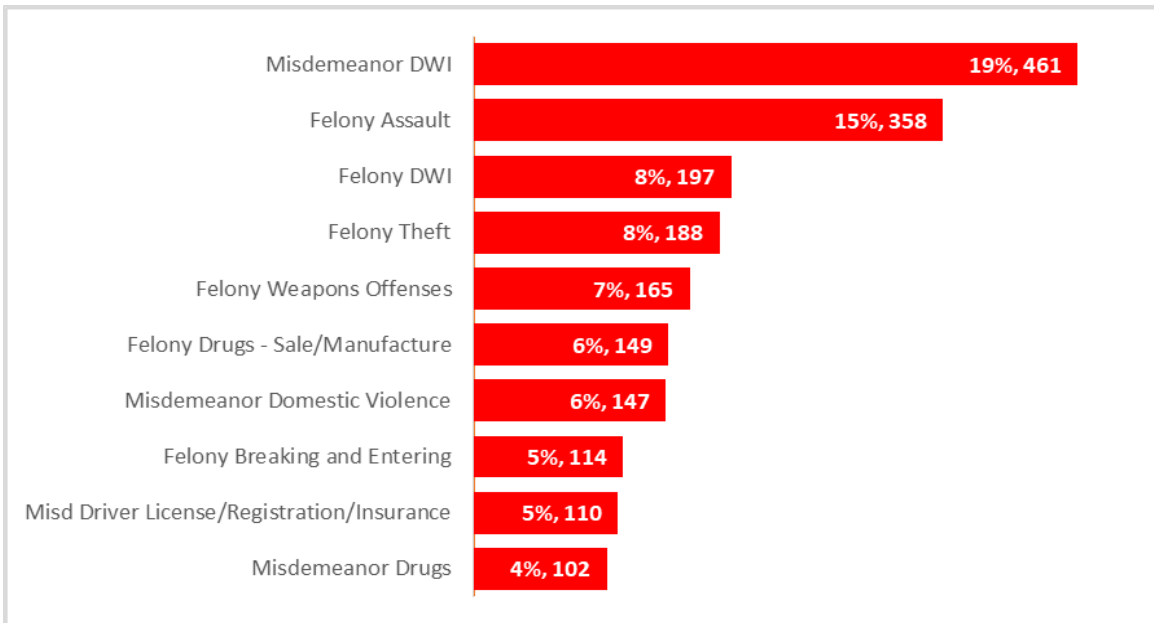
#### Key findings

**1. Electronic monitoring, or tether, is widely used pretrial in Wayne County.** Tether has become one of the main tools Wayne County has used to control the size of the jail population. As Figure 8 shows it is primarily used pretrial, with 71 percent of the average daily tether population legally innocent while under electronic supervision. Many of those people on tether pretrial have been charged with misdemeanors or lower-level felonies, as shown in Figure 9.

Figure 8.  
Tether ADP by Legal Status



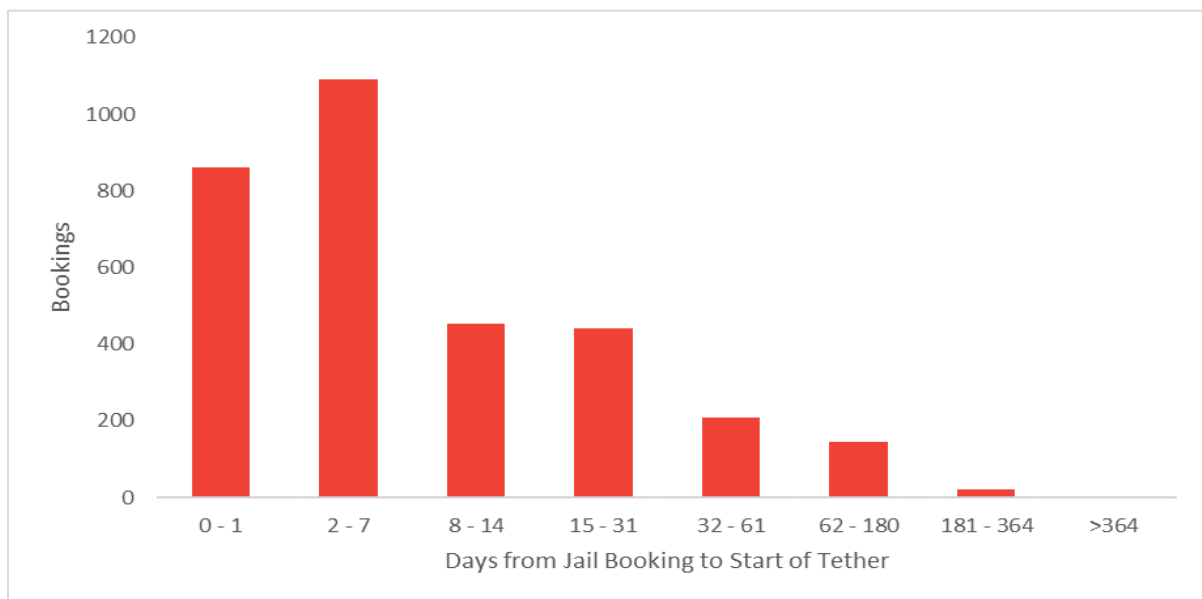
**Figure 9.**  
**Pretrial Tether by Top Charge Category**



**2. People often remain in jail for several days or weeks before being released on tether.**

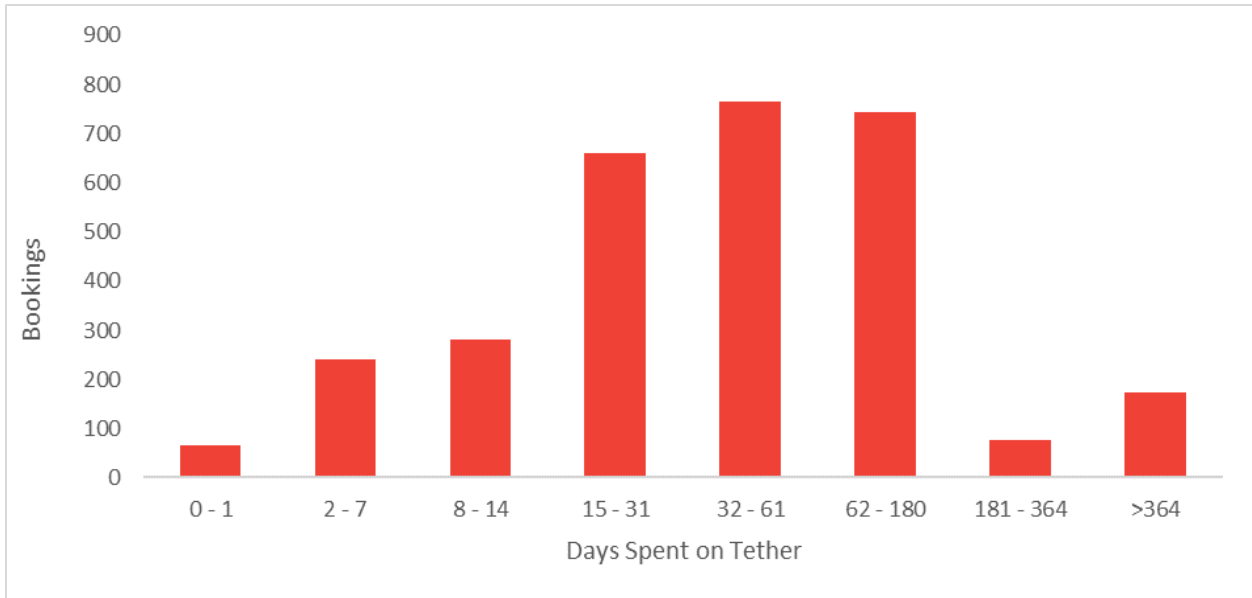
Figure 10 shows that the most common time spent between booking into jail and starting tether is two to seven days, but that many people are in jail for between one week and one month before starting tether. While amendment of bail at later hearings or to administrative jail releases may drive some of these delays, it also reflects what we heard from district court judges, probation officers, and community advocates about regular delays of several days between people being ordered released to tether and the actual release, usually due to equipment not being available.

**Figure 10.**  
**Time from Jail Booking to Start of Tether**



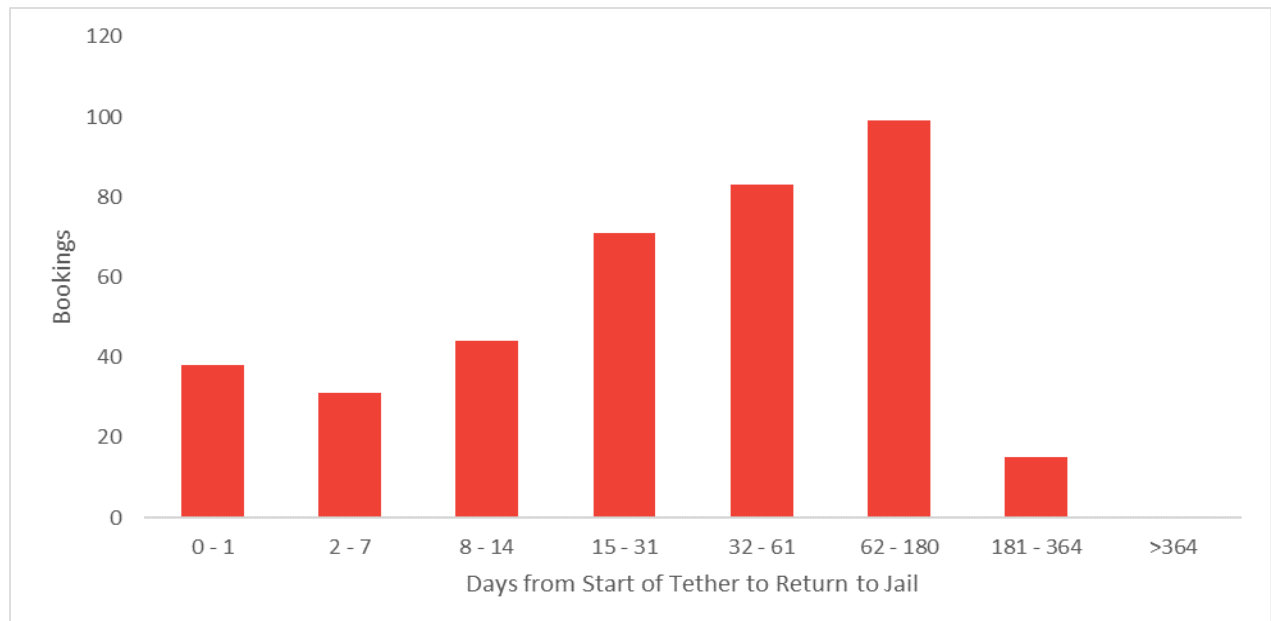
**3. People often spend several months on tether.** While the average amount of time spent on tether was 58 days, Figure 11 shows that a large number of people are on tether for between two and six months.

**Figure 11.**  
**Length of Time on Tether**



**4. In general, the longer people spend on tether, the more likely they are to have a violation.** For people who were returned to jail from tether for a violation, Figure 12 shows the number of days between the start of tether and the return to jail.<sup>76</sup> The average time on tether before a violation was 50 days. While the number of violations drops after 180 days, likely due to the much smaller number of people who remain on tether for that long, the number of violations generally increases the longer people are on tether.

**Figure 12.**  
**Time from Start of Tether to Violation**



**5. It is very common for people to be assigned to tether while also having a bond set.** Sixty-three percent of people released to tether pretrial in Wayne County had a monetary bond set in addition to being assigned to tether. The practice of both assigning a tether and setting a cash bond is more likely to occur outside of the 36<sup>th</sup> District, particularly with certain charge categories, as Figure 13 demonstrates.

Figure 13.

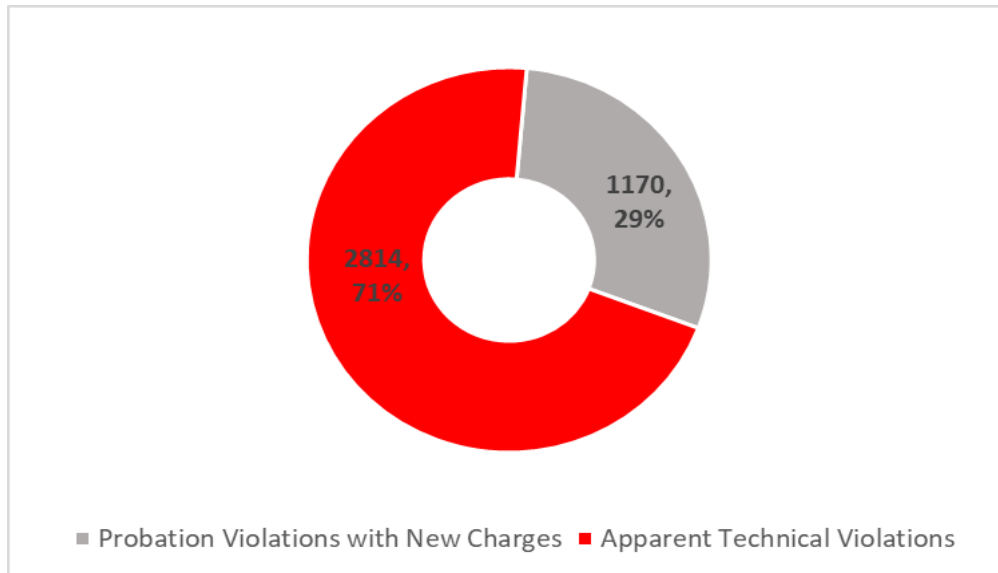
**Likelihood of Release to Tether with Bond Set by Top Charge Category**

| Charge Category                                   | 36 <sup>th</sup> District | Out County |
|---|---------------------------|------------|
| Misdemeanor DWI                                   | 35%                       | 65%        |
| Felony Assault                                    | 23%                       | 54%        |
| Felony DWI  | 67%                       | 88%        |
| Felony Theft                                      | 21%                       | 48%        |
| Felony Weapons Offenses                           | 10%                       | 56%        |
| Felony Drugs - Sale/Manufacture                   | 19%                       | 66%        |
| Misdemeanor Domestic Violence                     | 8%                        | 36%        |
| Felony Breaking and Entering                      | 21%                       | 55%        |
| Misdemeanor Driver License/Registration/Insurance | 2%                        | 21%        |
| Misdemeanor Drugs                                 | 6%                        | 43%        |

**6. The majority of bookings for probation violations appear to be for technical violations.**

There were 3,984 bookings into the Wayne County Jail for probation violations during the study period, and 71 percent of those were solely based on the probation violation without a new charge, suggesting that these were technical violations (see Figure 14).<sup>77</sup> Members of the Wayne County Jail Population Study Working Group suggested that some of these may not be technical violations, as individuals could have been booked on a probation violation and then subsequently charged with a new offense after a full investigation. We confirmed with the Wayne County Sheriff’s Office, however, that if someone was booked into the jail on a probation violation and then a new charge was filed against that person later, it would be recorded in the same booking, assuming no release in the interim. To check whether people could have been booked on a probation violation, released, and then booked on a new charge which had been committed at the same time as the probation violation, we looked at an earlier cohort with a 12-month follow-up period. Of the jail bookings for a probation violation and no other charge, 89 percent did not have a new charge in the 12 months that followed. Additionally, for those who did have new charges filed, the average time to the booking on new charges was over six months later, making it unlikely that these bookings were for charges that happened at the same time as the probation violation.

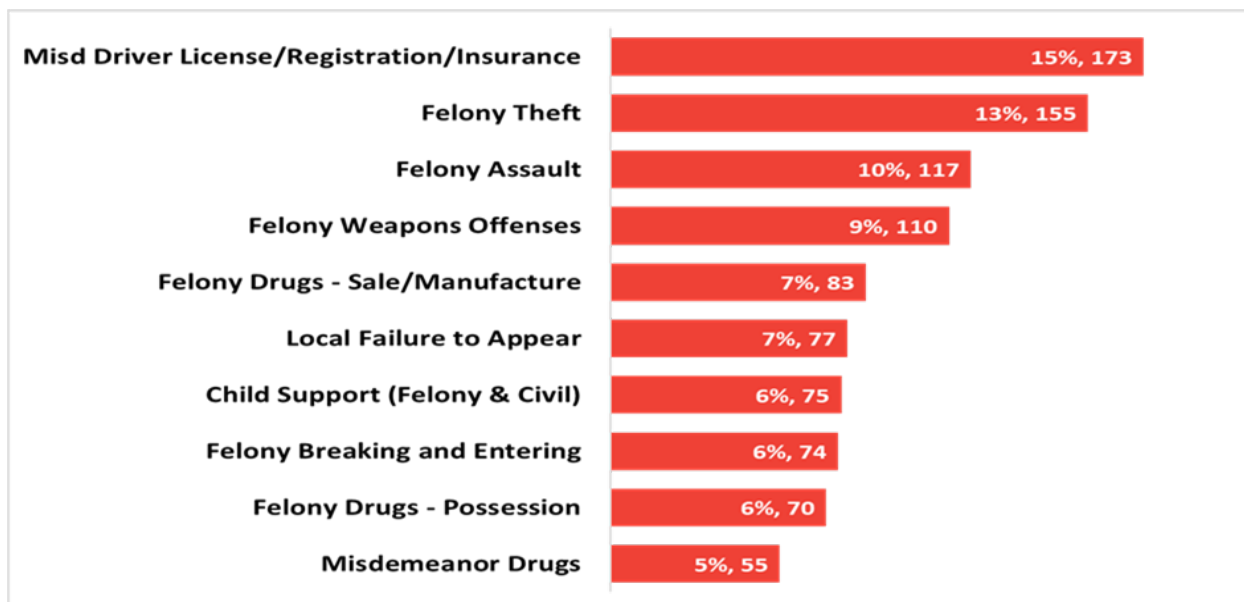
Figure 14.  
**Probation Violations with and without New Charges**



**7. People charged with apparent technical violations stayed in the jail for relatively short periods and many were released back to probation.** These people spent an average of 13 days in jail. Forty-one percent were ultimately released to probation.

**8. For those with probation violations and new charges, the most common top charge category was misdemeanor driver’s license, registration, and insurance charges.** Figure 15 shows the top 10 most common charge categories for people booked on both probation violations and new criminal charges. In addition to the license/registration/insurance charges, any of these are for less serious offenses such as drug possession, child support, and failure to appear.

Figure 15.  
**Top Charge Categories for Probation Violations with New Charges**



**9. Probation violations were the most frequent top charge category for people who were booked into the jail multiple times.** Figure 16 shows the top 10 charge categories for people booked three or more times over the past three years. These people accounted for 23,164 total bookings, and probation violations accounted for 4,131, or 18 percent, of those. This was more than twice the number of the next highest category.

**Figure 16.**  
**Top 10 Charge Categories for People with 3+ Bookings**

|  |       |
|--|-------|
| Probation Violation                        | 4,131 |
| Agency Hold (mostly U.S. Marshal)          | 2,038 |
| Misd Driver License/Registration/Insurance | 1,765 |
| Felony Assault                             | 1,390 |
| Felony Theft                               | 1,234 |
| Felony Weapons Offenses                    | 1,052 |
| Felony Drugs - Sale/Manufacture            | 847   |
| Misdemeanor Drugs                          | 752   |
| Felony Drugs - Possession                  | 675   |
| Misdemeanor Domestic Violence              | 667   |

**Recommendation 7: Reduce the use of pretrial tether and improve its administration**

Nationally, there is growing concern about the overuse of electronic monitoring as an alternative to jail incarceration. Electronic monitoring extends the reach and cost of criminal justice control into the community without any compelling evidence that this increased surveillance improves public safety.<sup>78</sup> People subject to electronic monitoring often are charged substantial fees and must also be able to pay to maintain phone and electric service or risk interruption in the monitor. Further, many employers refuse to hire people who are on electronic monitors and may terminate employees who are on them; beyond stigma, strict restrictions on movement and the inability to work overtime or change shifts without advance clearance can make it difficult to maintain existing employment.<sup>79</sup> Electronic monitoring equipment also can malfunction or give false alerts due to problems like low batteries or signals being lost due to weather conditions, tall buildings, or car travel; one study by a legislative committee in Arizona found that during a one-year period there were 35,601 false alerts and only 463 confirmed violations, a ratio of almost 77 to 1.<sup>80</sup> Even if equipment malfunctions or false alerts do not actually result in reincarceration, the potential for that to happen can create enormous stress for people on electronic monitoring and their families. Additionally, even though the restrictions placed on people on electronic monitoring can result in a deprivation of liberty almost as severe as actual incarceration, those people rarely receive credit for time served on electronic monitoring.

Vera spoke with individuals who have spent time on tether and community advocates in Wayne County, and they noted many of the same concerns that have been raised nationally. They highlighted that

tether restrictions, particularly limits on where people can go and when they are allowed to be outside their home, are often overbroad and unrelated to any specific potential public safety threat, limiting the ability of people who are still legally innocent to attend to the basic tasks of daily life. They stressed the difficulties people on tether have finding or maintaining employment, especially those who do irregular shift work and may not be able to quickly modify their out-of-home hours, and how that makes managing the financial burdens of monitoring even harder. They also reported communication with the Tether Unit is not always immediate or reliable, so people on tether have no assurance that they can mediate any technological errors should they arise. This last concern echoed what we heard from district court judges and probation officers about difficulties communicating with and getting information from the Tether Unit.

Wayne County needs to take steps to reduce the use of tether for pretrial defendants, many of whom can be safely managed in the community without restrictive electronic monitoring. In those cases where tether is still used, Wayne County should improve the administration of the program to reduce the burdens that monitoring can create.

### **7a. Limit the use of tether to cases where there is a specific justification for monitoring**

If tether is going to be used, it should be limited to cases in which there is a very specific justification for monitoring that relates to an individualized assessment of a defendant's pretrial risks. For example, there is some evidence that electronic monitoring may be effective at improving compliance with no-contact orders in domestic violence cases, particularly when used in conjunction with protocols for assessing risks specific to domestic violence.<sup>81</sup> Even in these cases, however, any geographic restrictions or other conditions should be the least restrictive possible to achieve the specific purpose of the monitoring. Tether might also be appropriate to allow people who would otherwise remain incarcerated to be released to attend important events like the birth of a child or a funeral.

### **7b. Expedite release once tether is ordered**

When tether is ordered, Wayne County should make sure that people are released as quickly as possible. Reducing the number of people who are on tether should decrease issues with the availability of equipment. However, Wayne County should continually assess the number of people being assigned to tether, the type of monitoring unit they are required to have, and the number of units the county has to ensure that the inventory of equipment is sufficient. Additionally, the Tether Unit should work to improve communications with district courts and probation officers so that they are able to get prompt information about how long it will take for someone to be released if assigned to tether and factor that into their decisions.

### **7c. Limit the amount of time people remain on tether**

As highlighted above, the number of violations tends to increase the longer people remain on tether. This is unsurprising given research on probation, discussed below, which has found that keeping people under supervision for long periods increases the chances of technical violations. Wayne County should consider capping the amount of time that people remain on tether. The Michigan Joint Task Force on Jail and



Pretrial Incarceration has proposed a 60-day limit on the amount of time electronic monitoring may initially be authorized with a rebuttable presumption that it be lifted if people have demonstrated compliance for that period.<sup>82</sup> Wayne County might want to consider a shorter limit, as the average amount of time people spend on tether is 58 days and there are a significant number of violations after 30 days. However, even a 60-day limit would improve the situation for the many people who remain on tether for several months.

#### **7d. Tether should not be used in addition to monetary bonds**

When tether is used, it is often in cases where bond has been set, and yet also comes with its own costs. There is no reasonable justification for requiring both a monetary bond and tether; to assign both is simply an implicit acknowledgment that cash bonds are ineffective at ensuring public safety or court appearance. In cases where monitoring is considered the best method for increasing chances of pretrial success and a tether is assigned, release on personal recognizance should be ordered.

#### **7e. Reduce the financial burden of tether**

While the tether program in Wayne County has effectively reduced the jail population, it comes at a cost. Individuals assigned to tether pretrial pay fees of \$100 for enrollment and \$100 per month. People can incur significant debt paying for the cost of monitoring, regardless of whether any unpaid fees result in reincarceration. Charging people for tether as a condition of release also implicates the same sort of equal protection concerns that have been successfully raised in a number of federal lawsuits challenging the use of monetary bonds. Ideally, Wayne County should completely eliminate user fees for tether. This is the approach of recent reforms in New York, which prohibit charging defendants for the cost of any pretrial supervision, including electronic monitoring.<sup>83</sup> If these fees are not entirely eliminated, the county should at the very least conduct a thorough assessment of people's income and expenses and waive fees for people who are not realistically able to afford them. To increase the chances that people will be able to remain employed while on electronic monitoring, the county should ensure that people on tether are able to reach someone at the Tether Unit quickly and reliably and that there is greater flexibility to approve changes to tether restrictions when people's jobs require them to work different hours or in a different location. If people still are unable to maintain employment, however, ability to pay should also be reassessed and fees waived where appropriate.

#### **7f. Give people pretrial credit for time spent on tether**

Some states give people pretrial credit for time spent on electronic monitoring, although often in a fairly arbitrary or inconsistent manner.<sup>84</sup> Tether is a form of custodial supervision and represents a considerable restraint on people's liberty. The deprivation of liberty is much greater than typical bail conditions and does not differ significantly from the restrictions that would be placed on a person serving an actual sentence on electronic monitoring. Therefore, Wayne County courts should grant credit for the time people spend on tether pretrial towards any sentence to incarceration that they receive.

## **Recommendation 8: Reduce incarceration for probation violations**

Probation violations made up almost one-fifth of bookings into the Wayne County Jail during the study period and most of these appear to have been technical violations. Detaining people in jail for probation violations, particularly for technical violations, is increasingly viewed as unnecessary or even counterproductive, as research has shown that community-based responses can be at least as effective as jail in changing behavior and that jail sanctions may even increase future violations.<sup>85</sup> Reducing the number of people who are incarcerated in the Wayne County Jail for probation violations not only would reduce the jail population but also could help ensure better outcomes for people on probation.

It is important to note that Vera was not able to conduct an in-depth study of probation supervision practices in Wayne County and did not have access to either court or probation data. Looking at jail data alone doesn't fully elucidate the main drivers of probation violations in Wayne County or why so many people charged with violations end up in jail. Thus, while the following recommended strategies are based on national best practices and what has been successful in other jurisdictions, and can serve as a starting point, we recommend that Wayne County study the functioning of probation in more depth to further target the specific drivers of violations in the county.

### **8a. Apply graduated sanctions, with incarceration only as a last resort**

Research on deterrence has shown that it is the certainty of punishment, not its severity, that has the greatest impact on individual behavior and public safety.<sup>86</sup> Applying swift, certain, and proportionate sanctions for violations is considered a best practice in community supervision.<sup>87</sup> When sanctions are quick, clear, and applied consistently, individuals know what to expect and are more likely to perceive the response as fair rather than arbitrary. Research shows that the perception of procedural justice can enhance compliance with the law and deter future criminal behavior.<sup>88</sup> Many jurisdictions have had success adopting graduated sanctions based on severity of the violation and person's history of compliance.<sup>89</sup> This not only provides greater consistency and proportionality in the response to violations, but also ensures that the use of incarceration and strict conditions apply only to the most serious violations or cases of persistent noncompliance. Incarceration as a sanction for probation violations should be considered a last resort, and only after other evidence-based interventions, such as higher levels of supervision, cognitive behavioral therapy, or community-based treatment have been attempted.

Many states have limited the use of incarceration as a sanction by adopting caps or guidelines for the length of sentence for probation violations.<sup>90</sup> In Michigan, MCL 771.4b already provides for a maximum sentence of 30 days for a technical violation, but research suggests that even a 30-day sentence is too long. Wayne County should consider guidelines for lower caps on technical violation sentences, such as those the Michigan Joint Task Force on Jail and Pretrial Incarceration has proposed.<sup>91</sup> Such guidelines should also require the release of anyone who has been detained prior to a hearing on a technical violation for as long as the maximum allowable sanction so that people don't end up serving more time simply because they haven't been sentenced.

### **8b. Keep probation terms as short as possible**

Research has shown that most serious violations happen within the first year of supervision, and almost all within three years.<sup>92</sup> Continued supervision beyond that produces little public safety benefit but can

have very negative consequences. Extended terms of probation can result in high caseloads for probation officers, which limit their ability to devote sufficient attention and resources to individual probationers who are at higher risk of reoffending. Lengthy terms of probation also can increase the chances of purely technical violations, which can lead to unnecessary incarceration.<sup>93</sup> Recognizing the problems with long terms of probation, section 6.03(5) of the final draft of the *Model Penal Code: Sentencing*, approved by the American Law Institute in 2017, proposes limiting terms of probation to three years for felonies and one year for misdemeanors.<sup>94</sup>

While maximum terms of probation in Michigan—five years for most felonies and two years for most misdemeanors—are in line with the majority of other states, they are longer than research indicates is truly necessary. The Michigan Joint Task Force on Jail and Pretrial Incarceration has proposed reducing the maximum probation term for felonies, except sex offenses, to three years, with a possible 12-month extension.<sup>95</sup> While this would be a good start, Wayne County’s courts could go further and adopt limits, or at least presumptive limits, on probation terms of three years for felonies and one year for misdemeanors as recommended by the *Model Penal Code: Sentencing*.

### **8c. Grant early discharges from probation**

The use of incentives to reward compliance is also considered a best practice for community supervision.<sup>96</sup> The most important of these is early discharge from probation, which has been found to strongly motivate people to complete programming and comply with supervision.<sup>97</sup> At least 18 states have allowed people to shorten their supervision periods by up to 50 percent.<sup>98</sup> Granting early discharge whenever possible could help Wayne County reduce incarceration for probation violations both by incentivizing people to comply with supervision from the start and by making sure that people don’t remain on probation after supervision has ceased to serve a useful purpose, which can increase the chances of technical violations.

Judges in Michigan appear to have discretion to grant an early discharge from misdemeanor probation at any time, and MCL 771.2 allows judges to grant an early discharge of felony probation after a person has completed half of the original term. There doesn’t seem to be any standard process for doing this, however, and we were unable to determine how regularly early discharges from probation are granted in Wayne County. To enable judges to exercise this discretion as frequently as possible, Wayne County’s courts should work with probation to establish a procedure and criteria for granting early discharge. The Michigan Joint Task Force on Jail and Pretrial Incarceration’s proposal for this could serve as a model for Wayne County. It provides for eligibility for early discharge for people who have served half of their original term, have completed required programming, and haven’t had a violation in the previous three months; not denying eligibility or early discharge due to inability to pay for conditions of probation or fines, costs, or restitution where good faith efforts to pay have been made; having probation officers notify the judge and prosecutor 30 days before a person will become eligible for early discharge; requiring hearings only in felony cases with individual victims or assaultive misdemeanor cases; and a presumption for early discharge unless the judge articulates an appropriate justification for keeping someone under supervision.<sup>99</sup>

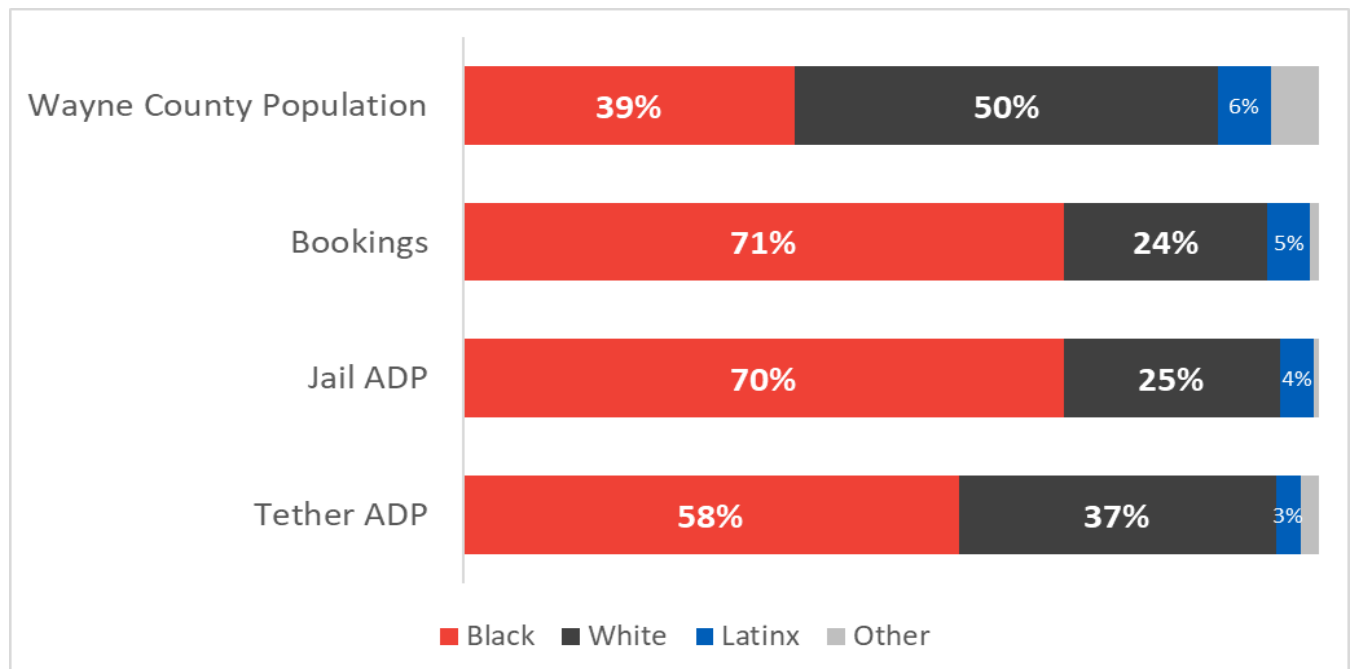
## IV. Reducing the Overrepresentation of Black People in the System

### Key findings

**1. Black people are disproportionately represented in the Wayne County Jail and on tether, although the tether population is whiter than the jail population.** (See Figure 17.) On any given day, Black people are 3.5 times more likely than white people to be in the jail, but only two times more likely to be on tether. Tether is more common outside of Detroit and the white population is much higher outside of Detroit, which may partially explain why the tether population is whiter.

Figure 17.

**Wayne County Population, Bookings, Jail ADP, and Tether ADP by Race**

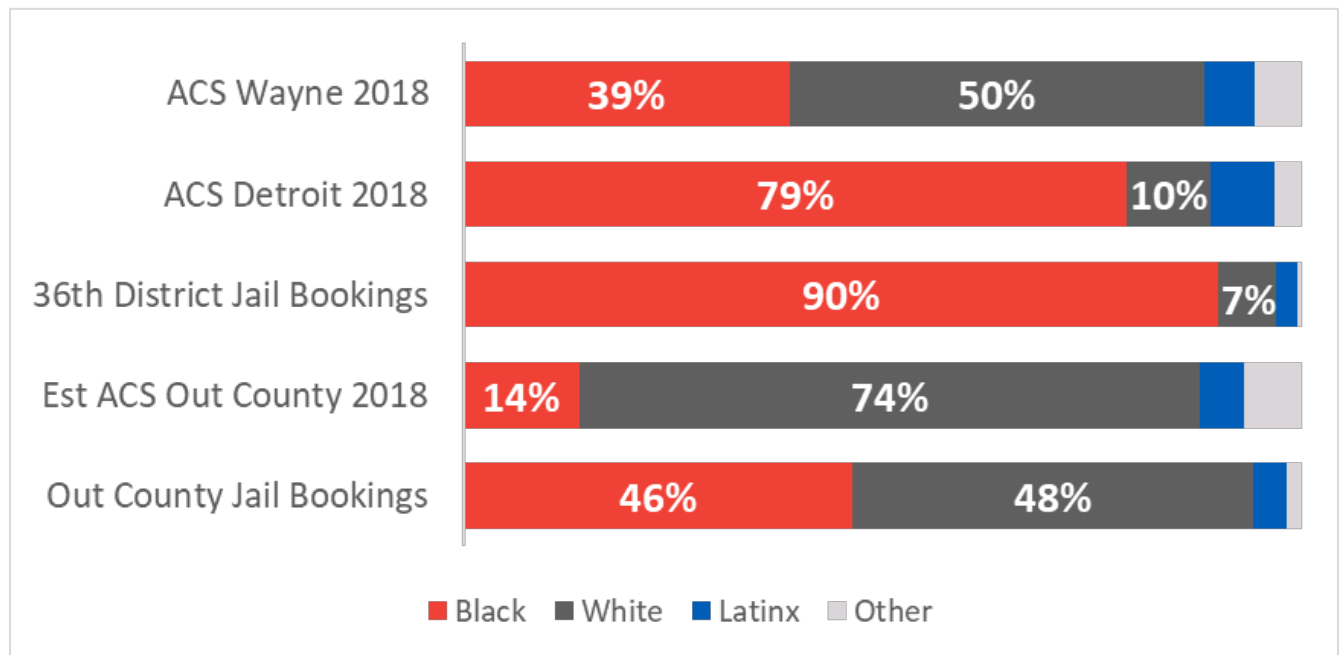


**2. Racial disparities in the jail population appear to be driven more by bookings than by length of stay.** In the study period, there were 18,289 Black people and 5,724 white people booked into the Wayne County Jail, corresponding to booking rates per 100,000 of 610 for white people and 2,652 for Black people.<sup>100</sup> Figure 17 shows that the disparity in bookings is almost exactly the same as the disparity in the ADP, which indicates that Black people are not, on average, staying longer than white people in the Wayne County Jail. Some of the explanation lies in the fact that a larger percentage of Black people booked into the jail come from the 36<sup>th</sup> District Court, and length of stay is shorter for individuals booked from the 36<sup>th</sup> District than from the other courts in the county. For bookings from the 36<sup>th</sup> District, the

median LOS is five days and the average is 30 days; outside the 36<sup>th</sup>, the median LOS is 16 days and the average is 41 days.

**3. Racial disparities in bookings are worse outside of Detroit.** Figure 18 shows that racial disparities in jail bookings are much more significant for those coming from district courts outside of Detroit. While Black people are more 1.7 times more likely to be booked into the jail from the 36<sup>th</sup> District Court, which serves Detroit, they are 5.2 times more likely to be booked into the jail from the other courts in the county.

**Figure 18.**  
**Racial Disparities in Jail Bookings, Detroit vs. Out County**



**4. While the racial disparity from Detroit is less significant, the high rates of jail incarceration in Detroit, a majority Black city, reflect larger inequities not just in the justice system but more broadly, and the complicated history of race in Detroit.** Addressing the level of jail incarceration in Detroit is thus a critical part of facing that history and addressing longstanding harm to Black communities in the county.

### **Recommendation 9: Establish a framework for action on racial equity**

Reducing racial disparities in the Wayne County justice system and working towards the larger goal of achieving greater racial equity will not be accomplished by making a few quick policy changes; the numbers reflect longstanding problems that are individual, institutional, and structural, and not unique to Wayne County. But the scale and depth of the challenge, and its ubiquity, should not serve as a justification for inaction: the problem will not get better on its own. Experience has also shown that simply reducing the jail population, without a deliberate effort to address racial disparities, will not move

the needle; in some jurisdictions it has actually increased disparities due to the differential impact of targeted reforms. This was also the case with the impact analyses we included in Appendix C, most of which show that making changes without targeting disparities would reduce the jail population but either would not change disparities or would make them worse. Jurisdictions around the country, however, are engaging in data-driven, strategic efforts to understand both the historic and current drivers of racial disparities in specific policy contexts, identify specific policy and practice changes, and use data to define baselines and measure results.<sup>101</sup> Wayne County has the capacity to do this important work as well.

Wayne County can begin to address racial disparities in the justice system by establishing a framework for change that will lead to concrete steps towards measurable goals. This framework should incorporate government as well as community members and be grounded in quantitative, qualitative, and historical data about the origins and current experience of disparities in the system. Many jurisdictions have found racial equity toolkits to be useful guides; toolkits provide the nuts and bolts of bringing a racial equity lens to particular policy areas. One widely used toolkit is provided by the Government Alliance on Race and Equity.<sup>102</sup> The Michigan Department of Civil Rights and the Gerald R. Ford School of Public Policy at the University of Michigan provide a similar toolkit for local use.<sup>103</sup>

Key components of a framework for change include:

- A. Commitment and accountability of leadership:** Leaders in justice system agencies should acknowledge the problem of racial disparities in the justice system publicly and commit to addressing it. Agencies, including the executive branches at both the county and municipal levels, should consider hiring racial equity coordinators with the experience and training to lead racial equity work. This will ensure that it is someone's job to move the effort forward. Alternatively, or in addition, agencies should engage local expert assistance to facilitate and support the work. In addition, staff who are asked to provide data, join meetings, or attend workshops should have the time, resources, and incentives to participate. Leaders should also commit to transparency, setting measurable goals against which their efforts can be evaluated.
- B. An inclusive structure for collaborative action:** The county should establish or designate a collaborative entity—a task force, interagency working group, or special committee—to lead an inclusive process that will identify key drivers of disparities and plan for change. This body should be focused specifically on using an intersectional approach to address issues of racial equity, related to the administration of criminal justice in Wayne County.<sup>104</sup> This could be either an entirely new body or a subset of another body designed to ensure collaboration between county government and nongovernmental stakeholders, so long as its primary responsibility is identifying and addressing racial inequity. It is important that this be the group's primary charge in order to avoid the tendency for other issues to eclipse or otherwise encumber a focus on racial equity specifically.

The collaborative entity should involve those with varying kinds of expertise, including those inside government who know how systems work and those outside government with direct experience in the justice system. The committee should have the resources to do its work, including access to researchers and data, administrative support, and skilled facilitators able to manage difficult conversations about race and achieving transformational change. Additional details on what constitutes an “inclusive structure,” as well as examples of jurisdictions that have

attempted to operationalize this principle in the past, are included below in the section titled “Partnering with Communities to Address Violence and other Harm.”

**C. A plan for collecting and analyzing data:** Good data is key to addressing racial disparities in the justice system. It helps anchor discussions that can be emotional and far reaching, helps identify opportunities for concrete action steps, and provides the baseline against which subsequent efforts can be evaluated. The collaborative entity can look at quantitative data about significant decision points (e.g., arrest, bail, charging, diversion) as well as qualitative data gathered from those with direct experience of those decisions. Historical context is important as well: understanding the how and why certain policies came to be and the effect they have had can be critical to finding a new path forward.

One useful approach for understanding and addressing the disparities evidenced in the jail population is calculating a relative rate index (RRI) for specific outcomes at decision points of interest (e.g., diversion/deflection, arrest, booking, pretrial release, charging, sentencing, revocations) along the continuum of criminal justice involvement. RRIs are calculated by dividing the rates for different racial and ethnic groups by the rate for white people.<sup>105</sup> This allows for a clearer understanding of the degree to which disparities at these different decision points are affecting the jail population, and also makes it easier to have a data-informed conversation focused more on modifying outcomes than personal blame.

**D. Data-driven implementation:** Data analysis can highlight specific decisions, policies, or practices that are priorities for reform. Data should continue to support implementation of changes, providing useful knowledge to implementers about progress and public accountability for the overall effort.

**E. Achievement of measurable change:** Commitment and robust efforts to reform are important but achieving results has the true impact. Goals can be short or long term, but the purpose of having them is to reach them, and then to keep moving forward.

## V. Partnering with Communities to Address Violence and other Harm

### Key findings

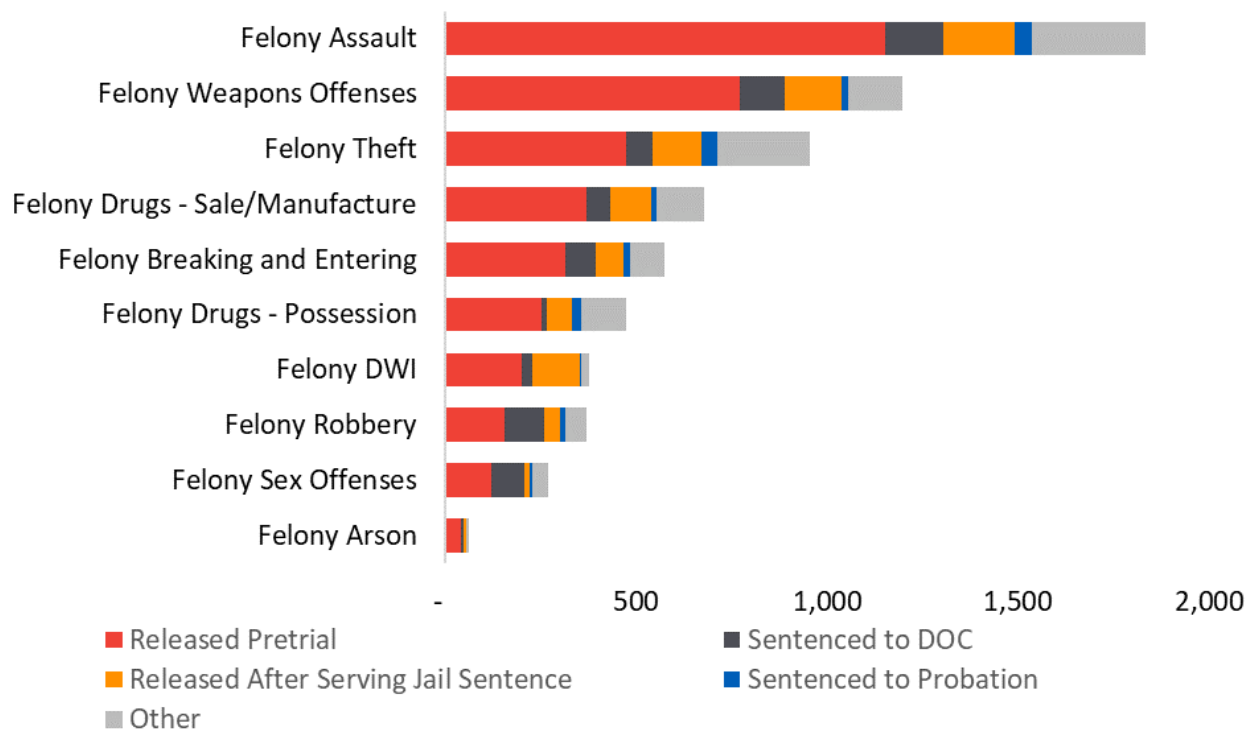
**1. Approximately 20 percent of individuals booked into the Wayne County Jail without other holds had a top charge that could be considered violent.**<sup>106</sup> Approximately a quarter of the bookings within the top 10 most frequent charge categories shown in Figure 3 were for offenses that could be considered violent, specifically misdemeanor domestic violence, felony assault, and felony breaking and entering.<sup>107</sup> The total number of bookings for top charges that could be considered violent was 4,482, or about 20 percent of all non-hold bookings.



**2. Approximately 43 percent of the average daily population, excluding holds, had a top charge that could be considered violent.** Although there are far fewer people booked and held pretrial on more serious charges, they tend to remain in the jail for a longer period, contributing to their larger representation in the ADP. Some, but not all, of people facing charges that could be considered violent fall into this category.

**3. Of the individuals booked on charges that could be considered violent, very few were ultimately sentenced to the Michigan Department of Corrections.** (See Figure 19.) During the study period, there were just over 21,000 releases from the Wayne County Jail. Approximately 21 percent of all releases were associated with charges that could be considered violent. Only about 10 percent of those resulted in an individual being sentenced to MDOC. The largest number were released pretrial, after posting bond. Others served short sentences in the Wayne County Jail, at least in part as the result of a deliberate effort by Wayne County stakeholders to keep people local where possible. This suggests that many of the individuals processed through the jail on charges that could be considered violent were ultimately determined not to be a large enough threat to public safety to warrant a prison sentence.

**Figure 19.**  
**Types of Release from Jail, Top Felony Charge Categories**



**4. Direct service providers and community advocates engaged in organizing to improve safety and justice in Wayne County see jail incarceration as ineffective for addressing violence and are calling for better tools.** Speaking from personal and professional experience, many



individuals contacted for this study noted that jail incarceration created worse outcomes in the long run for many individuals, particularly those who are charged with lower-level offenses. Some added broader suggestions about the need for access to case management and treatment services in the jail but also, and more importantly, in the community. Others highlighted the conditions within facilities, including negative behavior of staff, the presence of controlled substances, the prevalent threat of violence, and the physical state of disrepair.<sup>108</sup>

**5. There is inadequate transparency and collaboration between Wayne County criminal justice agencies and communities within the county that are grappling with issues of safety and justice.**

Nongovernmental stakeholders whom Vera interviewed reported feeling excluded from decision-making about criminal justice issues by criminal justice agencies and county government. Community advocates and organizers identified what they described as an antagonistic relationship with the county prosecutor's office and more generally with officers from the Detroit Police Department (DPD). Some expressed the belief that because particular neighborhoods and demographics were not necessary for political survival, their input was not sought for broader policy-making decisions.<sup>109</sup> Despite this distrust and frustration, there seems to be great opportunity for increased collaboration. All the nongovernmental stakeholders we spoke with remained enthusiastic and passionate about improving criminal justice in Wayne County. Almost all of them expressed an interest in working with government stakeholders to make the county safer and more just. They felt confident that with cultural shifts in favor of collaboration and broadened access to the information necessary to make informed decisions, they would be effective partners for enhancing decision-making.

**Recommendation 10: Invest in non-carceral approaches to address violence**

Both system stakeholders and community members are deeply concerned about violence and public safety in Wayne County. There are two problems with current approaches to addressing violence in Wayne County, however. First, there is no clear agreement on what should be considered a violent offense or which offenses are the most serious, which makes it harder to prioritize and target efforts.<sup>110</sup> Second, the typical responses are limited. Most individuals charged with "violent" crimes in Wayne County are released relatively quickly to the community on bail or probation, or after serving short sentences in the jail. They spend time in the jail, but it's not clear to what end. Wayne County would benefit both by clearly identifying which "violent" offenses are the greatest concern and by investing in a range of approaches to violence that do not depend on the jail and which better address the underlying causes of violent behavior.

Non-carceral alternatives are especially important because the time these individuals spend in jail may actually make the community less safe. National research has shown that when compared to noncustodial sanctions, incarceration makes it more likely that an individual will commit new crimes and be re-incarcerated, with increases in recidivism ranging from 7 to 14 percent.<sup>111</sup> Incarceration may increase the likelihood that an individual will use violence by making it harder for them to meet their economic needs, isolating them from their communities and the prosocial connections within them, exposing individuals to more trauma and violence while inside, and enhancing feelings of shame.<sup>112</sup>

Additionally, national research indicates incarceration does not always meet the needs of survivors.<sup>113</sup> Their perspectives and preferences often have little impact on sentencing and many survivors report that the incarceration of the person who harmed them made them feel less safe.<sup>114</sup>

In addition to developing alternatives to incarceration after violent crimes have been committed, Wayne County should also work to *prevent* violence through more strategic investments in the resources residents of communities impacted by violence have identified as necessary for their safety and well-being. This might include government support for behavioral health services, educational and economic resources, and non-police led crime prevention efforts (e.g., safety teams). In many cases, residents of communities heavily affected by violence have already begun investigating its causes and seeking solutions. For instance, one Detroit community organization conducted a survey of over 600 Detroiters and found that according to them, the top three causes of violence in the city were difficulty with communication and conflict resolution, poverty, and substance abuse, respectively.<sup>115</sup> There are already local organizations focused on new approaches to violence intervention and prevention, which could be resources for Wayne County in these efforts. Examples that were brought to our attention include

- Mothers for Murdered Children,<sup>116</sup>
- Detroit Life Is Valuable Everyday,<sup>117</sup> and
- Detroit Safety Team.<sup>118</sup>

### **10a. Wayne County should partner with community-based organizations to develop responses to violence based on restorative justice principles**

The principles of restorative justice programs are that they are survivor centered, accountability based, safety driven, and racially equitable. These programs seek to prioritize survivors' needs for healing, safety, and justice. They also seek to create processes centered on human dignity that require individuals to express remorse and own responsibility for their actions, commit effort towards repairing harm in a manner that is ideally guided by those who have been hurt, and engage in a supported process of becoming someone who is less likely to commit harm in the future.<sup>119</sup> Although they may seem vague, these principles have guided restorative justice efforts that have been successful in reducing the likelihood of violence and improving the satisfaction of survivors. Overall, studies have reported both relatively high levels of survivor satisfaction and enhanced therapeutic effects associated with the process.<sup>120</sup> In some cases survivor satisfaction has been recorded as high as 90 percent, compared to 30 percent for traditional court systems.<sup>121</sup>

While some restorative justice programs focus on less serious crimes, there are models from other jurisdictions that work on addressing violent offenses. For example, Common Justice, founded in 2008, is an alternative-to-incarceration and victim-service program that focuses on serious and violent felonies.<sup>122</sup> Through group dialogue between survivor(s) or their surrogates, the individual responsible for the harm, loved ones from both parties, and a trained facilitator, the program determines appropriate responses to ensure accountability and honor the needs of the survivor(s).<sup>123</sup> The program also includes wraparound services to support the recovery of survivors, a 12- to 15-month intensive violence intervention program for responsible parties, and monitoring by staff to ensure participants follow through on commitments made regarding repairing the harm done.<sup>124</sup> In addition to higher levels of survivor satisfaction, the

program also appears to be effective at reducing the likelihood of further criminal activity. As of 2017, fewer than eight percent of participants have been terminated for new criminal activity.<sup>125</sup> Similarly, Impact Justice’s Restorative Justice Project works in jurisdictions across the country to implement pre-charge restorative justice diversion programs in collaboration with local community-based organizations.<sup>126</sup> While the specifics of these programs vary by jurisdiction, Impact Justice has created a toolkit to help all communities and decision-makers better understand restorative justice processes and the practice of setting up an effective program.<sup>127</sup>

Developing restorative justice programs in Wayne County will involve identifying, building relationships with, and providing resources to local organizations that have already begun developing the expertise necessary to implement these programs successfully. Organizations in or near Wayne County that were pointed out to us as currently building capacity for and/or implementing restorative justice approaches to address violence include

- The Ruth Ellis Center,<sup>128</sup>
- Wayne State University’s Center for Peace and Conflict,<sup>129</sup>
- The Dispute Resolution Center (Washtenaw County),<sup>130</sup> and
- The Firecracker Foundation (Washtenaw County).<sup>131</sup>

### **10b. Recommendation: Wayne County criminal justice agencies should establish inclusive structures for collaboration with nongovernmental stakeholders**

In order to benefit from the diverse forms of expertise that exist outside of government, Wayne County will need to work with individuals who may otherwise not take part in governmental processes due to mistrust, previous criminal history, or the inaccessibility of proceedings. Creating an environment suitable for partnership is a key component of any attempt at collaboration because the norms of any collaborative structure will dictate who can participate and how. This may include, but is not limited to, ensuring participants know that they can speak freely and will not be punished based on statements made during their participation; coaching agency representatives on how to engage residents directly in a collaborative professional setting (e.g., language guides that highlight potentially triggering terms and the impact of acronyms, coaching on cultural understanding); and compensating participants through financial or other means.

Wayne County should develop strategies for consistently and proactively seeking input from the county’s most affected residents, both around efforts to better respond to violence and for decisions involving the criminal justice system more broadly. This might involve initiating meetings with community organizations; resource fairs; coordinating the attendance of high-ranking agency representatives at public events hosted by such groups (when deemed appropriate by those organizations); establishing mini city halls/information hubs in distressed neighborhoods; and/or conducting virtual town halls. Proactively seeking feedback was named by many community stakeholders as a crucial part in building trust and collaboration. Additionally, it can enhance county decision-making by ensuring that it is guided by the experiential expertise of informed residents and is most responsive to the needs of those in the community.

To develop appropriate strategies or structures, Wayne County should work with local organizations that are already addressing criminal justice issues in the county and may have a range of expertise that is otherwise missing for government decision-making. Examples of groups that were mentioned to us include

- American Friends Service Committee,<sup>132</sup>
- BYP 100-Detroit,<sup>133</sup>
- Detroit Action,<sup>134</sup>
- Detroit Justice Center,<sup>135</sup>
- F.O.R.C.E. Detroit,<sup>136</sup>
- JustleadershipUSA,<sup>137</sup>
- Michigan Children’s Law Center,<sup>138</sup>
- Michigan Liberation,<sup>139</sup>
- Moms Beyond Bars,<sup>140</sup>
- Nation Outside,<sup>141</sup>
- Safe and Just,<sup>142</sup> and
- We the People.<sup>143</sup>

The creation, makeup, and operation of any collaborative group or strategy should be determined in accordance with the contextual factors of Wayne County, but there are examples from other jurisdictions which could serve as models. For example, Philadelphia recently set up a Community Advisory Committee (CAC) after a months-long process of determining an ideal makeup based on the city’s demographics and geography, soliciting and reviewing applications, establishing protocols for how the group will shape decision-making, coaching agency representatives, and orienting CAC members. The group consists of 23 individuals who represent various stakeholder groups, most of which work with and/or are run by people who have direct experience with incarceration, crime, and divestment.<sup>144</sup> This group will lend its expertise to the implementation of criminal justice policy in the city, making public recommendations on various issues related to ongoing and new reform efforts. The group also will gather input from the broader public and increase access to information by hosting a series of public events.

Similarly, Buncombe County, North Carolina, has worked to include community members in its community engagement workgroup for the Safety and Justice Challenge and to involve them in decision-making equally with system stakeholders. Individuals who have a previous history of justice involvement, have been the victim of a crime, have experienced homelessness, and/or work for a faith-based or grassroots organization receive priority.<sup>145</sup> Like the CAC in Philadelphia, this group is tasked with hosting town halls and information-gathering sessions. However, Buncombe’s workgroup also researches and reviews best practices from other communities related to public education campaigns, engagement between criminal justice system agencies and the public, and other issues deemed crucial to Buncombe’s reform efforts. Members of Buncombe’s community engagement workgroup are also paid \$20 an hour for up to 10 hours per month.<sup>146</sup>

# Conclusion

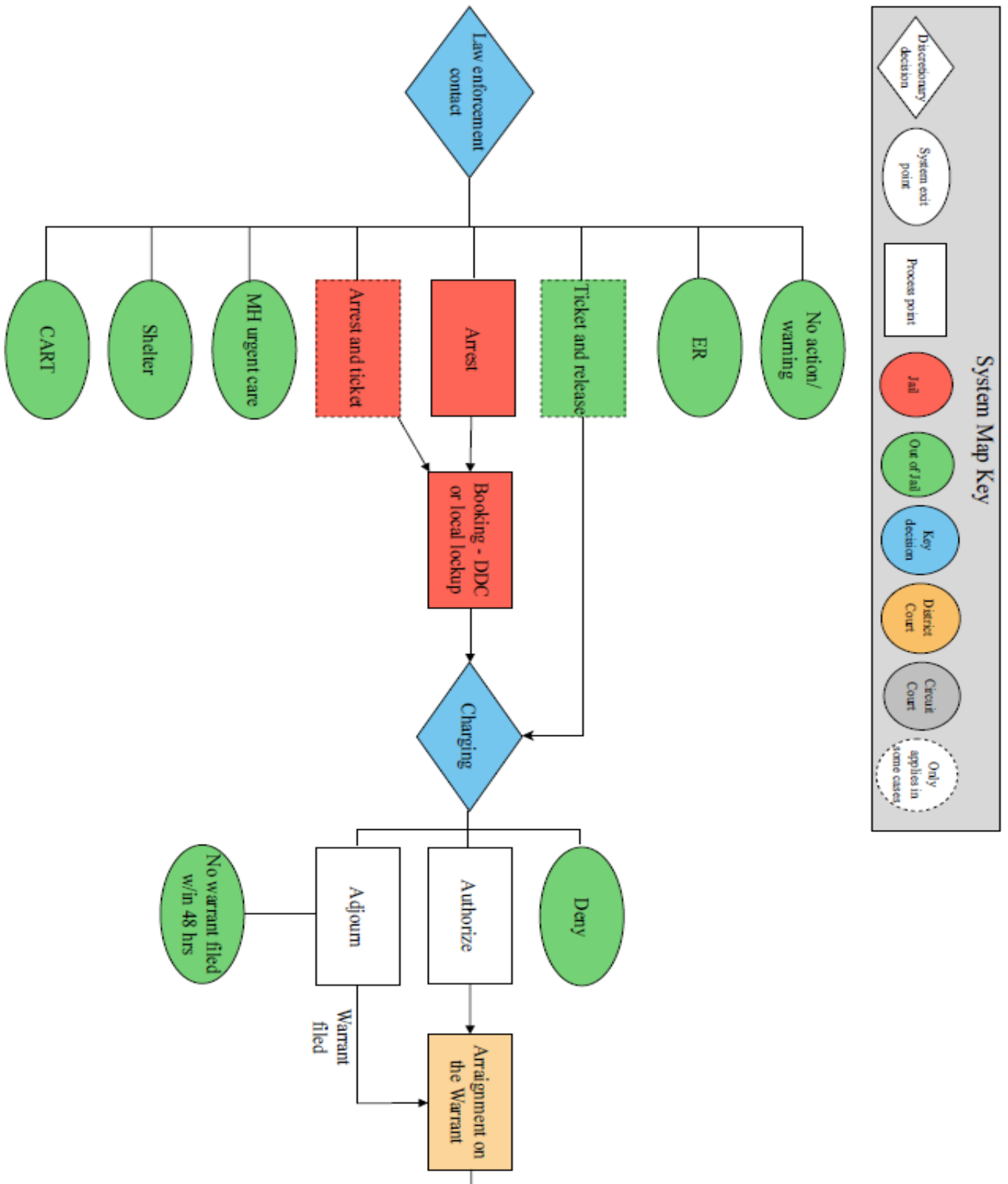
Wayne County has made progress over the past several years in reducing its jail population, and that positive momentum should serve as a catalyst for continued reform. As this report highlights, there are a number of steps that Wayne County can take to further reduce the jail population and make the criminal justice system more equitable and transparent.

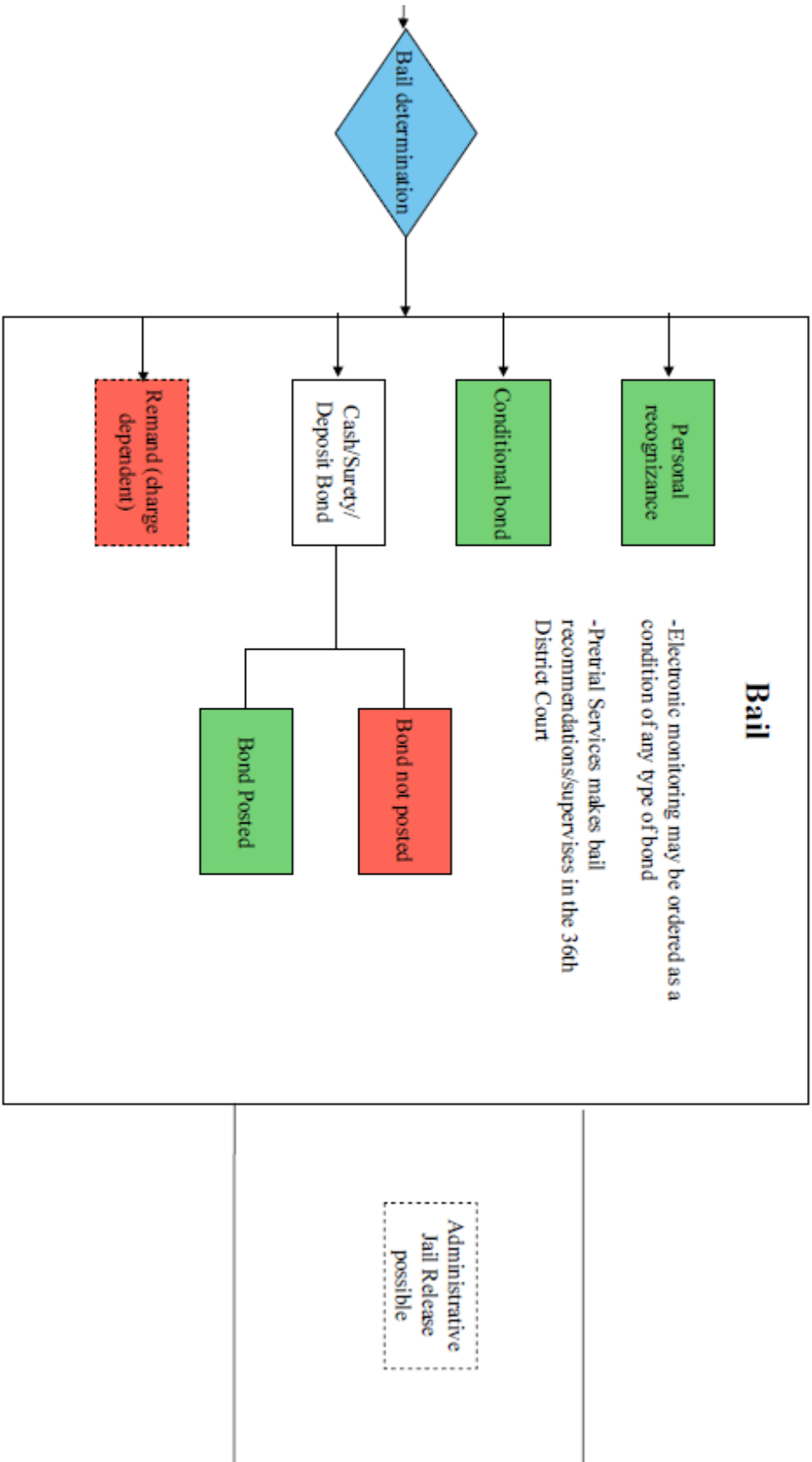
This work is especially important in the context of the construction of the new Wayne County Criminal Justice Complex. By implementing changes like the ones recommended here to ensure that the jail is used only for those who represent a true risk to public safety, Wayne County could limit the population enough that it could shrink the currently planned capacity of the jail within the new complex and devote more space to other uses.

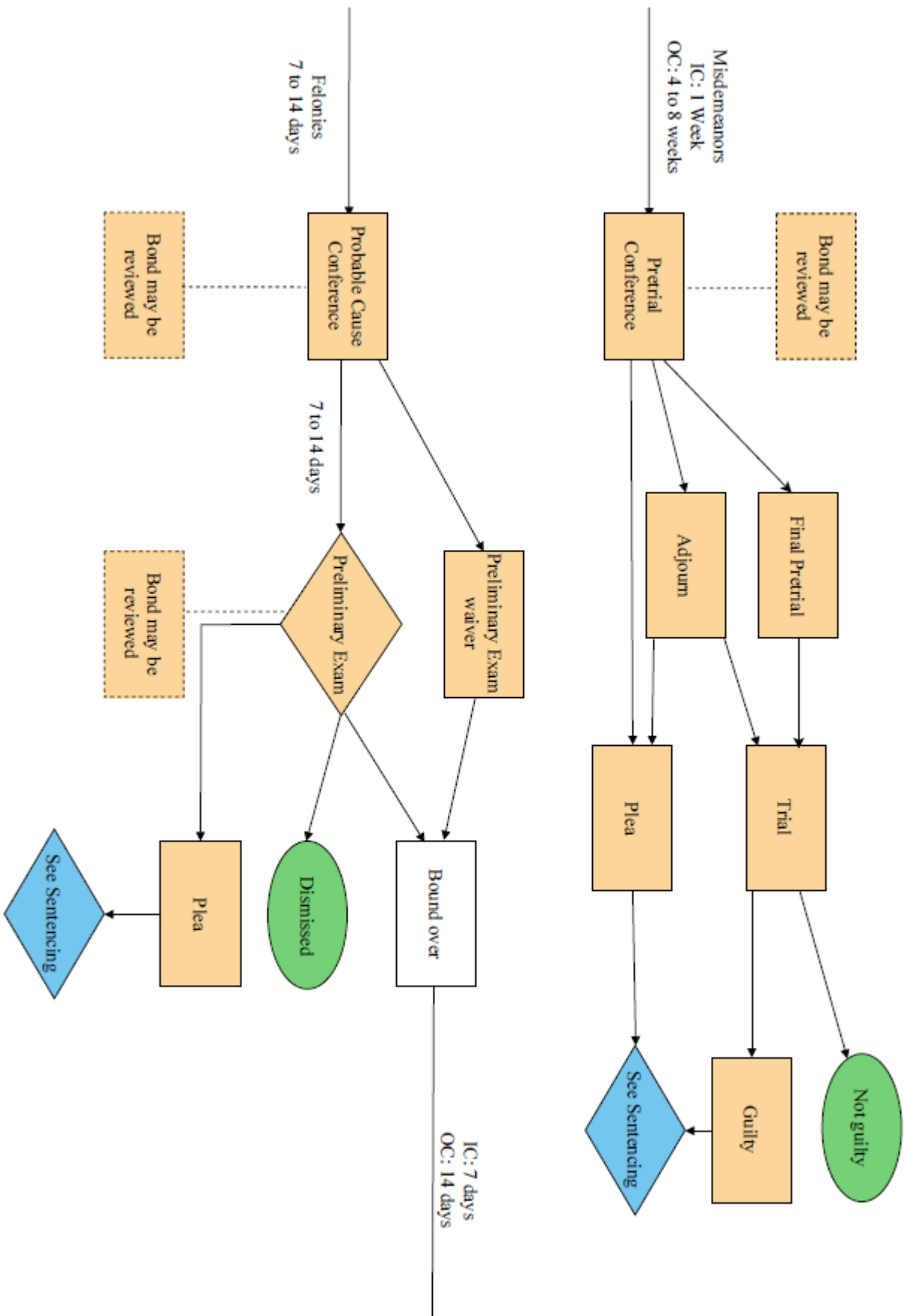
Improving and expanding data collection and analysis would enhance Wayne County's ongoing efforts to understand its jail population. Better collection of ethnicity data, for example, would allow a fuller understanding of the demographics of the jail population. Combining jail data with data from law enforcement, courts, and probation would provide the opportunity for even more detailed analysis than this report could provide of subjects like custodial arrests, bail, FTAs, and probation violation. And supplementing work already being done to combine behavioral health and jail data—such as that of the Center for Behavioral Health and Justice or the new collaboration between the Wayne County Sheriff's Office and the Detroit Wayne Integrated Health Network—would provide additional opportunities to understand the needs of people with behavioral health issues and find ways to keep them out of jail. We hope that this report will serve merely as a first step in continued work by Wayne County to become more intentional about how it uses its jail.

# Appendix A

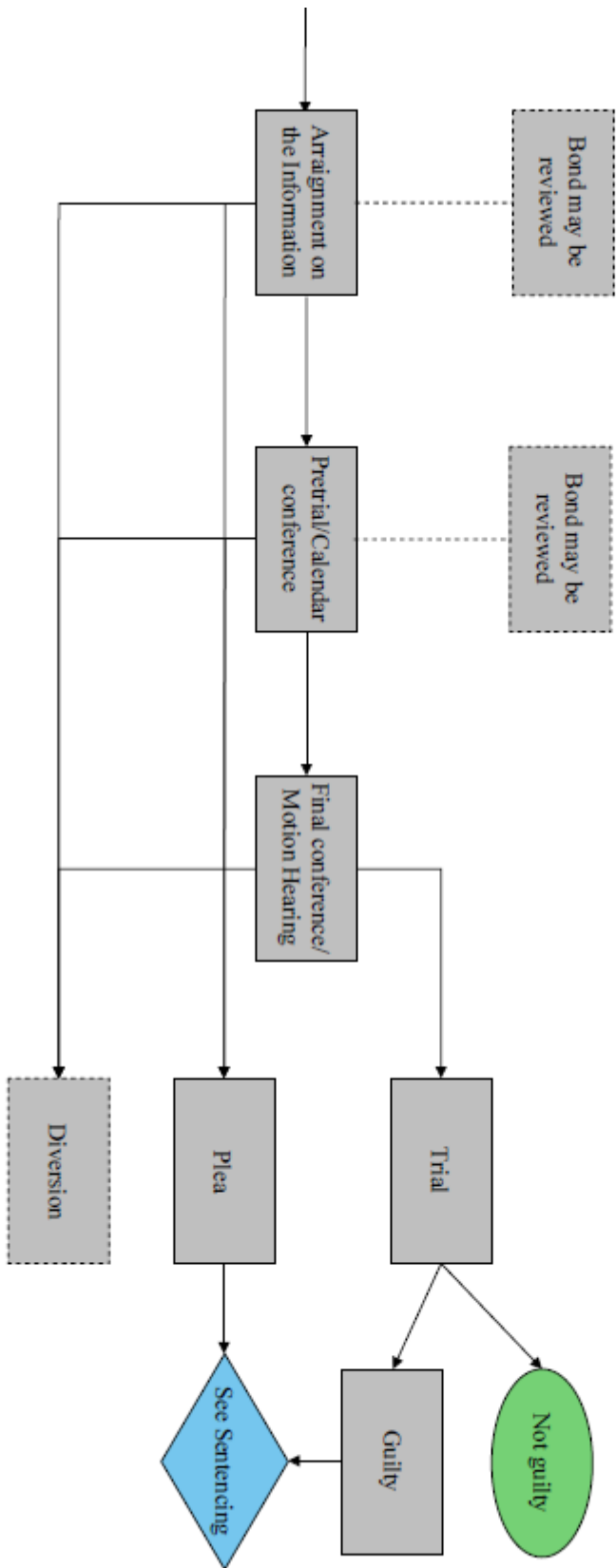
## Wayne County System Map

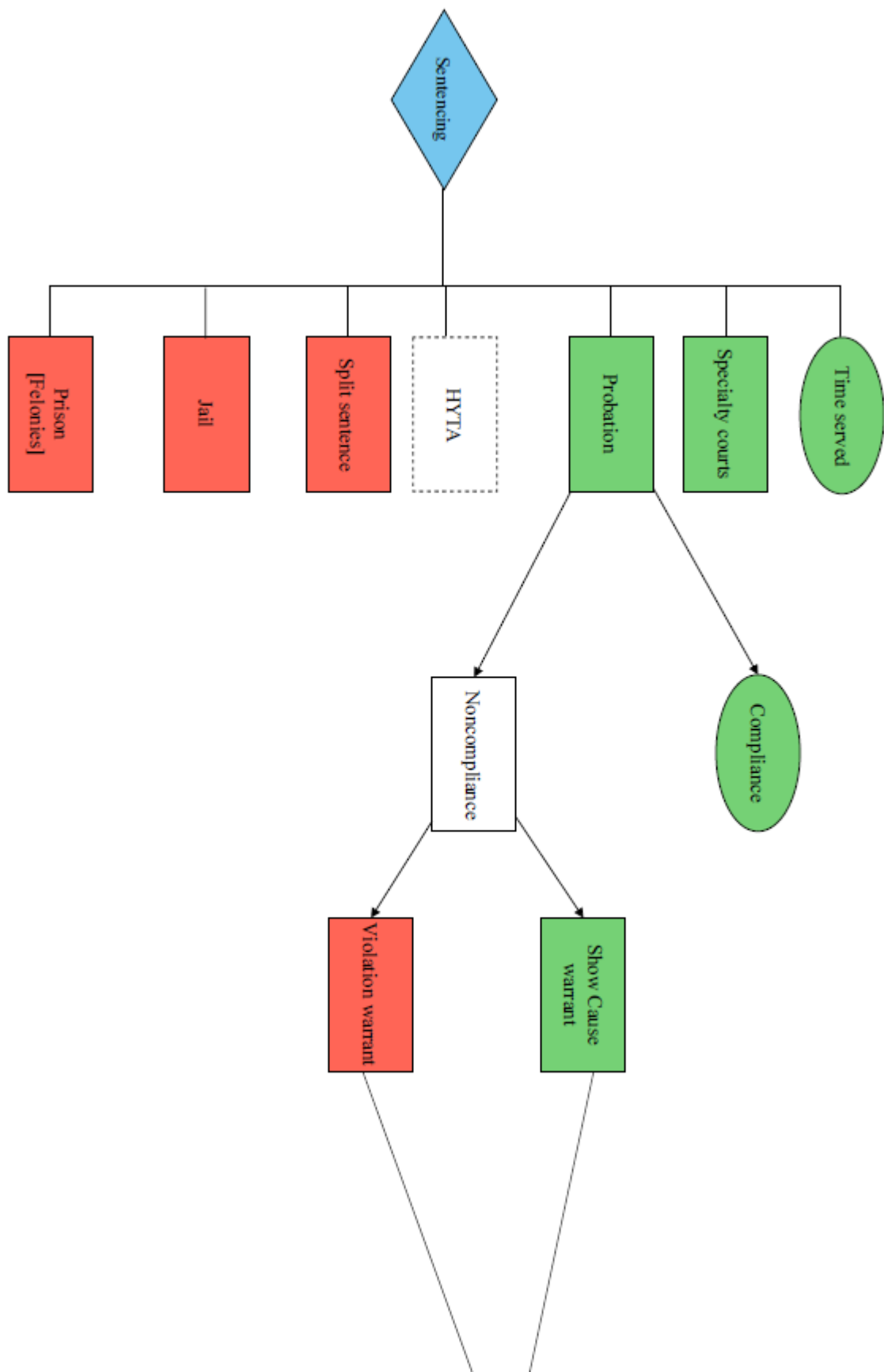


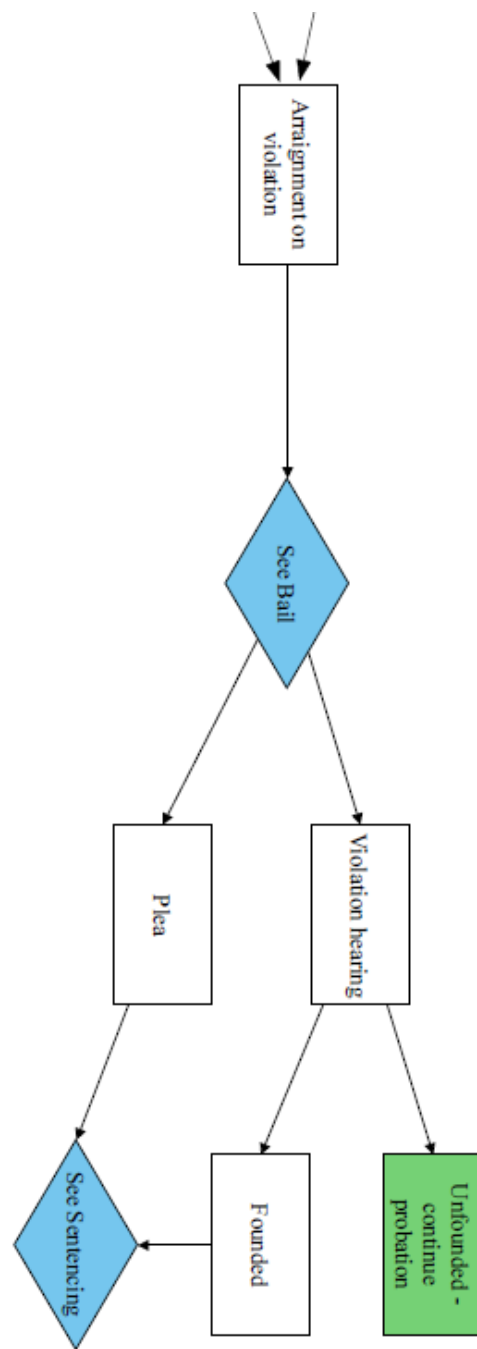












# Appendix B

## Alternatives to Incarceration for Child Support Enforcement

The following are strategies that have been effective in jurisdictions around the country in improving the collection of child support obligations while avoiding the use of incarceration as an enforcement mechanism. To the extent that Wayne County is not already pursuing these strategies, some or all of these approaches should be considered.

Establishing accurate initial support orders based on ability to pay: As a first step towards reducing the use of incarceration for noncompliance, the federal Office of Child Support Enforcement recommends ensuring that initial child support orders are accurate and reasonable based on a full consideration of the noncustodial parent's ability to pay, which makes it more likely that people will stay current on their payments.<sup>147</sup> These orders should be based on actual rather than imputed income and thorough analysis of the noncustodial parent's ability to pay, and ideally should be in the range of 15 to 20 percent of earnings.<sup>148</sup> Using multiple data sources, enhanced case management through automated data analytics, and conducting early outreach to noncustodial parents can also increase the accuracy of child support orders, the number of orders established by stipulation, and the likelihood that noncustodial parents will be able to make regular payments.<sup>149</sup>

Regular review and adjustment: Because income often changes significantly over time, providing frequent opportunities for review and adjustment without a burdensome modification process can further encourage compliance and reduce the need for contempt as an enforcement mechanism.<sup>150</sup> Some states have created automated review systems to accomplish this. Alaska's Electronic Modification system, for example, automatically runs annual reviews of child support amounts, comparing them to income information from electronic sources and flagging cases for manual review where guidelines calculations for changed income results in at least a 15 percent difference from the existing order amount.<sup>151</sup> Other approaches include using online forms for modification requests, targeting newly unemployed obligors for expedited reviews, and developing outreach materials to encourage people to seek modifications when their circumstances have changed.<sup>152</sup>

Debt compromise programs: Research has shown that most child support arrears are owed by noncustodial parents with incomes below \$10,000 per year and that much of this debt is uncollectable.<sup>153</sup> Uncollectable arrearages leading to incarceration appear to be a particular problem when amounts are owed to the state to recoup the cost of public assistance payments made to the custodial parent.<sup>154</sup> Rather than continuing to pursue full collection and incarcerating people for arrears that they will never be able to pay, a number of states have implemented debt compromise programs, either settlement programs or incentive programs or some combination of the two. Settlement programs usually involve a lump-sum payment as part of a settlement for less than the full amount owed, while incentive programs usually involve an agreement to compromise state-owed debt in exchange for keeping current on child support payment to families.<sup>155</sup>

Work-oriented programs: Work-oriented programs can both cost less than incarceration and increase people's ability to actually make payments.<sup>156</sup> Georgia's Parental Accountability Courts, for example,

work with people to address barriers to nonpayment like unemployment, substance abuse, and low levels of education, while Texas’s NCP Choices Program is a court diversion program involving case management and employment search assistance that has demonstrated significantly higher employment and increased child support payments for program participants.<sup>157</sup> Some states also offer voluntary programs in which child support programs partner with workforce agencies that are able to provide more intensive case management and employment services, or transitional jobs programs that offer temporary subsidized work opportunities to noncustodial parents to increase their future employability.<sup>158</sup>

**Facilitate modifications for incarcerated noncustodial parents:** Ensuring that people who are incarcerated for other reasons don’t continue to accrue child support arrears is an important way to limit future incarceration for nonpayment. A first step a number of jurisdictions have taken is identifying noncustodial parents who are incarcerated by getting data from state prison systems and jails to match electronically with child support caseloads, or by having correctional facilities collect information about child support obligations during the intake process.<sup>159</sup> Many places also have created videos, brochures, or other materials that are shared with people during intake, or have arranged for child support workers to do regular live presentations at correctional jails and prisons to make sure that incarcerated noncustodial parents are aware of the need to modify support orders and the process for doing so.<sup>160</sup> To expedite the modification process itself, states and counties have found success sending simplified modification forms with postage-paid return envelopes to incarcerated noncustodial parents and automatically granting modifications to noncustodial parents, waiving hearings, or waiving the appearance of the incarcerated noncustodial parent, unless the custodial parent objects.<sup>161</sup>

# Appendix C

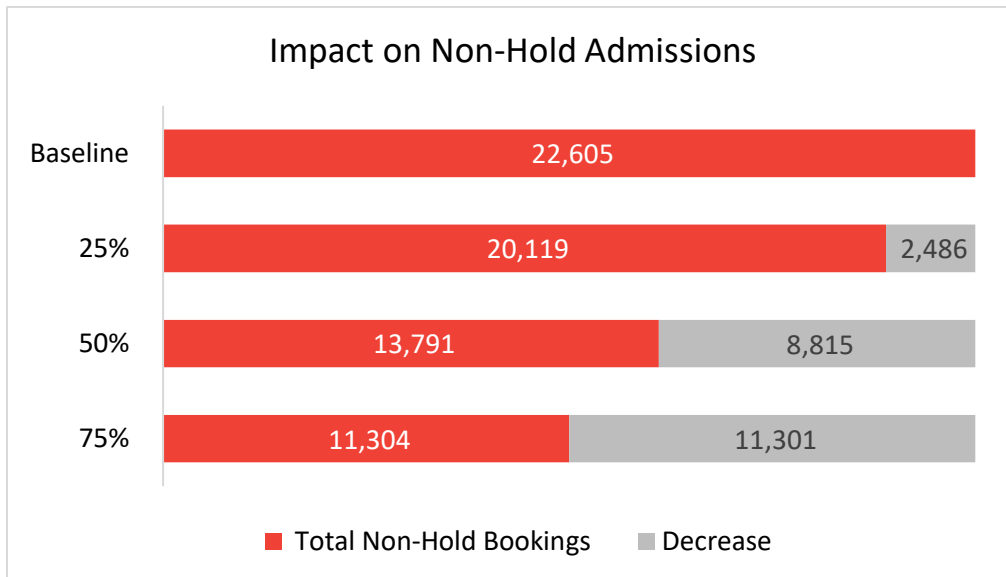
## Impact Analyses

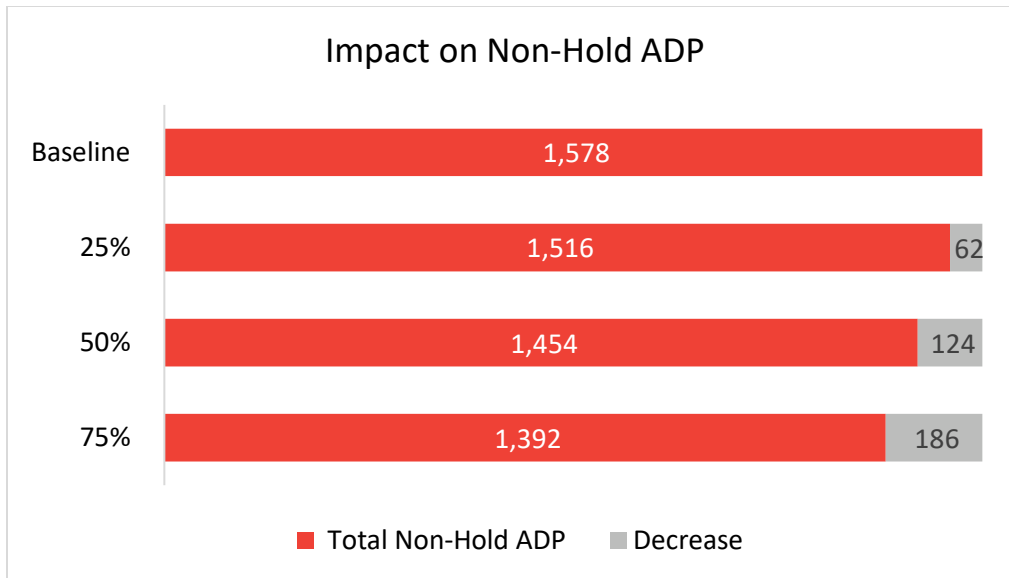
To illustrate how changes like some of the ones recommended in this report have the potential to lead to significant reductions in both admissions to the jail and the ADP of the jail we conducted impact analyses. These analyses are not projections but instead rely on data for the study period, illustrating how much lower the jail population could have been had these changes happened during that time.

In addition to changes in the ADP and admissions, we also calculated changes to racial disparities, as measured by changes in jail incarceration and admission rates by race, per 100,000 residents. For every recommendation, we assume proportional change among Black and white people in the Wayne County Jail. We then measure the respective population rates according to the changes suggested in a recommendation and compare the ratio of the Black population rates to the white population rates.

### **The Impact of Reducing Custodial Arrests on Non-Felony Charges**

While we did not have access to arrest/citation data or FTA data for Wayne County, we expect recommendations focused on reducing custodial arrests would primarily reduce admissions for non-felony charges. The charts below show the impact on admissions and ADP of reducing bookings for those charges by 25, 50, and 75 percent from the baseline. The impact on admissions would be much more significant than on ADP because, while there were many individuals booked on non-felony charges, they didn't stay very long on average. Reducing admissions by almost 50 percent, however, would still have a significant impact on the communities most affected by these short stays and also on the jail itself, given how resource-intensive all jail bookings are, regardless of the severity of the charges.<sup>162</sup>





We also reviewed the potential impact of such reductions on racial disparities in the jail. Reducing all admissions for misdemeanor, civil, and local bookings by 25 to 75 percent of the baseline number within the study period would have resulted in 2,486 to 11,301 fewer bookings into the Wayne County Jail. Assuming a proportional decrease among both Black and white residents booked into Wayne County Jail, the total non-hold admissions rates per 100,000 residents would decline from 2,418 to between 2,158 and 1,640 for Black residents, and from 542 to between 477 and 349 for white residents.

While both of these show the potential for large declines in admissions rates among both Black and white residents, reducing non-felony bookings will have a proportionally larger effect on white residents, with the ratio of Black admission rates to white admission rates changing from a baseline of 4.5 to between 4.5 and 4.7 depending on the reduction. In other words, while reducing admissions for non-felony charges will reduce the total numbers of both Black and white people admitted to jail, it will create a small increase in racial disparities due to a larger proportion of white people booked on non-felony charges. The same is true of the non-hold ADP (shown below as incarceration rates), though with a smaller decrease in ADP overall to a larger proportion of felonies in the ADP than in bookings.

**Total Non-Hold Admission Rates by Race, per 100,000 Residents<sup>163</sup>**

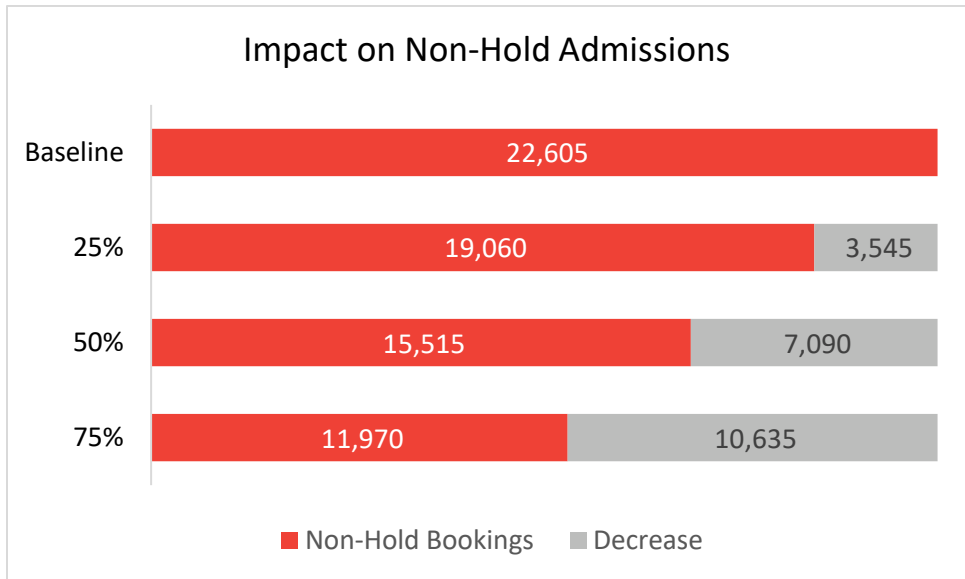
|               | <u>Black</u> | <u>White</u> | <u>Disparity Ratio<sup>164</sup></u> |
|---------------|--------------|--------------|--------------------------------------|
| Baseline Rate | 2,418        | 542          | 4.5                                  |
| 25% Reduction | 2,158        | 477          | 4.5                                  |
| 50% Reduction | 1,899        | 413          | 4.6                                  |
| 75% Reduction | 1,640        | 349          | 4.7                                  |

**Total Jail Non-Hold Incarceration Rates by Race,  
per 100,000 Residents**

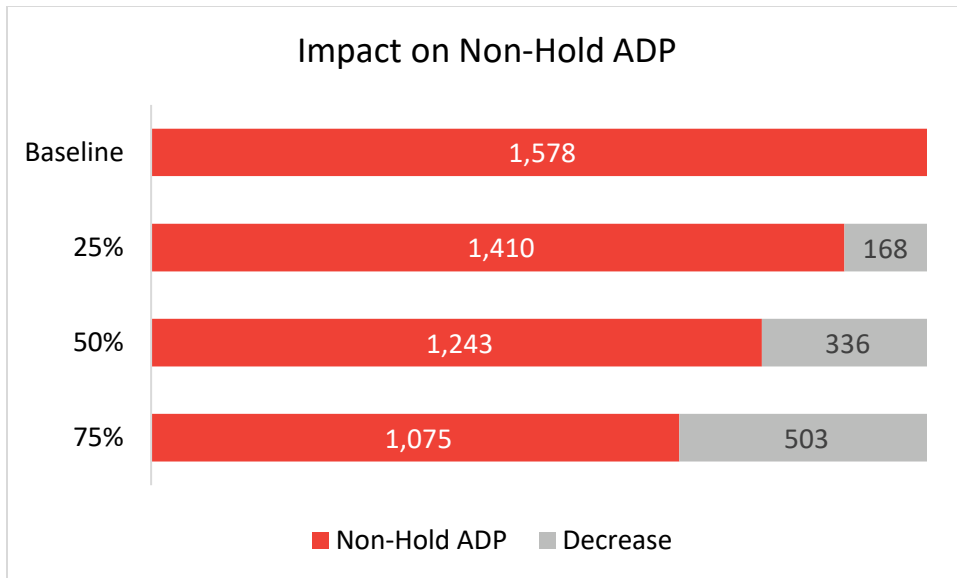
|               | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|---------------|--------------|--------------|------------------------|
| Baseline Rate | 158          | 41           | 3.8                    |
| 25% Reduction | 152          | 39           | 3.9                    |
| 50% Reduction | 147          | 37           | 4.0                    |
| 75% Reduction | 142          | 34           | 4.1                    |

**The Impact of Increasing Pretrial Release**

In order to consider the impact of possible bail reform measures, we assessed the impact of reducing admissions to the Wayne County Jail for people with a bond set at \$100,000 or less by 25 to 75 percent; the chart below shows this would have resulted in 3,545 to 10,635 fewer admissions if these individuals were released directly from the Detroit Detention Center or other local holding facilities prior to admission into the Wayne County Jail. The reductions in the ADP are somewhat smaller, given that the ADP slants more toward serious charges with higher bond amounts. All else being equal, reducing admissions for individuals with a bond less than \$100,000 from 25 to 75 percent would have reduced the total ADP by 168 to 503 people, or 11 to 33 percent of the baseline value.







We also looked at the impact analysis by race. Assuming a proportional decrease among both Black and white residents, reducing bookings for those booked on less than \$100,000 would have reduced racial disparities by having a proportionally larger effect on Black residents than white residents. Specifically, if 75 percent of individuals held on a bond of less than \$100,000 were not held in the jail, the admissions rate for Black individuals would decrease by more than half from 2,418 to 1,182, while the admission rates for white individuals would decrease by about 45 percent from 542 to 300. Overall this would lead to a large reduction in bookings, as well as a reduction in the racial disparity rates in admissions from a ratio of Black to white admission rates of 4.5 in the baseline, to between 4.4 and 4.0 depending on the 25 to 75 percent decrease.

**Total Non-Hold Admission Rates by Race, per 100,000 Residents**

|          | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|----------|--------------|--------------|------------------------|
| Baseline | 2,418        | 542          | 4.5                    |
| 25%      | 2,026        | 465          | 4.4                    |
| 50%      | 1,633        | 389          | 4.2                    |
| 75%      | 1,241        | 313          | 4.0                    |

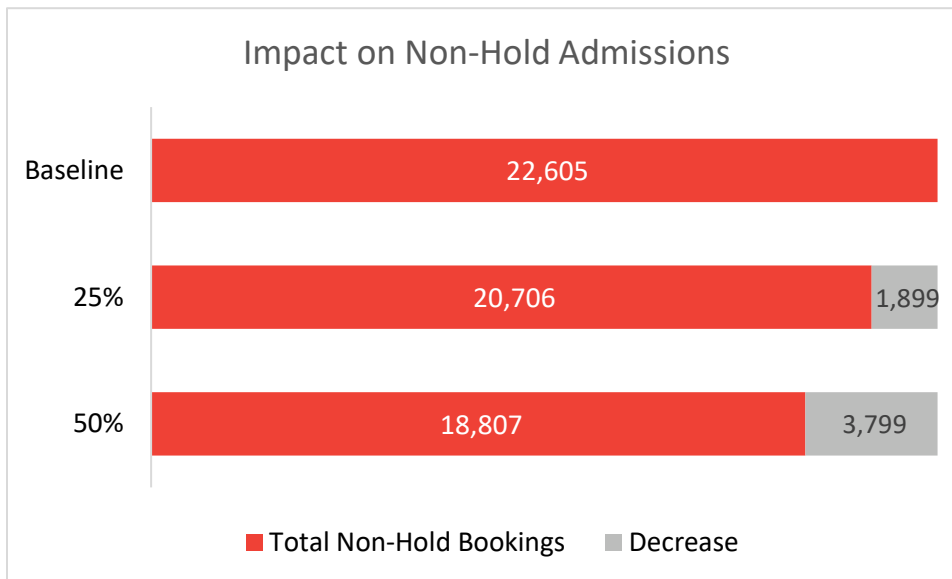
Reducing admissions for individuals booked on bonds less than \$100,000 will ultimately reduce the jail incarceration rate among both Black and white residents. However, in contrast to the reductions in admission rates, which lower the disparity between Black and white admission rates, reductions to incarceration rates see a small increase in the disparity between Black and white populations, due to a smaller proportion of the white jail population with a bond of a \$100,000 or more.

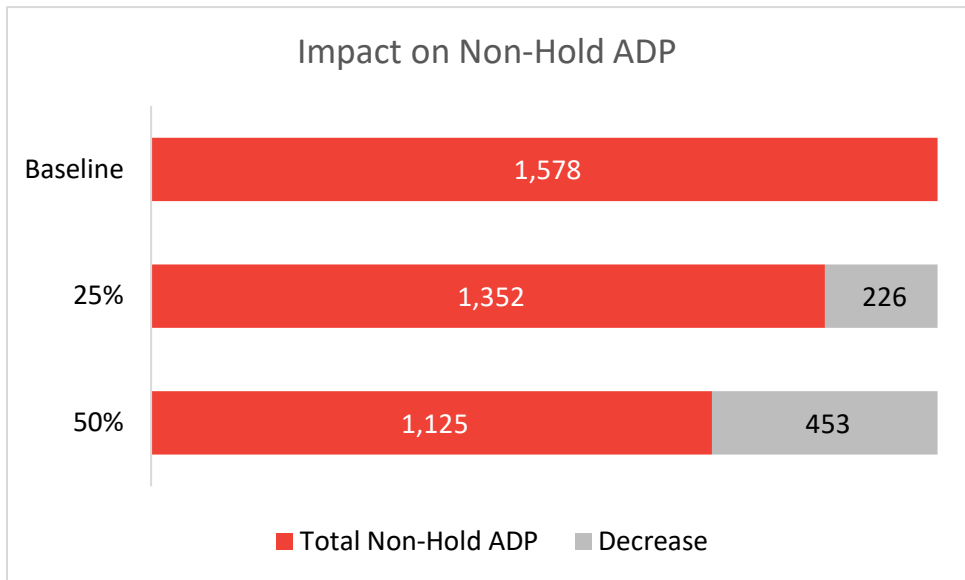
**Total Non-Hold Incarceration Rates by Race,  
per 100,000 Residents**

|          | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|----------|--------------|--------------|------------------------|
| Baseline | 158          | 41           | 3.8                    |
| 25%      | 141          | 37           | 3.9                    |
| 50%      | 125          | 32           | 3.9                    |
| 75%      | 108          | 27           | 4.0                    |

**The Impact of Reducing Admissions for Top 10 Felony Charge Categories**

Because some of the recommendations could also reduce admissions for felonies, this analysis reviews the impact on total non-hold admissions and ADP, had admissions for the top 10 felony charge categories been reduced by 25 to 50 percent. Due to longer LOS for felonies relative to non-felonies, the impact on ADP is greater than the overall impact on admissions. Specifically, non-hold admissions would have been lowered by 1,899 to 3,799 bookings, an 8 to 17 percent decrease, respectively. In contrast, non-hold ADP would have been lowered by 226 to 453 people, a 14 to 29 percent decrease, respectively.





Assuming a proportional decrease in admissions for felony charges among both Black and white people in Wayne County, disparities in both admission rates and incarceration rates would decline slightly, due to a proportionally larger number of Black people booked on felony charges relative to white people.

**Total Non-Hold Admission Rates by Race,  
per 100,000 Residents**

|          | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|----------|--------------|--------------|------------------------|
| Baseline | 2,418        | 542          | 4.5                    |
| 25%      | 2,178        | 497          | 4.4                    |
| 50%      | 1,938        | 452          | 4.3                    |

**Total Non-Hold Incarceration Rates by Race,  
per 100,000 Residents**

|          | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|----------|--------------|--------------|------------------------|
| Baseline | 158          | 41           | 3.8                    |
| 25%      | 134          | 36           | 3.8                    |
| 50%      | 110          | 30           | 3.7                    |

## The Impact of Reducing Admissions for Technical Violations

As per our estimations in previous sections, reducing bookings for apparent technical violations (those admitted on violations of probation with no accompanying new charges) from 25 to 75 percent would have reduced bookings into the Wayne County Jail by 546 to 1,638, up to 2,184 if 100 percent of apparent technical violations were not booked into the jail. Given that these admissions tend to have a relatively short LOS in most cases, they contribute to a relatively small amount of the ADP, specifically 79 people on any given day. As such, a 25 to 75 percent reduction would have reduced the total ADP by about 20 to 60 people, and up to 79 people if no apparent technical violations were booked in the study period.<sup>165</sup>

In terms of racial disparity, within the study period, apparent technical violations as a proportion of total non-hold admissions are nearly proportional among Black and white residents. Specially, of the 16,452 non-hold Black bookings into jail, 2,037, or 12.4 percent of them, were for apparent technical violations. Similarly, of the 5,186 non-hold white bookings into jail, 660, or 12.7 percent of them, were for apparent technical violations. Given that these are nearly proportional, reducing bookings for apparent technical violations would have had a very small effect on racial disparities overall, despite the overall reduction in bookings. See the table below for details.

### Total Non-Hold Admission Rates by Race, per 100,000 Residents

|          | <u>Black</u> | <u>White</u> | <u>Disparity Ratio</u> |
|----------|--------------|--------------|------------------------|
| Baseline | 2,418        | 542          | 4.5                    |
| 25%      | 2,343        | 524          | 4.5                    |
| 50%      | 2,268        | 507          | 4.5                    |
| 75%      | 2,193        | 490          | 4.5                    |
| 100%     | 2,118        | 473          | 4.5                    |

Given that apparent technical violations have a relatively small contribution to ADP, their overall effect on non-hold incarceration rates will also be quite small. Similar to bookings, the contribution of apparent technical violations to ADP is nearly proportional among Black people and white people, accounting for 4.8 percent of the total non-hold Black ADP, and 6.1 percent of the total non-hold white ADP. Reducing admission for apparent technical violations will have a small effect on both Black and white non-hold incarceration rates, with a very slight effect on racial disparities overall. Specifically, reducing admissions for apparent technical violations from 25 to 100 percent would have lowered the Black non-hold incarceration rate from 158, to between 156 and 150. In contrast, the white non-hold incarceration rate would have declined from 41 to 39. Overall this would have a very small but negative effect on racial disparities, increasing the ratio between Black and white incarceration rates from 3.8 to 3.9.

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<sup>1</sup> ACLU.org, “New Model Shows Reducing Jail Population will Lower COVID-19 Death Toll for All of Us,” <https://www.aclu.org/news/smart-justice/new-model-shows-reducing-jail-population-will-lower-covid-19-death-toll-for-all-of-us/>.

<sup>2</sup> Wayne County, “Wayne County COVID-19 Dashboard,” <http://wayne.maps.arcgis.com/apps/opsdashboard/index.html#/d04fff4645b140319fad972eb3740550> ; City of Detroit, “COVID-19-19 Cases Dashboard,” <https://codtableau.detroitmi.gov/t/DHD/views/NEWDASHBOARDPublicCOVIDTableau/COVID-19CityofDetroit?%3AisGuestRedirectFromVizportal=y&%3Aembed=y>.

<sup>3</sup> Vera Institute of Justice, “COVID-19 and Criminal Justice: City Spotlights – Detroit,” <https://www.vera.org/covid-19/criminal-justice-city-spotlights/detroit>.

<sup>4</sup> As of April 10, there were 766 people on tether, up from around 500 the month before. See, James David Dickson, “Wayne County Jail population down hundreds during virus; tether population grows,” *The Detroit News*, April 10, 2020, <https://www.detroitnews.com/story/news/local/wayne-county/2020/04/10/wayne-county-jail-population-down-hundreds-during-virus-tether-population-grows/5129010002/>.

<sup>5</sup> These ADP figures are based on the jail data the Wayne County Sheriff’s Office provided to Vera. They differ from the numbers reported by the Bureau of Justice Statistics because the bureau’s Annual Survey of Jails data did not include all of the Wayne County Jail facilities.

<sup>6</sup> Chris Mai, Mikelina Belaineh, Ram Subramanian, and Jacob Kang-Brown, *Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/downloads/publications/broken-ground-jail-construction.pdf>.

<sup>7</sup> Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, DC: The Sentencing Project, 2016), <https://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

<sup>8</sup> See [https://www.census.gov/topics/population/genealogy/data/2010\\_surnames.html](https://www.census.gov/topics/population/genealogy/data/2010_surnames.html).

<sup>9</sup> See, e.g., Robert C. Cushman, *Guidelines for Developing a Criminal Justice Coordinating Committee*, (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2002), <https://info.nicic.gov/nicrp/system/files/017232.pdf>; Aimee Wickman, Barry Mahoney, and M. Elaine Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils* (Arlington, VA: The Justice Management Institute, 2012), <http://www.jmijustice.org/wp-content/uploads/2019/11/improving-CJCC.pdf>; M. Elaine Nugent-Borakove and Marea Beeman, *Fostering and Sustaining Criminal Justice Reform: The Potential of Criminal Justice Coordinating Councils* (Arlington, VA: The Justice Management Institute, 2013), <http://www.jmijustice.org/wp-content/uploads/2019/11/Fostering-and-Sustaining-CJ-Reform.pdf>.

<sup>10</sup> Cushman, *Guidelines for Developing a Criminal Justice Coordinating Committee*, ix.

<sup>11</sup> *Ibid.*, 25; Wickman, Mahoney, and Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils*, 9.

<sup>12</sup> Cushman, *Guidelines for Developing a Criminal Justice Coordinating Committee*, 26-27; Wickman, Mahoney, and Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils*, 10.

<sup>13</sup> Michael R. Jones, *Guidelines for Staffing a Local Criminal Justice Coordinating Committee* (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2012), <https://s3.amazonaws.com/static.nicic.gov/Library/026308.pdf>; Cushman, *Guidelines for Developing a Criminal Justice Coordinating Committee*, 29-31; Wickman, Mahoney, and Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils*, 11.

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<sup>14</sup> For example, in Multnomah County, Oregon, the local CJCC oversees the Decision Support System–Justice (DSS-J), which combines data from the courts, law enforcement, the district attorney, and the state Department of Corrections; see Multnomah County, Local Public Safety Coordinating Council, “DSS-J Policy Committee,” <https://multco.us/lpscc/dss-j-policy-committee>. In Allegheny County, Pennsylvania, the Department of Human Services operates a data warehouse that combines data from the jail, courts, probation, and multiple public health programs and service providers; see Allegheny County Department of Human Services, *Allegheny County Data Warehouse* (Pittsburgh, PA: Allegheny County Department of Human Services, 2018), [https://www.alleghenycountyanalytics.us/wp-content/uploads/2018/07/18-ACDHS-20-Data-Warehouse-Doc\\_v6.pdf](https://www.alleghenycountyanalytics.us/wp-content/uploads/2018/07/18-ACDHS-20-Data-Warehouse-Doc_v6.pdf).

<sup>15</sup> Salt Lake County Sheriff’s Office, “Jail Dashboard,” [https://slsheriff.org/page\\_jail\\_dashboard.php](https://slsheriff.org/page_jail_dashboard.php); Allegheny County Department of Human Services, “Allegheny County Jail Population Management: Interactive Dashboards,” <https://www.alleghenycountyanalytics.us/index.php/2019/11/04/allegheny-county-jail-population-management-dashboards-2/>.

<sup>16</sup> Buncombe County Sheriff’s Office, “Buncombe County Detention Facility,” <https://app.powerbigov.us/view?r=eyJrIjoiNTA3OThkZmEtZDQ3ZC00YzRkLWE1YmUtMzQwMmI2MGQ0OGNkIiwidCI6IjNiNGUyYmMzLWl2ODUtNGFiNi04Mzk5LWZlYTQ3ZDk1ODYwZCJ9>; Missoula County Criminal Justice Coordinating Council, “Jail Population Dashboard,” <https://www.missoulacounty.us/government/civil-criminal-justice/criminal-justice-coordinating-council/jail-dashboard>.

<sup>17</sup> City of Philadelphia, “Philadelphia Jail Population Snapshot Reports,” <https://www.phila.gov/documents/philadelphia-jail-population-snapshot-reports/>.

<sup>18</sup> See, e.g., Multnomah County, Local Public Safety Coordinating Council, “Reports & Publications,” <https://multco.us/lpscc/reports-publications>.

<sup>19</sup> Cook County State’s Attorney’s Office, “Data Reports,” <https://www.cookcountystatesattorney.org/about/data-reports>.

<sup>20</sup> Ibid.; Cook County State’s Attorney’s Office, “Case-Level Data,” <https://www.cookcountystatesattorney.org/about/case-level-data>.

<sup>21</sup> “Top Charge” in Figure 2 refers to the most serious charge associated with a given booking. The Wayne County Sheriff’s Office flags this internally when creating booking records, and periodically checks records to ensure the top charge was accurately flagged. Vera staff were informed that for a small but unknown number of bookings, there may be issues where this was incorrectly flagged and the most recent charge as opposed to the most serious charge was indicated as the “Top Charge.” To address this, Vera staff developed an algorithm to identify bookings where multiple charges existed, and the top charge flagged was not the most serious charge, based on the following order of severity: local ordinance, misdemeanor, serious misdemeanor, felony, and felony assaultive charges. If a booking was identified where the top charge was not the most serious charge, the top charge flag was reassigned. In the event of a tie in charge severity between two charges more serious than the originally flagged top charge, one of the more severe was randomly designated as top charge.

<sup>22</sup> “Top Charge Category” refers to groupings of offenses covering similar conduct. For example, “Felony Assault” includes all of the different felony charges covering assaults against others. With the exception of “Child Support,” which includes both civil and felony nonsupport, all of the top charge categories include only offenses of the same severity. Probation violations are not included here, as we analyzed those separately from all other charge categories.

<sup>23</sup> See, e.g., Léon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera Institute of Justice, 2019); Christopher Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention* (Houston: Laura and John Arnold Foundation, 2013); Christopher Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes* (Houston: Laura and John Arnold Foundation, 2013); Paul Heaton, Sandra G. Mayson, and Megan Stevenson, “The Downstream Consequences of Misdemeanor Pretrial Detention,” *Stanford Law Review* 69, no. 3 (2017), 711-794; Megan T. Stevenson, “Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes,” *The Journal of Law, Economics, and Organization* 34, no. 4 (2018): 511-542.

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<sup>24</sup> The administrative jail data apparently listed failure to appear as an admission type only when a separate charge was filed for the failure to appear, which would vastly undercount the number of admissions on bench warrants. The Wayne County Sheriff's Office provided the number of bench warrants in 2018 to Vera based on data gathered from the LEIN system.

<sup>25</sup> See Daniel Bernal, "Taking the Court to the People: Real-World Solutions for Nonappearance," *Arizona Law Review* 59 (2017): 547-571.

<sup>26</sup> Marie VanNostrand, Kenneth Rose, and Kimberly Weibrecht, *State of the Science of Pretrial Release Recommendations and Supervision* (Rockville, MD: Pretrial Justice Institute, 2011), <https://www.ncsc.org/~media/Microsites/Files/PJCC/State%20of%20the%20Science%20Pretrial%20Recommendations%20and%20Supervision%20-%20PJI%202011.ashx>.

<sup>27</sup> The Court Innovations site (<https://courtinnovations.com/>), which several district courts in Wayne County use, offers mechanisms for online payment plans and rescheduling hearings.

<sup>28</sup> The Michigan Supreme Court recently took an important step in adopting new rules that will allow people to bring their cell phones to court. See Carol Thompson, "Michigan Supreme Court Rules Cellphones Must be Allowed in all Michigan Courts," *Lansing State Journal*, January 9, 2020, <https://www.lansingstatejournal.com/story/news/2020/01/08/cell-phones-allowed-michigan-courts-msc/2844006001/>. However, many courts in Wayne County still have extensive lists of prohibited items, a number of which do not appear to be related to safety issues. When people come to court with those prohibited items, they can be forced to forfeit them in order to go to their hearings or may simply be turned away.

<sup>29</sup> Bernal, "Taking the Court to the People."

<sup>30</sup> For defendants voluntarily appearing in court after FTAs, see Mary T. Phillips, *Effect of Release Type on Failure to Appear* (New York: New York City Criminal Justice Agency, 2011). For the provisions in New York's revised bail statute, see N.Y. Crim. Proc. Law § 510.50(2). The Michigan Joint Task Force on Jail and Pretrial Incarceration proposed creating a 48-hour grace period before a bench warrant is issued; see *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 4b, <https://courts.michigan.gov/News-Events/Documents/final/Jails%20Task%20Force%20Final%20Report%20and%20Recommendations.pdf>.

<sup>31</sup> Automated post-FTA messages have been shown to reduce the number of open warrants without arrests; see Brice Cooke, Binta Zahra Diop, Alissa Fishbane, Jonathan Hayes, Aurelie Ouss, and Anuj Shah, *Using Behavioral Science to Improve Criminal Justice Outcomes* (Chicago: University of Chicago Crime Lab, 2018). The 23<sup>rd</sup> District Court already uses Court Innovations to allow people to resolve bench warrants and request a new hearing date online; see <https://courtinnovations.com/MID23>.

<sup>32</sup> In Oklahoma City, for example, the municipal court created a special designation in its computer system for bench warrants so that police officers knew not to arrest people for those, while the presiding judge of the Oklahoma County District Court issued an administrative order requiring people arrested on cost or traffic warrants to be released on recognizance. In Buncombe County, North Carolina, judges have begun specifying unsecured bonds in bench warrants to avoid a provision of state law that would otherwise require secured bonds for FTAs.

<sup>33</sup> In Pima County, Arizona, for example, the Pima County Consolidated Justice Court has held a number of "Warrant Resolution Court" events; see Bernal, "Taking the Court to the People"; and "Resolve Outstanding Warrants at Warrant Resolution Court June 11," <https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=260793>. Courts in Oklahoma City and Tulsa have held similar events; see Christian Tabak, "OKC Council Approves Amnesty Program for Fines and Warrants," *The Journal Record*, June 18, 2019, <https://journalrecord.com/2019/06/18/okc-council-approves-amnesty-program-for-fines-and-warrants/>; "Tulsa Municipal Courts Planning Amnesty Period," <https://ktul.com/archive/tulsa-municipal-courts-planning-amnesty-period>. See also James Orlando, "Warrant Amnesty Programs," <https://www.cga.ct.gov/2016/rpt/2016-R-0315.htm>.



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<sup>34</sup> For example, in 2010, the Ninth Judicial Circuit Court in Florida issued Administrative Order No. 2010-26, recalling and quashing all warrants issued in misdemeanor and municipal ordinance cases prior to 1995. In 2017, the district attorneys in Brooklyn, the Bronx, Manhattan, and Queens coordinated to dismiss over 600,000 warrants for minor offenses dating back at least 10 years; see James C. McKinley Jr., “644,000 Old Warrants Scrapped for Crimes Like Public Drinking,” *New York Times*, August 9, 2017, <https://www.nytimes.com/2017/08/09/nyregion/644000-old-warrants-scrapped-for-crimes-like-public-drinking.html>. And in 2010, the Philadelphia district attorney, at the urging of the state’s Supreme Court chief justice, petitioned the courts to set aside bench warrants in approximately 20,000 cases dating back to 1998 or earlier; see Craig R. McCoy, Nancy Phillips, and Dylan Purcell, “Philadelphia Officials Clear 19,400 fugitives,” *Philadelphia Inquirer*, November 14, 2010, [https://www.inquirer.com/philly/hp/news\\_update/20101112\\_Philadelphia\\_officials\\_clear\\_19\\_400\\_fugitives.html](https://www.inquirer.com/philly/hp/news_update/20101112_Philadelphia_officials_clear_19_400_fugitives.html).

<sup>35</sup> International Association of Chiefs of Police, *Citation in Lieu of Arrest: Examining Law Enforcement’s Use of Citation Across the United States* (Alexandria, VA: International Association of Chiefs of Police, 2016), <https://www.theiacp.org/projects/citation-in-lieu-of-arrest>. The Michigan Joint Task Force on Jail and Pretrial Incarceration also reported that Michigan law enforcement officers noted that issuing an appearance ticket rather than arresting and booking someone into jail saved them significant time; see *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, 9.

<sup>36</sup> See National Conference of State Legislatures, “Citation in Lieu of Arrest,” [http://www.ncsl.org/Documents/Citation\\_in\\_Lieu\\_of\\_Arrest2018.pdf](http://www.ncsl.org/Documents/Citation_in_Lieu_of_Arrest2018.pdf). Unlike the Michigan statute, statutes or rules in many other states include a presumption in favor of citation use along with guidance about factors that would require a custodial arrest instead of a citation, some of the most common being: where there are reasonable grounds to believe the person poses a danger to themselves or others or will not appear in court; where the person has outstanding warrants; where a legitimate investigation or prosecution would be jeopardized; or where the person does not have or will not provide verifiable identification or fingerprints or refuses to sign a written promise to appear.

<sup>37</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendations 3a and 3b.

<sup>38</sup> See Team Wellness Center, “Crisis Response,” <https://teamwellnesscenter.com/crisis/>.

<sup>39</sup> See, e.g., Bureau of Justice Assistance, “Learning About Police-Mental Health Collaboration Programs,” <https://pmhctoolkit.bja.gov/learning>; National League of Cities, “Addressing Mental Health, Substance Use and Homelessness,” <https://www.nlc.org/resource/addressing-mental-health-substance-use-and-homelessness>; Amy C. Watson, Michael T. Compton, and Leah G. Pope, *Crisis Response Services for People with Mental Illnesses or Intellectual and Developmental Disabilities: A Review of the Literature on Police-based and Other First Response Models* (New York: Vera Institute of Justice, 2019), <https://www.vera.org/publications/crisis-response-services-for-people-with-mental-illnesses-or-intellectual-and-developmental-disabilities>.

<sup>40</sup> National League of Cities, *Triage Centers as Alternatives to Jail for People in Behavioral Health Crises* (Washington, DC: National League of Cities, 2019), <https://www.nlc.org/sites/default/files/users/user93/YEF%20Triage%20Centers%20Brief%20FINAL.pdf>.

<sup>41</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 9e.

<sup>42</sup> Research has shown that unsecured bonds can achieve the same public safety and court appearance rates as secured bonds, so there is no real reason for judges to use secured bonds if they intend for people to be able to achieve release. See, e.g., Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* (Rockville, MD: Pretrial Justice Institute, 2013); Claire M.B. Brooker, Michael R. Jones, and Timothy R. Schnacke, *The Jefferson County Bail Project: Impact Study Found Better Cost Effectiveness for Unsecured Recognizance Bonds Over Cash and Surety Bonds* (Rockville, MD: Pretrial Justice Institute, 2014). While some studies have shown higher public safety and court appearance rates for secured financial bonds, they suffer from limited analysis and a reliance on a Bureau of Justice Statistics dataset that included only felony cases from 40 of the



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largest urban counties; in the few studies that actually used multivariate analyses, the differences between financial and nonfinancial bonds were relatively small. See Phillips, *Effect of Release Type on Failure to Appear*.

<sup>43</sup> A broad example of the categorical approach is New York's newly enacted bail reform laws, which prohibit the use of financial bonds for almost all misdemeanors and nonviolent felonies. See Michael Rempel and Krystal Rodriguez, *Bail Reform in New York: Legislative Provisions and Implications for New York City* (New York: Center for Court Innovation, 2019); Insha Rahman, *New York, New York: Highlights of the 2019 Bail Reform Law* (New York: Vera Institute of Justice, 2019). The Oklahoma County District Court used an offense-specific approach in adopting Administrative Order 7-2018-02, which requires nonfinancial release for a list of offenses that was determined by the court, the district attorney, and the public defender.

<sup>44</sup> Zenell B. Brown, "Press Release—Court Reminder Service," December 20, 2019, <https://www.3rdcc.org/announcements/2019/12/20/press-release---court-reminder-service>. The Michigan Joint Task Force on Jail and Pretrial Incarceration has also proposed establishing a statutory requirement for court date reminders. See *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 11a.

<sup>45</sup> Cooke, et al., *Using Behavioral Science to Improve Criminal Justice Outcomes*.

<sup>46</sup> See, e.g., Douglas B. Marlowe, "The Most Carefully Studied, Yet Least Understood, Terms in the Criminal Justice Lexicon: Risk, Need, and Responsivity," <https://www.prainc.com/risk-need-responsivity/>; VanNostrand, Rose, and Weibrecht, *State of the Science of Pretrial Release Recommendations and Supervision*; Christopher T. Lowenkamp, Jennifer Paler, Paula Smith, and Edward J. Latessa, "Adhering to the Risk and Need Principles: Does it Matter for Supervision-based Programs?" *Federal Probation* 70, no. 3 (2006): 3-8.

<sup>47</sup> National Association of Pretrial Services Agencies, *Standards on Pretrial Release, Third Edition* (Washington, DC: National Association of Pretrial Services Agencies, 2004), <https://drive.google.com/file/d/0B1YIoljVNUF5NmJkY0wzRHR1Tmc/view>; American Bar Association, *Standards for Criminal Justice Pretrial Release, Third Edition* (Washington, DC: American Bar Association, 2007), [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/pretrial\\_release.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/pretrial_release.pdf); Pretrial Justice Center for Courts, "Pretrial Services & Supervision," <https://www.ncsc.org/Microsites/PJCC/Home/Topics/Pretrial-Services.aspx>.

<sup>48</sup> National Right to Counsel Committee, *Don't I Need a Lawyer? Pretrial Justice and the Right to Counsel at First Judicial Bail Hearing* (Washington, DC: The Constitution Project, 2015), [https://archive.constitutionproject.org/wp-content/uploads/2015/03/RTC-DINAL\\_3.18.15.pdf](https://archive.constitutionproject.org/wp-content/uploads/2015/03/RTC-DINAL_3.18.15.pdf).

<sup>49</sup> Douglas L. Colbert, Ray Paternoster, and Shawn Bushway, "Do Attorneys Really Matter? The Empirical and Legal Case for Representation at Bail," *Cardozo Law Review*, 23, no. 5 (2002): 1719-1793.

<sup>50</sup> Allegheny County Safety and Justice Challenge, "Year One Report, October 2018-October 2019," [https://www.alleghenycountyanalytics.us/wp-content/uploads/2020/01/19-ACDHS-13\\_SJC-1YrReport-01-07-2020.pdf](https://www.alleghenycountyanalytics.us/wp-content/uploads/2020/01/19-ACDHS-13_SJC-1YrReport-01-07-2020.pdf).

<sup>51</sup> Jamie Vaske and Jessica Smith, "Judicial District 30B Pretrial Justice Pilot Project, Third Quarter 2019 Report," <https://cijil.sog.unc.edu/files/2019/11/Third-quarter-implementation-results.pdf>.

<sup>52</sup> Michigan Indigent Defense Commission, *Counsel at First Appearance and Other Critical Stages: A Guide to Implementation of the Minimum Standards for Delivery Systems* (Lansing, MI: Michigan Indigent Defense Commission, 2017), <https://michiganidc.gov/wp-content/uploads/2017/03/White-Paper-4-Counsel-at-first-appearance-and-other-critical-stages.pdf>; Michigan Indigent Defense Commission, *The Huron County District Court's Counsel at First Appearance Pilot Program* (Lansing, MI: Michigan Indigent Defense Commission, 2017), <https://michiganidc.gov/wp-content/uploads/2015/04/Huron-County-Counsel-at-First-Appearance-Report.pdf>.

<sup>53</sup> Michigan Indigent Defense Commission, *The Huron County District Court's Counsel at First Appearance Pilot Program*.

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<sup>54</sup> The number of attorneys needed will depend on the number of defendants, the time needed per defendant, and court schedules, and might vary by day. For example, Huron County found that more attorneys were needed on Mondays and days after a holiday when average docket sizes were bigger. See Michigan Indigent Defense Commission, *The Huron County District Court's Counsel at First Appearance Pilot Program*.

<sup>55</sup> For an example of a form adopted for this purpose in Huron County, see Michigan Indigent Defense Commission, *The Huron County District Court's Counsel at First Appearance Pilot Program*, Appendix B.

<sup>56</sup> Philadelphia recently created a second tier for EBR which expands the program to those charged with a broader range of offenses who are held on bonds of \$100,000 or less. Information about the EBR program is based on observations made during Vera's work with Philadelphia through the MacArthur Foundation's Safety and Justice Challenge.

<sup>57</sup> Information about the motions docket is based on observations made during Vera's work with Allegheny County through the MacArthur Foundation's Safety and Justice Challenge.

<sup>58</sup> The Michigan Joint Task Force on Jail and Pretrial Incarceration, for example, proposed requiring courts to hold hearings within 48 hours for all defendants who remain detained after arraignment. See *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 10.

<sup>59</sup> See, e.g., Eric Jankiewicz, "To Relieve Ohio's Overcrowded Jails, Rethink Who Goes in Them," <https://nationswell.com/criminal-justice-reform-ohio/>; Steve Walentik, "MacArthur Foundation-Funded Initiative Has Helped Reduce Jail Population in St. Louis County over Past 2 Years," <https://blogs.umsl.edu/news/2018/08/27/huebner-macarthur/>; June 4, 2019, Memorandum from the Pima County Administrator to the County Board of Supervisor, re: Jail

Population Review Committee Activity and Purpose, [https://webcms.pima.gov/UserFiles/Servers/Server\\_6/File/Government/Administration/CHHmemosFor%20Web/2019/June/Jail%20Population%20Review%20Committee%20Activity%20&%20Purpose.pdf](https://webcms.pima.gov/UserFiles/Servers/Server_6/File/Government/Administration/CHHmemosFor%20Web/2019/June/Jail%20Population%20Review%20Committee%20Activity%20&%20Purpose.pdf).

<sup>60</sup> See Free to Drive, "Too Poor to Drive: 6 Truths about Driver's License Suspension," <https://www.freetodrive.org/wp-content/uploads/2019/09/Six-Truths-About-Driver's-License-Suspension.pdf>; James Craven, *Driver's License Suspension Reform: The Right Road for Michigan* (Los Angeles: Reason Foundation, 2018), <https://reason.org/wp-content/uploads/2018/04/michigan-suspended-drivers-license-reform.pdf>.

<sup>61</sup> Free to Drive, "Too Poor to Drive: 6 Truths about Driver's License Suspension"; Texas Fair Defense Project and Texas Appleseed, *Driven by Debt: How Driver's License Suspensions for Unpaid Fines and Fees Hurt Texas Families*, 2017, <http://stories.texasappleseed.org/driven-by-debt>; Matthew Menendez, Michael F. Crowley, Lauren-Brooke Eisen, and Noah Atchison, *The Steep Costs of Criminal Justice Fees and Fines* (New York: Brennan Center for Justice, 2019), [https://www.brennancenter.org/sites/default/files/2019-11/2019\\_10\\_Fees%26Fines\\_Final5.pdf](https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf).

<sup>62</sup> Texas Fair Defense Project and Texas Appleseed, *Driven by Debt*.

<sup>63</sup> Craven, *Driver's License Suspension Reform: The Right Road for Michigan*.

<sup>64</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 1a.

<sup>65</sup> DEAR Durham, "Durham Expunction & Restoration Program," <https://www.deardurham.org/>; Sarah Willets, "Advocates Say Durham's Experiment to Wipe Thousands of Old Cases Off the Books Could Be a Model for Statewide Justice Reform," *Indy Week*, March 13, 2019, <https://indyweek.com/news/durham/durham-dear-experiment-north-carolina-reform/>.

<sup>66</sup> Office of Child Support Enforcement, "Alternatives to Incarceration, IM-12-01," <https://www.acf.hhs.gov/css/resource/alternatives-to-incarceration>.

<sup>67</sup> Ibid. See also Insight Center, *The Payback Problem: How Taking Parents' Child Support Payments to Pay Back the Cost of Public Assistance Harms California Low-Income Children & Families* (Oakland, CA: Insight Center for Community Economic Development, 2019), [https://insightced.org/wp-content/uploads/2019/04/The\\_Payback\\_Problem\\_Final.pdf](https://insightced.org/wp-content/uploads/2019/04/The_Payback_Problem_Final.pdf).

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<sup>68</sup> Fair and Just Prosecution, *Promising Practices in Prosecutor-Led Diversion*, <https://fairandjustprosecution.org/wp-content/uploads/2017/09/FJPBrief.Diversion.9.26.pdf>.

<sup>69</sup> Michael Rempel, Melissa Labriola, Priscillia Hunt, Robert C. Davis, Warren A. Reich, and Samantha Cherney, *NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness* (New York: Center for Court Innovation, 2018), [https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial\\_Diversion\\_Overview\\_ProvRel.pdf](https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial_Diversion_Overview_ProvRel.pdf).

<sup>70</sup> Fair and Just Prosecution, *Promising Practices in Prosecutor-Led Diversion*; Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives* (Chicago: Center for Health and Justice at TASC, 2013), <http://www2.centerforhealthandjustice.org/content/pub/no-entry-national-survey-criminal-justice-diversion-programs-and-initiatives>.

<sup>71</sup> In contrast, a national survey of drug court programs found that almost three-quarters were set up so that most or all of successful participants did not end up with convictions. See Douglas B. Marlowe, Carolyn D. Hardin, and Carson L. Fox, *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States* (Alexandria, VA: National Drug Court Institute, 2016), <https://www.ndci.org/wp-content/uploads/2016/05/Painting-the-Current-Picture-2016.pdf>.

<sup>72</sup> Fair and Just Prosecution, *Promising Practices in Prosecutor-Led Diversion*; Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*; Rempel, et al., *NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness*.

<sup>73</sup> Fair and Just Prosecution, *Promising Practices in Prosecutor-Led Diversion*; Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*.

<sup>74</sup> Oralandar Brand-Williams, "Wayne County Prosecutor Announces Diversionary Program for Youth Offenders," *The Detroit News*, December 16, 2019, <https://www.detroitnews.com/story/news/local/wayne-county/2019/12/16/youth-offenders-second-chance-detroit-mediation-program/2639802001/>. The Southwest Detroit Community Justice Center also appears to offer community-based restorative justice diversion for people charged with some misdemeanors in certain Detroit neighborhoods; see <http://www.swdcjc.com/>.

<sup>75</sup> Fair and Just Prosecution, *Promising Practices in Prosecutor-Led Diversion*; San Francisco District Attorney, "Neighborhood Courts," <https://sfdistrictattorney.org/neighborhood-courts>; L.A. City Attorney, "Neighborhood Justice," <https://www.lacityattorney.org/njp>; Common Justice, "Common Justice Model," [https://www.commonjustice.org/common\\_justice\\_model](https://www.commonjustice.org/common_justice_model).

<sup>76</sup> While the jail data did not explicitly identify tether violations, we based our analysis of violations on bookings where a person's status changed from tether to confinement and where there was no indication of a temporary classification or other reason for the change, such as a new charge.

<sup>77</sup> We use "technical violation" as that term is typically defined in probation research to refer to a violation based on noncompliance with the conditions of supervision rather than an allegation that a person has committed a new criminal offense. This is a somewhat broader definition than the one used in MCL 771.4b.

<sup>78</sup> There is limited research on pretrial electronic monitoring generally, and the research that does exist is often methodologically flawed, equivocal, or limited to specific populations like people charged with domestic violence or sex offenses. A number of meta-analyses and literature reviews have concluded that there is not enough evidence to support the effectiveness of electronic monitoring, with some studies even showing an increase in pretrial failure for those on electronic monitoring. See, e.g., Marc Renzema and Evan Mayo-Wilson, "Can Electronic Monitoring Reduce Crime for Moderate to High-Risk Offenders?" *Journal of Experimental Criminology* 1, no. 2 (2005): 215-237; Marie VanNostrand, Kenneth Rose, and Kimberly Weibrecht, *State of the Science of Pretrial Release Recommendations and Supervision* (Rockville, MD: Pretrial Justice Institute, 2011), <https://www.ncsc.org/~media/Microsites/Files/PJCC/State%20of%20the%20Science%20Pretrial%20Recommendations%20and%20Supervision%20-%20PJI%202011.ashx>; J. Belur, A. Thornton, L. Tompson, M. Manning, A. Sidebottom, and A. Bowers, *A Systematic Review of the Effectiveness of the Electronic Monitoring of Offenders* (London: What Works Centre for Crime Reduction, 2017); Karla

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Dhungana Sainju, Stephanie Fahy, Booz Allen Hamilton, Katherine Baggaley, Ashley Baker, Tamar Minassian, and Vanessa Filippelli, "Electronic Monitoring for Pretrial Release: Assessing the Impact," *Federal Probation* 82, no. 3 (2018): 3-10. Two recent studies did find some benefit from pretrial electronic monitoring, but their results were contradictory. One study of federal pretrial defendants in New Jersey found that electronic monitoring reduced rearrests but had no effect on FTAs, while the other study, of state pretrial defendants in Santa Clara County, California, found that electronic monitoring reduced FTAs but slightly increased rearrests. See Kevin T. Wolff, Christine A. Dozier, Jonathan P. Muller, Margaret Mowry, and Barbara Hutchinson, "The Impact of Location Monitoring among US Pretrial Defendants in the District of New Jersey," *Federal Probation* 81, no. 3 (2017): 8-14; and Sainju, et al., "Electronic Monitoring for Pretrial Release: Assessing the Impact." It is also worth noting that pretrial success rates in both studies were very high for all defendants, regardless of whether or not they were electronically monitored.

<sup>79</sup> Ava Kofman, "Digital Jail: How Electronic Monitoring Drives Defendants Into Debt," *Pro Publica*, July 3, 2019, <https://www.propublica.org/article/digital-jail-how-electronic-monitoring-drives-defendants-into-debt>; James Kilgore, *Electronic Monitoring is Not the Answer* (Urbana, IL: Urbana-Champaign Independent Media Center, 2015), <https://mediajustice.org/wp-content/uploads/2015/10/EM-Report-Kilgore-final-draft-10-4-15.pdf>.

<sup>80</sup> Mario Koran, "Lost Signals, Disconnected Lives," *Wisconsin Watch*, March 24, 2013, <https://www.wisconsinwatch.org/2013/03/lost-signals-disconnected-lives/>.

<sup>81</sup> See, e.g., Edna Erez, Peter R. Ibarra, William D. Bales, Oren M. Gur, *GPS Monitoring Technologies and Domestic Violence: An Evaluation Study* (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/238910.pdf>; Marina Duane and Carla Vasquez-Noriega, *Pretrial Strategy for Handling Intimate Partner Violence Cases* (Washington, DC: Urban Institute, 2018), [https://www.urban.org/sites/default/files/publication/99167/pretrial\\_strategy\\_for\\_intimate\\_partner\\_violence.pdf](https://www.urban.org/sites/default/files/publication/99167/pretrial_strategy_for_intimate_partner_violence.pdf); Natalie Fox Malone, "GPS Monitoring of Domestic Violence Offenders in Tennessee: Generating Problems Surreptitiously," *University of Memphis Law Review* 43 (2012): 171-212; Hannah Brenner, "Transcending the Criminal Law's 'One Size Fits All' Response to Domestic Violence," *William & Mary Journal of Women and the Law* 19 (2013): 301-351. One recent study of pretrial electronic monitoring in domestic violence cases, however, found that it was not more effective at preventing pretrial failure than regular, nonelectronic supervision; see Eric Grommon, Jason Rydberg, and Jeremy G. Carter, "Does GPS Supervision of Intimate Partner Violence Defendants Reduce Pretrial Misconduct? Evidence from a Quasi-Experimental Study," *Journal of Experimental Criminology* 13, no. 4 (2017): 483-504.

<sup>82</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 11b.

<sup>83</sup> See N.Y. Crim. Proc. Law § 500.10 (3-a).

<sup>84</sup> For example, Washington gives credit for time on pretrial electronic monitoring to people charged with felonies but not those charged with misdemeanors. See *Harris v. Charles*, 171 Wash. 2d 455 (2011). Illinois, on the other hand, allows credit for time on pretrial electronic monitoring if it is considered "home detention," but not if it is considered "home supervision," a distinction that is less than clear. See *People v. Theodore*, 2015 IL App (2d) 140277.

<sup>85</sup> Pew Public Safety Performance Project, *To Safely Cut Incarceration, States Rethink Responses to Supervision Violations* (Washington, DC: The Pew Charitable Trusts, 2019), [https://www.pewtrusts.org/-/media/assets/2019/07/pspp\\_states\\_target\\_technical\\_violations\\_v1.pdf](https://www.pewtrusts.org/-/media/assets/2019/07/pspp_states_target_technical_violations_v1.pdf); Eric J. Wodahl, John H. Boman IV, and Brett E. Garland, "Responding to Probation and Parole Violations: Are Jail Sanctions more Effective than Community-Based Graduated Sanctions?" *Journal of Criminal Justice* 43, no. 3 (2015): 242-250; E. K. Drake and S. Aos, *Confinement for Technical Violations of Community Supervision: Is There an Effect on Felony Recidivism?* (Olympia, WA: Washington State Institute for Public Policy, 2012), [https://www.wsipp.wa.gov/ReportFile/1106/Wsipp\\_Confinement-for-Technical-Violations-of-Community-Supervision-Is-There-an-Effect-on-Felony-Recidivism\\_Full-Report.pdf](https://www.wsipp.wa.gov/ReportFile/1106/Wsipp_Confinement-for-Technical-Violations-of-Community-Supervision-Is-There-an-Effect-on-Felony-Recidivism_Full-Report.pdf); Andres F. Rengifo and Christine S. Scott-Hayward, *Assessing the Effectiveness of Intermediate Sanctions in Multnomah County, Oregon* (New York: Vera Institute of Justice, 2008),

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<https://www.vera.org/publications/assessing-the-effectiveness-of-intermediate-sanctions-in-multnomah-county-oregon>.

<sup>86</sup> Daniel S. Nagin, "Deterrence in the Twenty-First Century," *Crime and Justice* 42, no. 1 (2013): 199-263; Raymond Paternoster, "How Much Do We Really Know about Criminal Deterrence?" *Journal of Criminal Law & Criminology*, 100, no. 3 (2010), 765-823.

<sup>87</sup> American Probation and Parole Association, *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision* (Lombard, IL: American Probation and Parole Association, 2013), <http://www.appa-net.org/eWeb/docs/APPA/pubs/EROBLLPPS-Report.pdf>.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid. Examples include Hawaii Opportunity Probation with Enforcement Program, South Dakota's 24/7 Sobriety Project (24/7), Georgia's Probation Options Management Program, and Wyoming's Intensive Supervision Program.

<sup>90</sup> Pew Public Safety Performance Project, *To Safely Cut Incarceration, States Rethink Responses to Supervision Violations*; Adam Gelb and Connie Utada, *For Better Results, Cut Correctional Populations* (Washington, DC: The Pew Charitable Trusts, 2017), [www.pewtrusts.org/en/research-and-analysis/analysis/2017/08/25/for-better-results-cut-correctional-populations](http://www.pewtrusts.org/en/research-and-analysis/analysis/2017/08/25/for-better-results-cut-correctional-populations).

<sup>91</sup> Recommendation 15b of the Task Force report proposes maximum sanctions for first, second, and third violations of five, 10, and 15 days for misdemeanor probation, and 15, 30, and 45 days for felony probation. *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*.

<sup>92</sup> See James F. Austin, "Reducing America's Correctional Populations: A Strategic Plan," *Justice Research and Policy* 12, no. 1 (2010): 9-40; Cecelia Klingele, "Rethinking the Use of Community Supervision," *The Journal of Criminal Law and Criminology* 103, no. 4 (2013): 1015-1069.

<sup>93</sup> Barbara Sims and Mark Jones, "Predicting Success or Failure on Probation: Factors Associated with Felony Probation Outcomes," *Crime & Delinquency* 43, no. 3 (1997): 314-327.

<sup>94</sup> American Law Institute, *Model Penal Code: Sentencing (Proposed Final Draft)* (Philadelphia, PA: American Law Institute, 2017), [https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs\\_proposed\\_final\\_draft.pdf](https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/mpcs_proposed_final_draft.pdf).

<sup>95</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 15a.

<sup>96</sup> American Probation and Parole Association, *Effective Responses to Offender Behavior: Lessons Learned for Probation and Parole Supervision*.

<sup>97</sup> Pew Public Safety Performance Project, *To Safely Cut Incarceration, States Rethink Responses to Supervision Violations*.

<sup>98</sup> Gelb and Utada, *For Better Results, Cut Correctional Populations*.

<sup>99</sup> *Michigan Joint Task Force on Jail and Pretrial Incarceration: Report and Recommendations*, Recommendation 15c.

<sup>100</sup> To equalize these admission rates, Wayne County would need to have booked 14,083 fewer Black people, which would have reduced the total bookings into the Wayne County Jail from 25,374 to 11,291 in the study period.

<sup>101</sup> An important resource is the Government Alliance on Race and Equity, which is a national network of government agencies that are working on increasing racial equity. See <https://www.racialequityalliance.org/>. Both Ann Arbor and Grand Rapids are part of the network.

<sup>102</sup> See [https://www.racialequityalliance.org/wp-content/uploads/2015/10/GARE-Racial\\_Equity\\_Toolkit.pdf](https://www.racialequityalliance.org/wp-content/uploads/2015/10/GARE-Racial_Equity_Toolkit.pdf).

<sup>103</sup> See [https://www.michigan.gov/documents/mdcr/racial\\_equity\\_toolkit\\_web\\_new4\\_628923\\_7.pdf](https://www.michigan.gov/documents/mdcr/racial_equity_toolkit_web_new4_628923_7.pdf).

<sup>104</sup> For more on an "intersectional approach" to addressing issues of racial equity in the context of criminal justice, as well as intersectionality more broadly, see Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1, Article 8 (1989): 139-167; Leslie



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Paik, "Critical Perspectives on Intersectionality and Criminology: Introduction," *Theoretical Criminology* 21, no. 1 (2017): 4-10.

<sup>105</sup> For example, to develop an RRI for arrests per 1,000 residents, one would first divide the number of arrests for white residents and residents of color by their number in the county population, and then multiply by 1,000 to create the rate. To get the RRI, the rate for residents of color would then be divided by the rate for white residents. This figure would reflect how much more or less likely a person of color would be to get arrested when compared to a white person. See Office of Juvenile Justice and Delinquency Prevention, "Implementing the Relative Rate Index Calculation: A Step-by-Step Approach to Identifying Disproportionate Minority Contact within the Juvenile Justice System," [https://cdpsdocs.state.co.us/ccjj/Resources/DMC/Calculate\\_RRI.pdf](https://cdpsdocs.state.co.us/ccjj/Resources/DMC/Calculate_RRI.pdf).

<sup>106</sup> For the purposes of this report, we categorized an offense as violent if any of the ways it could be committed was consistent with the definition of violent crime generally used by the federal government. Thus, "charges that could be considered violent" refers to offenses that have an element involving the use, attempted use, or threatened use of physical force against another person, even if there are other possible ways of committing that same offense which do not involve violence.

<sup>107</sup> While not all of the charges included in the felony breaking and entering category would be considered violent, approximately two-thirds of the bookings for charges in this category were for first- or second-degree home invasion, which would be considered violent.

<sup>108</sup> These are concerns raised by nongovernmental stakeholders. Vera did observe the dilapidation of one facility but did not seek to independently assess the relationship between staff and persons in custody or the prevalence of violence and controlled substances.

<sup>109</sup> In terms of DPD, there was no shortage of anecdotes about traumatic experiences with individual officers. In addition to broader structural issues related to policing and Black communities, one organizer attributed the poor relationship to a 1999 change in the residency requirement for municipal employees, which has resulted in a record number of DPD officers policing a city they do not live in. See Gus Burns, "3 of 4 Detroit Police Don't Live in Detroit, Raising Mobilization Concerns," *MLive News*, July 30, 2018, [https://www.mlive.com/news/detroit/2018/07/3\\_of\\_4\\_detroit\\_police\\_dont\\_liv.html](https://www.mlive.com/news/detroit/2018/07/3_of_4_detroit_police_dont_liv.html).

<sup>110</sup> Vera's analysis of state laws, court rules, and agency reports found multiple and at times discordant offense categorizations and definitions of violent crime. For example, Article 1, Section 15 of the Michigan Constitution defines a "violent felony" as one that has an element involving an actual or threatened violent act against another person, a definition also used in MCR 6.106. However, MCL 600.1060, 600.1090, and 600.1200, the laws relating to admission for drug courts, mental health courts, and veteran's courts, all define a "violent offender" as someone who is currently charged or has pled guilty to an offense that involves death or serious bodily injury, whether or not those are an element of the offense, or any degree of criminal sexual conduct. Separately, Michigan's Anti-Terrorism Act defines "violent felony" as a felony having an element that involves the actual, attempted, or threatened use of physical force, harmful biological, chemical, or radioactive substances or devices, or explosive or incendiary devices. The category of "assaultive crimes" in MCL 770.9a is also referenced by a number of other statutes. While this category does include a number of the most serious violent offenses, it does not include others, like child abuse or home invasion. The Michigan Incident Crime Reporting System (MICR) appears to model the National Incident-Based Reporting System used by the Federal Bureau of Investigation with "Group A" and "Group B" offenses followed by three broad categories. The Michigan Department of Corrections, at least in its statistical reporting, uses three different broad categories. The Michigan Sentencing Guidelines use six general offense categories, set out in state legislation, two of which are at least nominally the same as two of the three categories used by MICR.

<sup>111</sup> Paul Gendreau, Claire Goggin, Francis T. Cullen, and Donald A. Andrews, "The Effects of Community Sanctions and Incarceration on Recidivism," *Forum on Corrections Research* 12 (2000): 10-13; Paula Smith, Claire Goggin, and Paul Gendreau, *The Effects of Prison Sentences and Intermediate Sanctions on Recidivism: General Effects and Individual Differences* (Ottawa: Solicitor General of Canada, 2002), <https://www.publicsafety.gc.ca/cnt/rsracs/pblctns/ffcts-prsn-sntncs/ffcts-prsn-sntncs-eng.pdf>; Patrice Villettaz, Martin Killias, and Isabel Zoder, "The Effects of Custodial vs. Non-Custodial Sentences on Re-offending: A Systematic Review of the State of Knowledge," *Campbell*

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*Systematic Reviews* 2, no. 1 (2006): 1-69; Danielle Sered, *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair* (New York: The New Press, 2019).

<sup>112</sup> Sered, *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair*.

<sup>113</sup> Judith L. Herman, "The Mental Health of Crime Victims: Impact of Legal Intervention," *Journal of Traumatic Stress* 16, no. 2 (2003): 159-166.

<sup>114</sup> Edna Erez and Pamela Tontodonato, "The Effect of Victim Participation in Sentencing on Sentence Outcome," *Criminology* 28, no. 3 (1990): 451-474; Sered, *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair*; Alliance for Safety and Justice, *Crime Survivors Speak*, <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

<sup>115</sup> F.O.R.C.E. Detroit, *Live Free Detroit: Combating the Forced Criminalization of a City, Community Survey Report* (2018), [http://forcedetroit.org/wp-content/uploads/2018/11/ForceSurveyBook\\_Rev1.pdf](http://forcedetroit.org/wp-content/uploads/2018/11/ForceSurveyBook_Rev1.pdf).

<sup>116</sup> <https://www.mothersofmurderedchildren.org/>.

<sup>117</sup> <http://detroitlive.org/how-dlive-works/>.

<sup>118</sup> <https://www.alliedmedia.org/detroit-safety-team>.

<sup>119</sup> Danielle Sered, *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration* (New York: Vera Institute of Justice, 2017), <https://www.vera.org/downloads/publications/accounting-for-violence.pdf>.

<sup>120</sup> Caroline M. Angel, *Crime Victims Meet their Offenders: Testing the Impact of Restorative Justice Conferences on Victims' Post-Traumatic Stress Symptoms* (Unpublished doctoral dissertation, University of Pennsylvania, 2005); Heather Strang, Lawrence Sherman, Caroline M. Angel, Daniel J. Woods, Sarah Bennett, Dorothy Newbury-Birch, and Nova Inkpen, "Victim Evaluations of Face-to-Face Restorative Justice Conferences: A Quasi-Experimental Analysis," *Journal of Social Issues* 62 (2006): 281-306; Jo-Anne Wemmers and Katie Cyr, "Can Mediation Be Therapeutic for Crime Victims? An Evaluation of Victims' Experiences in Mediation with Young Offenders," *Canadian Journal of Criminology and Criminal Justice* 47, no. 3 (2005): 527-544.

<sup>121</sup> Mark S. Umbreit, Robert B. Coates, and Boris Kalanj, *Victim Meets Offender: The Impact of Restorative Justice and Mediation* (Monsey, NY: Criminal Justice Press, 1994).

<sup>122</sup> Common Justice, "Common Justice Model," [https://www.commonjustice.org/common\\_justice\\_model](https://www.commonjustice.org/common_justice_model).

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Brooklyn Community Foundation, "Common Justice," <https://www.brooklyncommunityfoundation.org/grant-recipients/common-justice-0>.

<sup>126</sup> Impact Justice Restorative Justice Project, <https://impactjustice.org/impact/restorative-justice/>.

<sup>127</sup> <https://rjdtoolkit.impactjustice.org/>.

<sup>128</sup> See [www.ruthelliscenter.org/](http://www.ruthelliscenter.org/).

<sup>129</sup> See <http://www.clas.wayne.edu/CPCS/>.

<sup>130</sup> See <https://thedisputeresolutioncenter.org/>.

<sup>131</sup> See <http://thefirecrackerfoundation.org/>.

<sup>132</sup> See <https://www.afsc.org/office/ypsilanti-mi>.

<sup>133</sup> See <https://www.byp100.org/copy-of-d-c>.

<sup>134</sup> See <https://detroitaction.org/>.

<sup>135</sup> See <https://www.detroitjustice.org/>.

<sup>136</sup> See <http://forcedetroit.org/>.

<sup>137</sup> See <https://ilusa.org/>.

<sup>138</sup> See <https://navigator.autismallianceofmichigan.org/item/michigan-childrens-law-center/>.

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- <sup>139</sup> See <https://miliberation.org/>.
- <sup>140</sup> See <https://momsbeyondbars.org/>.
- <sup>141</sup> See <https://www.nationoutside.org/whoweare>.
- <sup>142</sup> See <https://www.safeandjustmi.org/>.
- <sup>143</sup> See <https://www.nationoutside.org/whoweare>.
- <sup>144</sup> For more information on Philadelphia’s Community Advisory Council, see <https://www.phila.gov/programs/philadelphia-safety-and-justice-challenge/community-advisory-committee/>.
- <sup>145</sup> For more information, see Buncombe County North Carolina, “Help Reduce Buncombe's Jail Population: Apply to the Safety and Justice Challenge Community Engagement Workgroup,” <https://www.buncombecounty.org/countycenter/news-detail.aspx?id=17855>.
- <sup>146</sup> Information is based on Vera’s work with Buncombe County and Philadelphia through the MacArthur Foundation’s Safety and Justice Challenge.
- <sup>147</sup> Office of Child Support Enforcement, “Alternatives to Incarceration.”
- <sup>148</sup> Ibid.
- <sup>149</sup> Ibid.
- <sup>150</sup> Ibid.
- <sup>151</sup> Ibid.
- <sup>152</sup> Ibid.
- <sup>153</sup> Ibid; Insight Center, *The Payback Problem*.
- <sup>154</sup> Insight Center, *The Payback Problem*.
- <sup>155</sup> Ibid.
- <sup>156</sup> Ibid. See also Office of Child Support Enforcement, “Jobs not Jail,” [https://www.acf.hhs.gov/sites/default/files/programs/css/jobs\\_not\\_jail\\_final\\_10\\_02.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/jobs_not_jail_final_10_02.pdf).
- <sup>157</sup> National Conference of State Legislatures, “Child Support and Incarceration,” <https://www.ncsl.org/research/human-services/child-support-and-incarceration.aspx>; Office of Child Support Enforcement, “Alternatives to Incarceration.”
- <sup>158</sup> National Conference of State Legislatures, “Child Support and Incarceration”; Office of Child Support Enforcement, “Alternatives to Incarceration.”
- <sup>159</sup> Office of Child Support Enforcement, Center for Policy Research, *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs* (Washington, DC: Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, 2006), [https://www.acf.hhs.gov/sites/default/files/programs/css/working\\_with\\_incarcerated\\_resource\\_guide.pdf](https://www.acf.hhs.gov/sites/default/files/programs/css/working_with_incarcerated_resource_guide.pdf).
- <sup>160</sup> Ibid.
- <sup>161</sup> Ibid.
- <sup>162</sup> Note that, with the exception of the analysis of reducing admissions for technical violations, probation violations are omitted from the baselines used for the analyses in this section. For this analysis, we omit probation violations as in some circumstances it is unclear if the probation violation refers to a felony or a misdemeanor. For bond-related analysis, we omit probation violations as it is unclear if changes in bond amounts would affect an individual’s ability to be released in the same way. Hence, the numbers for baseline non-hold admissions and ADP shown are lower than those used in other parts of this report.
- <sup>163</sup> Note that these admission rates are based on non-hold admissions and, thus, differ from admission rates used in other parts of this report that are based on total admissions.
- <sup>164</sup> “Disparity Ratio” here refers to the ratio of the Black rate to the white rate. For example, in the baseline year with no reductions, we see a disparity ratio of 4.5, because the Black rate of 2,418 per 100,000 residents is approximately 4.5 times the white rate of 542.



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<sup>165</sup> Note that ADP here was calculated using a bed days formula and thus estimates may not match precisely the ADP estimates for violations provided elsewhere in the report. Specifically, this may be a more conservative metric as this measurement is based on the length of stay for all individuals booked on an apparent technical violation between the start and end of the study period, who were released prior to the end of the study period, and thus we may be missing some individuals on the margin.