

The Council of State Governments Justice Center





















National nonprofit, nonpartisan membership association of state government officials that engage members of all three branches of state government.



The Justice Center provides practical, nonpartisan advice informed by the best available evidence.

Since the last Justice Reinvestment Task Force meeting in October, CSG Justice Center staff have spoken with a wide array of stakeholders

Meetings and Calls

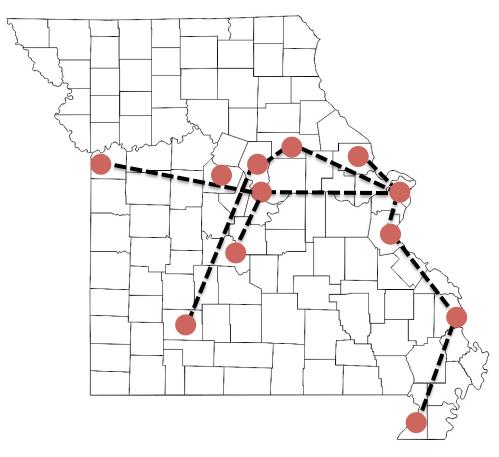
- State Agencies:
 - Missouri Department of Corrections (MDOC) leadership, division directors, and behavioral health treatment providers
 - Missouri Department of Mental Health (MDMH) leadership and division administrators
- St. Louis County Jail:
 - Meeting with leadership and staff at the St. Louis County Jail to learn more about recent reform efforts related to the MacArthur Foundation's Safety and Justice Challenge.
- Community Treatment Providers:
 - Preferred Family Healthcare, Jefferson City, Missouri
- Missouri Legislators

Facility Tours

- Cremer Therapeutic Community Center (CTCC), Fulton
- Women's Eastern Reception, Diagnostic, and Correctional Center (WERDCC), Vandalia
- Gateway Foundation "Free and Clean" Program, St. Louis

CSG Justice Center staff have gathered regional perspectives in stakeholder engagement that reflect the state's size and diversity

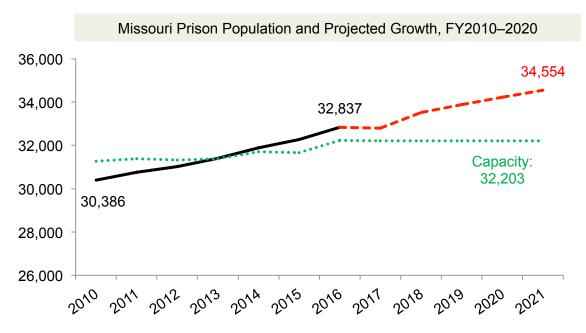




Since the last presentation...

Members of the CSG Justice Center team **made two site visits** to Missouri, which included visits to St. Louis, Jefferson City, and Vandalia. Stakeholders engaged during these visits included correctional administrators, behavioral health practitioners, treatment providers, and more.

Missouri's current prison population growth will require spending hundreds of millions in construction and operating costs



Actual population is based on population counts as of June 30 of each year.

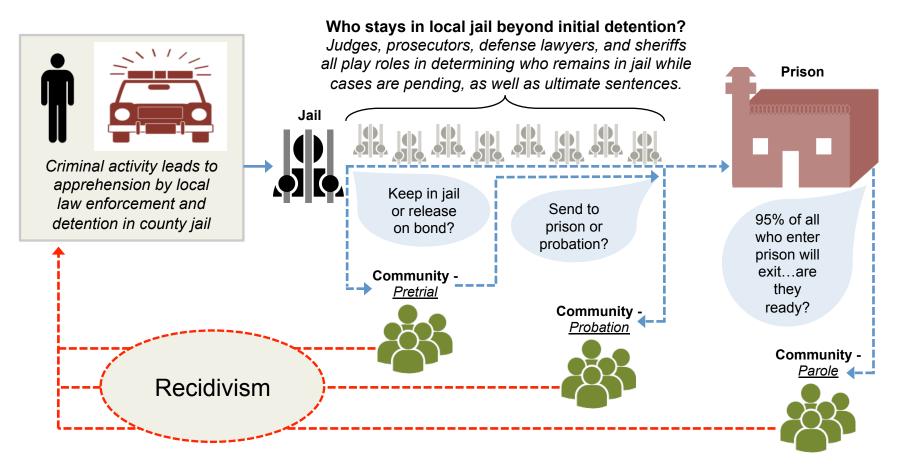
Note: Above projection is best-case scenario of MDOC's projections. Furthermore, rate of growth in female prison population may necessitate construction on a greater scale, and sooner.

If current trends continue. MDOC will be 2,351 prison beds short of needed capacity by the end of FY2021

- The cost of constructing a new 1,636 bed facility (e.g., Chillicothe women's facility) is about \$175 million.
- Operating costs would approach \$27 million annually.

Source: Missouri Department of Corrections Offender Profile, FY2016; Missouri Department of Corrections, August 2017 Population Forecast

Missouri's criminal justice system involves many decision points and actors

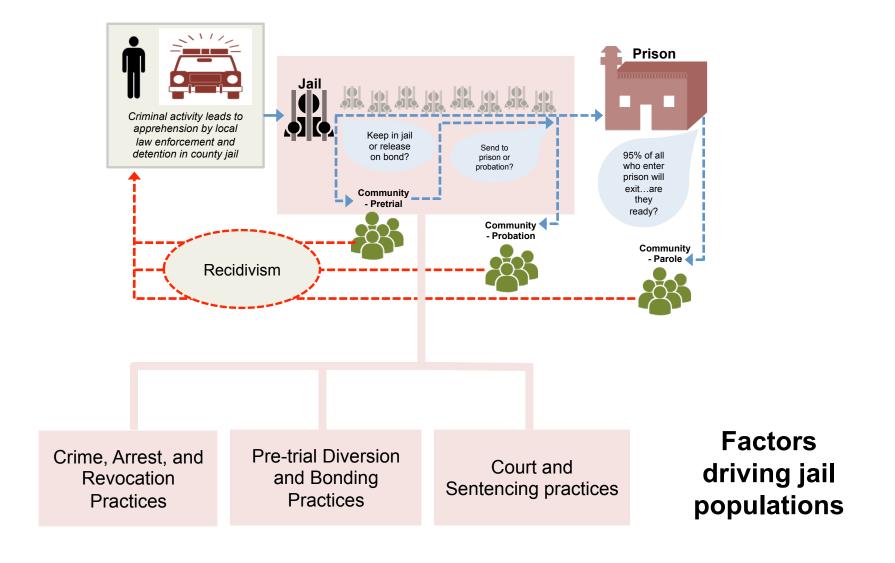


One of the primary objectives of reentry is to reduce recidivism, or the rate at which people return to criminal behavior patterns.

Key takeaways from October presentation

- While the total number of reported crimes is down in Missouri, violent crime is up in the last several years in both urban and rural areas. Moreover, arrests are not keeping pace with increases in violent crime, which is important as increased certainty of apprehension is the most cost-effective way to curb violent crime.
- Missouri's incarcerated female population is growing at an alarming rate. Women are more likely than men to be sentenced to prison for non-violent or drug offenses and many are sent to prison to receive behavioral health treatment. A lack of such services in the community is putting strain on the system and likely hampering outcomes.
- Missouri can bolster its response to victims of violent crime through changes to the state's compensation policy and directing increased federal resources to people and communities that are impacted most.

Today's meeting focuses on pre-trial issues and availability of jail beds



The management of jail populations impacts the larger criminal justice system and drives investments for counties and the state

Locally

1. Public Safety:

- Crime is local and jails are a key resource for public safety
- Effective management of this resource means incarcerating people who represent a threat to public safety
- Prolonged incarceration can increase a person's likelihood of committing crime in the future

2. Cost:

- In most counties, the single largest cost driver is public safety
- Many counties allocate between 2/3 and 3/4 of their budget to public safety

Statewide

1. Public Safety:

- Jail management practices can impact overall crime and public safety
- Research shows jail sanctions can be used to effectively manage people on probation or parole, and improve outcomes

2. Cost:

- Many states (including Missouri) reimburse or subsidize county jail operations
- Management of jail populations impacts the state's budget in direct and indirect ways

Specific areas of focus for today's presentation

- 1. What are jail population trends in Missouri?
- 2. What can be done, pretrial, to impact jail populations?
- 3. What approaches and programs are shown to be successful in addressing crime and recidivism in Missouri?
- 4. Are there better ways for the state to invest in and support jails and pretrial practices? How can better outcomes be achieved while encouraging innovation and allowing flexibility at the local level while not breaking the bank?

Overview



1 Understanding Drivers of Jail Populations

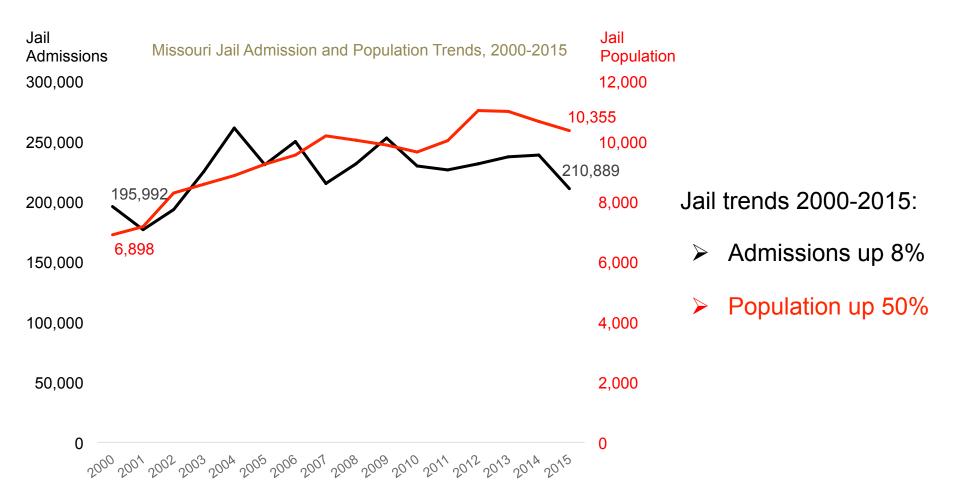
2 Breaking Down County Jail Reimbursement

Changing Missouri's Jail
Reimbursement Paradigm

Factors contributing to jail populations

Who comes into contact with law enforcement? Is jail the appropriate response? If not, are there any other viable options? Once booked into jail, what sort of practices exist to identify flight and public safety risks in relation to pretrial release decisionmaking? Do indigent defendants have adequate and timely representation? What sort of pretrial release and bonding practices are in place, such as release on recognizance, use of pretrial supervision, offense based bond schedules? How efficient are courts in docketing cases and holding hearings, for both new cases and probation violators?

Despite relatively flat admissions since 2010, Missouri's jail populations have increased by 50 percent



Source: Vera Incarceration Trends, http://trends.vera.org/rates/missouri?incarcerationData=all.

Painting a picture of the more than 100 jails in Missouri is challenging

Survey sent to all county jails in Missouri

19 responses

(Jail with 1 bed ranging to jail with 601 beds)

Questions were mostly about jail capacity and population breakdowns.

Unfortunately, most of the responses around population breakdowns involved double-counting of inmates, which limits the utility of the responses.

Survey Questions:

- What is capacity of jail?
- ☐ What is population as of a recent day?
- Of total population, how many are:
 - Pretrial felons?
 - Pretrial Misdemeanants?
 - Sentenced to MDOC and awaiting transfer
 - Sentenced to jail?
- ☐ Use of risk assessments?
- □ Use of mental health assessments?

Some information is gleaned from a survey of nineteen jail administrators conducted as part of this process

Crowding

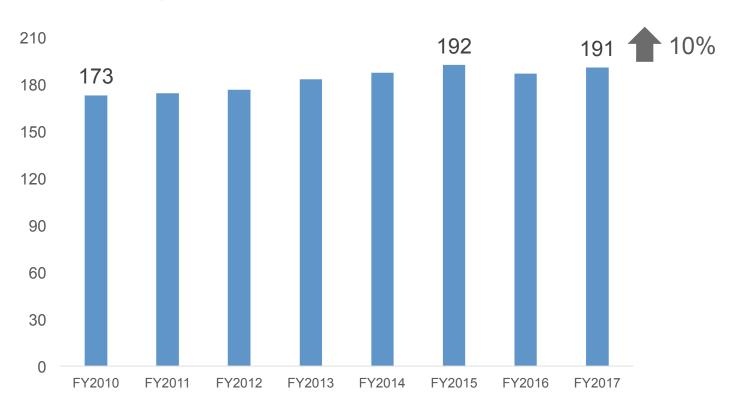
7 of the 19 respondents indicate jail overcrowding, i.e. actual population above designed capacity of jail.

Mental Illness

- ➤ 14 of the 19 respondents indicate using a tool at jail intake to screen/assess for mental health issues
- ➤ Of the 14 using a MH screening tool, estimated percent of jail inmates with a mental illness ranged from 1% to 60%...a sign of questionable screening protocols in light of solid information from around the country indicating that approximately 17% of jail inmates have a serious mental illness.

The time it takes for people to be convicted and sentenced for felonies has increased by 10 percent since FY2010



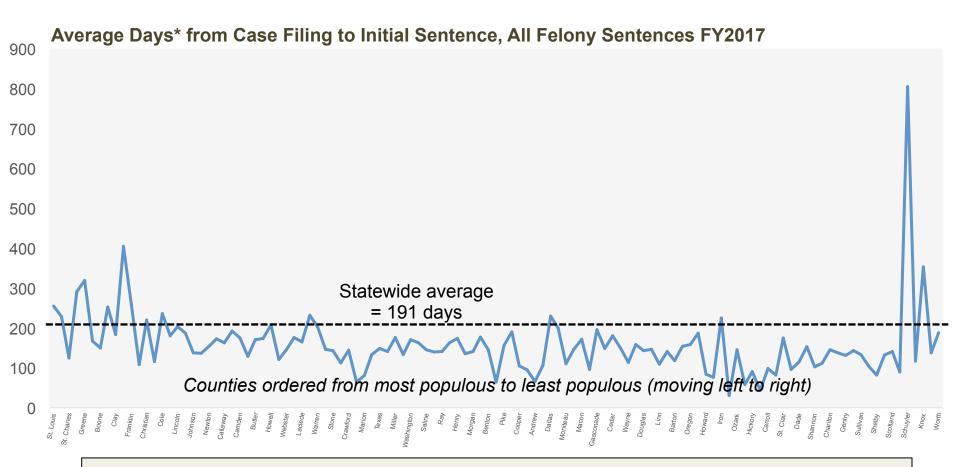


*CSG Justice Center's number of days from filing to sentence was calculated as the number of days from date of initial filing to date of first sentence for a case. This method differs from OSCA's reported "case age" in two key ways: (1) OSCA "case age" is based on disposition date, and (2) CSG Justice Center did not exclude days in those cases where a defendant had an outstanding warrant. As such, the average number of days reported here may be higher than the OSCA case age.

Source: CSG analysis of OSCA sentencing data

240

Twenty-six counties and St. Louis City have felony case processing durations at or exceeding 6 months



66 counties have averages of 150 days or less, including higher volume counties like Boone, Buchanan, Cape Girardeau, and St. Charles.

Source: CSG analysis of OSCA sentencing data

Long case processing times are found in both high and low population counties

Top 10 Counties in Population

10 Counties with the **Highest Average**

10 Counties with the **Lowest Average**

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County	Avg. Days - Filing to Sentence*	County	Avg. Days - Filing to Sentence*	County	Avg. Days - Filing to Sentence*
Statewide	191	Statewide	191	Statewide	191
St. Louis (county)	254	Schuyler	804	Ralls	31
Jackson	228	Cass	404	Monroe	43
St. Charles	124	Knox	353	Maries	58
St. Louis (city)	291	Greene	319	Wright	64
Greene	319	St. Louis (city)	291	Stoddard	64
Jefferson	166	Franklin	259	Andrew	65
Boone	150	St. Louis (county)	254	Grundy	76
Jasper	252	Jasper	252	Marion	81
Clay	184	Cole	236	Caldwell	82
Cass	404	Lawrence	231	Shelby	82

^{*}CSG Justice Center's number of days from filing to sentence was calculated as the number of days from date of initial filing to date of first sentence for a case. This method differs from OSCA's reported "case age" in two key ways: (1) OSCA "case age" is based on disposition date, and (2) CSG Justice Center did not exclude days in those cases where a defendant had an outstanding warrant. As such, the average number of days reported here may be higher than the OSCA case age.

Source: CSG analysis of OSCA sentencing data

Rising case processing times are found in most of the more populous counties

Average Days* from Filing to Original Sentence, Felony Cases Top 10 Counties in Population

County	FY2010	FY2017	% Increase FY2010-17
Statewide	173	191	10%
St. Louis (county)	209	254	22%
Jackson	162	228	41%
St. Charles	126	124	-1%
St. Louis (city)	316	291	-8%
Greene	270	319	18%
Jefferson	161	166	3%
Boone	86	150	74%
Jasper	178	252	42%
Clay	177	184	4%
Cass	184	404	120%

A total of 56 counties had increases exceeding the statewide average.

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Source: CSG analysis of OSCA sentencing data

Public Defenders in Missouri are understaffed, which contributes to delays in case processing in the courts

Based on a 2014 workload study, Missouri's public defenders do not have adequate hours to manage their caseload.

Case Type	Hours p	er Case	%
	Status Quo	Best Practice	Shortfall
Murder/Homicide	84.5	106.6	- 21%
Appellate/PCR	30.3	96.5	- 69%
Sex Felony	25.6	63.8	- 60%
A/B Felony	8.7	47.6	- 447%
C/D Felony	4.4	25.0	- 468%
Juvenile	4.6	19.5	- 324%
Misdemeanor	2.3	11.7	- 409%
Probation Violation	1.4	9.9	- 607%

Source: The Missouri Project, American Bar Association, June 2014.

There are unique circumstances law enforcement, prosecutors, public defenders and judges must weigh when considering who is detained

Scenario A

Felony possession of methamphetamine

- 1 prior arrest for similar offense

Scenario B

Misdemeanor assault - domestic

- 1 prior conviction for misd. assault

Scenario C

Parole violator hold – technical

Missed appointment

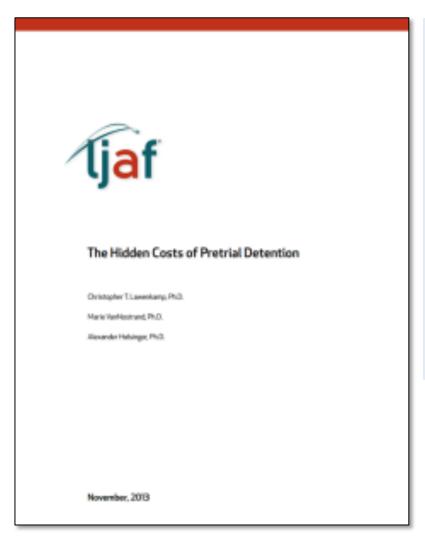
Scenario D

Probation violator hold – technical

- 3rd failed drug test, seeking 48 hrs.

- Other factors such as employment stability, family situation, substance abuse and mental health issues only complicate the calculus.
- Scale up to reflect that many jails will be presented with hundreds and maybe thousands of potential bookings in a given year.

Research shows that longer lengths of stay for low-risk defendants increases their likelihood of recidivism



Low-risk defendants had a:

- 40% higher chance of committing a new crime before trial when held 2 to 3 days compared to those held one day or less and
- 51% higher chance of committing a new crime in the next two years when held 8 to 14 days compared to one day or less.

Source: LJAF http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/performing-foundational-research/

Research shows that people detained pretrial are more likely to have negative outcomes than similar defendants who are not detained pretrial

Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes

Megan Stevenson*†
May 2, 2016

Abstract

Instrumenting for detention status with the bail-setting propensities of rotating magistrates I find that pretrial detention leads to a 13% increase in the likelihood of being convicted, an effect explained by an increase in guilty pleas among defendant who otherwise would have been acquitted or had their charges dropped. On average, those detained will be liable for \$128 more in court fees and will receive incarceration sentences that are almost five months longer. Effects can be seen in both misdemeanor and felony cases, across age and race, and appear particularly large for first or second time arrestees. Case types where evidence tends to be weaker also show pronounced effects: a 30% increase in pleading guilty and an additional 18 months in the incarceration sentence. While previous research has shown correlations between pretrial detention and unfavorable case outcomes, this paper is the first to use a quasi-experimental research design to show that the relationship is causal.

All other things being equal, pretrial detention leads to:

- 13% increase in the likelihood of conviction
- 21% increase in the likelihood of pleading guilty
- Higher average court costs
- Incarceration sentences that are 4.6 months longer on average

Source: LJAF http://www.arnoldfoundation.org/initiative/criminal-justice/crime-prevention/performing-foundational-research/

There are actuarial tools and strategies Missouri could use more consistently to make decisions about who is in jail

- 1. Pretrial risk assessment
- 2. Pretrial supervision
- Citation in lieu of arrest
- 4. Elimination of bond schedules
- 5. Screening of criminal cases by an experienced prosecutor
- 6. Presence of defense counsel at initial appearance
- 7. Availability of detention with due process
- 8. Collection & analysis of performance measures

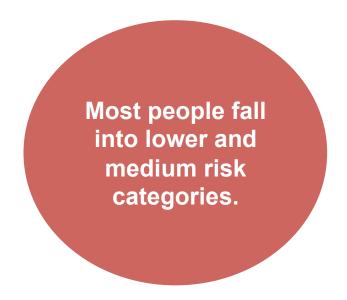


Pretrial risk assessments help stakeholders better identify individuals that can be candidates for diversion from pretrial detention

Recognized Best Practices

Pretrial risk assessment tools help determine if the person who is arrested will:

- 1. Appear in court
- 2. Commit another crime or pose a public safety threat



Results from pretrial risk assessments can help courts determine supervision conditions for defendants awaiting trial

Recognized Best Practices

Pretrial risk assessment tools should be used with a release matrix that applies a person's score and charges to suggest conditions that will assure pretrial supervision success.

Over-supervising people during the pretrial period has been shown to make them more likely to be arrested and less likely to return to court.

Conditions of release may include

- Providing current phone numbers for court date reminder texts
- Phone or in-person check-ins
- Curfews
- Stay-away orders
- Referrals to health assessments for voluntary services
- Electronic monitoring (in rare cases)

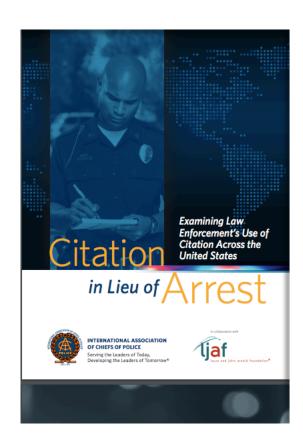
Using citation in lieu of arrest for high volume, low severity offenses can free up law enforcement time

Recognized Best Practices

<u>Citation and release in lieu of arrest</u> can be used for non-violent offenses, with a confirmed identity and determination that the person is likely to show up for court and not commit additional offenses.

The International Association of Police Chiefs:

- Law enforcement agencies are using citation for nearly a third of all incidents: disorderly conduct, theft, trespassing, driving under suspension, and possession of marijuana.
- Citations save about an hour in processing time per incident
- 2/3 of officers surveyed support cite & release



Source: Pretrial Justice Institute, http://www.pretrial.org/solutions/ and http://www.pretrial.org/solutions/ and http://www.pretrial.org/solutions/ and http://www.pretrial.org/download/law-policy/Citation-in-Lieu-of-Arrest-IACP-LJAF-2016.pdf

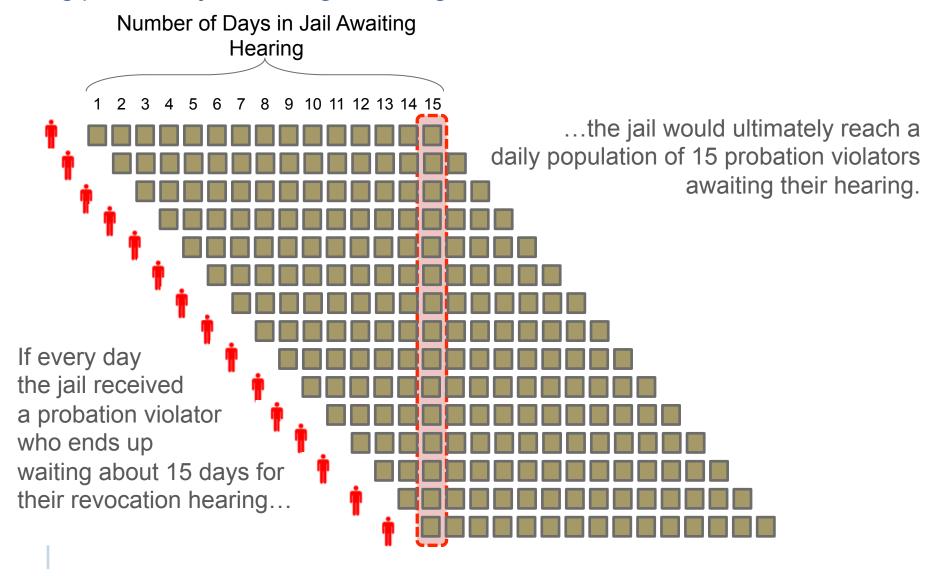
Bond schedules should be replaced by validated pretrial risk assessments

Recognized Best Practices

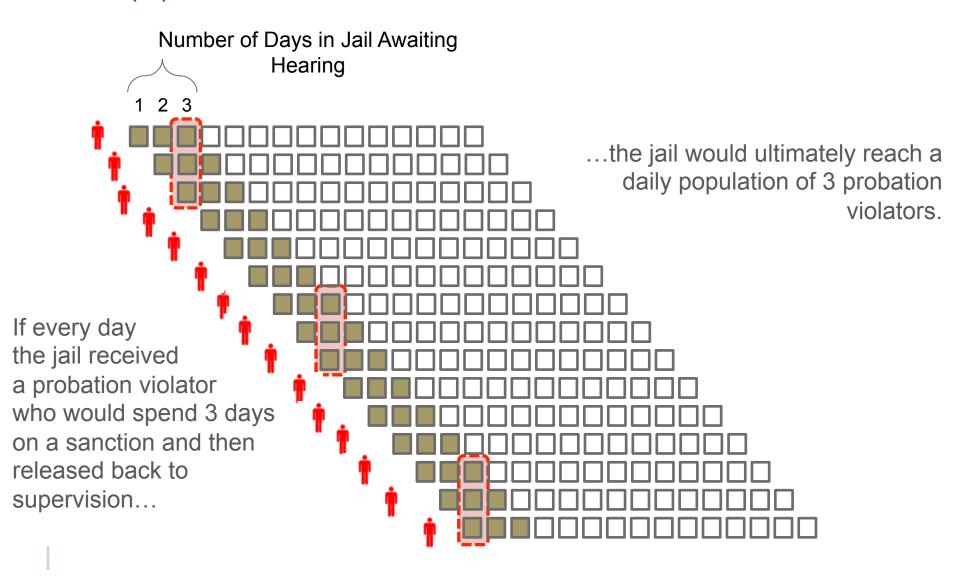
With the adoption of individualized risk assessment, many jurisdictions are moving away from offense-based bond schedules.

The U.S. Supreme Court in *Stack v. Boyle* upheld that bail must be based on an individualized assessment of a defendant's strengths and weaknesses. Bond schedules are based on charge alone and cannot take into account a defendant's prior record or community ties.

People on supervision with pending revocation proceedings often spend long periods in jail awaiting a hearing



Changing dynamics around length of stay greatly impacts the size of detained populations



Jail Population Drivers: Section Recap

- The Missouri jail population has increased 50%.
- People spend too much time in jail waiting for revocation hearings
- Processing times for felony cases statewide is just over 190 days
- ➤ People who are low risk to public safety and likely to show up for future court dates should not spend time in jail.
- Bonds and pretrial supervision should be determined based on risk.
- Certain offenses don't require jail time.

What Can Missouri Do?



- Implement statewide pretrial risk assessment tools to inform levels of pretrial supervision
- Institutionalize law enforcement's ability to cite and release for certain offenses
- Move away from offense based bond schedules
- Increase the investment into public and indigent defense

Overview



1 Understanding Drivers of Jail Populations

2 Breaking Down County Jail Reimbursement

Changing Missouri's Jail
Reimbursement Paradigm

What is county jail reimbursement?

In short, county jail reimbursement is a process through which a state subsidizes the cost of confining people at the local level. Many states have such a process, but it differs significantly in scope and reimbursement level by state.

Examples of Differing Approaches to jail reimbursement:



Arkansas

Reimbursement rate of \$30/day, but counties are paid only when paperwork is completed to transfer that person to ADC. Generally a function of ADC's capacity and inability to transfer people from county jail to ADC in a timely manner.



Texas

Reimbursement of counties begins 45 days after sentencing, allowing the state time to schedule and complete transfer of individuals from jail to TDCJ reception facility. Counties receive very little from the state for jail costs.

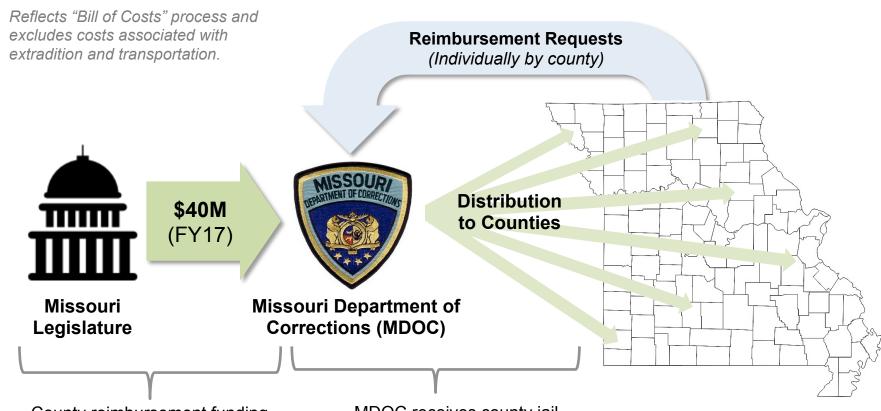


Alabama

No formal reimbursement mechanism is in currently place. The state pays all counties \$1.75 per inmate per day to cover food costs only. Counties are required to deliver an offender to Alabama DOC on the 31st day after sentencing.

Source: National Association of Counties (NACo), State Prisoners in County Jails, February 2010.

Missouri's current county jail reimbursement process



County reimbursement funding determined by Missouri legislature. **Total appropriation determines** county reimbursement rate.

MDOC receives county jail reimbursement monies on a quarterly **basis** for distribution to counties. Money is generally distributed within 10 days of receipt from state treasury.

Source: MDOC letter to counties, distributed September 12, 2017.

County jails submitted almost \$43 million in reimbursement claims to MDOC in fiscal year 2017

FY2017 Bill of Costs Reimbursement Requests

\$42.7 Million

Reimbursement requests submitted by 111 counties and the City of St. Louis.

Total amounts requested per county ranged from:

- as little as \$4,687
- as much as \$6.4 million

Most reimbursement requests can be attributed to a number of days in the county jail for an individual who was sentenced to prison

FY2017 Bill of Costs Reimbursement Requests

\$42.7 Million

Some reimbursement claims are for various fees and unrelated to a specific duration in jail

\$1.3 Million

18,659 reimbursement claims with an underlying number of days in jail

\$41.4 Million

Representing 1,847,016 days

Source: CSG analysis of MDOC county jail reimbursement data as of July 25, 2017.

Reimbursement claims associated with days in jail most frequently reflect durations in excess of three months

18,659 reimbursement claims with an underlying number of days in jail

\$41.4 Million

Representing 1,847,016 days

Days Billed	# of Claims
1-14	4,201
15-30	2,226
31-60	3,501
61-90	2,332
91 or more	6,399
Total	18,659

Not all potential uses of a jail bed are equal



Scenario A Defendant

Felony possession of methamphetamine

1 prior arrest for similar offense

Scenario B Defendant

Misdemeanor assault - domestic

1 prior conviction for misd. assault

A hard and fast rule like "felony to be treated more severely than misdemeanor" wouldn't always be in the interests of public safety when presented with the scenario to the left.

Current reimbursement structure has potential to work against key aspects of public safety

Assume there is 1 bed available in the local 10-bed jail. Which defendant presents the best case for the bed's use?

Scenario A Defendant

Felony possession of methamphetamine

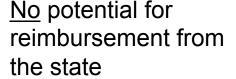
- 1 prior arrest for similar offense
- stable employment
- verifiable residence

Potential for reimbursement from the state

Scenario B Defendant

Misdemeanor assault - domestic

- 1 prior conviction for misd. assault
- no verifiable residence other than victim



Other factors among otherwise "similar cases" can play into who is in jail and subsequently what the state is reimbursing counties

Assume there is 1 bed available in the local 10-bed jail. Which defendant presents the best case for the bed's use?

Scenario A1 Defendant

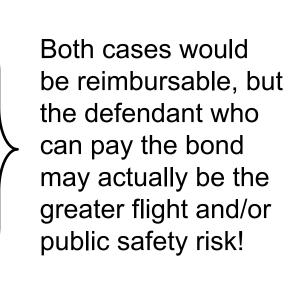
Felony possession of methamphetamine

- 1 prior arrest for similar
- stable employment
- verifiable residence
- unable to pay bond

Scenario A2 Defendant

Felony possession of methamphetamine

- 2 prior arrests, one for similar offense and one for misd. assault
- no employment (or history)
- no verifiable residence
- able to pay bond



One area of consensus on jail reimbursement is that nobody in Missouri is a fan of the current approach

- Reimbursement rates are a product of state budgeting process determining a size of the pie and then dividing widgets into that pie to determine a daily rate.
 - Counties contend that the current rate does not actually "reimburse" but merely subsidizes.
- Process is not transparent, efficient, or effective.
 - Judges, Sheriffs, Prosecutors, and County Clerks must certify that someone actually spent those nights in jail, but the state audits claims and adjusts reimbursement amounts accordingly. All of this is done without benefit of any meaningful database on jail populations.
- The counties report that the state is many millions in arrears.

Jail Reimbursement: Section Recap

- Missouri spends more than \$40 million per year to reimburse county jails.
- ➤ In FY2017, 111 of the state's 114 counties, and the City of St. Louis, submitted reimbursement requests. These represented over 1.8 million total days in jail statewide.
- > Jail beds are an important public safety resource. People and situations vary widely and critical choices must be made about how best to use jail beds to protect public safety.
- > Stakeholders agree that the current reimbursement process in Missouri is broken.

What Can Missouri Do?



Revamp the jail reimbursement process to make it more transparent, efficient, and public safetyoriented.

Overview



1 Understanding Drivers of Jail Populations

2 Breaking Down County Jail Reimbursement

Changing Missouri's Jail
Reimbursement Paradigm

St. Louis County has faced a number of challenges in managing its jail population, but has taken steps to address

Challenges

Length of Time in Jail

- 64 percent of the Average Daily Population (ADP) is in a pretrial status.
 - Average of 42 days served pretrial
- 27 percent of the population is awaiting a hearing on a probation violation.
 - Average of 99 days served awaiting a hearing

Jail Crowding

Female jail population routinely exceeds capacity by 25 percent or more.

High-Needs Population

85 percent of people in the jail are substance use dependent

Initiatives

Pre-Trial Release Program (initiated in 2014)

- Jail intakes are screened using a pretrial risk assessment tool and appear before a judge within 24 hours
- Jail staff work with local system stakeholders and provide pretrial supervision

Fast-Track Program for Probation Violators (initiated October 2016)

Case managers work with clients facing technical violations to get out of jail in 10 days.

Text Reminder System

St. Louis County has made significant progress in recent years with assistance from the MacArthur Foundation's Safety and Justice Challenge

Outcomes

Pre-Trial Release Program

- 303 people released in 2016
 - 79 percent of those released successfully completed their term of release.
 - 18 percent failed to appear for court.
 - 3 percent committed new crimes while on supervision.

Fast-Track Probation Violation Program

- 184 people have participated
 - 90 percent had remained crime free through September 2017
 - Only one incident of reoffending among this group



Missouri can rethink how the state invests in jails and pretrial practices

STATUS QUO

\$40 Million from State to Counties

Protocol

- Count felons:
 - sentenced to prison, and
 - Associated pretrial detention days
- Send invoice to MDOC
- Receive check

ALTERNATIVE

\$40 Million from State to Counties

Protocol

- Identify best practices around pretrial and jail management
- Counties make proposals to state for resources to invest in strategies to assist local pretrial and jail management practices
- Accountability to practice and outcomes

Changing the Reimbursement Paradigm: Section Recap

- > St. Louis County has taken affirmative steps to address challenges with length of stay, crowding, and the high needs population in its jail.
- > St. Louis County's pretrial release and fast-track probation violator programs have been effective in maintaining public safety.
- ➤ A shift is needed in the jail reimbursement paradigm in Missouri. State funding can be leveraged at the local level to increase public safety through the implementation of best practices in the management of jail populations.

What Can Missouri Do?



The orientation of the policy can shift from one focused only on collecting revenue at the county level for prison-bound people, to one where counties and the state cooperate on matters of best practice to ensure public safety.

Key takeaways

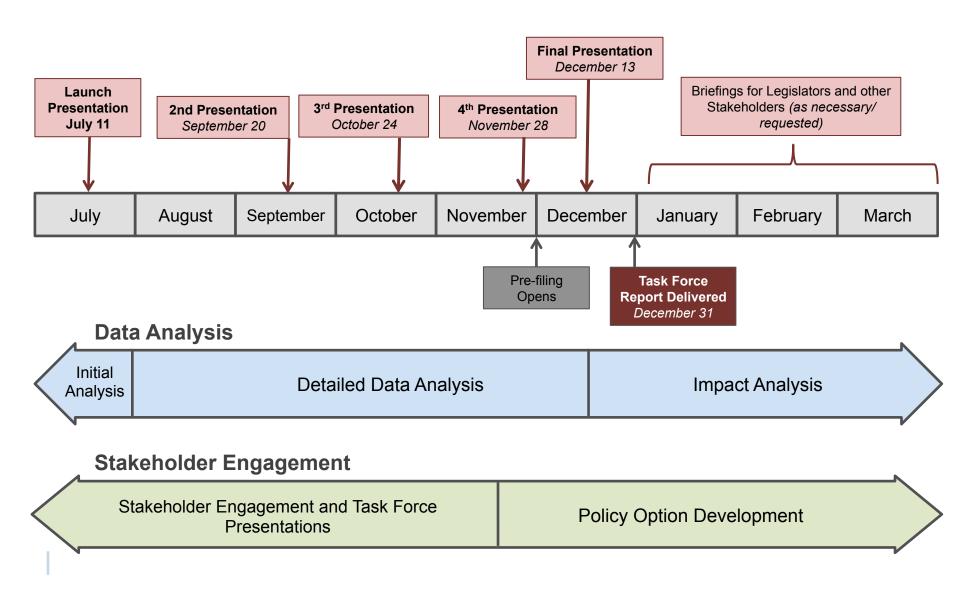
- Local jails are an integral part of a larger criminal justice system and can be partners with the State to effect better public safety strategies.
- Despite relatively stable admissions, the population of Missouri's jails have increased 50 percent since 2010. This indicates other factors are slowing the process and driving up jail populations.
- The picture is unclear regarding local trends and practices around Missouri's jails, but some jurisdictions are beginning to incorporate better practices locally.
- Missouri's investment into county jails is substantial compared to other states' reimbursement approaches, but it is all about counting widgets.
- Opportunity exists to change current investments into more flexible and impactful resources to aid local communities in improving pretrial and jail resource management practices.

Next steps

Final Task Force meeting on December 13th

- Assessment of behavioral health landscape in Missouri
- □ Recap of major findings presented to Task Force
- Present policy options
 - those already discussed from prior meetings
 - new policy options
 - estimated impacts to system
- Final discussion and vote

Updated timeline for justice reinvestment in Missouri







Thank You

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