
Washington County, Arkansas

Criminal Justice System Assessment

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Introduction

Executive Summary

Washington County is part of the rapidly growing Northwest Arkansas region and is comprised of urban, suburban, and rural areas, including 13 incorporated municipalities—the largest of which are Springdale and the county seat, Fayetteville. Washington County is known for education and is home to four colleges and universities including the University of Arkansas.

The Washington County Quorum Court sought information to better understand the nature and dynamic of the offender population, its propensity to grow and change in the future, and how they affect the planning elements within the criminal justice system. NCSC experts worked closely with Washington County officials to determine the best approach for this study and utilized a mixed-methods approach that combined primary data collected through onsite observation and interviews and secondary data including literature reviews and existing organizational and administrative data. Quantitative custody and court data were employed to develop a statistically valid time series forecast.

As a result of examining the roles of each Washington County criminal justice agency, jail inmate background, jail admissions and releases, crime and inmate projections, the role of external factors, the role of alternative to incarceration, and case processing, the NCSC team recommends utilizing the Integrated Model developed by the National Institute of Corrections and the Crime and Justice Institute to help criminal justice system leaders and stakeholders manage change and implement Data-Driven Decision Making and evidence-based practices. In addition to the Integrated Model and Data-Driven Decision Making, the NCSC team identified opportunities and recommendations for improvement for the Washington County criminal justice system. Opportunities and recommendations are organized into four areas: criminal justice system, criminal justice system facility, criminal justice system agency, and programs.

Criminal Justice System

- Develop and implement a criminal justice coordinating committee (CJCC).
- Develop data-driven decision making across the justice system to routinely monitor key metrics as a key activity of the CJCC.
- Develop and implement a communication policy for your CJCC and for each criminal justice agency that encourages responsible transparency.

Criminal Justice System Facilities

- Consider the development of a regional jail facility.
- Continually monitor the utilization of jail beds in relation to the projected jail population.
- Consider the movement of parties within the courthouse facility to ensure the safety and security of all individuals within the courthouse.

Criminal Justice System Agencies

Courts

- NCSC recommends the judiciary and court work to develop more consistent and collaborative operating procedures through the creation of a court administrator or similar position.
- Eliminate meetings between the Court and prosecution that take place prior to initial hearings.

Public defender

- Ensure appropriate public defender caseload ratios, compensation parity, and treatment of public defenders in comparison to prosecutors. .

Programs

- Collaborate with the United Way of Northwest Arkansas to develop a user friendly and comprehensive regional services guide specific to Northwest Arkansas.
- Collaborate and coordinate with local community and economic development agencies to ensure that transportation and housing for county residents is included in city, county, or regional strategic planning.
- Invest in a robust pretrial services program to provide the accused with adequate Eighth Amendment protections, and case management and linkage to services to address the root causes of their justice involvement.
- Consider the development of a pre-adjudication mental health court program that serves those with untreated severe and persistent mental illness who are frequently involved with law enforcement and the jail.
- Continue to utilize video technology to reduce transportation and personnel costs related to transport.
- Establish mechanisms to join siloed management information systems together across agencies (courts, prosecution, jail, community corrections, etc.) to merge the data which would allow justice system partners to collect and analyze the data for the review and analysis of system operations and processes from arrest through disposition.

Scope of Work

NCSC was contracted by Washington County to assess the criminal justice system, with a focus on understanding the nature and dynamics of the offender population, the propensity to grow and change in the future, and how it will affect the planning elements within the criminal justice system.

Background

Washington County is part of the rapidly growing Northwest Arkansas region, located on the southern edge of the Ozarks. Washington County covers 952 square miles and is comprised of urban, suburban, and rural areas, including 13 incorporated municipalities—the largest of which are Springdale and the county seat, Fayetteville. Washington County is known for education and is home to four colleges and universities including the University of Arkansas. The population has grown 17.8% since the 2010 Census and is currently estimated at 239,187. The majority of participants are white (86.6%), but there is a large Hispanic population (17.7%), and Washington County is home to the largest Marshallese population in the continental United States. Northwest Arkansas (NWAR), including Benton, Washington and Madison counties, has been growing exponentially for the last decade, adding a net gain of 30 people per day in 2019. The largest employers in NWAR are Walmart, Tyson, and J.B. Hunt. Manufacturing (including mining), education, and retail are the top industries in Washington County.



Washington County, like other county governments, is a political subdivision of the state and wields the power granted to it by the state. There is an executive branch led by the County Judge who is a non-judicial chief executive officer for the county government. The County Judge presides over the legislative branch called the Quorum Court. Washington County's Quorum Court is made up of 15 elected district officers called Justices of the Peace. The Quorum Court controls all spending and revenue for the county. The County Judge is an ex officio member of the Quorum Court and does not vote but does have veto power over Quorum Court decisions. The County Judge is elected for a four-year term and Justices of the Peace are elected for two-year terms.

The sheriff is one of nine elected officials in Washington County. The sheriff is the chief enforcement officer of the circuit courts, maintains public peace, and is charged with custody and care of the county jail and its detainees. The sheriff also works with the various local municipal, state, and federal law enforcement agencies. The current jail was built in 2005 due to overcrowding. It has a capacity of 710 beds and was moved from the center of town onto a larger plot of land to allow for later expansion. Despite the increase from 240 to 710 beds in 2005, the jail started experiencing issues with overcrowding in 2014. The sheriff's push for an expansion to the jail has been met with resistance from some elected and appointed officials, as well as the community. There is a desire to examine the existing system to determine if there are efficiencies that can be instituted to reduce use of the jail and thereby bypass the need to expand.

As such, the Quorum Court issued a Request for Proposals in October 2019 for a Criminal Justice System Assessment Study to better understand the nature and dynamic of the offender population, its propensity to grow and change in the future, and how they affect the planning elements within the criminal justice system. The study was to examine the role of each criminal justice agency, jail inmate background, jail admissions and releases, crime and inmate

population projections, the role of external factors, the role of alternatives to incarceration, case processing, and opportunities for improvement in system efficiency and cost.

Methodology

NCSC's Justice Programs and Problem-Solving Courts team is an interdisciplinary team of practitioners and applied researchers who help clients assess the effectiveness and impact of their programs, make data-driven decisions, and create a culture of accountability and continuous quality improvement. The NCSC experts worked closely with Washington County officials to determine the best approach for this study. The Justice and Problem-Solving Courts team utilized a mixed-methods approach that combined primary data collected through onsite observation and interviews, and secondary data including literature reviews and existing organizational and administrative data. Quantitative custody and court data were employed to develop a statistically valid time series forecast.

Data Sources

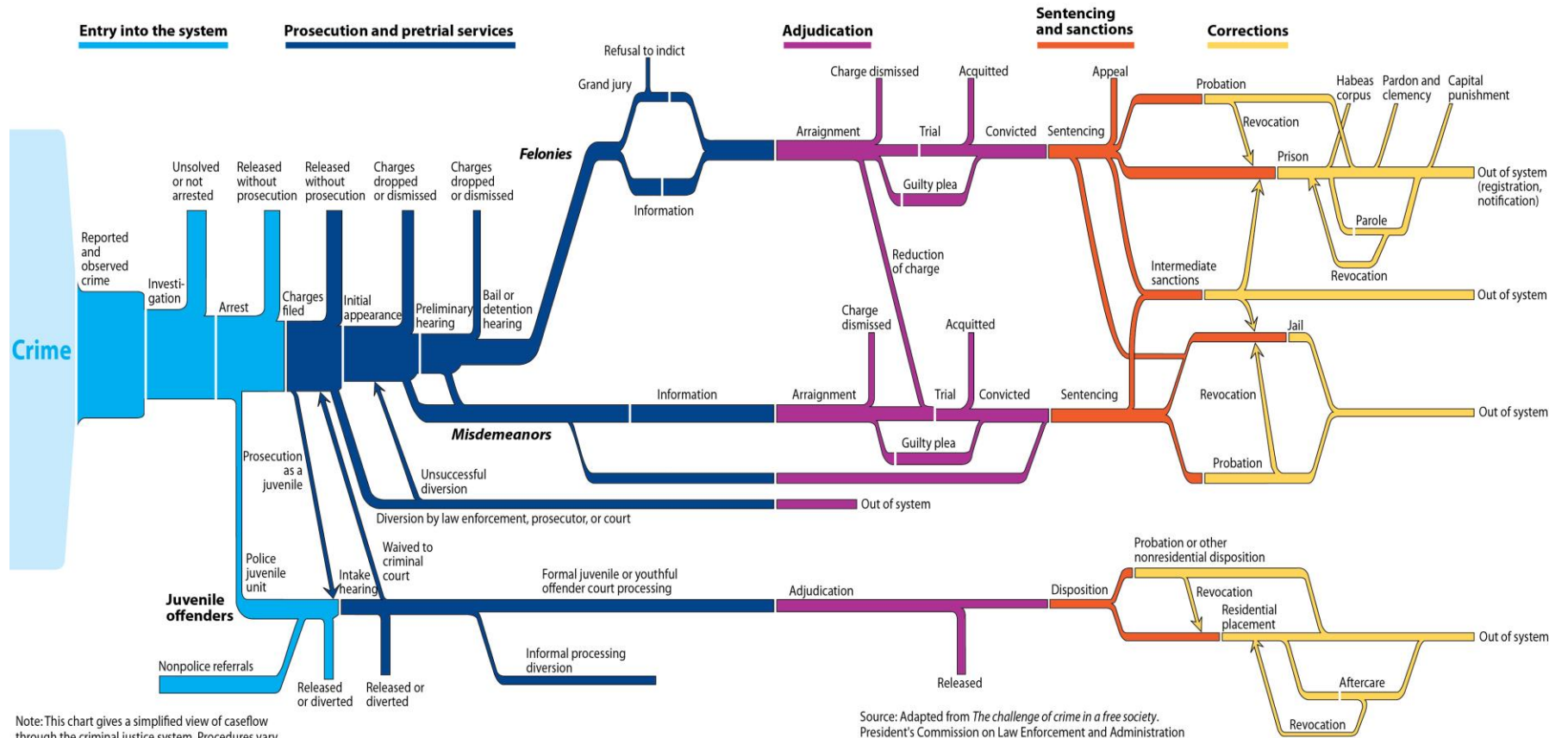
Quantitative data included Arkansas Crime Information Center (ACIC) data and case management data from the courts, prosecution, public defender, and law enforcement agencies. In addition, a large data extract covering demographics and charge information for every individual held in custody between 2015 and 2019 was acquired. Qualitative data included in-person and telephonic interviews with stakeholders. A list of stakeholders, their roles and organizations may be found in the Appendix.

The Criminal Justice System

The American criminal justice system evolved from English common law and is predicated on the idea that crimes against an individual are crimes against the state. It is an incredibly complex system of interwoven federal, state, and municipal jurisdictions, all with different laws, rules, and procedures. Commonalities occur, and all must abide by the U.S. Constitution including due process and right to counsel. The Bureau of Justice Statistics put together a primer on the criminal justice system and its general workings. The following is a summary of that work.

Figure 1: Bureau of Justice Statistics Criminal Justice Sequence

What is the sequence of events in the criminal justice system?



Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

Source: Adapted from *The challenge of crime in a free society*. President's Commission on Law Enforcement and Administration of Justice, 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1997.

(Bureau of Justice Statistics, 1997)

General Public

Most crime is reported to police from private citizens or their organizations, both as prevention (suspicious activity) and intervention (actual crime). Citizens may take part directly in the criminal justice system by reporting crime and serving as witness, serving as a juror, or observing open court. Citizens may take part indirectly as taxpayers, voters, and activists working to ensure that criminal justice policies, activities, and expenditures are in line with their philosophies. Organizations provide services needed to prevent crime and make neighborhoods safe, including physical and behavioral health, housing, education, child welfare, and other social services. The criminal justice system cannot function without input and assistance from its citizens.

Law Enforcement

Most crime is never discovered or reported. The vast majority of crimes are reported by the general public as discussed above, and a smaller percentage of crime is from direct fieldwork or investigative and intelligence work. When responding to a call for assistance, law enforcement must discern if there is probable cause to suspect that an actual crime has occurred.

Sometimes the suspect is present, other times the suspect must be determined through investigation. Often, even cases with known perpetrators require multiple follow-ups and investigation, such as with domestic violence cases where evidence (bruising) may not appear immediately. Once a suspect is determined and probable cause is established, police may execute an arrest. If probable cause is not immediately certain, law enforcement may send information to prosecution for determination of a crime and issuance of a warrant for arrest. As the chief investigators of crime, law enforcement must follow rigorous standards of procedure including detailed reporting and timeline development, chain of evidence, and timely submission of evidence to prosecution. Timelines for crimes where a suspect is present and probable cause exists for arrest move more swiftly in the early stages than those for crimes where a suspect must be determined or probable cause is not imminent.

Prosecution and Pretrial Services

Once law enforcement gathers enough evidence, develops a timeline of events, and establishes a suspect, they send that information to the prosecution who will determine if formal charges should be filed. This is why many times charges may change from those for which the suspect was booked into jail by police, or the case may not be charged at all even after arrest. Law enforcement probable cause has a much lower burden of proof than beyond a reasonable doubt, which prosecutors are charged with proving. Prosecutors may also file charges and then drop them after making efforts to prosecute (*nolle prosequi*). This may happen for a variety of reasons including lack of witness cooperation, the discovery of exculpatory evidence, inability to meet evidentiary deadlines, or as part of a plea agreement for a different crime.

A defendant charged with a crime by law enforcement must appear before a judge (or magistrate) without unnecessary delay, between 24-72 hours depending on the state and age of the defendant. At this initial appearance, the judge informs the defendant of the charges and determines whether there is probable cause to detain the defendant. If it is a petty offense, guilt and penalty may also be determined at this stage.

In many jurisdictions, defense counsel is also assigned at this stage. Defendants have a Sixth Amendment right to representation, even if they cannot afford representation. Many courts will temporarily assign a public defender at this stage while a determination of indigency can be made. If a defendant is determined indigent, the court will formally assign a public defender.

Pretrial-release and bail decisions are also generally made at this stage but can occur at other hearings and may be changed at any time during the process. Bail and pretrial release conditions are generally intended to ensure appearance at trial. However, many jurisdictions permit pretrial detention of defendants accused of certain serious offenses who have been deemed a threat to public safety, to prevent them from committing further crimes prior to trial.

Bail and pretrial release decisions are usually based on specific information regarding a defendant's criminogenic risk, residence, employment, family ties, and other information relevant to their likelihood to appear in court and their degree of risk to public safety. The court may decide to release the accused on his/her own recognizance or into the custody of a third party after the posting of a monetary bond or on the promise of satisfying certain conditions such as no contact with the victim, abstaining from substance use, or reporting to a pretrial officer.

Pretrial Services is the newest and fastest growing sector of the criminal justice system. The movements to reduce pretrial detainment and remove cash bail have created a shift toward more pretrial assessment and supervision activities. Many jurisdictions have pretrial departments or divisions that evaluate offenders booked into jail for risk of failure to appear in court, criminogenic risks, and/or risk to reoffend if released. These assessments are done quickly and reported to the court prior to the initial appearance or adjudication and are utilized to guide bond considerations, including whether bail is likely to ensure appearance at future court hearings and what conditions of release would increase the chances of appearance and reduce the chances of further unlawfulness while out on bond. Pretrial services is then charged with supervising the released defendant until the case is disposed and ensuring compliance with any court-ordered conditions of release.

In some jurisdictions, the initial appearance may be followed by a preliminary hearing where the judge determines if there is probable cause that the charged crime was committed by the defendant. The case may be dismissed if no probable cause is found. If probable cause is found, however, then the case may go to grand jury.

Grand juries hear prosecution evidence against the defendant and determines if it is sufficient to take the case to trial. If the evidence is sufficient, the grand jury submits an indictment to the court indicating the finding and the essential facts of the offense charged. Grand juries may also investigate criminal activity not yet charged. Original indictment by a grand jury is often used for cases that require complex investigation such as racketeering or drug conspiracy cases. In these cases, arrest comes after the indictment.

In some jurisdictions and depending on criminal history and the nature of the crime, defendants may be eligible for diversion from prosecution. Successful completion of specific conditions such as completing a budgeting and money management course or completion of a drug treatment program generally leads to charges being dropped and expunged from the defendant's record.

There are a variety of pretrial diversion programs including treatment courts, bad check programs, and traffic programs. They may be run by the prosecutor's office, pretrial services, or an outside contractor.

Adjudication

The defendant is arraigned after an indictment or information is filed with the court. The arraignment, similar to an initial hearing for those arrested without a warrant, is where a defendant is informed of the charges against them, their rights, and asked to make a plea to the charges. If the defendant pleads guilty, often under a plea agreement, the case will be set over for sentencing, provided the judge accepts the plea agreement. If the judge rejects the plea agreement, the case may proceed to trial.

If a plea of not guilty is rendered, a date for trial is set. The defendant has a right to trial by jury but may opt for a bench trial instead. In a bench trial, the judge rather than the jury determines guilt or innocence. Often, several pretrial hearings or disposition conferences will occur between arraignment and trial. These hearings serve to determine that the case is moving in a timely manner towards trial and may include requests to include or exclude certain evidence.

An additional layer of hearings is added if the not guilty plea involves an assertion that the defendant is not competent to stand trial due to an impairment of mental state or capacity. In these cases, the defendant must be examined by a qualified forensic psychologist to determine if they are able to assist in their own defense. A competency hearing is then held to rule on this motion. If the defendant is found to be unfit to assist with their defense, they are then ordered to a state forensic mental health facility to obtain treatment until their fitness is restored. This may take many months, with regular status hearings on defendant progress. Once, or if, the defendant is restored, regular criminal processes may proceed.

Trials are scheduled for every case in which not guilty is the plea, but very few cases actually make it to trial. The vast majority of cases are resolved by a plea agreement sometime between arraignment and trial. If a case does go to trial, both prosecution and defense present evidence and call witnesses while the judge decides on issues of law. The verdict of the trial is determined by the judge in a bench trial and by the jury in a jury trial. The results are either acquittal or conviction on the original charges and on any lesser included offenses.

After a conviction, sentence is imposed. In most cases, the judge decides on the sentence, but in some jurisdictions the sentence is decided by the jury, particularly for capital offenses. Sentencing hearings are often held separate from the trial and include presentation of aggravating or mitigating circumstances. Courts often utilize presentence investigations presented by probation or other designated agencies, as well as victim impact statements to determine appropriate sentencing.

Most states have guidelines on the minimum and maximum penalties for each crime. Sentencing choices may include fees and fines, victim restitution, court supervision, probation, incarceration in jail or prison, or death. Jurisdictions may have many programs within the corrections and community corrections system that provide alternatives to regular incarceration or probation such as treatment courts, day reporting centers, or bootcamps. Sentencing varies greatly by jurisdiction and may include credits or incentives for prisoners such as day-for-day

credit (one day's credit for every day served) or good time (credits for participating in prosocial activities in prison), or built-in determinate language such as the percentage of time that must be served before the offender can be eligible for such credits towards their time or for parole.

After the trial, a defendant may request a review of the conviction or sentence by the appellate court. In some cases, appeals of convictions are a matter of right. For cases in which the death penalty was imposed, appeals are automatic. Otherwise, appeals may be subject to the discretion of the appellate court. Appeals may also be filed by prisoners for claims of unlawful detention or civil rights violations.

If a defendant was found not guilty due to reduced mental capacity, sentencing is likely to involve commitment to a forensic psychiatric facility where the patient will receive treatment until the facility determines they are well enough to return to the community without being a risk to public safety. There are regular court reviews of treatment progress both while in the facility and upon release to the community for continued outpatient treatment.

Corrections

Prison and jail are institutional corrections. Offenders sentenced to a year or less of institutional corrections generally go to jail; those sentenced to more than one year generally go to prison. Institutional corrections often include varying levels of security (minimum to maximum), and offenders are often initially housed in a higher security facility or area while they are assessed for risk and more permanent placement is determined. Corrections facilities may have community-based placements for lower risk offenders that have established good behavior, including bootcamps and work release programs.

Community Corrections

Probation and parole are community corrections. Parole is conditional early release of a prisoner under community supervision by a parole officer. Prisoners may become eligible for parole after serving a specified percentage of their sentence, generally with good behavior. Authorities such as parole boards generally make the decision to grant, revoke, or discharge parole. This process varies widely across jurisdictions. Not all offenders are eligible for parole. These offenders must serve out their full sentences. Those sentenced under determinate sentencing laws can be released only after they have served their full sentence (mandatory release).

Once released on parole, the parolee will be under the supervision of a parole officer in the community for the remainder of the unexpired sentence. Parolees each have specific conditions of release they must follow, and violation of these conditions may result in the return to prison and possibly additional new charges. Common conditions of release include employment requirements and living and activity restrictions.

Probation is a community alternative to institutional corrections. Probation departments may be under the supervision of the courts or the department of corrections. Offenders ordered to probation by the court are under community supervision by a probation officer. Probation sentences may be either determinate (as set amount of time) or indeterminate (a maximum time is set for discharge, but the probationer may be released early if conditions are met). The most

serious classes of crimes are not eligible for probation, although they vary by state. In the wake of decarceration efforts, sentencing to probation has increased exponentially.

Once placed on probation, the probationer will be under the supervision of a probation officer for the remainder of their sentence, or until they have met conditions for early termination of probation. Offenders are classified by probation via risk-needs assessments, similar to those used in corrections. Offenders are then assigned to probation officers for differential supervision based on their risk-need score. Probation officers ensure compliance with conditions ordered by the court along with additional set probation program requirements.

Probation may include specialized programs for specific offenders, such as first offender probation, second chance probation, and treatment court probation (drug, mental health, veterans, domestic violence, etc.). These programs are generally voluntary for those who qualify, as they have very specific rules and requirements for participants beyond usual court orders.

Recidivism

Recidivism refers to repeat criminal behavior, whether while they are being processed by the system or after release from the system. Recidivism may reflect the criminal tendency of the individual, failures of the criminal justice system, or both. Research does show that prior criminal history and age at first arrest are factors that increase the likelihood of recidivism. Nationally, about half the inmates released from state prisons will return to prison. This is costly both to the community and to the individual.

The Juvenile System

Juvenile courts generally have jurisdiction over matters concerning children, including delinquency, abuse/neglect, and adoption, as well as “status offenses” such as truancy and running away which are not applicable to adults. The criminal side of juvenile court involves both delinquency and status offenses. States determine by statute what age a person is considered an adult and not a juvenile under criminal law, most frequently, 18 years of age.

There are crucial differences between how juvenile offenders are processed by the court compared to adult offenders. Juveniles may be referred to the system by schools, social service agencies, and parents, in addition to those traditionally referred by law enforcement. Juvenile court has greater confidentiality protections and tends to be more collaborative than adult court.

When juveniles are referred to the juvenile courts, the court’s intake department (generally in juvenile probation) and/or the prosecuting attorney determines whether sufficient grounds exist to warrant filing a petition that requests an adjudicatory hearing or a request to transfer jurisdiction to criminal court. At this point, many juveniles are released or diverted to alternative programs.

All states have statutes allowing juveniles to be charged and tried as adults in specific circumstances, though most offenses, even serious ones, are still barred from this practice. Processing and trial through adult court may be petitioned through court intake and/or the prosecutor’s office. If convicted in adult court, some jurisdictions still allow the juvenile to be

sentenced to a juvenile facility, though they may be placed in adult facilities if they are close to the upper age limit.

In those cases where the juvenile court retains jurisdiction, the case may be handled formally by filing a delinquency petition or informally by diverting the juvenile to other agencies or programs in lieu of further court processing. Juvenile courts generally follow similar proceedings to those of adult court; however, most do not utilize juries due to the Supreme Court determination that they are not essential to juvenile hearings.

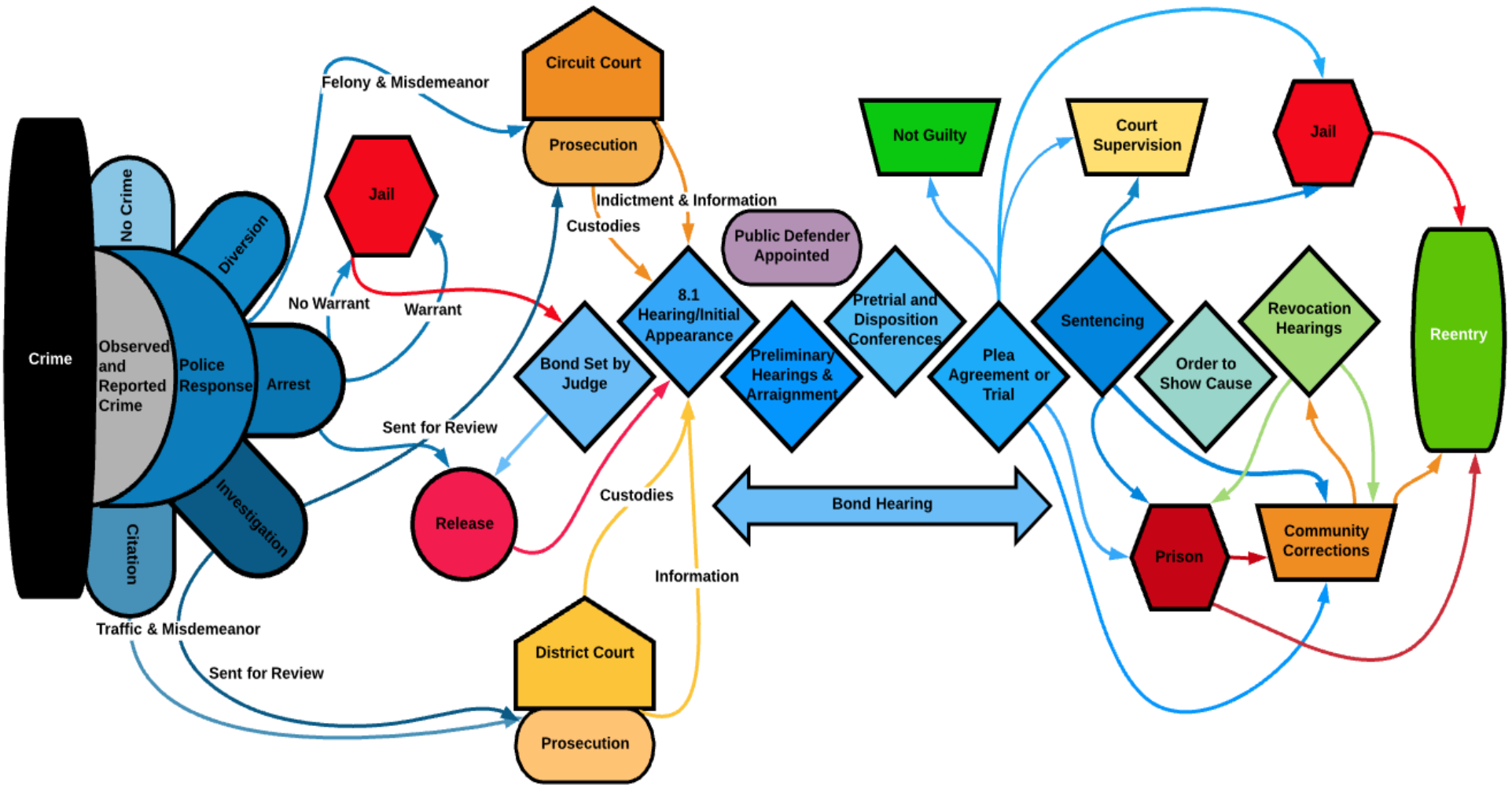
Juvenile courts generally have more discretion than adult courts in the disposition of cases. In addition to detention (incarceration) in a juvenile detention facility, probation, fees, and fines, the court may also utilize removal of children from their homes to placement in foster care or treatment facilities. Juvenile probation also has many alternative programs including targeted educational classes, treatment courts, and specialized educational programs.

Juveniles sentenced under court jurisdiction may remain under that jurisdiction until they age out of the system (21 in most states). This may mean the juvenile is released altogether, or it may mean that they are transferred to adult criminal court jurisdiction for the remainder of their sentence.

Upon release from an institution, juveniles are often ordered to a period of aftercare similar to adult parole. Violations of aftercare requirements may result in revocation and recommitment. Juveniles who have transitioned to the adult system would be subject to adult sanctions.

Washington County Criminal Justice System Overview

Flowchart of Cases



Law Enforcement

There are 13 law enforcement agencies (LEAs) in Washington County, and NCSC spoke with representatives from five of those agencies: Washington County Sheriff's Office, Fayetteville PD, Springdale PD, Greenland PD, and Tontitown PD.

Crime

Types of crime encountered vary widely within the county's jurisdictions. All jurisdictions report driving under the influence, drugs, and domestic violence as issues they experience. But some issues are more localized. In Springdale, 5-8 cars per day are stolen by juveniles. Fayetteville has a high proportion of smash and grab crimes. Greenland encounters prostitution, drugs, and panhandling at their local truck stop. Tontitown neighbors Springdale and often ends up chasing down cars stolen in that jurisdiction that travel through.

When asked about laws or standard operating procedures that impact their ability to do their jobs, the following were noted:

- Managing conflicting local/state/federal laws,
- Discrepancies in how LEAs handle pursuit,
- Juvenile detention's screening process,
- Balancing the legality of open carrying of weapons with those who are alarmed and disturbed by the open carrying of weapons,
- Mandatory arrest in domestic violence battery cases, and
- Nuisance complaints that are most often people who need services not law enforcement.

Diversion

Departments utilize diversion to homeless and behavioral health services. They have officers trained in Crisis Intervention Training, autism risk and safety management, and de-escalation. They have utilized mobile crisis and ambulance transport to emergency rooms for crisis assessment and the Crisis Stabilization Unit. They note that they have had better success with the ambulance, as the acceptance rate at the CSU has been less than 20%. Additionally, they would like to see more widespread availability of detox centers in the county to avoid having to take intoxicated persons to jail for sobering.

The homeless population in Washington County was 275 as of the last count in January 2020, and 91% of that population was in Fayetteville.¹ Fayetteville has two shelters that are supplemented with city funding, and Springdale has services but no shelters. Homelessness contributes to many "nuisance" crimes such as littering, public intoxication, disorderly conduct, disturbing the peace, loitering, and public urination. Most of these are misdemeanor crimes that are managed with citations and handled by District Court, but public intoxication may require

¹ Northwest Arkansas Continuum of Care Point in Time Count (2020). <https://nwacoc.com/point-in-time-count/>

arrest depending on the level of intoxication. LEAs noted a desire to have more services for the homeless populations, rather than criminalizing behavior associated with homelessness.

Larger departments engage in community policing programs to help prevent crime that include summer mentoring with School Resource Officers, Coffee with a Cop, citizen policing academies, and programs in the local high schools to encourage careers in law enforcement.

Release Authority

Law enforcement in Arkansas has the authority under Arkansas Rule of Criminal Procedure 5.2² to issue a citation for any misdemeanor crime (or felony with prosecution approval), rather than remanding the offender to custody, provided the circumstances meet those outlined in § 5.2. Considerations that may preclude the use of this alternative include: the offender not properly identifying themselves, refusing to sign the citation, being an imminent danger to themselves or others, not having adequate ties to the community, or having failed to appear previously on a citation. All four police departments that NCSC interviewed noted that they have increased their utilization of this discretion since the jail began charging their departments for jail bookings.

Local policing agencies noted that they have done all they can to reduce booking offenders in the jail. Fayetteville noted that they have decreased bookings from 10,000 in 2005 to 3,600 per year. Springdale only brings those offenders to jail that are legally mandated to be incarcerated (higher level felonies, domestic violence, and those too impaired by substances to be left alone). Smaller departments noted the same, indicating they will issue citations for everything that can be cited, including shoplifting, marijuana possession, and underage vaping. Juvenile cases may be deferred to their school resource officers, fines and traffic tickets can be paid through community service. The smaller jurisdictions noted that “every day is amnesty day” for warrants, as they will allow persons to turn themselves in and be cited a new hearing date rather than take them to jail.

Jail Usage

The local police departments all noted that the booking fee charged by the county to municipalities has changed the way they police. All agencies noted the efforts they have made to reduce the need to utilize the jail, including increasing citations and summons in lieu of arrest and booking. Fayetteville noted they have reduced their bookings by 64% since 2005. All agencies noted that they only people they bring to jail for booking are those that they are required to bring by law.

Beyond the cost savings, it was also noted by all agencies outside Fayetteville that the commute to bring offenders to the jail takes away valuable policing time. Small departments located farther from the jail note that they do not have the manpower to transport offenders to the jail for bookings when a minimum trip time may be half an hour. It often means their towns are unattended. They cite out everything they can, including allowing amnesty for warrants if

² <https://casetext.com/rule/arkansas-court-rules/arkansas-rules-of-criminal-procedure/rule-5-release-by-a-law-enforcement-officer-acting-without-an-arrest-warrant/rule-52-authority-to-issue-citations>

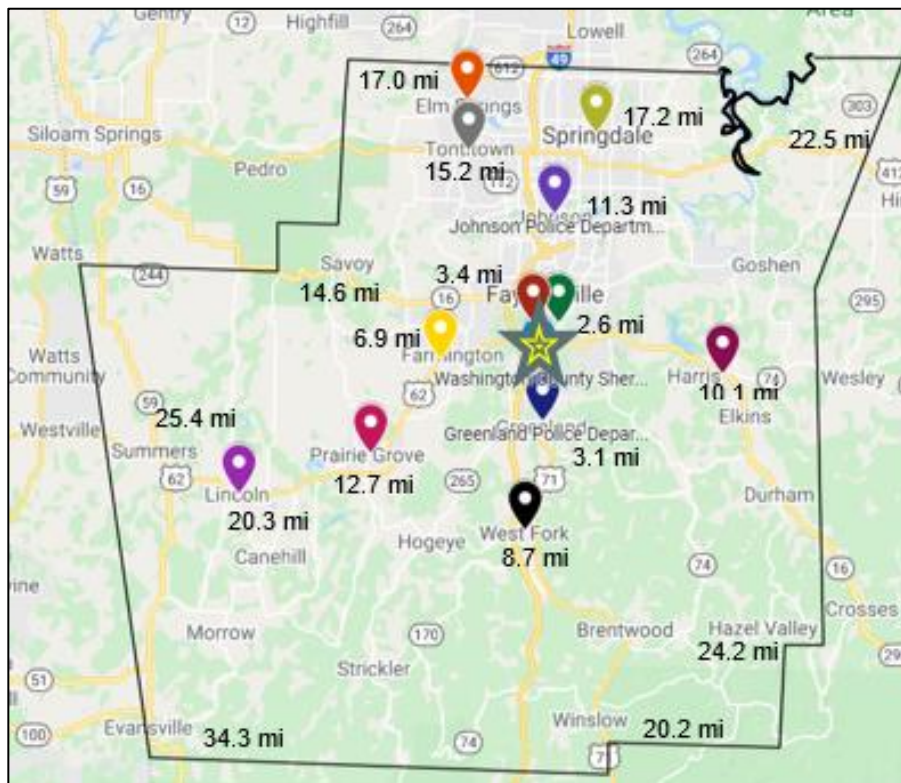
defendants turn themselves in. They have invested in intoxilizer equipment to eliminate the need to go to the jail for that, as well.

Table 1 outlines the LEAs by their department’s distance to the jail, as measured by Google Maps’ “Best Route.” Figure 2 maps the distances. Note: These distances are estimates and do not account for alternate routes or beginning points that are likely when an officer is bringing an offender to jail for booking from the scene of a crime.

Table 1: Washington County Law Enforcement Agencies, by Distance to Jail

Agency	Distance to Jail (miles)
Washington County Sheriff's Office	0.0
Fayetteville Police Department	2.6
Greenland Police Department	3.1
University of Arkansas Police Department	3.4
Farmington Police Department	6.9
West Fork Police Department	8.7
Elkins Police Department	10.1
Johnson Police Department	11.3
Prairie Grove Police Department	12.7
Tontitown Police Department	15.2
Elm Springs Police Department	17.0
Springdale Police Department	17.2
Lincoln Police Department	20.3

Figure 2: Map of Washington County Law Enforcement Agencies



None of the agencies interviewed had their own short-term lock-up spaces available. Fayetteville closed and razed their jail in 2005 and built the District Court Building. Springdale is in the process of razing their jail for a new Criminal Justice and Civic Complex, which will not include a jail. Neighboring Madison County also closed their jail in 2013. None of the smaller towns in the jurisdiction have short-term lockup. Springdale noted they currently use their old jail space as a booking area and bring a vanload of offenders to the jail every couple of hours.

Booking can take a long time if it is busy. Law enforcement officers (LEOs) who have printers in their cars complete and print the forms to expedite the process. LEOs noted it can take two hours to get a person processed through the jail. Additionally, the jail will sometimes go into “diverted status.” When the jail is full and cannot take any more bookings, the jail notifies area law enforcement agencies of its diverted status, meaning the LEOs cannot bring anyone else in for booking until they are notified that diverted status has been terminated. LEOs are then left only with the option to cite out the offender or await processing if the booking staff indicate the diverted status will be short.

Concern that sentenced offenders are being released early from the jail was also noted. The Sheriff’s policy authorizes a credit of two-days for every one-day served. Several LEOs interviewed shared a sense that there were no consequences for criminal behavior.

Caseflow

The issues noted by the agencies varied slightly but had an overall theme—lack of action despite attempts for collaboration across agencies. All agencies utilize different data systems that do not interface which creates issues with intelligence sharing, booking, and sending charging reports to the prosecutors’ offices. While the County Sheriff’s information system interfaces with the district attorney, the local police departments do not share that benefit. Some arrests/bookings must be printed and hand delivered to the prosecutor. They did note that body camera footage has helped move some cases forward more quickly, and they lauded being able to email links to the camera footage to the prosecution for review. Additionally, there are often backlogs in warrants from District Court. There have been instances where they may not get any warrants for months, then get hundreds to process all at once. The agencies also noted that case timelines have slowed considerably over the last couple of years in Circuit Court, with arraignments taking 30 days or more and an increase in continuances being allowed that push cases out to the nine-month or year mark for disposition. This means more cases in the system at one time, and in many cases, an extended length of stay for inmates in custody.

Each policing jurisdiction has a District Court that manages a good portion of traffic and misdemeanor cases. Some District Courts have virtual courtrooms and do video trials. Many offer alternatives to fines, fees or jail time, such as community service (credited at \$20-\$25/hour) even for juveniles who will do the service under the supervision of their School Resource Officer.

Communication and collaboration was noted as the biggest area for improvement by the LEAs. They noted that while they communicate and collaborate well with the sheriff and one another, there is a breakdown in communication and collaboration with judges and prosecutors.

Sheriff

The sheriff is one of nine executive officers, who, along with the Quorum Court, provide services to Washington County. The Association of Arkansas Counties' 2018 Sheriff Procedures Manual describes the role and responsibilities of Arkansas county sheriffs, which are summarized herein.

The duties of the office of county sheriff in Arkansas are divided into three major areas. The sheriff is the chief enforcement officer of the courts, conservator of peace in the county, and has custody of the county jail.

Courts

As chief enforcement officer of the circuit and chancery courts, the sheriff is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty, and assists in handling witnesses and prisoners during a given court term.

Law Enforcement

A second major area of duties surrounds the responsibility of the sheriff in law enforcement (ACA14-15-501). The responsibility in this area is very broad and includes the preservation of the public peace; the protection of life and property; the prevention, detection, and investigation of criminal activity; the apprehension and confinement of offenders and the recovery of property; the control of crowds at public events; the control of vehicular traffic and the investigation of traffic accidents; and the rendering of services and the protection of property during civil emergencies or natural disasters.³

The sheriff also works with the various local municipal, state, and federal law enforcement officials. In his law enforcement capacity, the sheriff and his department keep the peace in the unincorporated areas of the county, assist local agencies in keeping the peace in their jurisdictions, and assist the prosecution in the gathering of evidence and documenting actions of defendants charged with a crime. They also transport convicted offenders to state penal and mental health institutions as required.

Jail Administration

The responsibility for the custody of the county jail in each county is given to the county sheriff (ACA 12-41-502). The sheriff has custody of accused felons and some misdemeanors apprehended in the county and is charged with feeding and keeping these accused persons. A log of all prisoners kept in the county jail and those transferred is maintained by the sheriff, as well as a bail bond book. As the Chief Executive Officer, the sheriff may designate an Administrator to oversee the operation of the facility who is vested with the authority to control the operation of the facility and has authority over all personnel employed by the facility or confined therein. The sheriff, however, must remain fully informed on all aspects of the jail at all

³ <https://law.justia.com/codes/arkansas/2019/title-14/subtitle-2/chapter-15/subchapter-5/section-14-15-501/>

times and be familiar with staff management procedure and inmate safety, security and welfare.⁴

The jail must operate under the minimum standards⁵ enacted by the Arkansas Department of Finance and Administrations and enforced by the department's Criminal Detention Facilities Review Committees. Facilities are assessed for their compliance with these standards by the Criminal Detention Facility Review Committee. The most recent assessment of the Washington County Detention Facility (WCDF), dated 7/15/19, indicated some noncompliance as a result of facility crowding, but none of that noncompliance was due to operational concerns.

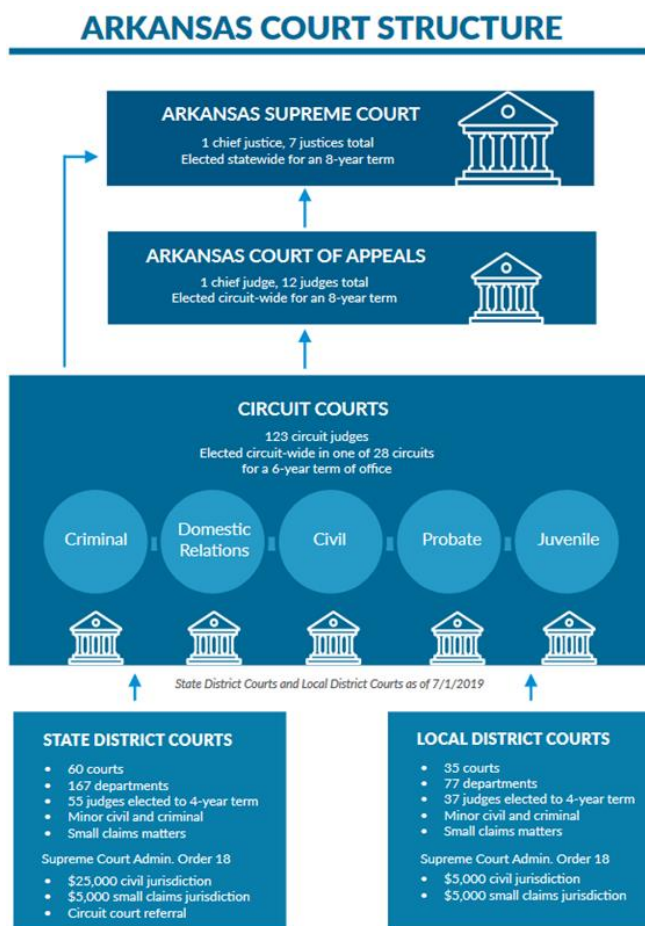
The jail's administration, operations, and facilities will be discussed further in the Jail Assessment.

Courts

Washington County Court Structure

The Arkansas Court structure is such that localities may have both a circuit court and a district court in their jurisdiction. Arkansas circuit courts are general jurisdiction trial courts and have original trial jurisdiction for all but municipal ordinance violations. District courts may either be local or a state district court, such as Washington County's. District court has subject matter jurisdiction over traffic violations, misdemeanor offenses, violations of state law and local ordinances, preliminary felony matters, and civil matters involving contracts, damage to personal property and recovery of personal property where the amount does not exceed \$25,000. The Washington County district court judge may also be referred matters pending in circuit court such as protective orders, warrants, evictions, and other matters of an emergency or uncontested nature.⁶

Figure 3: Arkansas Court Structure Chart



⁴ <https://law.justia.com/codes/arkansas/2019/title-12/subtitle-3/chapter-41/subchapter-5/section-12-41-502/>

⁵ Arkansas 2014 Criminal Detention Facility Standards <https://www.dfa.arkansas.gov/images/uploads/criminalDetentionOffice/proposedjailStandards.pdf>

⁶ Arkansas Judiciary Court Structure <https://www.arcourts.gov/sites/default/files/Arkansas-Court-Structure.pdf>

Circuit Court

Criminal court for the circuit is managed by two judicial officers, one with 75% of the caseload and the other with 25%. Two District Court and four Circuit Court judges rotate to manage 8.1 hearings. Prosecution and the public defender's (PD's) office are present for 8.1 hearings, although PDs are not appointed until after arraignment.

The prosecution meets with the criminal judge each morning to staff custodies and set bail. There is no defense representation present. Judicial discretion is utilized to determine bond. The 8.1 hearing/initial appearance is then set within 72 hours, if the defendant is unable to make bail set by the criminal judge. The court noted it does have differentiated case management for persons in custody, focusing on ensuring speedy trial markers are met.

Arraignment is generally 30 days after the 8.1 hearing or initial appearance to allow for discovery. Judges set the dates for arraignment based on prosecutor request, and then the trial court administrators set dates.

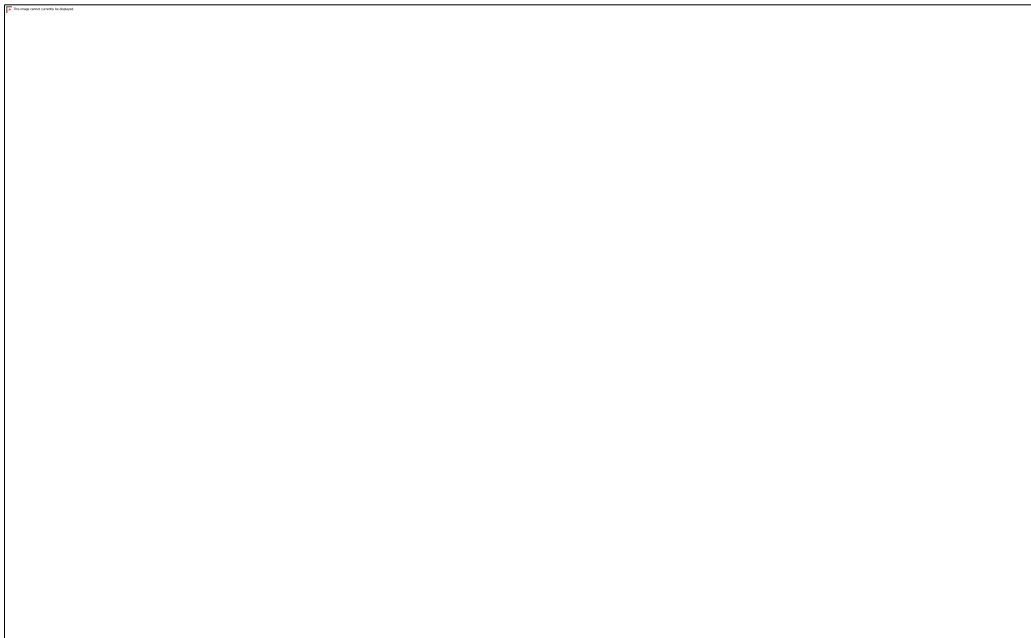
Although the e-file system has sped up the process for filings and order entries, certain orders, such as failures to appear, are entered by hand.

The court noted that cases have increased by 67% in the last five years, up to 5,000 from 3,000. Population is a driver, but other drivers noted for this increase include the failure to appear cycle, drugs (including possession of drug paraphernalia which is now a felony), and offenders getting re-arrested on new charges.

Reasons for delays in cases noted were waiting on mental evaluations, waiting on crime lab results, offenders being re-arrested on new charges and the state wanting to wrap up all cases together, the failure to appear cycle, an increase in the number of continuances granted, public defenders being overwhelmed with their caseloads, and the prosecution waiting the full 30 days for arraignment. It was noted that it can take 120 days or more between arrest and entry into drug or veteran's court.

Continuance orders were run for Circuit Court and show that they are averaging about 3.2 per case, and 3.3 if the case goes all the way to sentencing. While continuances had been steadily rising since 2016, they appear to have peaked in December of 2018 and have been on a downward decline for the last year or so. See Figure 4 for further details. Cases that ended in a guilty disposition, whether by plea or trial, were far more likely to have had a continuance than those that were dismissed or had a disposition of not guilty. An average of three to four continuances per case is neither unusual nor alarming, particularly given the issues with the state crime lab and forensic mental health units noted by several stakeholders.

Figure 4: Circuit Court Continuances 2016-2019



Data describing Failures to Appear (FTAs) in Circuit Court were examined as well; data seem to indicate that there is inconsistent docketing of defendant FTAs. Cases that had “Defendant Failed to Appear” noted, averaged 73 per month over the four-year study period (see Figure 5); however, cases that noted “order arrest after FTA,” averaged 134 per month over the same timeframe (see Figure 6). In the first case, FTAs rose from August 2016 to March 2018, after which they declined greatly. In the second case, FTAs rose steadily over time from January 2016 to November 2018, after which they began to decline. The second scenario more closely mirrors the FTA bookings at the jail, and is likely the more accurate of the two, in which case the trend for FTAs to increase continues but has leveled off slightly.

Figure 5: Monthly Cases with “Defendant Failed to Appear” Noted in the Docket

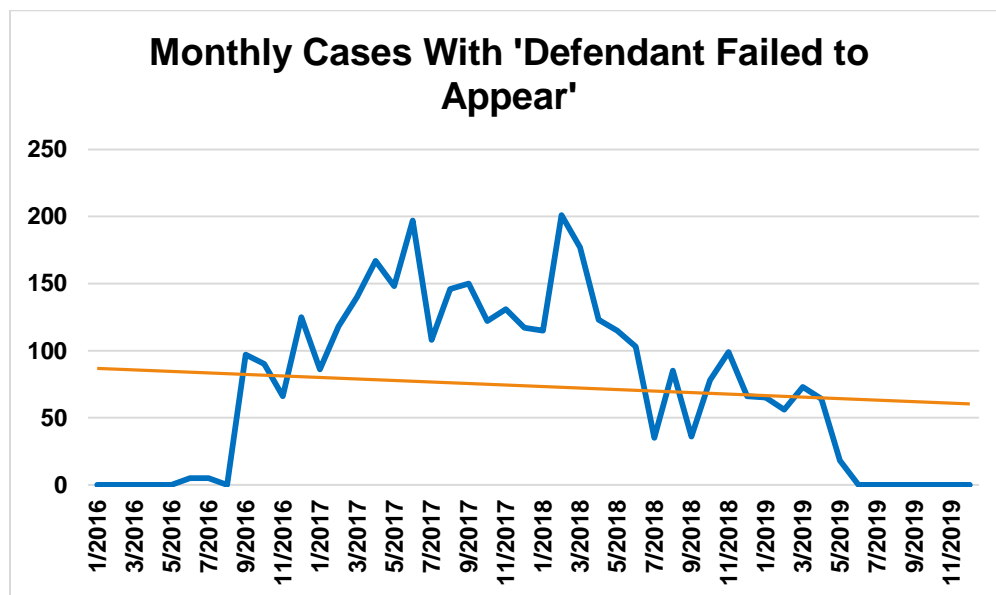
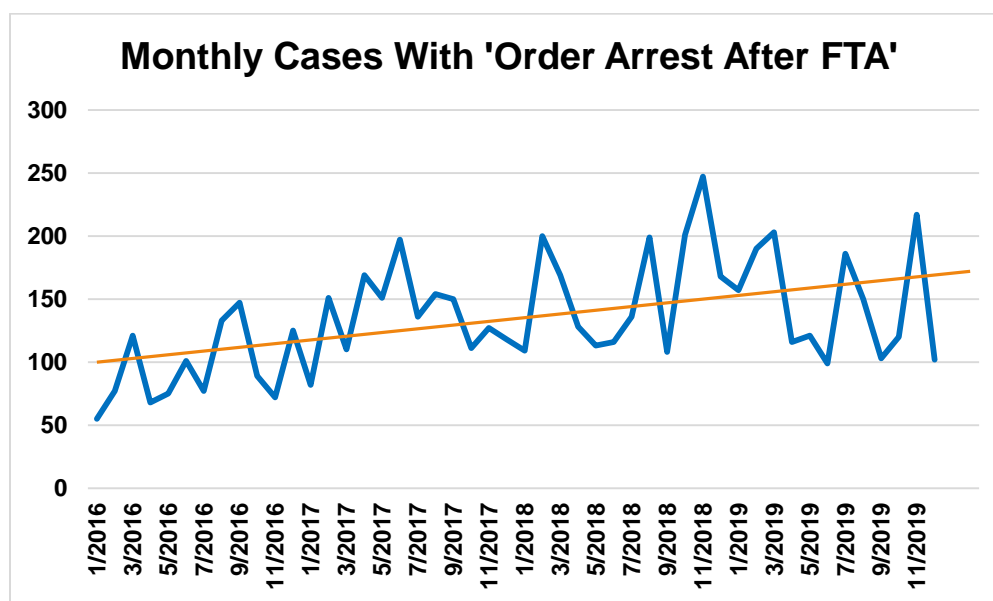


Figure 6: Monthly Cases with 'Order Arrest After FTA' Noted



District Court

Washington County District Court includes several departments at localities in the county. The only District Court judge and prosecutor interviewed were from the City of Fayetteville. There are an additional three judges that manage eight other courts covering 12 cities/towns in Washington County that were not interviewed.

Cases for District Court are arraigned at different times depending on the location, as noted in Table 2 below. Custodies (8.1 hearings) are held by video on Mondays, Wednesdays, and Fridays. The average is 12-14 hearings on those days. The judge receives the charges and police reports. Some bail amounts are standard such as a DWI which is \$970, others are at judicial discretion, though there is an unwritten bail schedule. No prosecutors or public defenders attend the 8.1 hearings for District Court.

It was noted that there is no differentiated case management for incarcerated defendants and that each court’s clerk sets the docket. Arraignments are held at various times depending on location and are often done by order of arrival. Defendants can plea out without representation at arraignment, or they may ask to set the matter out for trial. There is only one public defender that serves misdemeanants in the county. At the time of interview, trials were being set eight weeks out.

Table 2: District Court Information, by Department Location

Department Location	Judge	Chief Court Clerk	Prosecuting Attorney(s)	Jurisdiction	Criminal Court Days & Times
Elkins	Casey Jones	Alexis Ward	Goshen/County: Charles Duell, Deputy Prosecuting Attorney for Washington &	Cities of Elkins and Goshen, surrounding county	Arraignments: Tuesdays at 2:30pm; Bench Trials: 2 nd Tuesday at 1pm and 3 rd Friday at 1pm

Department Location	Judge	Chief Court Clerk	Prosecuting Attorney(s)	Jurisdiction	Criminal Court Days & Times
			Madison Counties		
			Elkins: NA		
Elm Springs	Jeff Harper (Graham Nations does arraignments on the 4 th Wednesday)	Megan Bonilla	Elm Springs: Gene Franco Tontitown: Morgan Doughty	Cities of Elm Springs and Tontitown	Arraignments: 1 st 2 nd and 4 th Wednesdays; Tontitown Trials: 2 nd Mondays; Elm Springs Trials: 2 nd Wednesday
Farmington	Graham Nations	Kim Bentley		City of Farmington	
Fayetteville	William Storey	Dena Stockapler	Brian Thomas, City Prosecutor	City of Fayetteville	Arraignments: M/F 8am walk-ins; M/W/F video arraignments for those in jail
Johnson	Jeff Harper	Krista McGaugh	Morgan Doughty, City Attorney	City of Johnson	
Lincoln	Graham Nations	Tracey Irwin		City of Lincoln	Arraignments: 2 nd & 4 th Tuesdays; Trials: 4 th Tuesdays
Prairie Grove	Graham Nations	Rachel Guenther	Steve Parker, City Prosecutor	City of Prairie Grove	
Springdale	Jeff Harper	Sue Bowman	Ernest Cate, City Attorney	Cities of Springdale and Tontitown	Arraignments: 8:30am M/W/F; County Trials: 4 th Monday at 1:30 Tontitown Trials: 2 nd Monday at 1:30 Springdale Trials: Thursdays with pleas at 8:30am and docket beginning at 9:30am
West Fork	Casey Jones	West Fork: Tracey Roebke Greenland: Tammy Shaffer	West Fork: NA Greenland: David Hogue	Cities of West Fork and Greenland	West Fork: Court Thursdays at 2pm Greenland: Court every 3 rd Monday at 1pm

Sentencing in district court is at the discretion of the judge, except where mandated by law. The most serious misdemeanors may result in 12 months of jail time, along with fines and fees. DWIs are misdemeanors for the first, second, and third offenses and carry mandatory jail time of one day for first offenses, 7 days for second offenses, and 90 days for third offenses. Other jail time given may depend on the judge. Common sentences include 20 days in jail for habitual public intoxication, 90 days jail for an FTA on a traffic offense, and 180 days in jail for habitual shoplifting/petty theft.

Pretrial Services

There is no formalized pretrial services program in Washington County. The only pretrial program currently offered is posting of bail and case management provided by The Bail Project. However, there are two pretrial-related activities occurring related to the jail—Washington County’s contracted Jail Ombudsman program and a community program called The Bail Project.

While pre-adjudication probation is authorized under AR §5-4-901,⁷ Washington County only utilizes it for their drug court diversion track. Pretrial diversion programs that are offered in other jurisdictions include: treatment courts (drug, mental health, veterans, domestic violence, young adult, community/homelessness, prostitution/human trafficking) and bad check programs.

As a result of the pandemic, the sheriff’s department has been utilizing electronic monitoring on offenders released from the jail to minimize the risk of spreading the COVID-19 virus. The sheriff’s office has committed to continuing this program and has purchased equipment to provide the service in-house.

Jail Ombudsman

The Jail Ombudsman program began in September 2019 and involves one law professor and two law students reviewing jail intake rosters and interviewing new detainees for appropriateness to release. The Ombudsman reviews and interviews detainees approximately two times per week.

Prior to interviews, the Ombudsman staff review the pretrial population names and information provided by the jail and examine the following:

⁷ <https://law.justia.com/codes/arkansas/2019/title-5/subtitle-1/chapter-4/subchapter-9/section-5-4-901/>

- Seriousness of pending charge(s),
- Warrant status,
- Detainers,
- Pending actions from other courts or law enforcement agencies,
- Bond set by the court,
- History of failure to appear,
- Ties to the community, and
- Behavioral health treatment needs.

Following interviews, a determination is made as to the best course of action for each case assessed (not all pretrial cases are assessed). Action recommendations may be pretrial release, bond reduction, or expedited court dates. The staff then contact the prosecutor's office to inform them of their findings and make the agreed upon requested changes. The public defender's office is also notified, and the offender may be referred to The Bail Project for services.

The Ombudsman reports a good relationship with the jail and other stakeholders. There were stakeholders that reported being wary of the Ombudsman's activities, but most were very positive.

The Bail Project

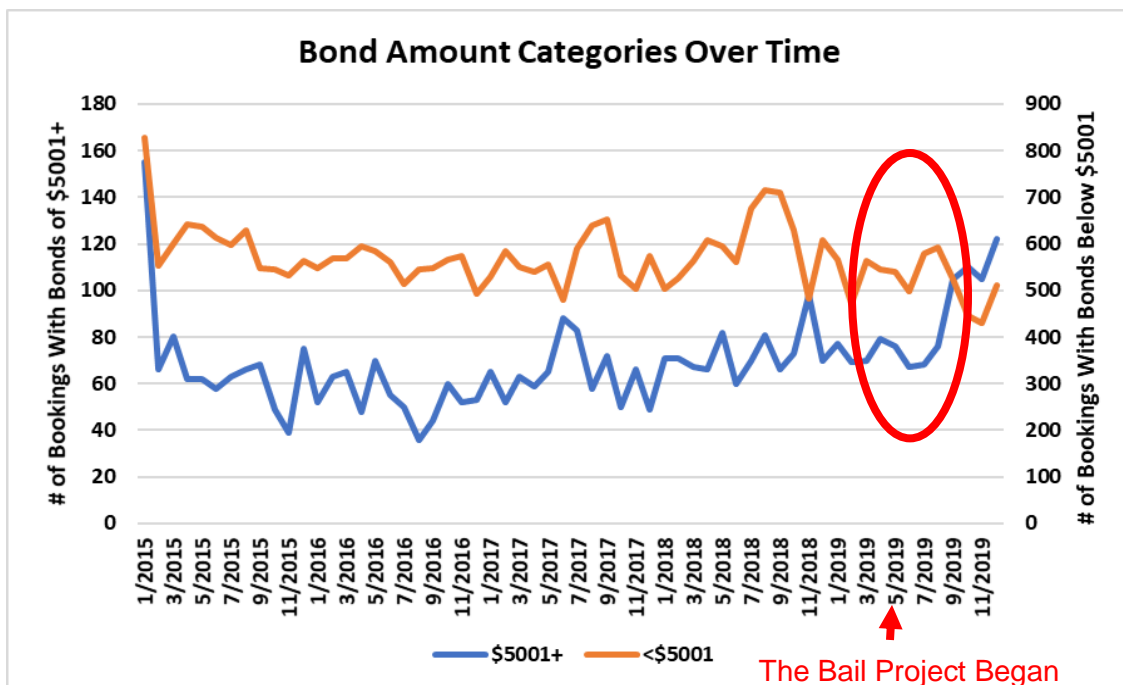
The Bail Project, initiated in August 2019, is an independent non-profit organization combatting mass incarceration through providing bail for the incarcerated. The two-person office in Northwest Arkansas is working to create a community release project built on relationship and services to ensure court appearance. The Bail Project is limited to providing bonds of \$5000 or less. They get a list from the jail every day and review them via public access on CourtConnect. They follow up with a 6-page interview in the jail. They examine the following criteria, though none of it is necessary exclusionary:

- Criminal history,
- FTA history,
- Pattern of re-arrest,
- Active orders of protection,
- Ties to the community,
- Contact information,
- Alternate contacts, and
- Any needs/barriers to court appearance (such as substance abuse, mental health or transportation needs).

The Bail Project then verifies the information given and makes the determination to provide bail or not. Once they decide to provide bail, they attend the client's 8.1 hearing and/or arraignment. They then wait for release once bond is posted, which can take 30 minutes to four hours. They spend approximately 10 hours per week in the jail. Once a person is bonded out, The Bail Project provides reminders and transportation, attends court appearances, does community outreach to connect clients with resources, and enters all information into their database. They indicate they have an approximately 90% success rate.

The Bail Project indicates they have an excellent relationship with the sheriff's department and jail. They have been told by community members that there have been many more \$5,500 bonds since they began their work, suggesting the judiciary may have increased the bonds beyond the \$5,000 limit to ensure some inmates remain in jail. Figure 7 backs up the anecdotal evidence. Despite these issues, The Bail Project has successfully bonded out and provided services for over 200 inmates at the Washington County jail.

Figure 7: Bail Amounts Over Time



Presentence Investigations

No mention was made of presentence investigations (PSIs) in interviews, however there is a process enumerated for them in Arkansas Criminal Code § 5-4-102.⁸ PSIs may be completed at judicial officer request in any felony case. They are generally completed by a presentence officer or another person designated by the court. They include the circumstances of the crime; the defendant's criminal history and risk and protective factors; and any additional information that may be deemed relevant by the court. PSIs are generally completed in trial and probation revocation cases between disposition and sentencing. PSIs are entered into the record and

⁸ <https://codes.findlaw.com/ar/title-5-criminal-offenses/ar-code-sect-5-4-102.html>

transmitted to the Department of Corrections if they are sentenced there. Court data was examined to determine the utilization of PSIs in Circuit Court. There were only 136 entries for “presentence report” in the docket data between January 2016 and January 2020. This would indicate an average of 34 PSIs were completed annually which would be a rather low number of PSIs if it is a true reflection of their use. Furthermore, the date of the PSI filing nearly always matched the sentencing of the case, with a median of zero days between the two dates. If this were true, it would indicate the judge had very little time to read and consider the PSI prior to sentencing.

Alternatives to Incarceration

The Crisis Stabilization Unit has been introduced in the last year as an alternative for law enforcement to process offenders whose crime is related to mental health or substance use. The Crisis Stabilization Unit, a program of Ozark Guidance, is a 16-bed acute care facility providing linkage, medication management, case management, therapeutic intervention, and ambulatory detox. Stays for the CSU range from 72-96 hours. In their first few months, about 50% of referrals came from law enforcement, followed by community mental health center, homeless programs, and as stepdown for acute psychiatric and emergency room referrals. Patients’ needs were approximately 80% mental health related and 20% withdrawal management. At the time of interview, no more than 12 of 16 beds had been occupied. There is concern that some of the eligibility criteria, such as turning away those who have suicidal ideation or are too intoxicated to follow directions, are a barrier to CSU utilization, as one law enforcement agency noted that out of 15 referrals, only two were accepted into the CSU.

Ozark Guidance also provides immediate 24/7 mental health crisis response via their Mobile Crisis team. The mental health professionals responding to crisis calls are required to respond telephonically within 15 minutes, and face-to-face within two hours of a call. Crisis team members assess the patient’s acuity, provide de-escalation and stabilization services, and develop a plan for ongoing care with the patient. Depending on the patient’s acuity and stability, this may mean 72-hour involuntary commitment, emergency psychiatric care, return home with a plan to seek outpatient treatment, or some other treatment plan. Ozark Guidance also provides onsite crisis and emergency care during regular office hours, 8am-5pm, Monday through Friday at all of their locations. It is important to note that mental health providers are required to utilize the least restrictive appropriate treatment setting and must meet criteria from AR Code § 20-47-207(c)⁹ to determine if an involuntary commitment is reasonable and necessary.

Washington County is resource rich, with many service providers who may provide opportunities for partnership to expand the diversionary continuum for those in need of behavioral health, medical, and social services. These resources are detailed in the Sequential Intercept Map under Intercept 0 in [Appendix D](#).

⁹ <https://codes.findlaw.com/ar/title-20-public-health-and-welfare/ar-code-sect-20-47-207.html>

Bail

Bail and conditions of bond are set the following morning by a judge for all persons arrested and jailed the day prior. The 8.1 hearing/initial appearance is then set within 72 hours of arrest. The times that 8.1 hearings are held vary by court, but both Circuit Court and District Court have 8.1 hearings on Mondays, Wednesdays, and Fridays; District Court judges do 8.1 hearings for their own departments, and Circuit Court hearings are held on Mondays, Wednesdays, and two Fridays per month. Four Circuit Court judges rotate presiding over 8.1 hearings on the remaining Fridays for each month. All judicial officers handle 8.1 hearings differently. Some push the prosecutor to handle arraignment at the time of the 8.1 hearing. This may cause a representation issue for defendants without private counsel. Bail and conditions of bond are reviewed at the 8.1 hearing.

Cash bail amounts are determined at the discretion of the presiding judicial officer. Judicial officers interviewed noted that there is no formal bail schedule, though it was implied there is an informal schedule. Arkansas Rule of Criminal Procedure §8.5 (b)(i)¹⁰ notes that a defendant's financial condition should be taken into account when determining pretrial release at the 8.1 hearing, however, judicial officers interviewed noted that a defendant's ability to pay is not a factor in setting bond.

The judicial officers noted utilizing the Arkansas Rules of Criminal Procedure and the facts of the case to set bail. Persons arrested on non-violent charges with no prior criminal history are often released on their own recognizance, while theft and violent crimes require bail. Person crimes and crimes of dishonesty see bail set higher and may consider the degree of actual harm. Parole violations are preset at \$2,500. Failures to Appear generally have bonds set significantly higher.

Arkansas allows third party payment of bail. This may be through an attorney, a surety (bail bond) company, or a non-profit. Surety companies secure a bond premium and/or collateral to post bond on behalf of a defendant. Arkansas law requires that surety companies charge defendants a premium equal to 10% of the total bond, which is nonrefundable. Fees are also levied in addition to the bond amount and premium. This includes a \$10 administrative and regulatory fee, \$20 Public Defender Commission fee, a \$6 fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund, and a \$4 fee for the Bail Bond Recovery Fund. All of these fees are nonrefundable.

Multiple interviewees from several different stakeholder agencies identified high pre-trial bond as a driver of jail overcrowding. Judicial officers noted that high bail is their primary tool for ensuring appearance at court hearings, many automatically increasing cash bond regularly 1000% after the first failure to appear (from \$5,000 to \$50,000).

Warrants

Judicial officers may issue a summons rather than an arrest warrant at their discretion, unless the offense or action of the offense was violent or risked imminent bodily harm or if it is likely the

¹⁰ <https://casetext.com/rule/arkansas-court-rules/arkansas-rules-of-criminal-procedure/article-3-arrest-citation-summons-and-pretrial-release/rule-8-release-by-judicial-officer-at-first-appearance/rule-85-pretrial-release-inquiry-when-conducted-nature-of>

offender would not appear in court. The estimates by stakeholders is that 800-900 Failures to Appear occur annually. Many of these go to warrant status. Response to Failures to Appear are a marked increase in bond amounts, from \$50,000 in regular court to \$175,000 for drug court.

Continuances

Continuances were not generally viewed by stakeholders as a reason for delay in cases or in driving the jail population. However, it was noted that the number of continuances granted has increased in the past few years. The county prosecutor pulled data on continuances for 2019, and the results showed that 63% of continuances were at defense request, 23% were due to crime lab delays, 6% were at the state's request, and 5% were for mental health inquiries.

Trial

Under the speedy trial, defendants must be tried within 9-12 months from the date of arrest or service of summons according to rule 28.1 of Arkansas Rules of Criminal Procedure.¹¹ Times excluded from that clock include time for competency exams and hearings, consideration of pretrial motions (up to 30 days), congested docket, continuances requested by the defense, continuances requested by the prosecutor due to evidentiary issues, absconding of the defendant, time between dismissal and refile, time to join cases with a codefendant, and any other reason for a good cause.

Sentencing

Sentencing for felonies is guided by the Arkansas Sentencing Standards Grid¹² from the Arkansas Sentencing Commission. Jail is only used as a sentence for misdemeanors (up to a year jail time), sanctions for treatment courts and other court programs, and holding prisoners sentenced to drug court or a forensic mental health unit. There is no state mandate on holding anyone pretrial except for capital offenses where proof is evident.

Use of Alternatives to Incarceration

Washington County has the second largest population of offenders on probation in the state. There are approximately 6,500 offenders on probation, and another 3,500 inactive due to incarceration. There has been a push to put more offenders on probation instead of sending them to prison, and the sentences have become longer. Drug and Veteran's Court are popular and there is support in the community for a Mental Health Court as well.

Probation revocations are handled by the original sentencing judge. Revocations are punished as contempt of court, a Class C misdemeanor. The bond for probation violations tends to be lower, \$2,500, but are much higher for failure to appear (\$50,000-100,000). Drug court failure to appear bonds are generally set at \$175,000. Sentences are generally 14-30 days in jail.

¹¹ <https://casetext.com/rule/arkansas-court-rules/arkansas-rules-of-criminal-procedure/rule-28-limitations-excluded-periods-and-consequences/rule-281-limitations-and-consequences>

¹² https://b0beba09-64d1-44af-a9c6-06f2e2361472.filesusr.com/ugd/a6309a_372f623a3e124603bc8b826a21ad6cc9.pdf

Records Management

Each agency appears to be using different case management systems, and not all of them interface. Those listed included Abacus, VJIS, Contexte, defenderData, MOVE (eCite), Relativity Records Management, Tableau, and CJIS. Agencies also utilize data from ACIC.

The circuit court utilizes Contexte, the Administrative Office of Court's statewide database. It was noted that county prosecution utilizes a different system, but that most of the data interfaces with Contexte. City prosecution has read-only access to Contexte, however. Contexte also powers the public facing data platform, CourtConnect. Contexte provides some canned reports and widgets. The Circuit Clerk utilizes Tableau to generate ad hoc additional reports.

MOVE is the e-Cite system from the state police that is utilized by law enforcement in Washington County except in Fayetteville. It allows them to look up criminal history and for the court to see the citations and accident reports which eliminated the need for paper delivery of the information.

Prosecution

Circuit Court

The county prosecuting attorney's office has three paralegal case coordinators, one court coordinator, one bilingual victim assistant, and 21 attorneys, including Prosecutor Durrett. Of the 20 deputy prosecutors, three handle juvenile cases exclusively, one is part-time and handles Madison County cases, one handles drug court, and 15 manage adult criminal cases. Prosecutor Durrett also carries a small caseload of adult cases. Case filings in 2019 dropped to under 3,500 from a high of 4,400 in 2018 after making changes to allow for filing FTAs within the current case, rather than as a separate case. The state had not provided any new prosecutors for five years despite the area's population increase. They provided one new prosecutor this past year, and the Quorum Court has approved funding two more to help caseload burden.

The sheriff and the county prosecuting attorney have ongoing collaborations that have improved the jail's overcrowding issues. He also takes part in the sheriff's jail workgroup tasked with reducing the jail population. They have also worked to limit FTA charges by trying to work with people who genuinely had an issue and did not appear. If they see the case coordinator and show up the same day to sign the order with the court date, then no FTA is filed. Prosecutors noted there is currently no vehicle or funding for formalized pretrial supervision of defendants.

Screening of Charges

The county prosecution office has three case coordinators who act as legal assistants, receiving incoming cases, entering them into the computer, obtaining criminal histories and police reports, logging evidence, assigning and distributing cases to attorneys for formal charging, and attending arraignments.

The prosecutor's office has worked to reduce the jail population by providing a list of approved charges and circumstances in which they will allow the sheriff to release an inmate on their own recognizance or with felony citations if the criteria are met.

The prosecuting attorney requests a 30-day set out for arraignment from the 8.1 initial hearing to ensure they have all the evidence and make appropriate charging decisions, including determining if the case is more appropriate for District Court or if it should not be filed at all. This has been challenged by some judicial officers who prefer to have arraignment wrapped up with the 8.1 initial hearing. However, the prosecuting attorney notes that waiting the 30 days allows the prosecutor's office to file fewer cases overall than if they were filed at the 8.1 hearing, as evidence may meet the 'probable cause' standard but does not rise to the 'beyond a reasonable doubt' standard.

A prosecutor may request they issue a summons rather than an arrest warrant from the clerk of court upon case filing, unless the offense or action of the offense was violent or risked imminent bodily harm, or if it is likely the offender would not appear in court.

The prosecution noted that about 75% of cases involve indigent defendants, and about two-thirds of those utilize the public defender's office.

Bail

A deputy prosecutor meets with the criminal judge in chambers each morning (calls if he is out of chambers and sends an email on weekends) to staff cases and make recommendations for bail and bond conditions.

Bail and bond conditions are reconsidered at arraignment when formal charges are filed (read?) and may be revisited at any time throughout the process until the case until it is disposed.

Trial

Prosecutors noted that 75%-80% of cases end in plea bargaining. Defendants often do not opt for a bench trial, and there were only 20-30 jury trials in 2019.

Caseflow

Prosecutors lament that cases move too slowly through the system—felony cases used to resolve in three to four months, but it now takes 6-12 months. Prosecutors noted that violation of pretrial release used to result in revocation of bond and incarceration which allowed for quicker resolution of cases. Now that offenders are out on bond, they may rack up several cases including FTAs which extend the timeline for the case since the defense attorneys often want all charges wrapped up together. Additional issues mentioned for increasing case timelines were crime lab delays and mental health competency delays. Data kept by the prosecutor's office shows that in 2019, 63% of continuances were due to defense request, 23% due to crime lab delays, 6% due to prosecutor request, and 5% due to competency requests. They noted the switch to e-filing has been positive.

Sentencing

Sentencing in District Court depends on the class of charge and criminal history. Sentencing in Circuit Court is more involved and follows the Arkansas Sentencing Standards Grid.

District Court

District Court primarily manages misdemeanors and city code violations. Washington County's district court is a state district court with headquarters in Fayetteville, but it serves eleven cities and surrounding areas in the county. There are four judges that hear cases for district court. One full-time in Fayetteville, one full-time in Springdale, and two that travel to the other cities for arraignments, pleas, and trials. Prosecution for each district court division is managed locally. Some utilize city attorneys (e.g., Fayetteville, Prairie Grove, Springdale), some utilize contract attorneys (e.g., Elm Springs, West Fork), and some utilize the county prosecutor's office (e.g., Goshen).

The city prosecutor for Fayetteville was the only District Court prosecutor interviewed. The office has two prosecutors, four legal assistants, two law clerks, an investigator, and two administrative staff. Their office handles 12-13,000 cases per year. Most of those cases are citations, though a few do get booked into the jail. If they are booked into the jail, the defendant must have their 8.1 initial hearing within 72 hours. Arraignment is then set 30 days out. Citations generally take longer to get to arraignment—about 60 to 90 days. Dismissing cases *nolle prosequi* is very rarely considered. At arraignment, the defendant can request representation, and the case is then set out for another four to six weeks. Most (approximately 90%) cases are handled by plea agreement. District Court only held approximately 30 trials last year. If the defendant needs additional time to review a plea offer, the case may be set over again to allow for review. Continuances are usually granted. Class B misdemeanors or higher often take nine months for case resolution. However, their office does attempt to handle cases on the spot with plea bargains. The only jail use for sentencing is generally that mandated by statute for DUIs and Driving on Suspended License related to DUIs.

Prosecutors believe that population growth is the primary driver for the jail population.

Defense

The local private defense bar did not respond to requests for an interview, so this section largely reflects public defense.

Public Defenders

Public Defenders noted that they are assigned approximately 90% of the cases filed in Circuit Court and 75% of the criminal cases. There are 17 total public defenders, including the three new hires from the state and the county. There is one attorney for all misdemeanor cases, two for juvenile, one for drug and veterans court, and 13 for felony, mental competency, and adult protective services cases. The average caseload for experienced public defenders is 120 cases each, and the new public defenders are already up to 70 cases each. The public defender believes they would need at least three more attorneys to be fully staffed at American Bar Association (ABA) caseload standards.¹³ The ABA caseload guidelines indicate that each public

¹³https://www.americanbar.org/content/dam/aba/publications/books/ls_sclaid_def_securing_reasonable_caseloads.pdf and https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_aba_sclaid_revised_rpt_119_eight_guidelines.pdf

defender should manage no more than 150 felony cases, 400 misdemeanor cases, 200 juvenile court cases, or 200 mental commitment cases annually. If the caseloads are mixed, the caseload should be reduced by the percentages worked in each category.

Approximately one-third of each felony caseload is in jail, or 520 defendants on any given day. The public defenders must meet their clients in person at the jail, as there is no free access to phone or email for their clients, and the jail does not have adequate connectivity for video conferencing.

Initial Appearance

Public defenders appear on behalf of clients without representation at 8.1 hearings. There has been a push to have a public defender housed at the jail for this purpose which has been supported by the state Public Defender Commission. However, the local public defender's office is reticent to be appointed at this point in the process, as some defendants will take the time between initial hearing and arraignment to hire private counsel. Additionally, there is concern about space and safety. The public defenders noted that all custodies will be brought into a large waiting room and the PDs must navigate the small space and large number of people to meet with each defendant. PDs noted being exposed to harassment, threats, and even contagious diseases such as the flu, mumps, and leprosy in this cattle-call style waiting area, and do not feel it is a safe environment for the defendants or the lawyers.

Case Screening

The PD's office makes its own determination of financial need once a public defender is requested, then either accepts the case or denies it based on their findings. Public defenders are currently assigned approximately one week after arraignment and make initial contact with the defendant a few weeks later after receiving and reviewing discovery. PDs did acknowledge that some defendants need representation earlier and noted that the clerk's system did not have a way to track those who had their affidavit of indigence completed earlier in the process. The affidavit is on paper, and currently, it is not possible to keep the information electronically.

Public defenders may not be appointed in misdemeanor cases in which there is no chance of incarceration, including suspended jail time and sentences to probation that may result in incarceration if revoked.

Conflicts that cannot be managed in-house are referred to the Northwest Arkansas Conflicts Division of the Arkansas Public Defender Commission.

Bail

No differential timelines were mentioned for those in custody. It was noted that indigence/ability to pay is not taken into account for bail or fees, and that FTAs bail has been framed as non-negotiable by the prosecution and court. PDs noted that it can take up to an hour to see a client in the jail for an FTA, and that often the bondsman will get in to see them prior to their attorney.

The PD's office noted there is currently no vehicle or funding for formalized pretrial supervision of defendants, and they do not have the manpower to even provide texting to their clients to

remind them of upcoming court dates. They recently signed an agreement with Uptrust¹⁴ to provide client connection via their cellphone application. Uptrust integrates with the office's case management system to provide push notifications and service referrals and allows staff to communicate with clients directly from their phones without compromising safety.

Trial

Public defenders noted that approximately 90% of cases in Washington County require public defenders, and about 95% of their cases are resolved by plea or dismissal. They noted having to complete only 15 trials per year. They asserted that there has been an increase in filings by the prosecutor's office, including an uptick in drug cases, noting that drug paraphernalia only cases make up about 30% of a caseload.

Caseflow

Regarding caseflow, public defenders noted that there seems to be a lot of continuances, some due to the crime lab, and some to allow them to see and build rapport with their clients. Other delays include last-minute plea bargaining by the state (received the day before a hearing), and mental health-related delays. Crime lab results are taking six to eight months for return. According to prosecutor data, 63% of continuances in 2019 were at the defense's request.

Sentencing

Sentencing for felonies is based upon the Arkansas Sentencing Standards Grid. Non-incarceration sentencing options all involve community corrections and include drug court, veteran's court, first offender probation, and probation. Placement at a community corrections center may occur as part of any of those programs.

Post-Sentence

Washington County currently offers the following post-sentence alternatives to incarceration, all via Community Corrections: probation, first offender probation, drug court, and veterans court. Additionally, the sheriff's office operates a program that allows community service in lieu of incarceration.

Probation

Probation is a community-based alternative to prison. Probation in Arkansas is run by Arkansas Community Corrections (ACC). ACC divides the state into 13 areas, and Washington County is a part of Area 1, which also includes Benton and Madison counties. ACC also manages parole, and officers may have mixed parole and probation caseloads. In the last published annual report from ACC (FY 2018), Area 1 had supervised just over 9,000 parolees (27%) and probationers (68%), including specialty court participants (8%). About 5% of offenders under supervision were on suspended or other status.¹⁵

¹⁴ <https://www.uptrust.co/>

¹⁵ ACC FY2018 Annual Report

https://www.dcc.arkansas.gov/images/uploads/publications/ACC_Annual_Report_-_2017.pdf

Offenders are sentenced to probation by a judge. Only those felony cases eligible for probation according to the Arkansas Sentencing Standards Grid may be sentenced to probation. Offenders court-ordered to probation are supervised by their assigned probation officer and are subject to comply with both court and program ordered terms and conditions of probation. Violation of those terms and conditions may result in sanctions up to and including revocation of probation, which may result in resentencing to a community corrections facility or prison.

Probationers are required to pay a \$35 monthly supervision fee. The fee may be waived for employment or medical reasons every six months. Additionally, if a probationer gets behind in their fees, they may do community service work (credited at minimum wage rate) to pay their balance. ACC works with probationers to get them enrolled in Arkansas Works Insurance Program (a private Medicaid health insurance option) or regular Medicaid in order to help cover costs for any behavioral health services that may be included in their case plans. Probationers may have premiums with Arkansas Works and may have copays with both types of insurance. If probationers have their own private insurance, they pay any costs associated with treatment as required by their insurance company.

Probation community-based supervision provides the opportunity for offenders to live and work in the community while completing the remainder of their sentence. High priority is placed on victim's rights and the monitoring of restitution payments by offenders. ACC uses a comprehensive statewide case management system to assist in the supervision of offenders. ACC utilized the Arkansas Offender Risk Assessment (ARORA) to assess probationer risk and need. The assessment was developed and normed in 2014 for the Arkansas population. Case plans are developed from that risk assessment.

Probationers are offered a wide variety of programming options to help decrease the likelihood of recidivating. Certified substance abuse program counselors provide treatment to offenders dealing with alcohol, drug, and tobacco use addiction. Offenders may also be referred by parole/probation officers to programs such as financial education, employment skills, anger management, life skills, and general education. Some of these services may be offered by ACC, and some may be community referrals that require payment by insurance and/or the probationer.

ACC has several specialized programs and supervision options for probationers, including first time offenders probation, electronic monitoring, intensive supervision, home confinement, and specialty courts.

First Time Offenders

First time offenders are sentenced to probation under AR Code § 16-93-303¹⁶ if they have previously never been convicted of a felony. Upon successful completion of the probation term (minimum one year), the charge is dismissed and the record is expunged (no expungement for certain sexual offenses).

¹⁶ <https://law.justia.com/codes/arkansas/2019/title-16/subtitle-6/chapter-93/subchapter-3/section-16-93-303/>

Electronic Monitoring, Intensive Supervision, and Home Confinement

According to AR § 16-93-306,¹⁷ the intensity of supervision of offenders is based on a validated risk-needs assessment and case plan. Electronic monitoring and home confinement are utilized in the continuum of graduated sanctions. Probationers are not allowed to spend more than seven consecutive days in jail for a sanction and no more than 30 days in jail total before a recommendation is made for revocation. Jail may not be used more than six times total as an intermediate sanction.

Specialty Courts

The Washington County Drug Court began in 1999. The drug court has three tracks based on risk and need as assessed using the Risk and Needs Triage (RANT) screening tool and the Arkansas Offender Risk Assessment (ARORA). The diversion track (typically six months) is for offenders who score as Low Risk/Low Need on the Risk and Needs Triage (RANT) assessment. These are low level offenders whose crimes may be related to drugs or alcohol but do not have a substance use disorder. This track is pre-adjudication. The other track is for offenders who score as High Risk/High Need on the RANT and have a substance use disorder. The third track is the Veterans Treatment Court. It has similar eligibility requirements with the addition of a background in military service. Both Track 2 and the VTC track are post-adjudication. Drug court program staff noted it can take a minimum of 120 days from jail to program entry.

Under AR Code § 16-98-303,¹⁸ drug courts may not accept any defendant with a pending charge of violence or a conviction as an adult or juvenile of a violent felony offense, or a defendant who is required to register as a sex offender (excluding the charge of prostitution). Upon formal acceptance to the program, participants are subject to community supervision, drug testing, are required to attend court frequently and participate in substance abuse and mental health treatment as identified through clinical assessments and evaluations. Drug court participants who fail to appear for a drug court hearing have warrants issued for their arrest and the default bond is set at \$175,000.

¹⁷ <https://law.justia.com/codes/arkansas/2019/title-16/subtitle-6/chapter-93/subchapter-3/section-16-93-306/>

¹⁸ <https://law.justia.com/codes/arkansas/2019/title-16/subtitle-6/chapter-98/subchapter-3/section-16-98-303/>

Jail Assessment

A responsive criminal justice system is fluid in its decision-making to maximize sustainable jail population management. One of the difficulties with such a responsive approach is the outcome impacts of these decisions. A validated risk assessment instrument has many benefits and should be utilized to assist in determining what type of arrestee should be incarcerated, supervised within the community, or released on their own recognizance prior to their court appearance. Unlike prisons, jails release more than 90% of their populations directly back to their local community.¹⁹ The jail, therefore, is most appropriate for high risk arrestees who may be a danger to the community, and the decision to incarcerate is balanced against the cost of incarceration.

A primary goal of a Jail Assessment is to compare and evaluate the performance of existing facilities with current and future needs. Building soundness and adaptability, living conditions and sanitation levels, fire and life safety, safety and security, programs and services, inmate classification and housing, compliance with standards, layout, and capacity are all considerations in conducting an assessment.

The assessment provides information for the jurisdiction to determine the need for facility improvements or the planning of new facilities.

Operations

Arrestee Bookings

WCDF houses offenders from Washington and Madison counties, and is the only jail in the 4th Judicial Circuit. The jail is required by AR Code § 12-41-503²⁰ to accept any prisoner lawfully arrested or committed within the jurisdiction, except as necessary to limit prisoner population compliance. The jail also holds offenders sentenced to prison who do not have an open bed available in a state facility, and 309 offenders (named for Act 309)²¹ who are prison inmates contracted out by the Department of Corrections (DOC) to WCDF to provide maintenance, food service, and clerical duties. The state reimburses the county for the prisoners awaiting housing at DOC facilities at a state-approved rate for housing, transport, and preapproved medical expenses. The state pays the county approximately \$12/day for 309 inmates. WCDF holds federal prisoners for the US Marshal's Service, and at the time of interview, the jail also housed detainees for ICE through their 287g program.²² In February 2020, the Quorum Court passed two resolutions²³ requesting the sheriff to terminate the contract with the US Marshal's Service

¹⁹ Christensen, G. (2008). Our system of corrections: Do jails play a role in improving offender outcomes? U.S. Department of Justice. Accession Number: 023357.

²⁰ <https://law.justia.com/codes/arkansas/2019/title-12/subtitle-3/chapter-41/subchapter-5/section-12-41-503/>

²¹ [https://adc.arkansas.gov/images/uploads/AR_1212_Inmates_Housed_in_County_Jails_and_City_Jails_\(Act_309\).pdf](https://adc.arkansas.gov/images/uploads/AR_1212_Inmates_Housed_in_County_Jails_and_City_Jails_(Act_309).pdf)

²² <https://www.ice.gov/287g>

²³ <https://www.co.washington.ar.us/home/showdocument?id=21536> pp. 36-39

and find housing in other jails for sentenced offenders awaiting their ADOC housing. The sheriff declined to enact either at the time, as the 309 inmates provide support services such as meal preparation and the 287g program holds local inmates who are charged with a federal crime. The 287g program was discontinued as part of pandemic-related decarceration.

In September of 2019, the Quorum Court passed an ordinance²⁴ to charge municipalities a daily fee of \$63.12 per inmate if they do not enter into a contract for housing their inmates in WCDF. The contract alternative²⁵ to the daily fee charges \$2.50 per capita according to the 2018 Census population estimates. The per capita fee amount was determined by the shortfall in the maintenance and operations budgets for WCDF, divided by the population of the areas served. The larger agencies have opted to negotiate annual contracts, while the smaller agencies are making case-by-case determinations based on their use of the jail. The treasurer will estimate the shortfall each September, and the county judge will send notices to each municipality of their calculated per capita fee for the coming year. Each municipality enters into contract and pays their annual fee by February to avoid incurring the daily fee.

Law enforcement agencies noted that they have done all they can to reduce booking offenders in the jail. With the new per capita invoicing, some jurisdictions that have attempted to reduce their arrests may no longer realize a benefit. For example, Fayetteville arrested approximately 10,000 people annually in 2005 when the fees for booking were at \$62/booking. Through the years, the number of arrests have decreased to some degree in response to the fees with a 2019 arrest total of approximately 3,600 arrests. While the booking fees are reportedly not associated with the reduction in the number of arrests/bookings, there appears to be little incentive for jurisdictions to monitor arrests when the cost of detention is the same regardless of the number of bookings.

As stated in the Law Enforcement section, none of the other Washington County LEAs have short-term lock-up spaces available, and neighboring Madison County also closed their jail in 2013. So, these agencies must utilize WCDF for booking. WCDF will sometimes go into Diverted Status when the booking area is full and cannot safely take any more admissions—jail staff will notify area law enforcement agencies of diverted status, meaning the LEOs cannot bring anyone else in for booking until they are notified the diverted status is terminated. There is a six-hour window for LEOs to release or book an offender, so this further influences LEOs to issue citations rather than making arrests.

Sentencing Authority

Under AR Code § 12-41-101,²⁶ meritorious good time may be awarded to those sentenced to county jail under rules enacted by the county sheriff for good discipline, good behavior, work practices, and job responsibilities within the county jail. The sheriff authorizes two days of good time credit for every one day served. While this policy is intended to recognize inmates for work completed and time served, jail crowding has been the primary driver for its use. Through

²⁴ <https://www.co.washington.ar.us/home/showdocument?id=20378> pp. 7-8

²⁵ <https://www.pressreader.com/usa/washington-county-enterprise-leader/20191016/281517932885952>

²⁶ <https://law.justia.com/codes/arkansas/2019/title-12/subtitle-3/chapter-41/subchapter-1/section-12-41-101/>

interviews with law enforcement leadership, while the intention of this policy is understood, it can lead to the perception that there are no consequences for criminal behavior.

Those sentenced to the Department of Corrections who are in jail awaiting admission to a facility may earn meritorious good time credit under AR Code § 12-29-205.²⁷ This good time is calculated and awarded by the Department of Corrections upon the prisoner's entry into the system unless the sheriff specifically objects.

Release Authority

The jail processes all arrestees brought to the jail by law enforcement. Bail is set the next morning by the presiding criminal judge. The jail has been authorized to release felony arrestees from custody with a citation if approved by a prosecuting attorney under Arkansas Rule of Criminal Procedure 6.1.²⁸ To reduce the jail population and expedite processing, the Washington County prosecuting attorney has provided guidelines to the sheriff and the jail on certain felony arrestees that can qualify for release after booking without posting bond. This is blanket criteria that does not require a call to a prosecuting attorney for approval. All conditions must be met in order to effectuate release. The criteria include:

1. The person has been arrested for one of the following offenses:
 - All D felony drug offenses (excluding delivery of a controlled substance),
 - Any C felony straight possession offense,
 - Theft of Property (up to \$25,000),
 - Criminal Mischief,
 - Filing a False Police Report,
 - Forgery,
 - Fraudulent Use of a Credit Card, or
 - Breaking or Entering;
2. The person resides in Washington County or a neighboring in-state county;
3. The person has no prior convictions for a violent offense; and
4. The person has no prior felony failure to appear convictions.

If an arrestee is not released via citation or summons, their bail is set the following morning by the presiding criminal judge as is the date and time for their 8.1 hearing/initial appearance if bail is not posted. The 8.1 hearings must occur within 72 hours of arrest. Since these hearings are specific to those in custody, the coordination with the court and prosecutor's office to ensure these happen in a timely manner is the responsibility of the jail.

²⁷ <https://law.justia.com/codes/arkansas/2019/title-12/subtitle-3/chapter-29/subchapter-2/section-12-29-205/>

²⁸ <https://casetext.com/rule/arkansas-court-rules/arkansas-rules-of-criminal-procedure/rule-6-issuance-of-summons-in-lieu-of-arrest-warrant/rule-61-authority-to-issue-summons>

Emergency Authority to release prisoners in the wake of the spreading COVID-19 pandemic was granted through a partnership with the county prosecuting attorney and the Circuit Court, and in close collaboration with public health. Those released are non-violent arrestees and are put on electronic monitoring as an alternative to incarceration. Initially, the sheriff utilized a monitoring service but has since purchased several GPS monitors and will be doing the monitoring of arrestees internally. The continued use of electronic monitoring is anticipated beyond the COVID-19 pandemic.

Facilities

The jail facilities have a design capacity of 710 beds,²⁹ with the average daily population in 2019 of 735 and in some cases as high as 771. Operational capacity accounts for peaking (unusually high arrest rates due to drug arrests and other city or county events, etc.) and classification factors (allowing space for inmates to be housed according to their classification—gender, security, special needs). Operational capacity is expressed as a percentage of design capacity—commonly 80% (in this case 82%) of the design capacity.³⁰ This percentage, which accommodates the peaking and classification factors, will vary from one facility to another based on factors such as the types of inmates held, housing unit design, and proximity of staff.

There are two facilities. The primary detention facility, with a 614-bed capacity, is collocated with the sheriff's office. It appears to be designed as maximum security facility, though all custody levels and classifications are housed there. The Work Release Center, with a capacity of 96 beds, is located within the perimeter fencing, but is unattached to the newer detention facility. This area is currently being used to house minimum security inmates since the work release program has been suspended due to crowding.

Given the age of the building, the physical plant has been well maintained and has no significant structural problems. Given the age of the jail and its continuous use (i.e., 24 hours per day; 365 days per year), the jail is the equivalent of 63 years old when compared to the typical use of a school or office building³¹.

The bed distribution table indicates that approximately 370 of the 710 beds are designated as minimum custody, representing more than half (52%) of the total design capacity. While such figures are not surprising in a jail setting as the jail risk assessment focuses on ability to manage the population in a secure setting and not out in the community, it bears consideration to assess inmates classified as minimum security to determine if a portion of these inmates could be sufficiently managed in the community.

²⁹ Interview with Major Randal Denzer, Jail Administrator.

³⁰ Sources: Martin, M. D., & Rosazza, T. A. (2004). *Resource Guide for Jail Administrators*. Washington, DC (320 First St., NW, Washington 20534): U.S. Dept. of Justice, National Institute of Corrections; *Beyond the Myths* (U.S. Justice Department) retrieved from June 3, 2016, <https://www.youtube.com/watch?v=XylgTmduR9M>

³¹ A building operating 24 hours per day, 365 days per year is the equivalent of 4.2 years for each year of operation. The existing jail is 63 years old.

The existing facility design supports efficient staffing as the housing is observable from a central control room. While this design supports observation, it limits opportunities for active supervision of the inmate population. Staff are not posted to allow for active supervision of the inmate population. Instead, they conduct security/safety rounds to observe all inmates and all areas. Level One allows for an interior corridor for staff to observe inmates in the housing units; Level Two allows for an exterior corridor (against the facility façade) for observation in the housing units. A direct supervision operational philosophy is preferable, as it has demonstrated reduction in incidents, increased facility longevity, and staff and inmate safety.

The housing units are relatively small (32 beds), which provides for greater separation of various custody levels and classifications. Unfortunately, this benefit cannot always be utilized due to crowding. Additionally, the small housing unit sizes are not amenable to adaptation to direct supervision without substantial increases in staffing or modifications to the units to allow staff to manage more than one unit at a time. This would likely be a significant cost to the County; however, any future expansion should consider whether the housing configuration could support increased supervision in a cost-effective manner.

The facility provides for four total suicide watch cells (two in each wing); two of the cells are safety cells. The suicide watch cells are visible from the raised control room.

The booking area is programmed and sized for 30 arrestees at one time; staff report having 58 at one point. The booking area is used to process new admissions and releases allowing the contamination of the intake process. The male and female processing areas are separated by a raised staff work counter intended to allow for greater observation of the entire area. On occasion of booking crowding, law enforcement is placed in “diverted status” until there is sufficient processing space.

Services such as health care, food, communication to the outside (e.g., visitation), and laundry are provided in the facility. The kitchen and laundry are sized for future expansion. The sheriff uses state responsible inmates under 309 guidelines to assist with kitchen duties. The state reimburses the County at a rate of \$12 per day. The staff report that the low incidence of complaints is due primarily to the food served by workers who are trained and consistent. Medical is provided by a health care contractor. Health care providers are onsite 24 hours per day and provide health care consistent with community standards. Health care staff report 40-50% of the population having a mental health diagnosis.

The availability of programs for recreation, education, religion, substance abuse, mental health services, and others is limited due to the lack of appropriate space for programs. The jail should be considered in the continuum of care. Recognizing that mental health and substance abuse are two significant treatment issues in Washington County, it would be prudent to offer programming, including treatment milieus, in the jail. Mental health and substance abuse treatment providers could access community service resources and provide for continuity of care and reentry planning for those inmates already in the human services treatment system. Providing these programs as a treatment housing unit limits the number of program spaces, which are currently limited.

There is no formal reentry programming to prepare inmates to transition from the jail back into the community. Programs include GED, life skills, substance abuse, parenting courses, a women's support group, and an onsite social worker, but case management is not utilized in the jail. Whether social workers or trained classification staff perform this function, it is essential that reentry planning begin at the beginning of incarceration to identify needs and provide appropriate connections in the community. Case management reinforces the expectation of normal rather than situational behavior in the inmate population and increases compliant behavior.

Inmates currently have limited access to recreation space, and the dayroom space is not sufficiently sized to accommodate meaningful physical exercise.

Offender Classification and Management

The sheriff's office uses a jail management system³² that allows for management reporting and data analysis. With limited exceptions, the jail is able to use data collection to aid in decision-making and planning. However, there are a number of freeform text entries that result in inconsistent data entry, thus minimizing the ability to mine the data effectively for analysis.

The Washington County jail utilizes a behavior-based objective point-additive classification system for both classification and reclassification of inmates, intended solely for the purpose of managing inmates in a secure environment. The Washington County inmate classification system is the recommended National Institute of Corrections point-additive scale that determines custody level, and classification (e.g., mental health issues, protective custody, etc.). Most of the form is incorporated in the Sheriff's Office Management System (SOMS).

While the objective classification system results in a custody level and classification for appropriate separations, the lack of housing options minimizes the fidelity of managing inmates, according to the risk/needs assessment. Custody level is typically referenced as minimum, medium, and maximum custody, whereas classification refers to specialized housing that may supersede the custody level. For example, a jail that operates a mental health housing unit may assign inmates based on their mental health needs and then, within that unit, manage distinct custody levels. As reported by the Criminal Detention Facilities Review Committees,³³ often inmates of differing custody levels may be collocated. Similarly, inmates of different classifications may be housed together such as persons with mental health issues being housed in areas designated for restrictive housing. A community risk and needs assessment is not currently conducted for inmates under arrest.

It was noted in the Criminal Detention Facilities Review Committee assessment that due to crowding, the jail has historically not been able to separate inmates by classification. That has changed since the decarceration initiative due to the COVID-19 pandemic significantly reduced the jail population.

³² Sheriff's Office Management System (SOMS)

³³ Department of Finance and Administration; State of Arkansas. Date of Inspection: 7/15/19.

Jail Medical

The jail does have the ability to reject admission of any arrestee in apparent life-safety distress. Arrestees with life-safety health care issues are required to be treated prior to being accepted into the jail. Once accepted, the arrestee's health care becomes the responsibility of the jail and health care staff.

Mental health is a significant concern for both law enforcement agencies and the jail. Law enforcement agencies report having limited access to mental health resources, despite having the Crisis Stabilization Unit—one of four in the state.

The two medical cells, located in the medical clinic area, provide for housing of inmate-patients requiring health care in close proximity to the providers, but not hospital-level care. The cells are typically used for persons with serious mental illness as was reported by staff and observed during the onsite visit. As a result, persons with medical needs, who would otherwise be held in the medical clinic, are housed in a booking cell. This practice reduces the space available for booking processing and is not conducive to recovery.

Onsite medical services are provided, on contract, by Karas Health Care.

Witness Management

The jail objective classification system provides for appropriate separations of inmates who are victims, witnesses, co-defendants, and otherwise considered "enemies." These separations are accommodated through separate housing locations to the degree feasible. With COVID-19, inmates are isolated for a two-week period and then tested prior to being placed in general population. Any inmates who test positive continue to be isolated for another 2-week period.

Fees

Fees assessed to inmates while incarcerated include commission for telephone services, including phone cards or email, if used; commissary services; medical services; booking and administration fee (\$20); fee for each conviction (\$20). These funds are used for communication equipment and maintenance and operation of the jail.³⁴ WCDF contracts with an external private company, Summit Foods' (the commissary vendor) subsidiary Tech Friends, to provide inmate communications in the jail. Inmates are provided one free 30-minute video visitation per week, and must purchase all other communications, both video/telephonic and email. Remote video visitation in addition to the free 30-minute session is \$0.40/minute and emails are \$0.50 each and \$0.50 per picture included. All inmates and their contacts must have accounts through JailATM.com and have money pre-loaded on their accounts to have contact.³⁵

³⁴ Association of Arkansas Counties. Arkansas County Sheriffs 2018 Procedures Manual.

³⁵ January 27, 2020 Facebook post by Washington County Sheriff's Office
<https://www.facebook.com/WashingtonCoSO/posts/10162777567665257>

Population Profile

The Washington County Detention Center is operated by the Washington County sheriff's office. The jail has a design capacity of 710 beds, and an operating capacity of 580 beds.³⁶

Operational capacity accounts for peaking (unusually high arrest rates due to drug arrests, and other city or county events, etc.) and classification factors (allowing space for inmates to be housed according to their classification – gender, security, special needs). Operational capacity is expressed as a percentage of design capacity – commonly 80% (in this case 82%) of the design capacity.³⁷ This percentage, which accommodates the peaking and classification factors, will vary from one facility to another, based on factors such as the types of inmates held, housing unit design, and proximity of staff.

At the end of December 2019, the facility held an average daily population of 747 inmates, with a daily commitment rate of just over 24 arrestees being admitted to the facility. The primary goal of the present analysis is to support a master plan by developing a statistically valid forecast of the Washington County jail population for the next 10 years. To produce the time series models necessary for the final forecasts, a series of supporting analyses were undertaken and are described below.

The bulk of the analysis was based on a set of comprehensive data extracts which contained key information about every single individual held between January 1, 2015 and December 31, 2019. The data extractions included every single charge of every single inmate held between January 1, 2015 and December 31, 2019. All of this information was then processed to forensically reconstruct the jail's population for each day during the analysis period which allowed the construction of a series of inmate profiles over time in order to provide indications of changes within and among key aspects of the jail's population. In addition, criminal court data was obtained which enabled the production of case processing information over the time period of the analysis.

Key factors in determining the WCDF's population were subjected to a comprehensive set of analyses such as commitments (the number of people booked into the facility), average daily population, average length of stay (a measure of how long, on average, inmates stay in custody), arrest offenses, criminal court case processing times and a profile of the inmate population. Finally, all of the time series data produced during the study were included in multiple time series forecasts of the jail's future population levels using Autoregressive Integrated Moving Average (ARIMA) methods.

NCSC's profile of the WCDF was developed from a forensic reconstruction of each day covered by the main jail data extracts. The reconstruction of the jail's population for the time period analyzed is superior to single point-in-time snapshots which are subject to more random daily variation. Important statistical drivers or indicators of the population were developed by

³⁶ Interview with Major Randall Denzer, Jail Administrator

³⁷ Sources: Martin, M. D., & Rosazza, T. A. (2004). *Resource Guide for Jail Administrators*. Washington, DC (320 First St., NW, Washington 20534): U.S. Dept. of Justice, National Institute of Corrections; *Beyond the Myths* (U.S. Justice Department) retrieved from June 3, 2016, <https://www.youtube.com/watch?v=XyIlgTmduR9M>

calculating the total bed days consumed during the entire period of analysis and then converted into average daily population figures.

Demographics

The first component of the team's analysis was to examine the average daily population by gender. As Figure 8 demonstrates, the percentage of female inmates on a daily basis has increased in the last five years, a phenomenon that the research team has detected in a variety of facilities across the country. Figure 9 relates the percentage of admissions into the jail each year by gender. Note that the female booking percentage has stayed very stable. The increase in the ADP percentage in Figure 8 is due to an increase in custody time for females during the period of the analysis.

Figure 8. Inmates by Gender

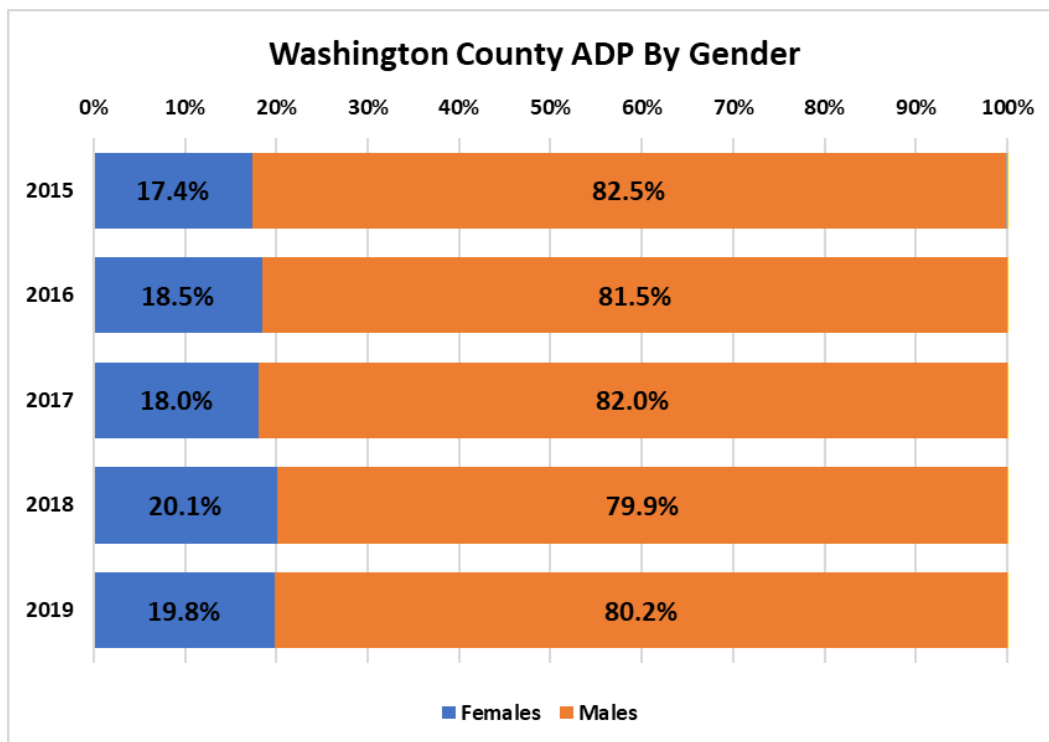


Figure 9. Bookings by Gender

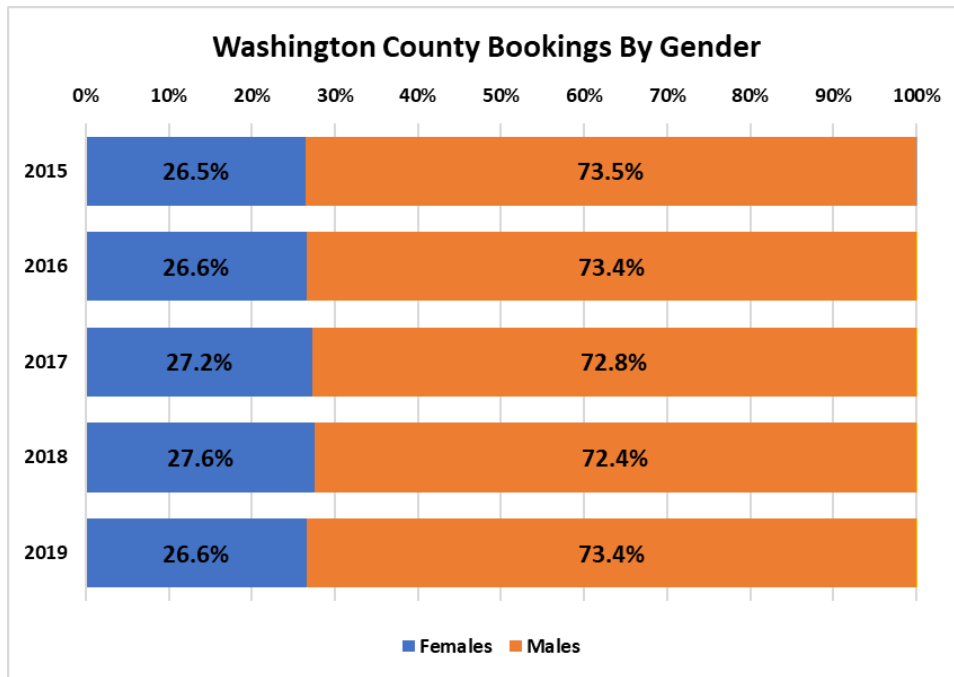


Figure 10 examines the jail's population by race for the time period of the analysis. The racial balance of the population has shifted slightly over time, with the proportion of black inmates in the population increasing with approximately the same rate as a decrease in the proportion of white inmates. Aside from the differences in length of stay between the races (included later in this analysis), the booking proportion for black offenders has increased over time as can be seen in Figure 11.

Figure 10: Inmates by Race

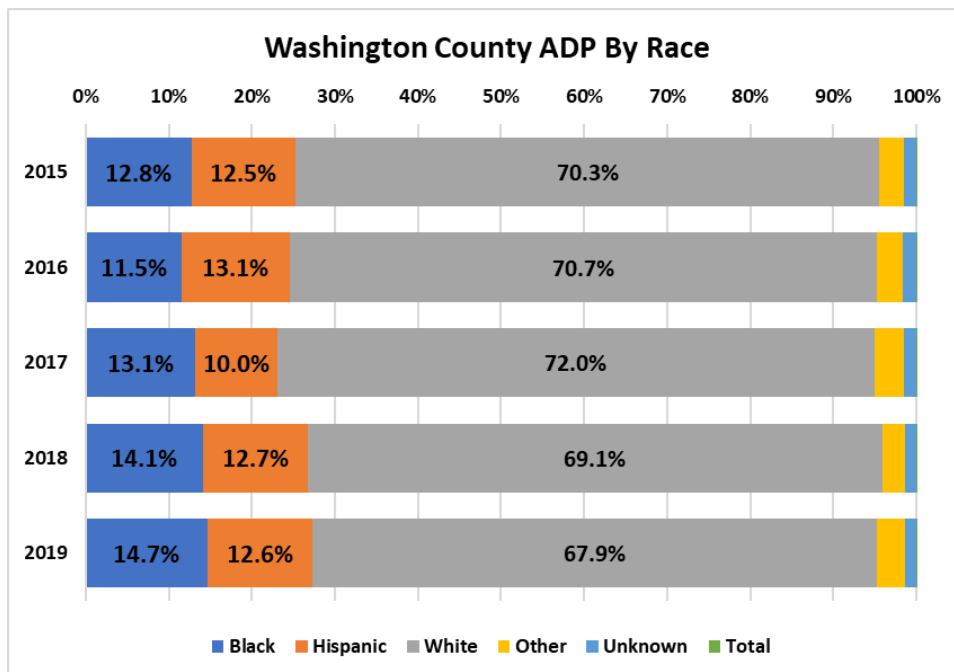
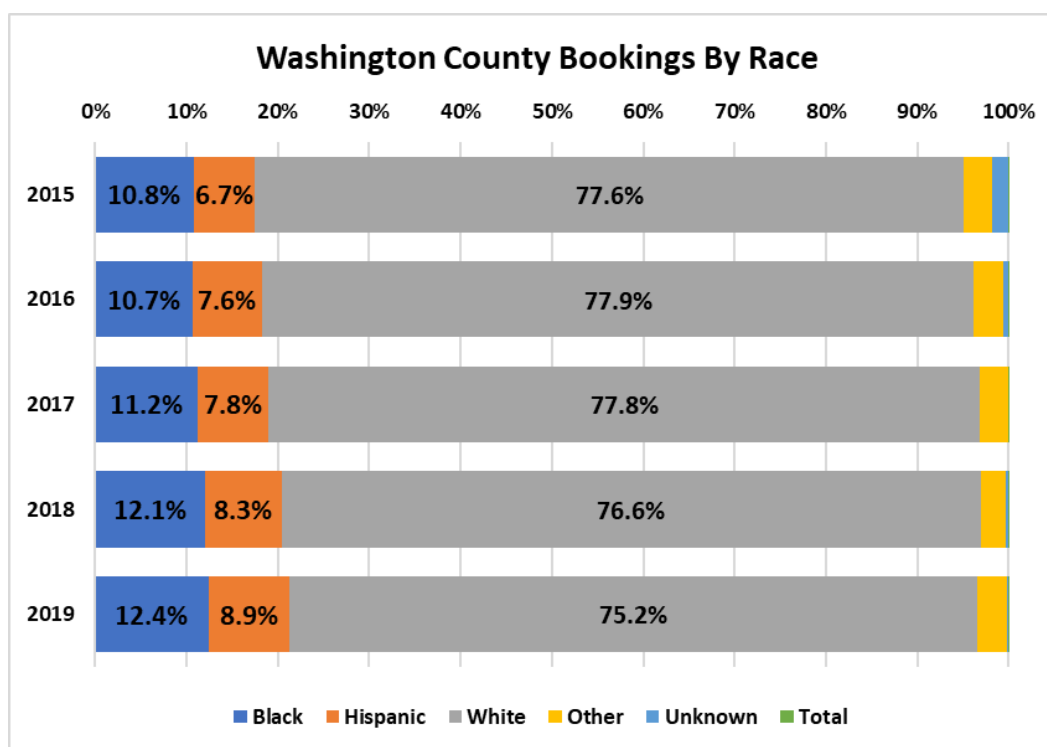


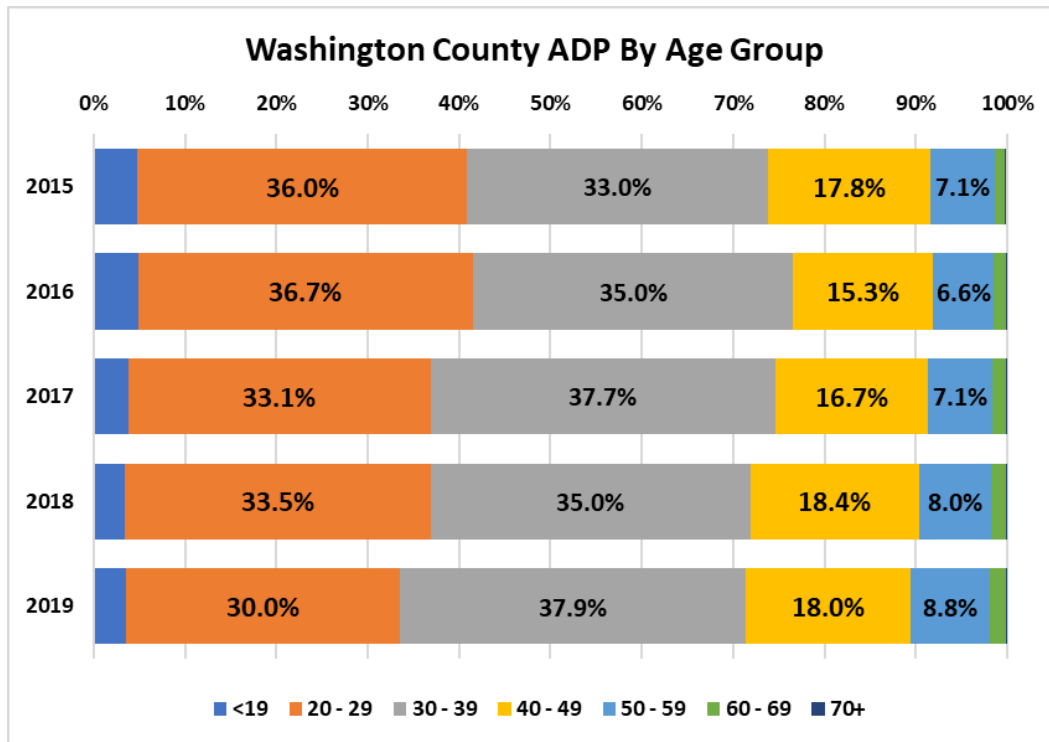
Figure 11: Bookings by Race



Hispanic ethnicity is captured in the Washington County jail data system as a race, and this proportion is somewhat stable despite a decrease in 2017. It would be important for Washington County to consider treating Hispanic ethnicity as a distinct measure to be consistent with the practices of other agencies, such as the Census Bureau and Bureau of Justice Statistics.

Figure 12 presents the jail's population by age group between 2015 and 2019. Similar to other correctional populations across the country, the Washington County jail's population is shifting somewhat such that the cohort of individuals in their 20s is shrinking relative to the group who are in their 30s. The age groups are shifting internally such that inmates in their 20s and 30s comprised 71.7% of the jail's population in 2016 and 67.9% in 2019. This decline is especially interesting given the fact that data from the Arkansas State Data Center indicates that this combined age cohort in the county itself likely grew over 4% during that time.

Figure 12: Inmates by Age Group



Charges

Understanding a jail’s population requires a knowledge of the issues and factors that necessitate each detainee’s custody. An inmate can be incarcerated, pretrial or sentenced, for one or more charges. The data extract produced by Washington County Sheriff’s Office (WCSO) staff contained every single charge for every single inmate. In order to help make sense of the data, the analysis has traditionally ranked the charges according to the type of charge in order to produce a given inmate’s ‘most serious charge.’ The categories used to make the final determination are (presented in order of seriousness):

- Violent
- Sex Offense
- Weapons
- Burglary
- Theft/Fraud
- Drug
- DUI
- Offenses Against the Administration of Government
- Child Neglect/Endangerment/Support
- Public Order
- Alcohol

- Conditional Release Violation
- Supervision Violation
- Failure to Appear
- Traffic
- Other
- Hold

‘Offenses Against the Administration of Government’ is defined as crimes such as Contempt of Court (the majority of this category) and Obstructing Government Operations. ‘Public Order’ offenses include things like Vandalism or Disorderly Conduct. Using the information collected from the large data extract, when an inmate has multiple charges, a primary charge category is assigned according to the priority listed above. The priority listing is premised on the most serious offense having the highest priority. For example, if an inmate was charged with a DUI and a violent offense, the primary charge category would be Violent.

However, the Washington County Sheriff’s Office provided the research team with a comprehensive list of statutes which included their ranking along a 10-point continuum. This list was applied to all of the detainee records such that the team could produce a most serious offense for each inmate according to WCSO. Both analyses are presented below.

Table 3 breaks down the jail’s average daily population by most serious charge using the category rankings. The top 11 charge categories are presented because these are the charge categories which had values above 1% of the population. Typically, the two largest categories in a large jail’s population are individuals with violent or drug charges. Washington County is unique due to the proportion of inmates who have a ‘Failure to Appear’ (FTA) as their most serious charge.

Table 3: Washington County Correctional Population By Most Serious Charge

	2015	2016	2017	2018	2019
Violent	26.3%	24.7%	23.8%	20.9%	20.6%
Failure to Appear	7.4%	10.6%	11.3%	10.7%	12.9%
Drugs	13.8%	12.1%	15.2%	15.1%	12.7%
Theft/Fraud	10.6%	12.3%	10.8%	12.0%	10.5%
Supervision Violation	11.1%	9.2%	8.7%	8.9%	9.9%
Hold	7.4%	8.9%	7.5%	9.6%	6.6%
Offenses vs Government	4.3%	4.4%	5.8%	5.1%	4.7%
Weapons	2.7%	3.3%	3.7%	4.0%	4.4%
Sex Offense	1.3%	0.9%	1.0%	1.4%	1.7%
DUI	1.3%	1.4%	0.8%	1.1%	1.2%
Burglary	1.1%	1.3%	1.2%	0.7%	0.7%

Table 4 provides the population breakdown by most serious charge using the ranking scheme of the WCSO. Note the shift in FTA numbers. This happened because the WCSO rankings put FTA in about the middle of the pack in terms of how serious the charge is. NCSC category rankings put FTAs toward the bottom of the list. In addition, the scheme for ranking charges fails to discriminate between felonies and misdemeanors, a definite shortcoming of the NCSC

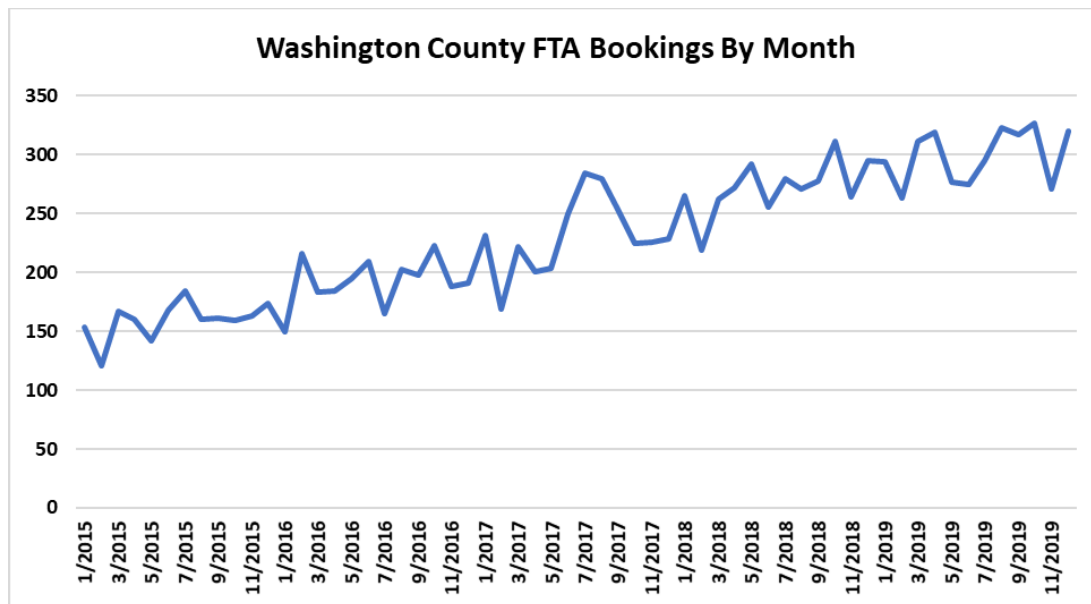
ranking approach. These facts often combined in the analysis such that in the scheme for ranking charges, a misdemeanor assault would outrank an FTA, but using the WCSO rankings, the FTA would end up being the more serious offense. However, either way the data are categorized, there is a significant and surprising number of inmates who have an FTA charge as their most important matter.

Table 4: Washington County Correctional Population By Most Serious Charge, Using WCSO Offense Rankings

	2015	2016	2017	2018	2019
Failure to Appear	16.7%	22.8%	23.3%	24.3%	26.6%
Violent	18.1%	16.0%	16.7%	13.5%	13.5%
Drugs	8.8%	8.3%	9.7%	10.1%	7.3%
Theft/Fraud	7.8%	8.6%	7.1%	7.3%	7.2%
Offenses vs Government	6.9%	5.9%	8.6%	7.3%	7.0%
Hold	7.1%	8.1%	6.1%	9.0%	5.9%
Supervision Violation	6.9%	5.5%	5.4%	5.0%	4.9%
Weapons	2.5%	3.4%	3.5%	3.6%	3.9%
Burglary	3.7%	4.0%	3.2%	3.3%	2.8%
Failure to Pay	5%	3%	2%	2%	2%
Public Order	1.3%	1.5%	1.0%	1.1%	1.3%
DUI	1.4%	1.4%	1.0%	1.3%	1.3%

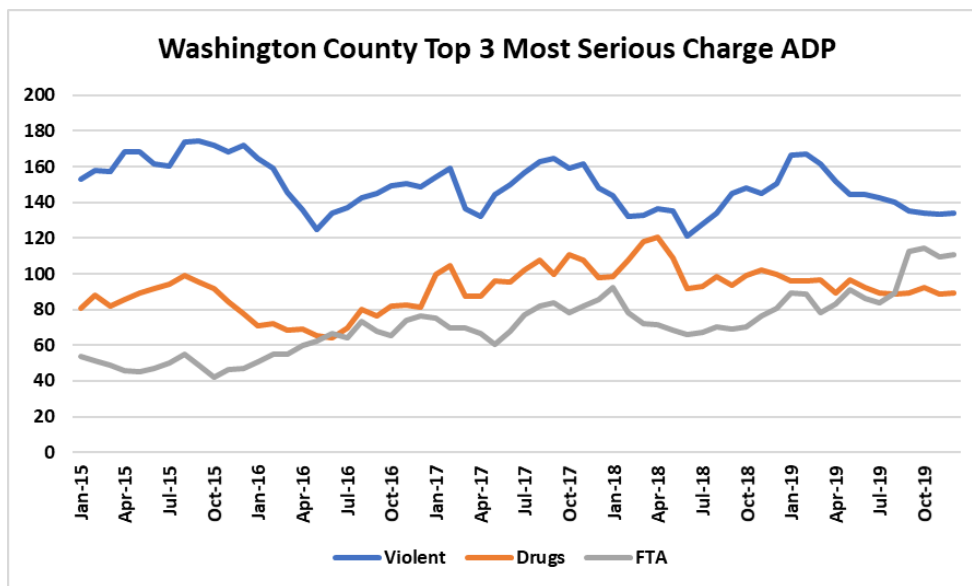
Moreover, the increasing proportion of FTA charges over time in both methods of classifying offenses is somewhat concerning. A clear trend is evident, and this segment of the jail's population is significant. Figure 13 examines the monthly booking numbers for individuals who have at least one FTA charge among their charges. Clearly, more detainees are coming into the jail with FTA charges.

Figure 13: FTA Bookings Over Time



The impact of the bookings increase for FTA inmates can be measured in the population. Figure 14 takes the three largest portions of the inmate population by charge and plots the ADP over time. The population of violence-charged detainees as well as those charged with drug offenses has at least plateaued, if not decreased, while the FTA ADP has increased over time.

Figure 14: Washington County FTA, Violent, & Drug ADP



The FTA impact can be further quantified over time. Using the WCSO charge ranking scheme, Figure 15 shows the annual increase of inmates who have an FTA as their most serious offense. Note that using NCSC’s ranking scheme, the ADP is lower (89.5) but still a significant portion of the jail’s population.

Figure 15: Annual Washington County FTA ADP

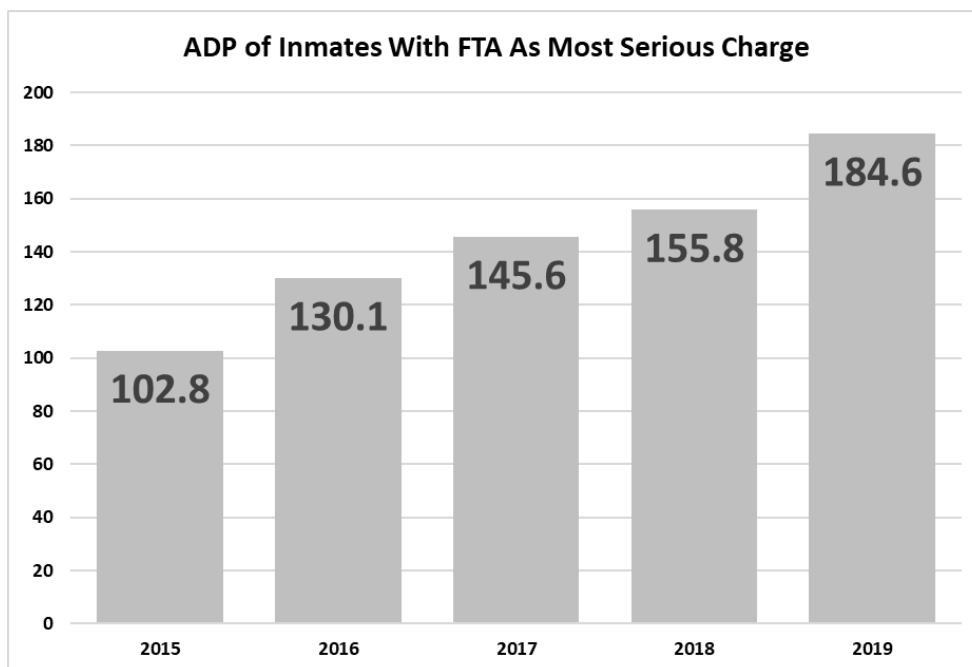


Table 5 is somewhat similar to what was presented in Table 4, however, the offense categorizations are stripped from the data. This table simply presents the percentage of the ADP for each year by the level of the most serious charge using the WCSO ranking scheme. The rankings move from less serious to most serious such that an inmate with a 10 has a much more serious charge than an inmate with a 1. Note the growth of the Level 5 percentage. The vast majority of the growth is explained by the fact that a preponderance of FTAs are Level 5.

Table 5: Washington County Correctional Population By WCSO Offense Rankings

	2015	2016	2017	2018	2019
Holds	22.77%	20.75%	18.66%	21.57%	23.03%
Level 1	0.48%	0.40%	1.08%	0.37%	0.16%
Level 2	5.69%	5.72%	7.01%	5.76%	5.84%
Level 3	13.36%	12.87%	12.96%	13.34%	10.13%
Level 4	9.75%	6.98%	7.01%	5.51%	4.67%
Level 5	30.18%	35.46%	36.58%	38.51%	40.95%
Level 6	4.89%	4.63%	3.66%	4.08%	3.51%
Level 7	0.83%	1.08%	0.55%	0.33%	0.68%
Level 8	4.02%	5.48%	6.42%	5.32%	5.09%
Level 9	7.88%	5.97%	5.19%	4.44%	5.14%
Level 10	0.15%	0.66%	0.88%	0.78%	0.79%

Average Daily Population

Figure 16 presents the jail’s monthly average daily population from 2015 to 2019. The chart shows a small but sustained increase in the population since 2016. On an annual basis, the jail’s average daily population was over 12% larger in 2019 as compared to 2015. This growth rate outstrips the overall growth rate of the county itself, which is under 11%. However, it is important to note that the jail’s population decreased during the second half of 2015 such that when one compares 2016 to 2019, the jail’s ADP is actually over 20% larger. The three years of sustained growth has important implications for the jail’s population forecast. Figure 17 shows an annual view of the growth.

Figure 16: Washington County Jail Monthly ADP, 2015-2019

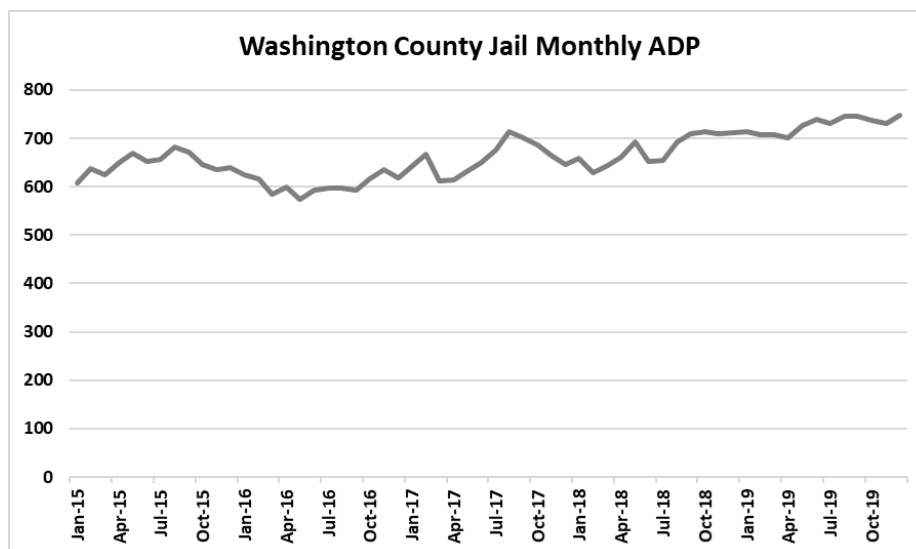
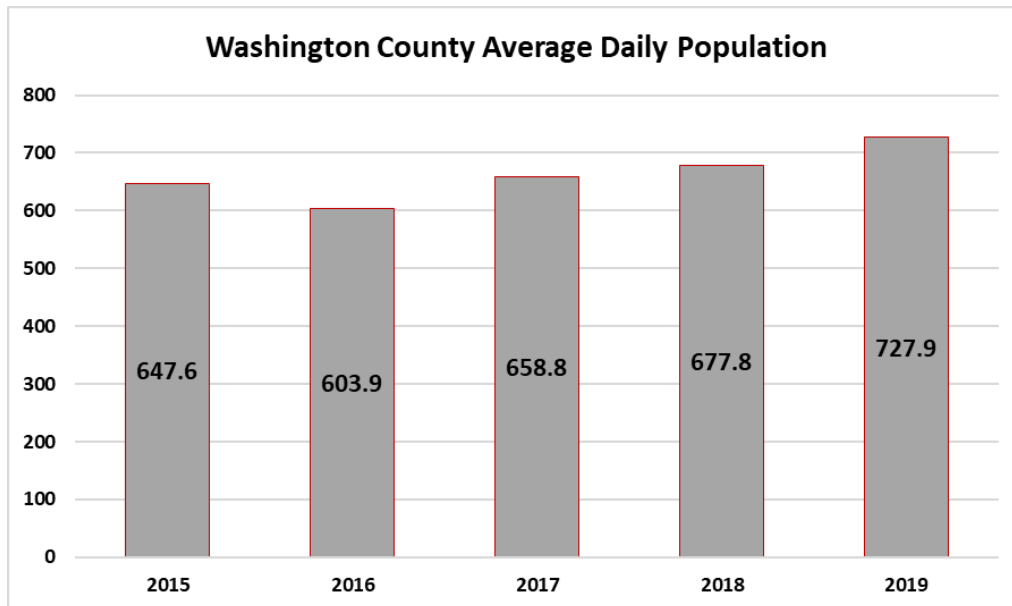


Figure 17: Washington County Jail Annual ADP, 2015-2019



Commitments

Jail populations are determined by two factors: the number of people admitted to the jail and how long they stay in custody. Generally, when a jail's population is growing, one or both factors is also increasing. Commitments into the Washington County Jail increased over 11% between 2015 and 2019 and over 9% between 2016 and 2019. Figure 18 demonstrates the increase in commitments on a monthly basis during the period of the analysis.

Figure 18: Monthly Average Commitments, 2015-2019

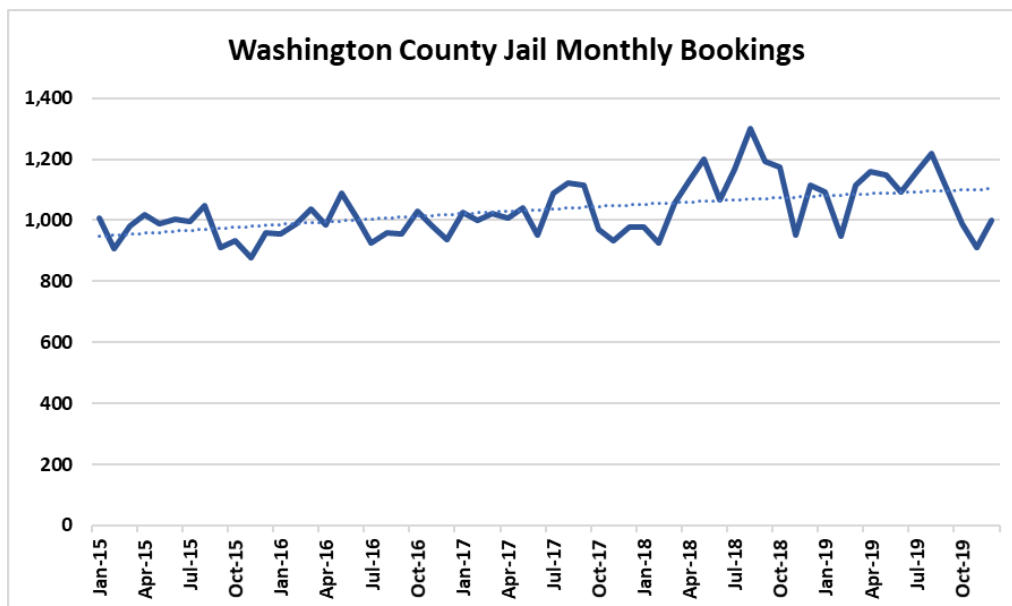
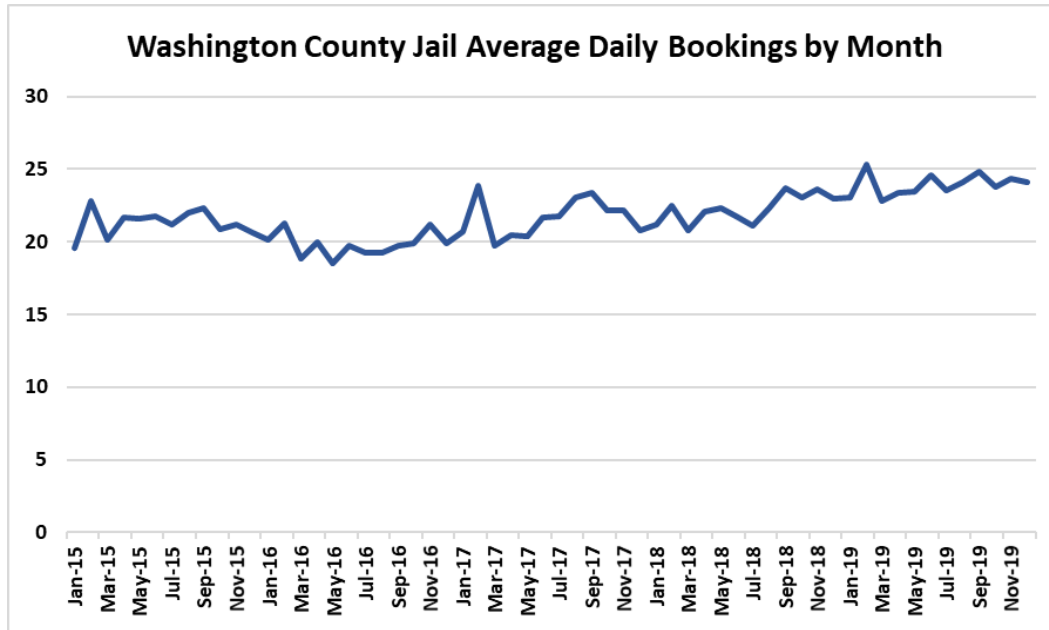


Figure 19 uses the average daily number of commitments into the jail. Note that this view of the data is a bit smoother since it controls for the lengths of the months of the year. However, the increasing trend is the same.

Figure 19: Monthly Daily Average Commitments, 2015-2019



Meanwhile, Figure 20 provides the annual depiction of commitments between 2015 and 2019. Again, the trend is showing an increase from 2015.

Figure 20: Daily Average Commitments, 2015-2019

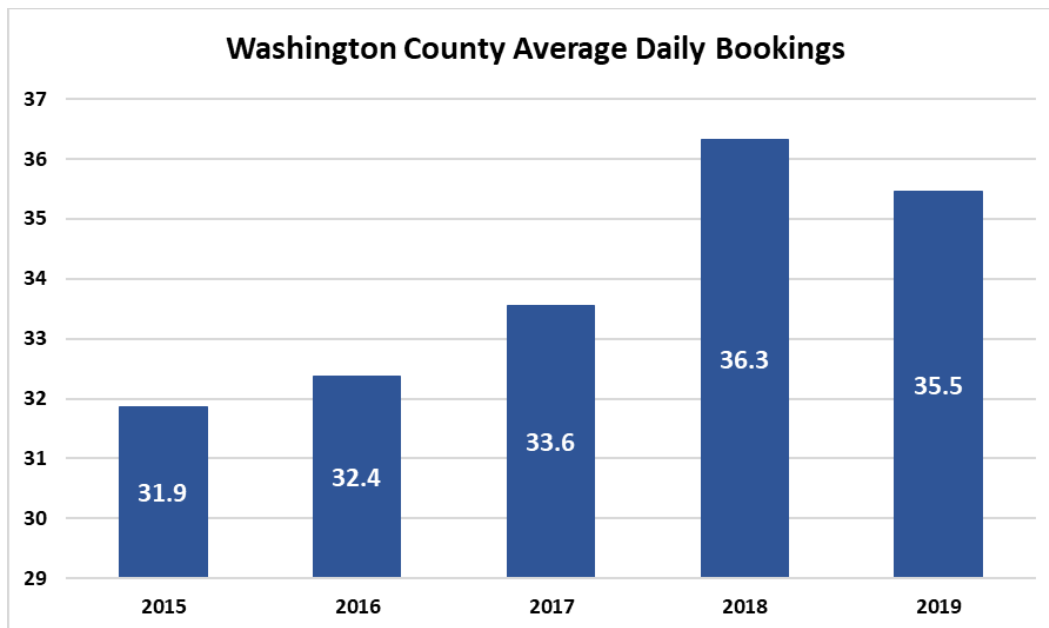
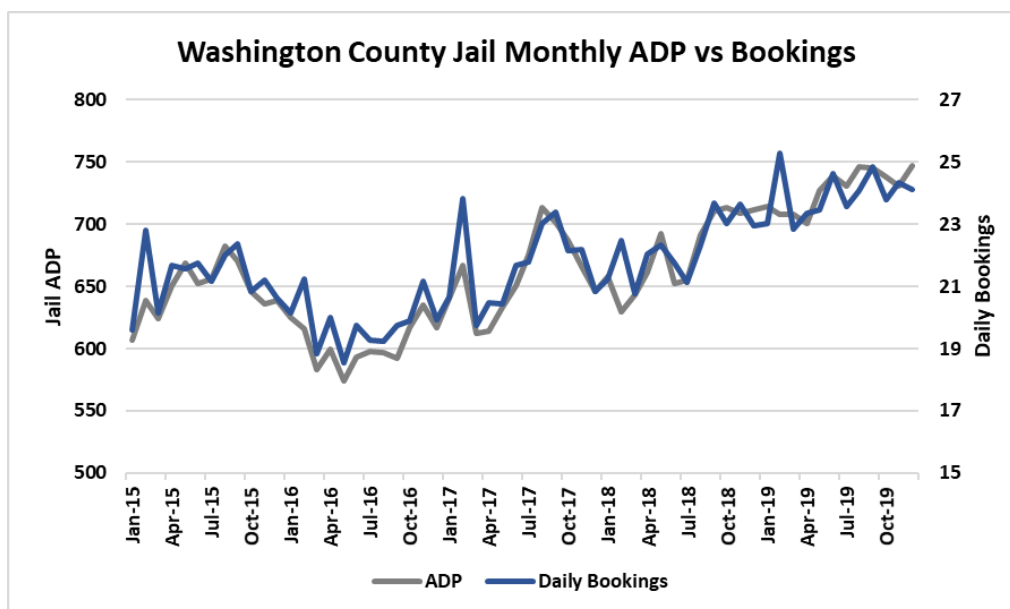


Figure 21 plots the jail's population against the bookings trend. Note that for comparison purposes, the chart uses two scales. The scale on the left covers the jail's ADP while the scale on the right presents the daily commitment averages. The shapes of the two trends are extremely similar.

Figure 21: Monthly Commitments vs ADP, 2015-2019



Average Length of Stay & Releases

Recall that the second determinant of a jail's population is how long people remain in custody. This is measured using the average length of stay (ALOS). ALOS is the number of days on average an inmate is incarcerated from commitment into the jail until release from the jail. For the present analysis, ALOS was calculated simply by averaging how long each individual released during a given time period actually stayed in custody.

A statewide ALOS is unknown, and there is a lack of a national ALOS standard because there are many factors that can influence ALOS (e.g., if there is a separate booking facility or 72-hour holding facility, the maximum length of time an inmate can be sentenced locally, and if there are separate pretrial and post-trial facilities).

Figure 22 shows the mean average monthly length of stay. To be clear, the calculation for this was to take each person who was released during a particular month and average how long they stayed in jail. Thus, the sum of all of the bed days for all of the released people in a month was divided by the number of people who were released that month. A trend line was placed on the chart to provide some guidance for interpreting the trend. In terms of the mean average, there is a slight decrease between 2015 and 2019 (less than 1%). However, if one compares 2016 to 2019, there has actually been a 4.6% increase in mean ALOS. These comparisons are more evident in Figure 23.

Figure 22: Monthly ALOS, 2015-2019

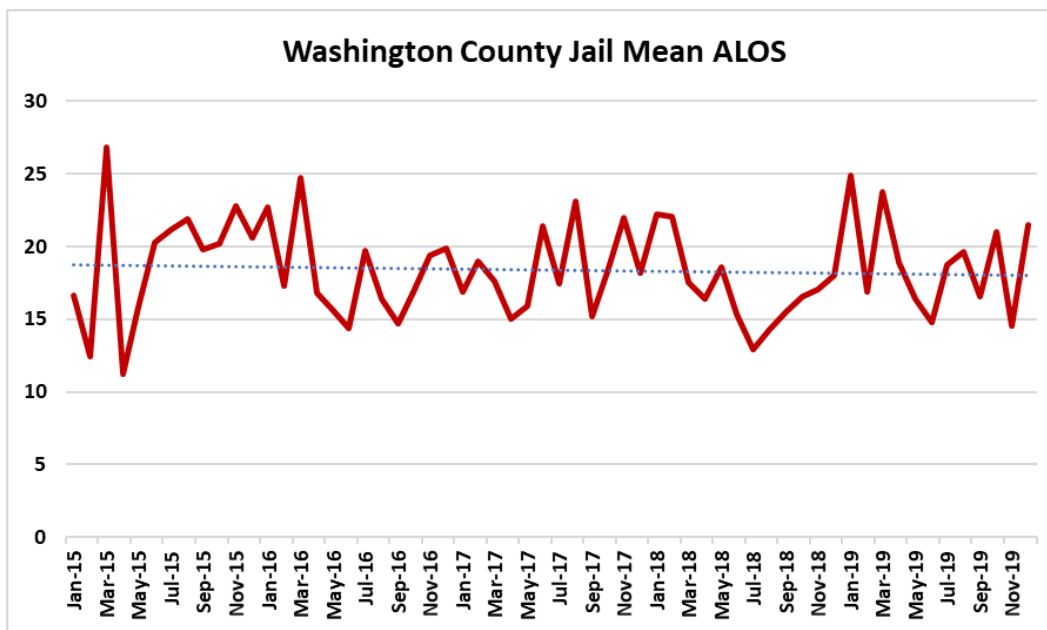
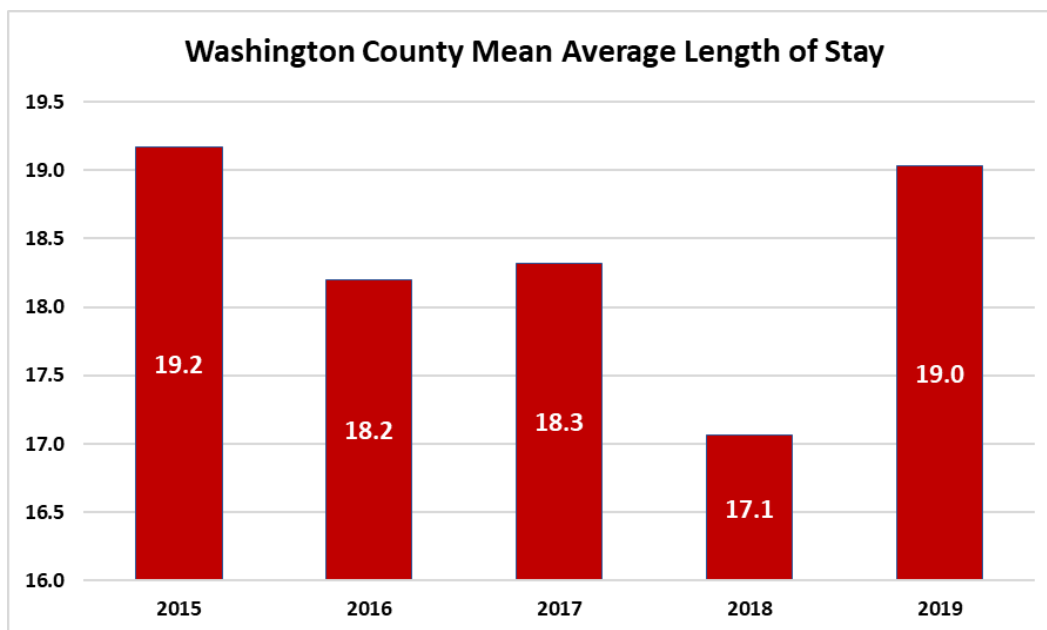
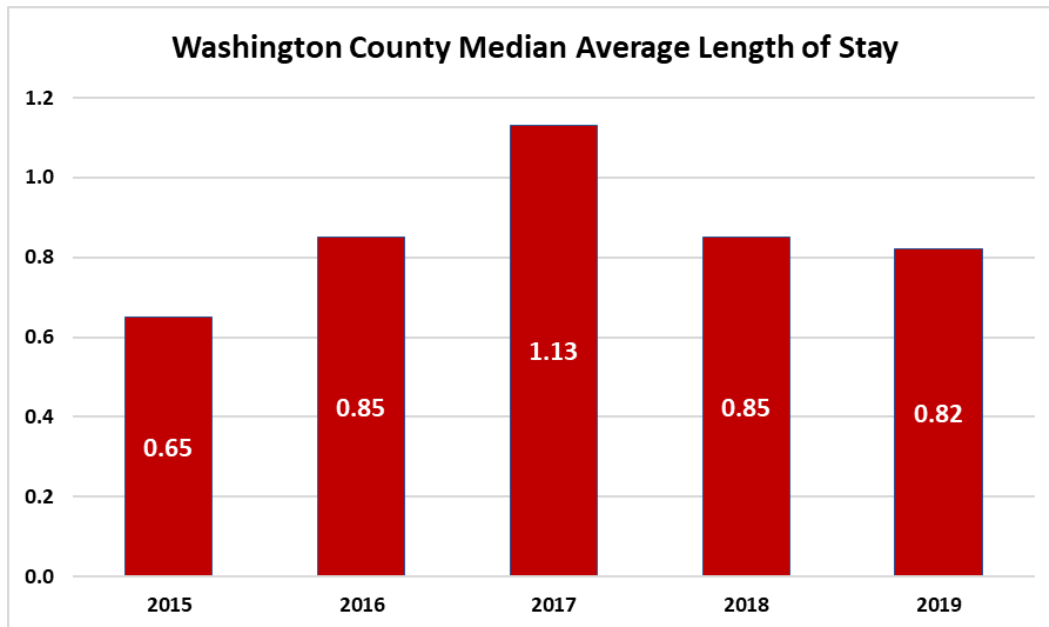


Figure 23: Annual Mean ALOS, 2015-2019



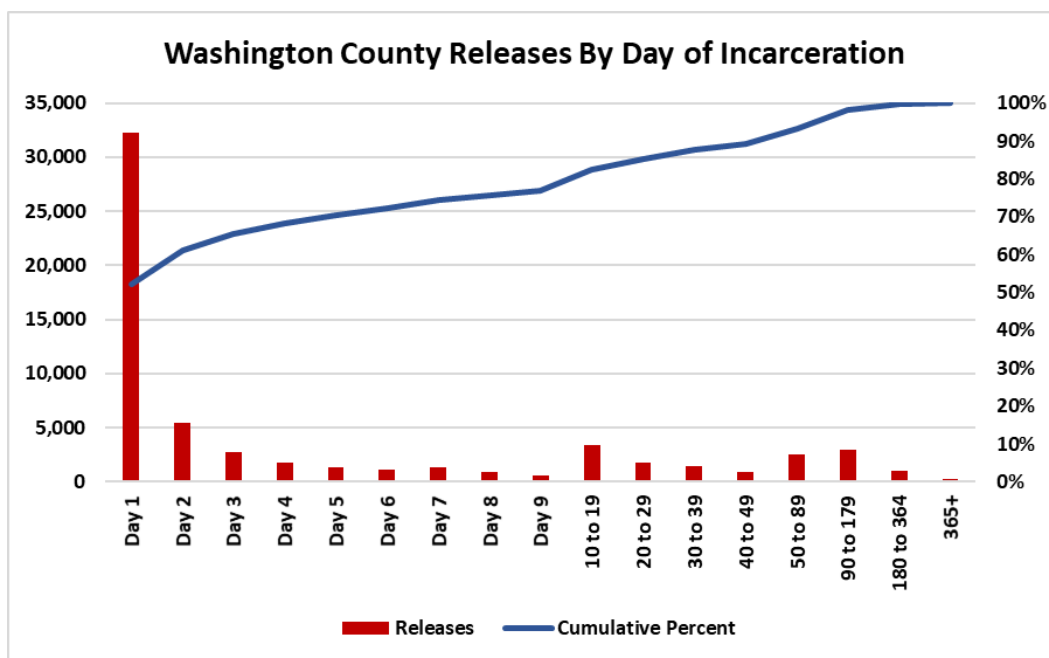
While the numbers depicted above represent a mathematical average of how long everybody released during each year stayed, the number does not reflect the experience of the typical inmate due to the existence of long stay inmates. The mean ALOS is impacted by individuals who are held a year or more in custody. A better measure of central tendency for the ALOS of a jail is to take the median average (the midpoint of the data). A typical inmate will stay for a time significantly shorter than the mean average. The data extract was used to calculate the median time individuals stayed in custody between 2015 and 2019 (Figure 24).

Figure 24: Median ALOS, 2015-2019



Note the median is significantly higher (over 26%) in 2019 than in 2015, but it is actually lower than it was in 2016. Keep in mind the time span that the 26% represents is a matter of four hours. At any rate, the takeaway is that the typical arrestee is released on the first day of incarceration. Figure 25 provides a clear representation of the midpoint of the time in custody. Every inmate's day of release for the time period studied is included in the chart. The chart covers the entire timespan of the analysis.

Figure 25: Releases By Day Of Incarceration, 2015-2019



Tables 6 and 7 present the mean ALOS numbers by gender and race, respectively. Males have longer lengths of stay than females and black inmates have somewhat longer lengths of stay than white inmates. The differential in the data is much higher for Hispanic inmates (about 12% of the inmates).

Table 6: Washington County ALOS By Gender

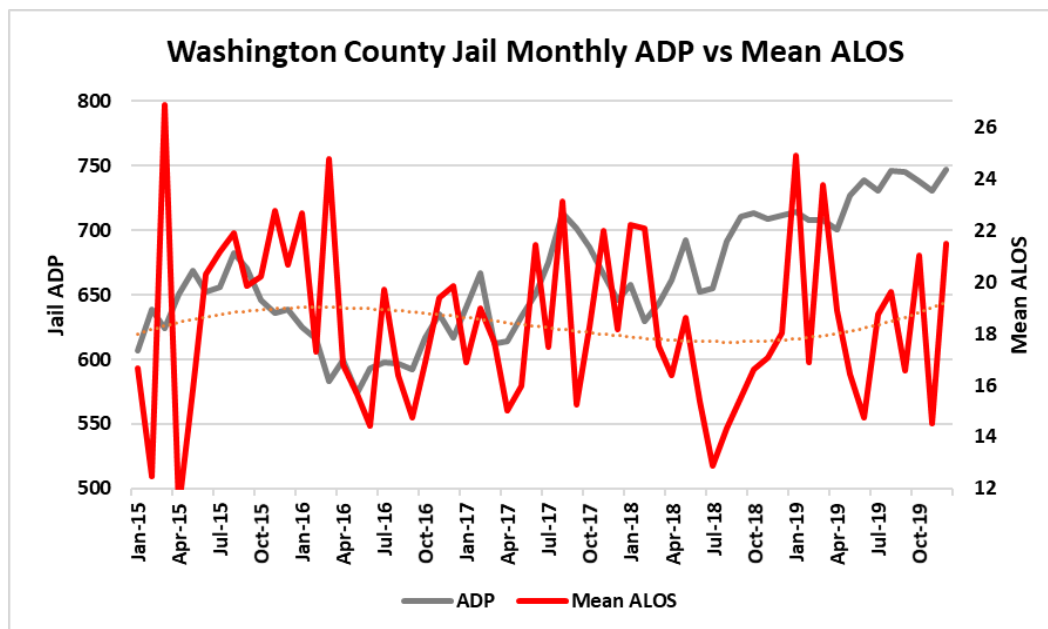
	2015	2016	2017	2018	2019
Females	12.8	12.0	12.2	11.6	14.0
Males	21.9	20.6	20.6	19.1	20.9
Total	19.2	18.2	18.3	17.1	19.0

Table 7: Washington County ALOS By Race

	2015	2016	2017	2018	2019
Black	24.0	19.4	20.5	19.1	21.7
White	17.2	15.7	16.7	15.5	17.0
Hispanic	29.9	35.1	24.8	21.7	28.1
Other	29.0	26.6	22.7	25.1	21.7
Total	19.2	18.2	18.3	17.1	19.0

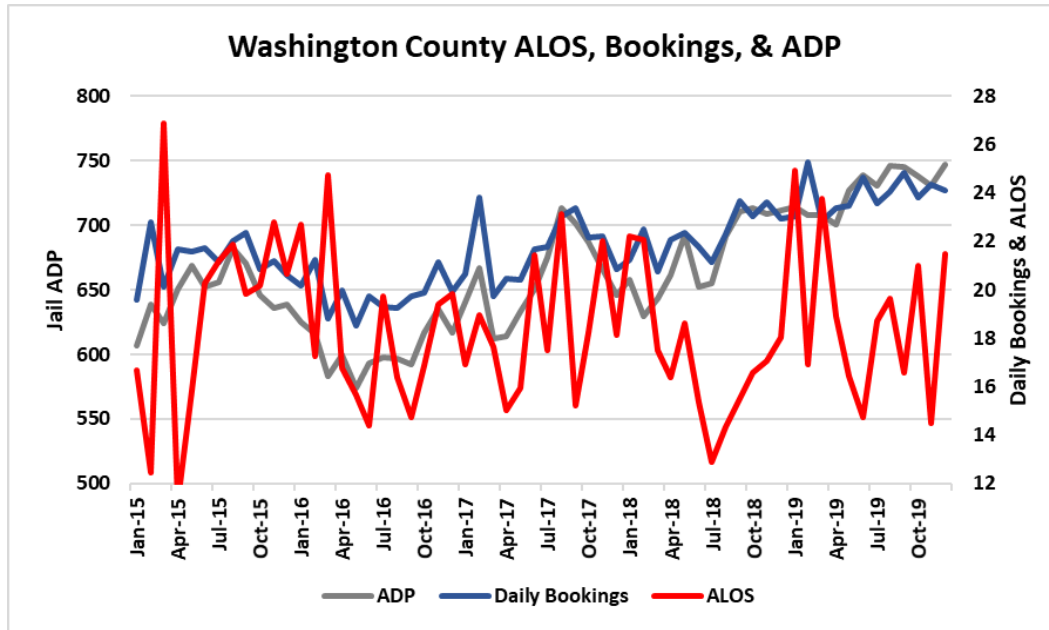
Similar to Figure 21 regarding bookings and ADP, the ALOS was plotted against the ADP of the Washington County jail in Figure 26. Unlike the relationship between bookings and ADP, there is no statistical relationship between ALOS and ADP for Washington County. The only real similarity occurs at the end of 2019, and that caused the ADP at the end of 2019 to remain elevated despite a decrease in bookings (see Figure 27).

Figure 26: Monthly ALOS vs ADP, 2015-2019



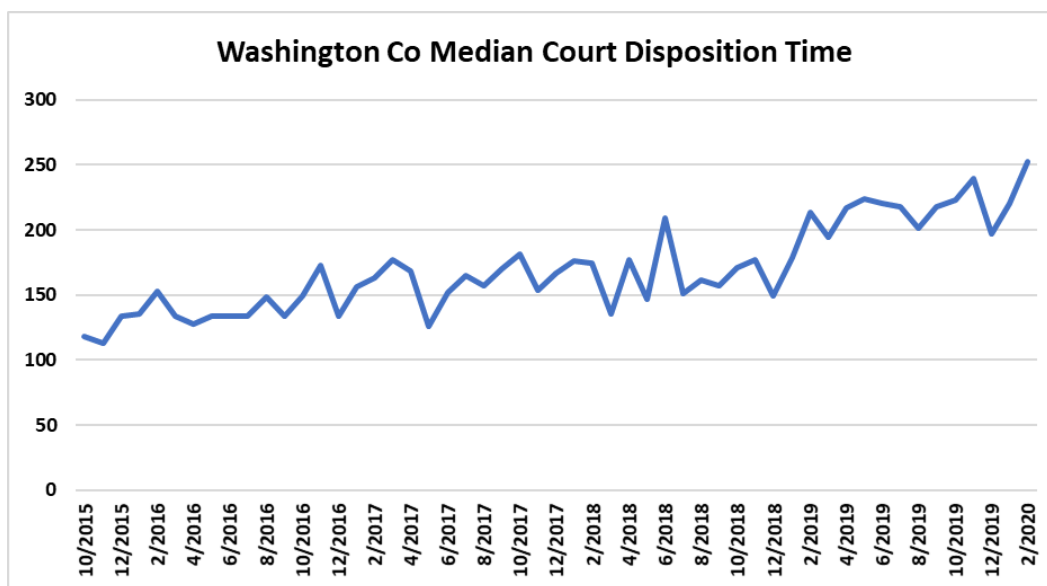
Note the divergence between bookings and ADP at the far right of Figure 27. It is one of the few times when ADP and bookings go in opposite directions where ADP actually increases. The only explanation is that ALOS increased, which is demonstrated by the red line.

Figure 27: Monthly ADP, ALOS, and Booking Numbers: 2015-2019



ALOS is a function of releases, which itself can be impacted by criminal court case processing. For a typical jail, criminal court case processing and ALOS are often extremely correlated. After reviewing the ALOS data for Washington County, the expectation was that the relationship would not be so strong. After all, a decided majority of individuals secure their release well before a disposition of their legal case. The research team was successful in acquiring a dataset from the Washington County Circuit Court. The dataset contained filing and disposition dates for cases between 2015 and 2019. For each month's disposed cases, the time between filing and disposition was calculated and then the median was taken. Figure 28 shows the time series of the average disposition times in days for all criminal court cases in the data extract. The increase in time is evident, and not something necessarily seen in the jail's ALOS trends.

Figure 28: Case Processing Times: 2015-2019



However, when the jail ADP is plotted against the disposition trend (Figure 29), a clear relationship is seen. Again, the team does not necessarily detect a strong relationship between the jail’s ALOS and the court processing times (except, arguably, at the end of 2019). The similarity between the two trends might actually be that the increase in bookings has driven an increase in cases, which has served to burden the court and drive up case processing times. It should be noted that the team attempted to conduct an analysis examining the case processing times of matters where the defendant was held in jail, but this proved to be nearly impossible because there was no clear link between the jail’s data extract and the court’s extract. The team was able to link people together, but the existence of multiple cases across multiple time periods with the data that was possessed made the task far too time intensive.

Figure 29: Jail ADP vs Court Disposition Time: 2015-2019

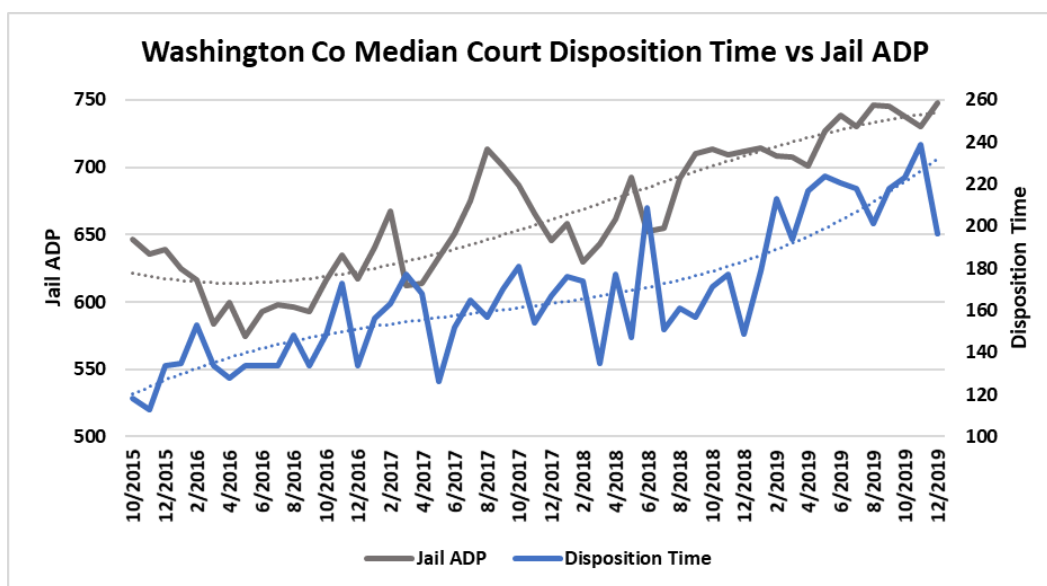
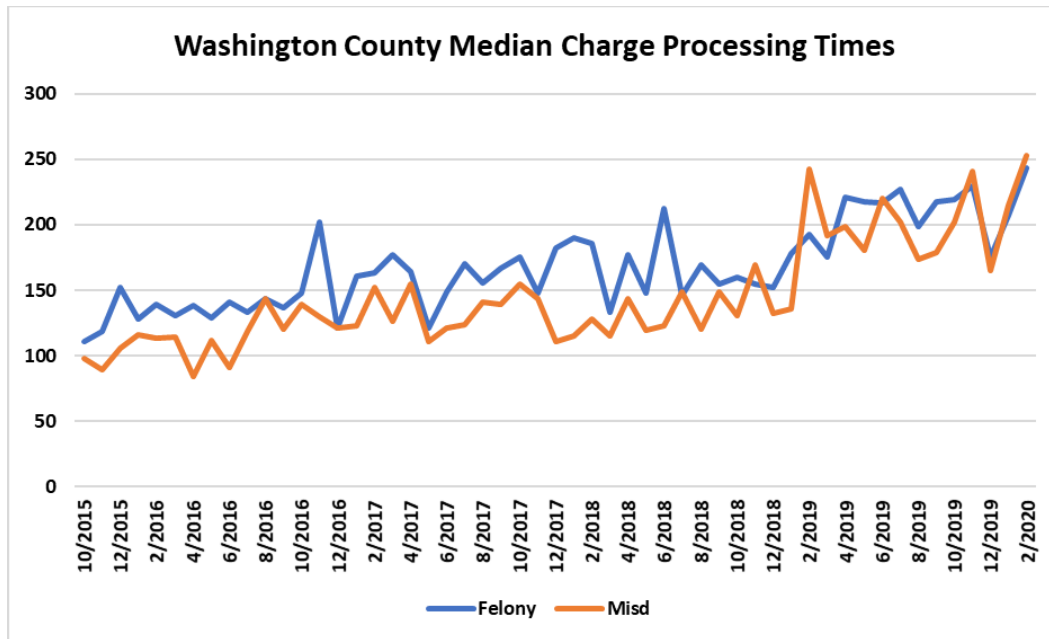


Figure 30 breaks out the processing times by the level of the case. Both misdemeanor and felony processing times increased during the time of the analysis.

Figure 30: Jail ADP vs Court Disposition Time: 2015-2019



The largest misdemeanor case level in terms of frequency is the 'Misdemeanor A' level while 'Felony D' is the largest felony level. The processing times of both are presented in Figure 31 and Figure 32, respectively.

Figure 31: Misdemeanor A Case Processing Time: 2015-2019

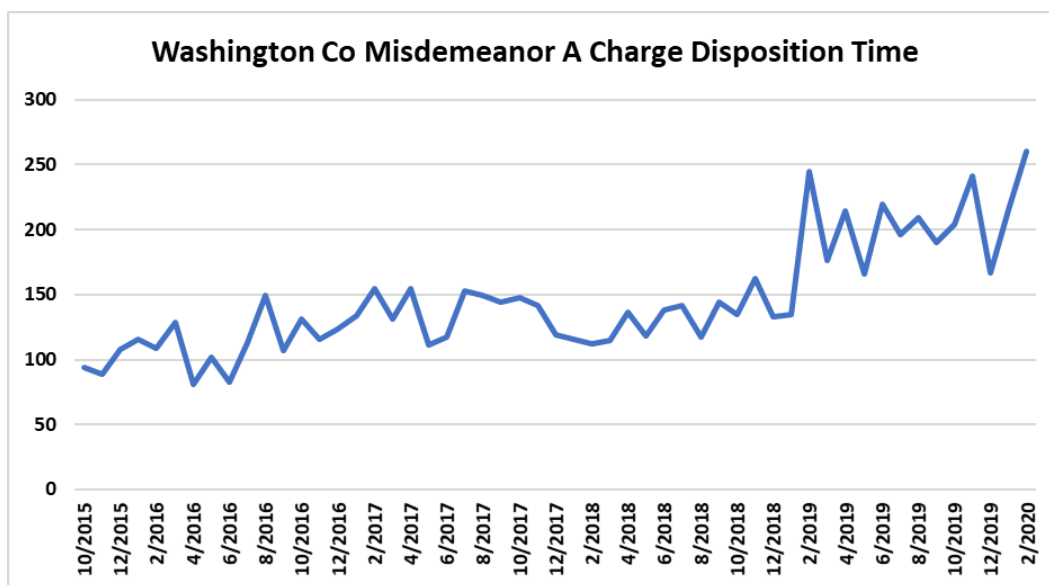
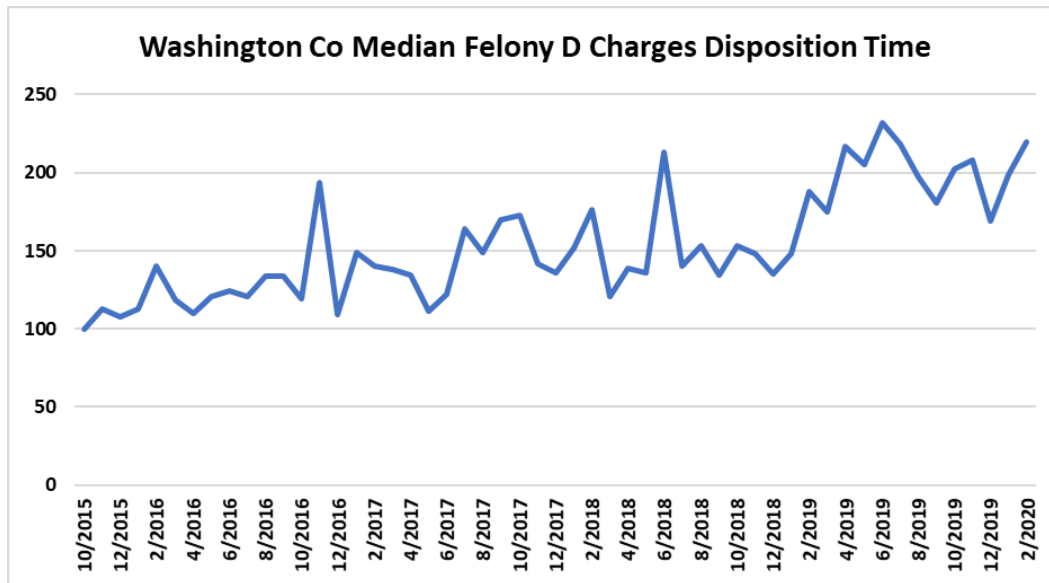


Figure 32: Felony “D” Case Processing Time: 2015-2019



Another perspective on releases and ALOS comes from examining the data in terms of bail amounts. The foregoing analysis was produced by combining the most serious charge and bond data with the number of bed days for the detainees in question. In short, it is valuable to look at the bond amounts and how they relate to the jail’s population. In order to accomplish that, all inmates with holds or DOC commitments were removed from the data. There was a significant number of individuals with amounts of zero which were preliminarily treated as having no bond. They are included in Table 8, below. Table 8 takes the ADP across the five years of data and divides the numbers by most serious offense and bond amount. The table is sorted by the total affected ADP.

Table 8: Washington County ADP By Most Serious Charge & Bond Amounts

Charge Category	\$0	<\$1k	\$1k - \$5k	\$5,001- \$24,999	\$25k - \$99,999	\$100k+	Total
Failure to Appear	91.1	3.8	24.7	4.8	12.8	6.6	143.8
Violent	61.7	0.9	15.4	6.6	7.6	5.3	97.5
Drugs	31.3	0.5	19.8	2.0	0.5	1.4	55.5
Theft/Fraud	28.8	1.4	12.8	2.7	1.2	0.8	47.7
Offenses vs Government	23.3	0.7	12.1	2.2	1.3	5.6	45.2
Supervision Violation	28.0	0.2	5.8	0.5	0.2	0.1	34.7
Weapons	12.9	0.2	4.9	1.7	1.0	0.7	21.3
Burglary	12.5	0.3	4.8	1.9	1.2	0.2	21.0
Failure to Pay	8.3	0.6	5.4	0.5	0.4	0.5	15.8
DUI	4.4	0.4	2.8	0.3	0.0	0.1	8.0
Public Order	4.5	0.8	2.0	0.2	0.3	0.1	7.9
Sex Offense	3.4	0.0	0.9	0.2	0.2	0.1	4.8
Alcohol	2.5	0.8	0.3	0.0	0.0	0.0	3.7
Other	2.1	0.1	0.3	0.0	0.0	0.1	2.7
Offenses vs the Family	1.2	0.1	1.0	0.2	0.0	0.0	2.6
Traffic	0.4	0.1	0.0	0.0	0.0	0.0	0.5
Grand Total	316.5	10.8	113.1	24.0	26.9	21.6	512.8

There are several important facts contained in Table 8. It is readily apparent that, as expected, less serious offenses such as alcohol possession would have lower bond amounts, while more serious offenses (violence) tend to have higher bond amounts. The FTA charge category has a significant spread across the bond amount ranges. In fact, FTA inmates constitute a plurality for the two highest bond amount categories.

Jail Population Conclusions

The analysis finds a very strong relationship between bookings and the jail’s population. ALOS was not a very good predictor of the jail’s population, except perhaps in the last two months of the analysis. To summarize what is known about the jail’s population dynamics, bookings have increased over time driving the bulk of the population growth. ALOS growth in 2019 offset a decrease in bookings to solidify the jail’s population. The typical inmate is released from custody in relatively quick and efficient fashion as evidenced by the median ALOS holding relatively steady. An increase in the mean ALOS during 2019 may have been driven in part by an increase in case processing times from the courts, which may well be affected by having more cases during the timespan of the analysis. It can be surmised that the significance of the mean in terms of case processing times given the fact that the median ALOS had slightly decreased. Essentially, at the front end of the process, the jail released people just as efficiently in 2019 as it had in 2018. The mean increased however, signaling that times had increased somewhere beyond the frontend. A check of the release data confirms some shifts later in the process. In 2018, 85.8% of arrestees were released by the close of day 29. In 2019, that percentage became 84.5%. A similar comparison for the first 89 days of incarceration showed 93.8% released in 2018 vs 92.7% in 2019. From 90 days and beyond, 2019 has a higher percentage (7.3% vs. 6.2%). The bottom line is that inmates stayed longer deeper into the process in 2019 than they had in 2018.

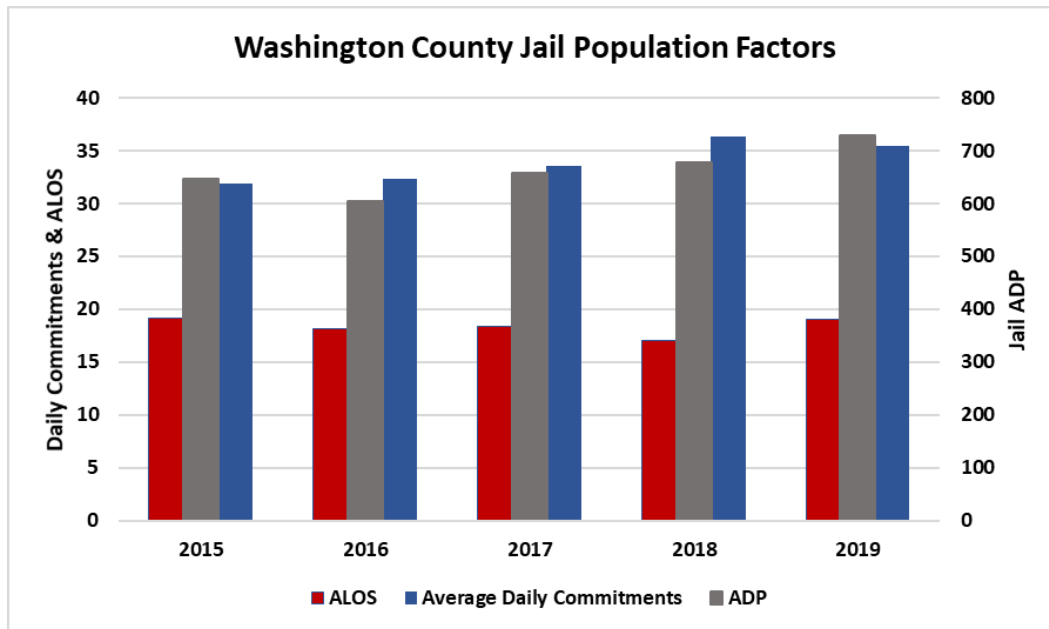
Table 9 presents the Washington County Correctional Facility’s ALOS, Average Daily Commitments and Average Daily Population from 2015 through 2019. Note the uptick in ALOS for 2019 offsetting the decrease in commitments as a population factor. Had ALOS stayed stable in 2019 from 2018, the jail’s ADP would have been approximately 660 inmates.

Table 9: Key Jail Population Measures, 2015-2019

Year	Avg Daily Commitments	Mean ALOS	ADP
2015	31.9	19.2	647.6
2016	32.4	18.2	603.9
2017	33.6	18.3	658.8
2018	36.3	17.1	677.8
2019	35.5	19.0	727.9
Difference (2015 – 2019)	+11.3%	-0.7%	+12.4%
Difference (2016 – 2019)	+9.2%	+4.6%	+20.5%
Difference (2017 – 2019)	+5.7%	+3.9%	+10.5%
Difference (2018 – 2019)	-2.3%	+11.5%	+7.4%

Figure 33 is a graphical depiction of the information in Table 9. Note the increased population in 2019 from an increase in ALOS despite a decrease in commitments.

Figure 33: Annual ADP, ALOS, and Commitment Numbers: 2015-2019



Bond Analysis

The following analysis tracks all bond amounts between 2015 and 2019 by the highest charge for that booking. Figures 34 through 37 examine bond amounts by charge category. Figure 34 tracks bail amounts ordered for release for alcohol drug and traffic related crimes. Alcohol only crimes tended to have bonds ranging from \$0 to \$5,000, though most were around \$500. Drug crimes had the widest range of bonds from \$0 to \$100,000+ with the majority of cases falling between \$1,000 and \$4,000. DUIs ranged from \$0 to \$75,000, though the majority fell in the \$1,000-\$2,499 range. There were only a handful of traffic cases and they ranged from \$0 to \$5,000.

Figure 34: Bond Amount by Charge Category: AOD and Traffic

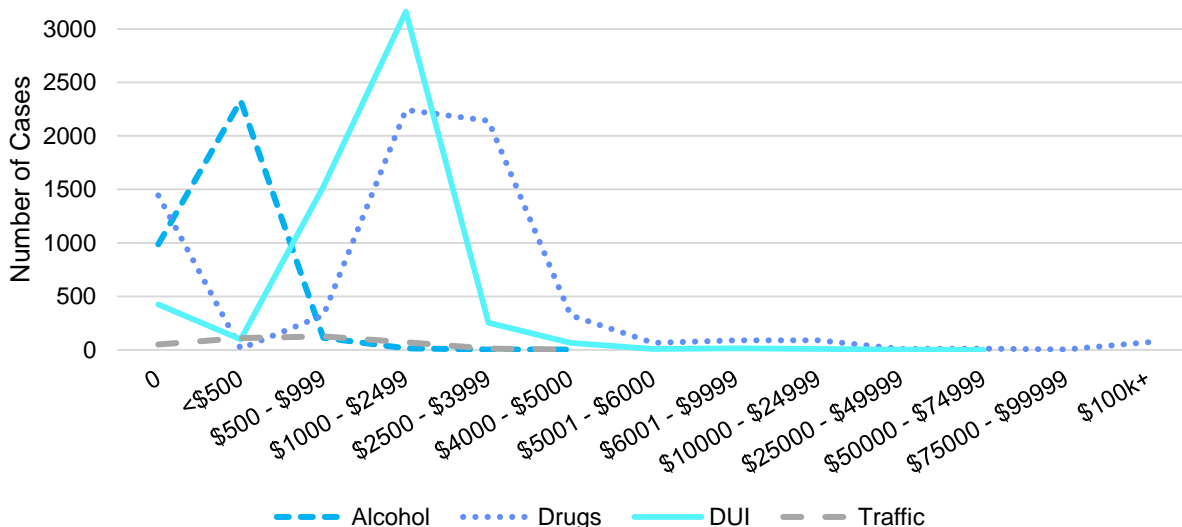


Figure 35 illustrates bonds set on property crime cases. Both theft/fraud and burglary bonds ran the full gauntlet between \$0 and \$100,000+, and both primarily fell in the \$0 to \$4,000 range. There were five times as many theft/fraud cases as burglaries.

Figure 35: Bond Amount by Charge Category: Property

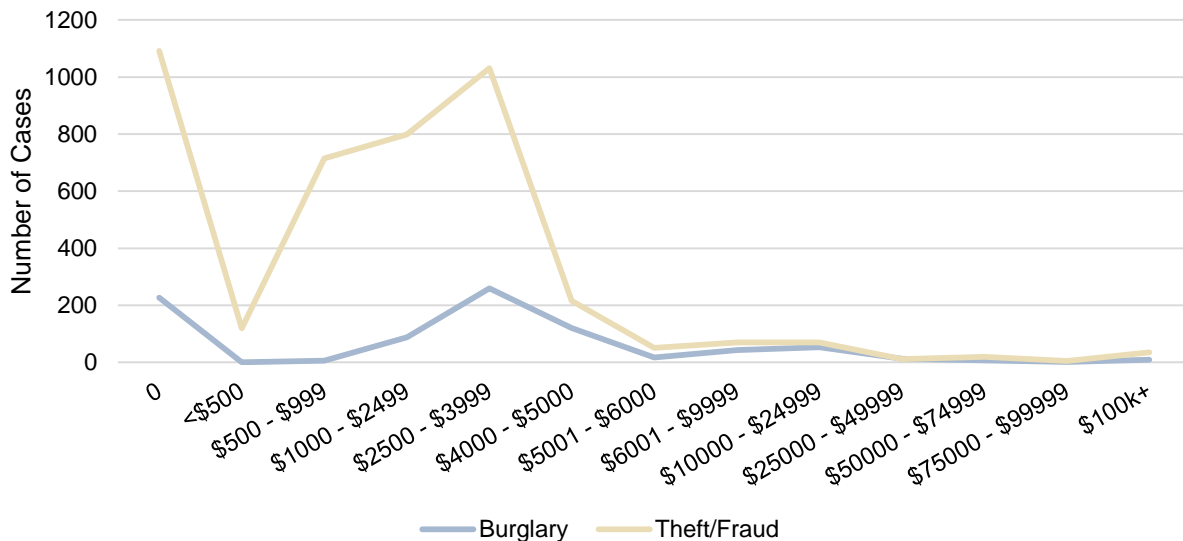


Figure 36 illustrates bond amounts for cases related to violations of probation/parole, court orders, public order, and other offenses related to the government. FTAs outpaced all other charges in this category, with nearly 2.4 times more cases than the next highest category of Offenses vs Government. Supervision Violation bond amounts ranged from \$0 to \$75,000, while all other categories ranged from \$0 to \$100k+. The majority of FTAs fell in the \$0 to \$2,500 range, and the \$50,000 to \$100k+ range. Failures to Pay and Offenses vs Government were both centered around the \$0 to \$2,499 range; Public Order and Supervision Violations centered around the \$0 to \$4,000 range; and the handful of other category offenses centered on the \$0 to \$500 range.

Figure 36: Bond Amount by Charge Category: Government

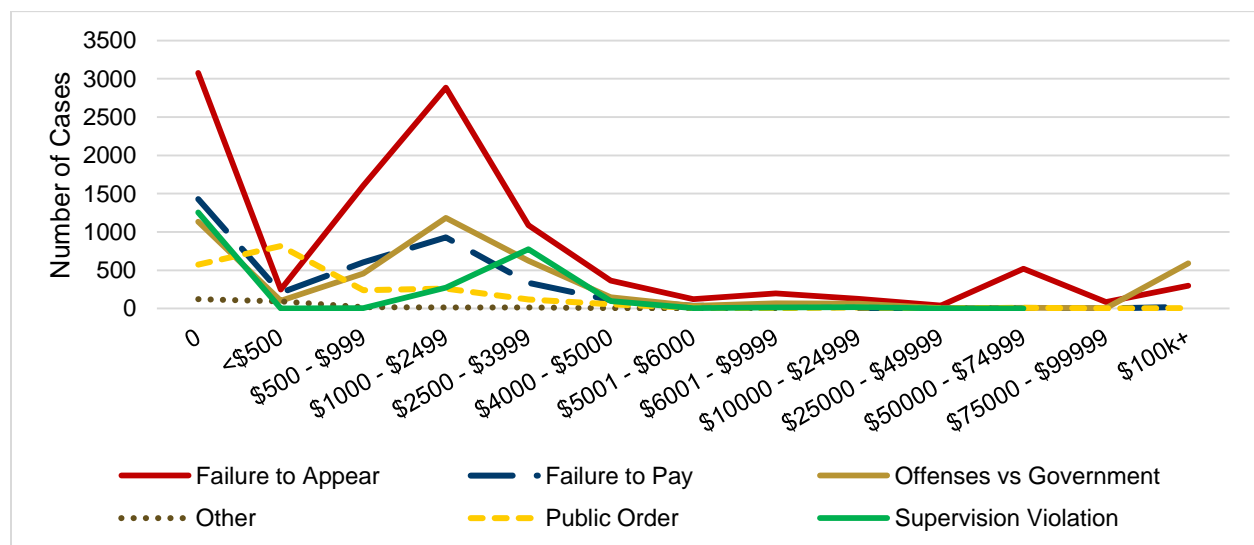


Figure 37 illustrates the person charges category. Violent offenses were the most frequent offenses in this category, outnumbering all other charge categories combined by two and a half times. Violent and Weapons offenses ranged from \$0 to \$100k+ bonds, with the majority falling in the \$0 to \$49,999 range. Sex offenses ranged from \$500 to \$75,000, and Offenses vs the Family ranged from \$0 to \$25,000.

Figure 37: Bond Amount by Charge Category: Person

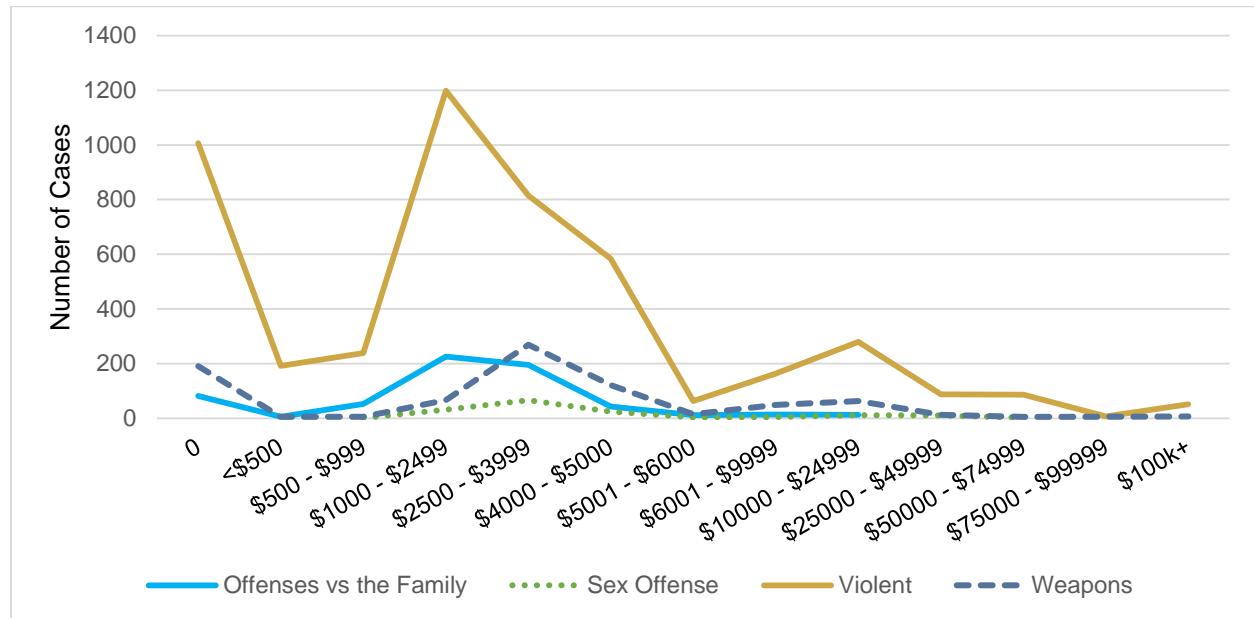


Figure 38 shows the percentage of each bond category by most serious charge for all bookings between 2015 and 2019. It is clear from the table that FTAs made up 20.7% of bookings assigned bond, by far the highest category in the chart. The next highest category was Drugs, followed by DUI and then Crimes of Violence.

Figure 38: Percentage of Bookings Assigned Bond, by Charge Category

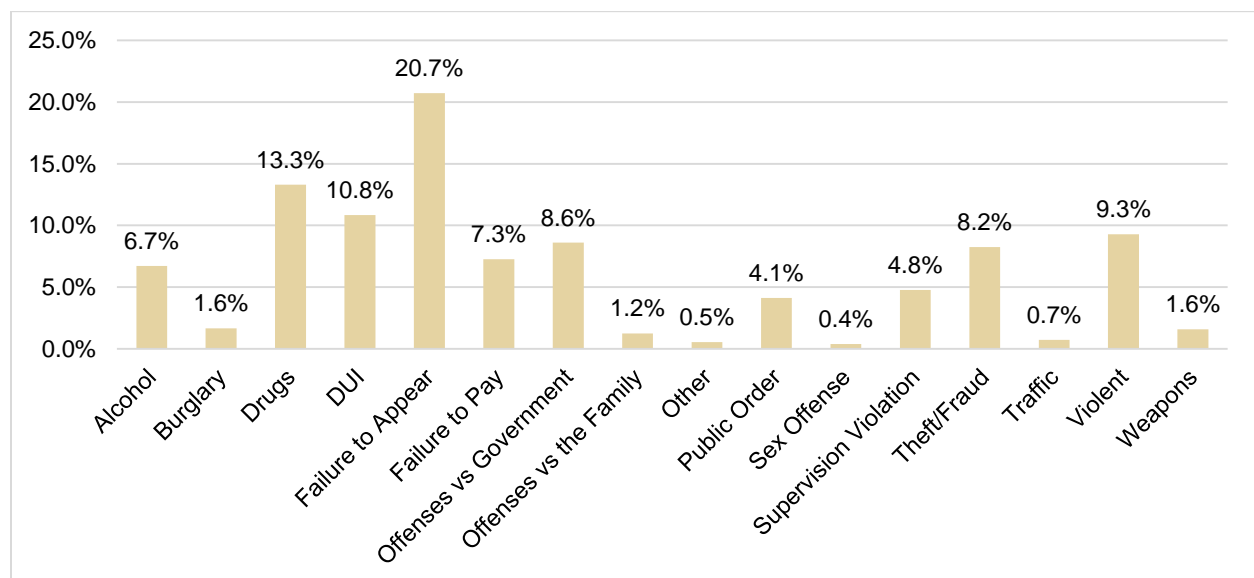


Figure 39 illustrates the frequency each bond category was utilized over the five-year study period. Nearly three-quarters (70.9%) of bonds were under \$2,500. All of the higher bonds were driven primarily by FTAs and violent crimes, except for the \$100k+ category, which was driven primarily by offenses against the government, followed by FTAs. A quarter (25.6%) of bonds were \$0 but accounted for a majority (61.7%) of the five-year average daily population (see Figure 40). It is unclear when these bond amounts were captured in the system (initial bond, final bond, or every iteration of bond for a booking), so we are unable to interpret why these recognizance bonds took up so much of the ADP.

Figure 39: Percentage of Cases Assigned Bond, by Bond Amount

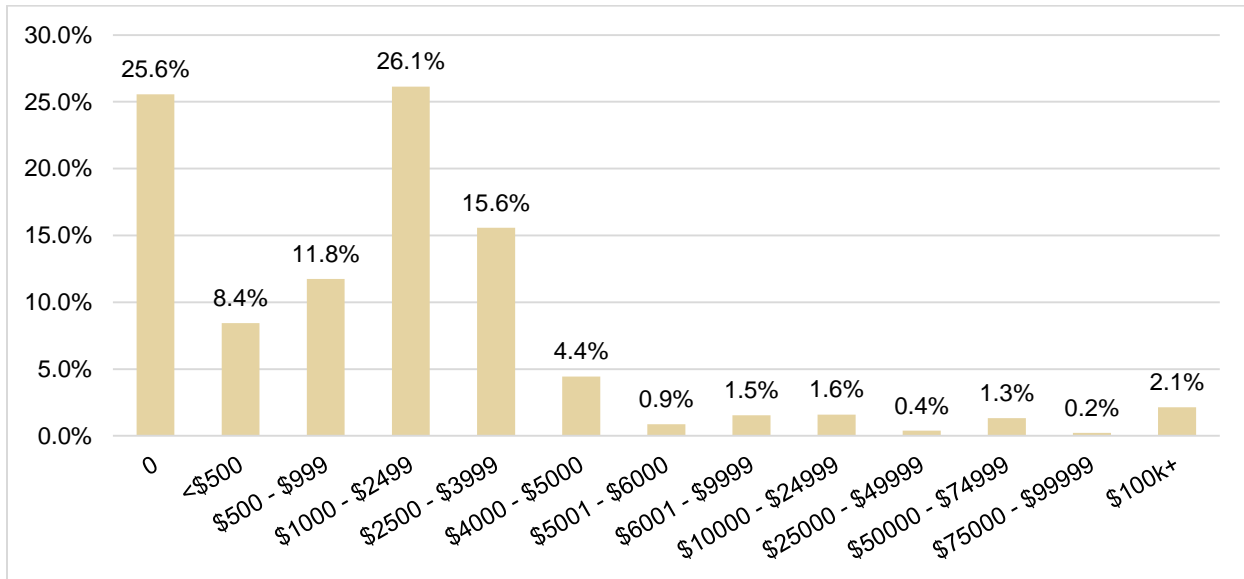
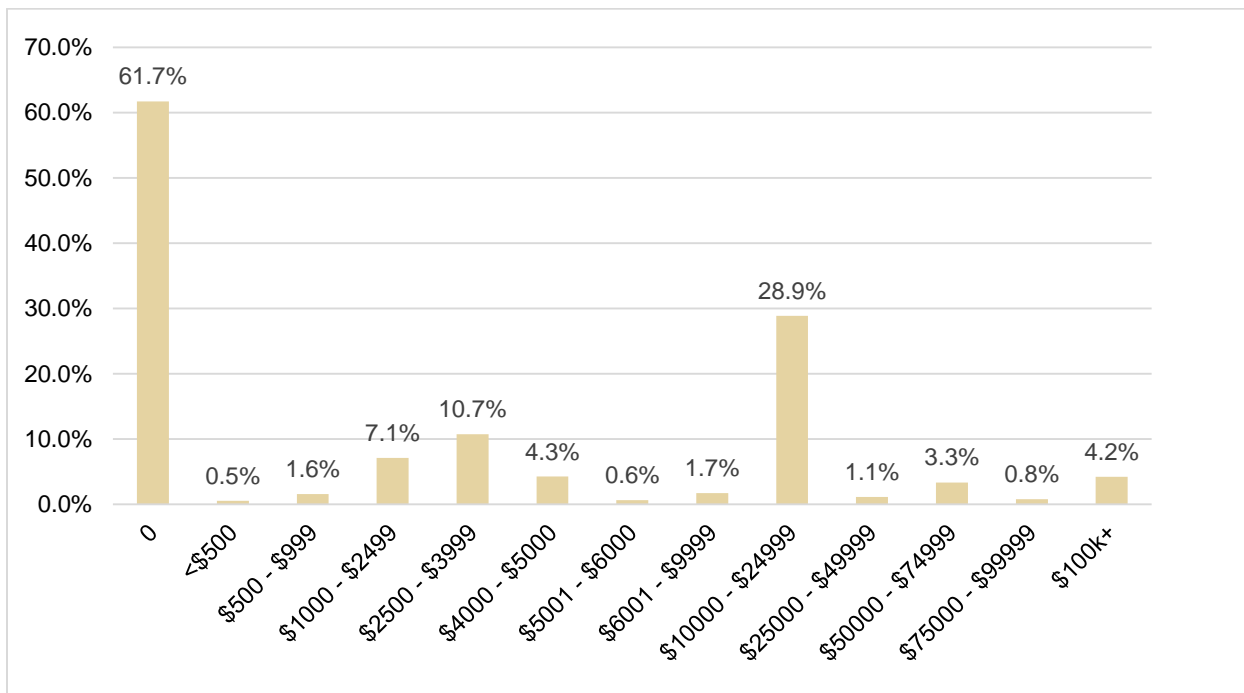


Figure 40: Percentage of 5-Year ADP, by Bond Amount



Arresting Agency

Table 10 details the bookings of the top 20 agencies from 2015 through 2019, ranked in order of overall highest to lowest contributor. Fayetteville was the top contributor over the five-year study period with 26.7% of bookings overall, though they did have a nine percent decrease in the percentage of bookings over that period of time, and a decrease of 14.6% in the number of bookings from their peak year in 2017 (5,018) to 2019 (4,286).

Table 10: Bookings 2015-2019, by Agency

	2015	2016	2017	2018	2019	Total
Fayetteville Police Department	29.94%	28.97%	27.88%	25.52%	21.90%	26.66%
Washington County Sheriff's Office	20.26%	19.90%	20.37%	19.65%	18.04%	19.60%
Other WashCo Police Departments*	14.70%	13.70%	12.30%	14.30%	15.10%	14.10%
Arkansas Community Corrections	8.90%	9.50%	10.20%	10.30%	11.10%	10.00%
Other Agencies**	7.62%	8.27%	8.22%	11.00%	12.52%	9.65%
Springdale Police Department	8.24%	8.93%	10.38%	9.11%	7.70%	8.87%
Arkansas Department of Corrections	4.47%	4.47%	4.36%	3.26%	3.25%	3.92%
Madison County Sheriff's Office	1.84%	2.39%	2.56%	2.40%	2.73%	2.40%
US Marshal	1.22%	1.02%	1.23%	1.05%	1.38%	1.18%
Drug Task Force	1.02%	1.32%	1.08%	1.29%	1.23%	1.19%
US Immigration and Customs Enforcement	0.61%	0.63%	0.67%	1.40%	2.02%	1.10%
WashCo Detention Facility	0.00%	0.00%	0.00%	0.01%	2.02%	0.44%
Arkansas State Police	0.33%	0.45%	0.23%	0.35%	0.44%	0.36%
None Listed	0.37%	0.23%	0.21%	0.14%	0.15%	0.22%
309 Inmate	0.06%	0.06%	0.11%	0.14%	0.20%	0.12%
Juvenile Court	0.34%	0.12%	0.11%	0.05%	0.04%	0.13%
WashCo Prosecuting Attorney's Office	0.00%	0.00%	0.00%	0.00%	0.15%	0.03%
Drug Enforcement Agency	0.04%	0.03%	0.01%	0.03%	0.02%	0.03%
Crawford County Sheriff's Office	0.01%	0.02%	0.01%	0.02%	0.03%	0.02%
Bureau of Prisons	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%

*includes all eleven smaller/rural agencies listed earlier and Goshen PD.

**includes bail bondsmen, other sheriffs' offices and police departments from AR and surrounding states; AR Highway Police; and federal institutions such as FBI and USDOC.

Table 11 outlines the top 12 agencies that contributed to bookings on failure to appear charges/warrants, and the largest contributors to FTA average daily population with those bookings. Washington County Sheriff's Office and Fayetteville Police Department were the largest contributors, with nearly two-thirds (65.2%) of bookings, over two-thirds (69.5%) of the average daily population for FTAs, and 83.1% of FTA bed days. There were also several entries where the agency was unidentified (Blank, None, Other, and Unknown). These made up 2.0% of FTA bookings with 4101.9 bed days and 1.6% of FTA ADP.

Table 11: FTA Bookings 2015-2019, by Agency

Top Contributors	FTA Bookings	FTA Bed Days	FTA ADP
Washington County Sheriff's Office	33.90%	121,420.3	46.80%
Fayetteville Police Department	31.30%	58,879.6	22.70%
Springdale Police Department	3.30%	18,055.5	7.00%

Top Contributors	FTA Bookings	FTA Bed Days	FTA ADP
Bondsmen	2.80%	13,272.8	5.10%
ACC	1.30%	5714.2	4.20%
Turned Self In	3.20%	6107.8	2.40%
Madison County Sheriff's Office	0.70%	2819.3	1.10%
Drug Task Force	0.50%	2860.8	1.10%
Farmington Police Department	2.20%	2507.6	1.00%
Arkansas State Police	2.60%	2330.7	0.90%
Johnson Police Department	2.60%	2447.9	0.90%
West Fork Police Department	2.20%	2342.1	0.90%
TOTAL	86.60%	238,758.6	94.10%

Projections

Jail Population Forecast

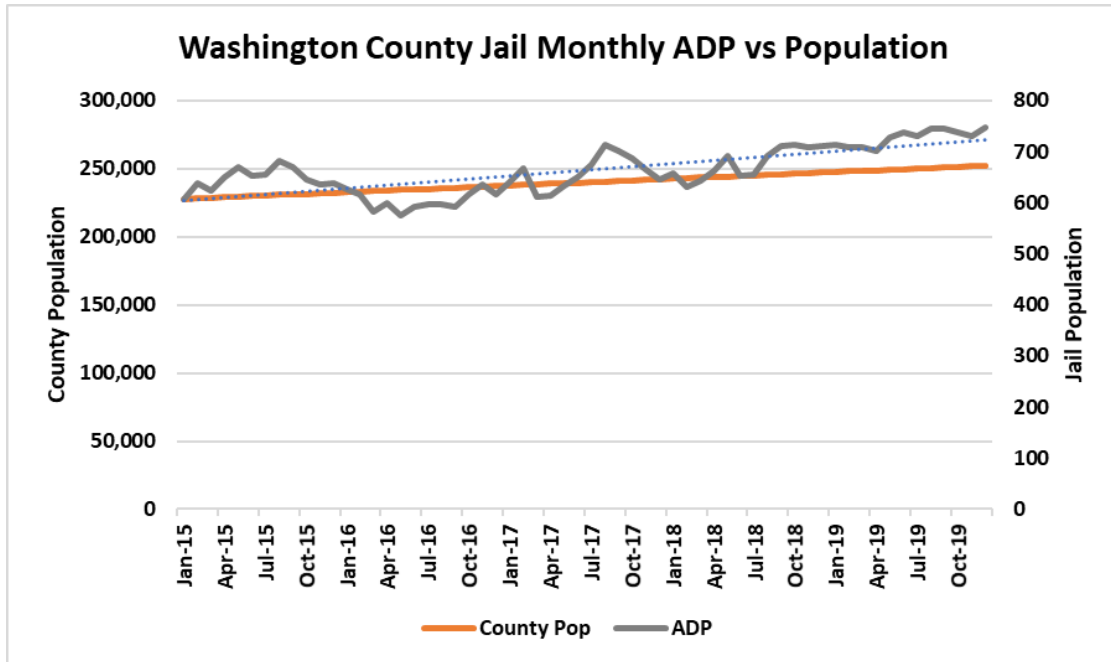
Multiple jail population forecast models were built in order to develop an overall jail population forecast as well as account for possible scenarios which may occur in the future. Generally, the best predictor of any trend's future levels is the past levels of that trend. A jail's population time series is no different. However, because of the existence of unforeseen circumstances, it should be noted that the precision of forecasts of all kinds diminishes the further into the future one projects. All forecasts are only as good as what is known when the forecast was produced. The long-term accuracy of jail population forecasting is heavily impacted by changes in public policy, law enforcement strategies, socioeconomic factors, and a host of other influences. Statistically speaking, jail population forecasts by their very nature assume that the status quo at the time the forecast is produced remains in place for the duration of the forecast.

There are multiple methods for building statistical forecasts. The forecasting technique developed from Box and Jenkins' Autoregressive Integrated Moving Averages (ARIMA) approach is one of the best options. To that extent, a series of ARIMA forecasts of jail population variables were employed in this study. ARIMA is generally used in time series forecasting situations primarily because of its ability to avoid the built-in errors of other forecasting techniques. ARIMA approaches are designed to estimate, diagnose, and control for autoregression problems. In addition, because ARIMA examines the past behaviors of a given trend, this approach can forecast multiple time points into the future. Moreover, ARIMA approaches allow the statistician to account for seasonal fluctuations in data as well as smooth out random fluctuations.

ARIMA approaches perform best when at least 50 time points of past data are available. For the present forecast, the NCSC team possessed the ADP of the jail for each month dating back to January 2015, more than enough to develop a valid and reliable model. Bookings, ALOS, and County Population statistics were also employed in the model estimation phase. The ARIMA process was then used on each of those variables in turn, producing independent forecasts for each trend. The resulting forecasted trends were then employed in an ARIMA forecast where the predicted trends were themselves used as predictor variables of the jail's future ADP. The notable outcomes of these predictor variable forecasts are that ALOS was not an extremely good predictor of the Washington County jail's population. The growth in the number of citizens³⁸ in Washington County was treated as a predictor variable in the model. Population growth was a fair predictor of jail commitments, and in turn, the jail's population. Figure 41 plots the county population against the jail's population. Note that the relationship is not a perfect one. ADP outstrips population growth. Checking the data, county population grew 10.7% between 2015 and 2019 while the jail grew by 12.4%, largely a function of bookings with a slight contribution coming from ALOS at the end of 2019.

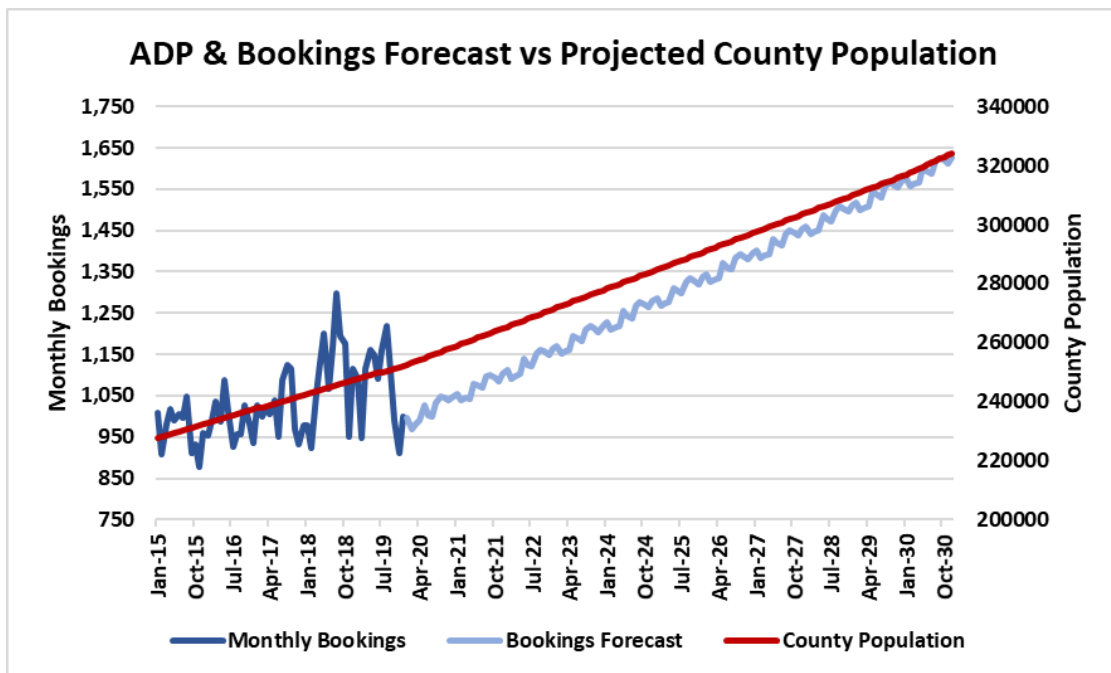
³⁸ Arkansas State Data Center <https://arstatedatacenter.youraedi.com/population-estimates-projections/>

Figure 41: Washington County Population vs Jail ADP



In addition to the county population, the jail population predictors of bookings and ALOS needed to be modeled within the ARIMA forecast process. The NCSC comprehensive forecast model more heavily weighted the contribution of bookings to the population than ALOS. Since bookings are often a clear function of the growth of a county’s population, a time series model forecast of the bookings trend was built which used the past history of the bookings trend and the county’s population history as predictors. Figure 42 shows the results of this forecast. Bookings are anticipated to follow the lead of the growth of the county.

Figure 42: Washington County Bookings Forecast



The final step in the forecast process is to build a final ARIMA model using the county population and bookings as predictors. Figure 43 shows the outcome of the jail population forecast process. The statistical model essentially says that, if nothing changes, the jail's population in 2030 will be 70% larger than it was in 2019.

Figure 43: Washington County Jail Population Forecast

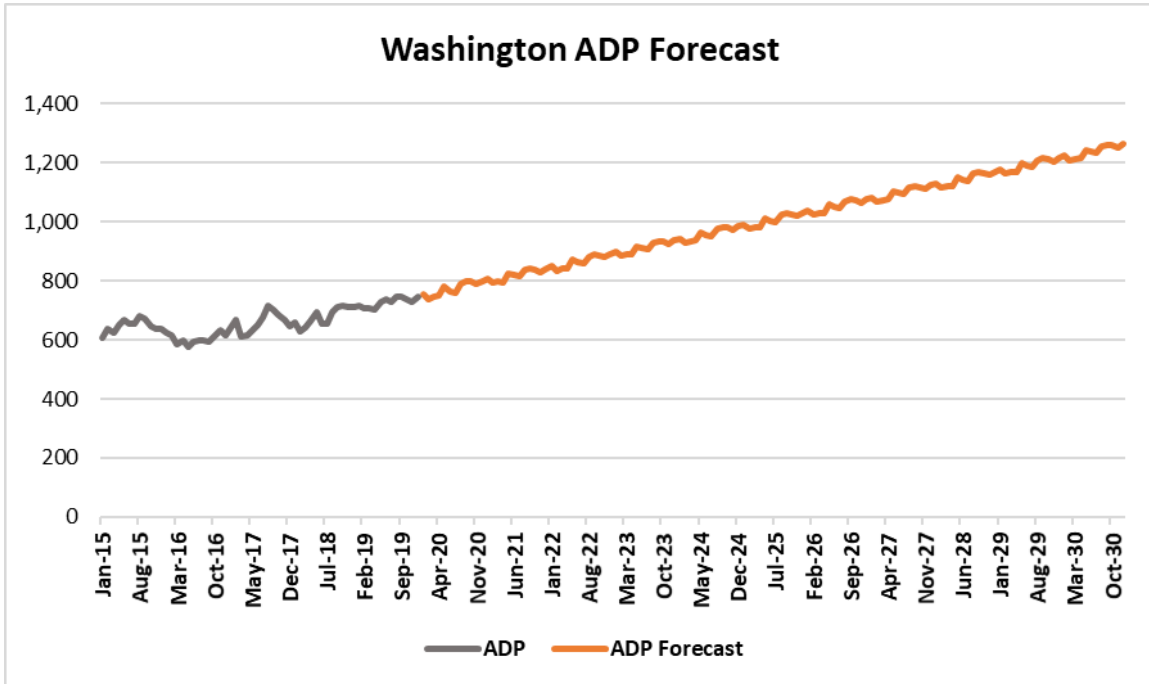


Figure 44: Washington County Jail ADP and Bookings Forecasts

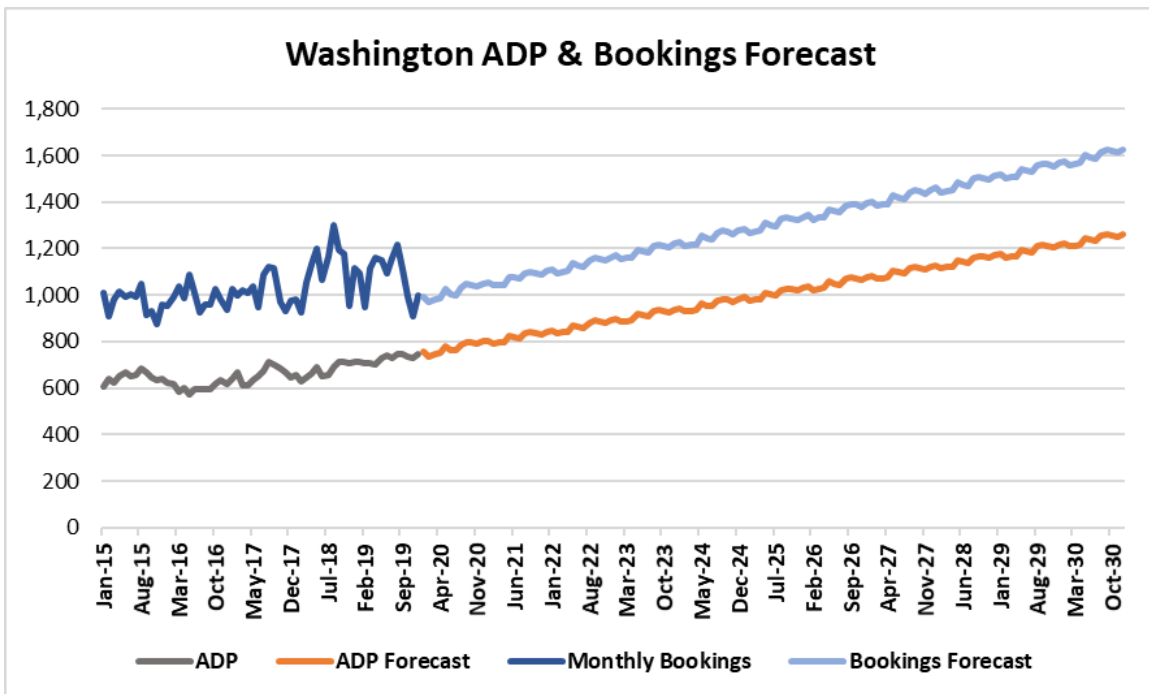
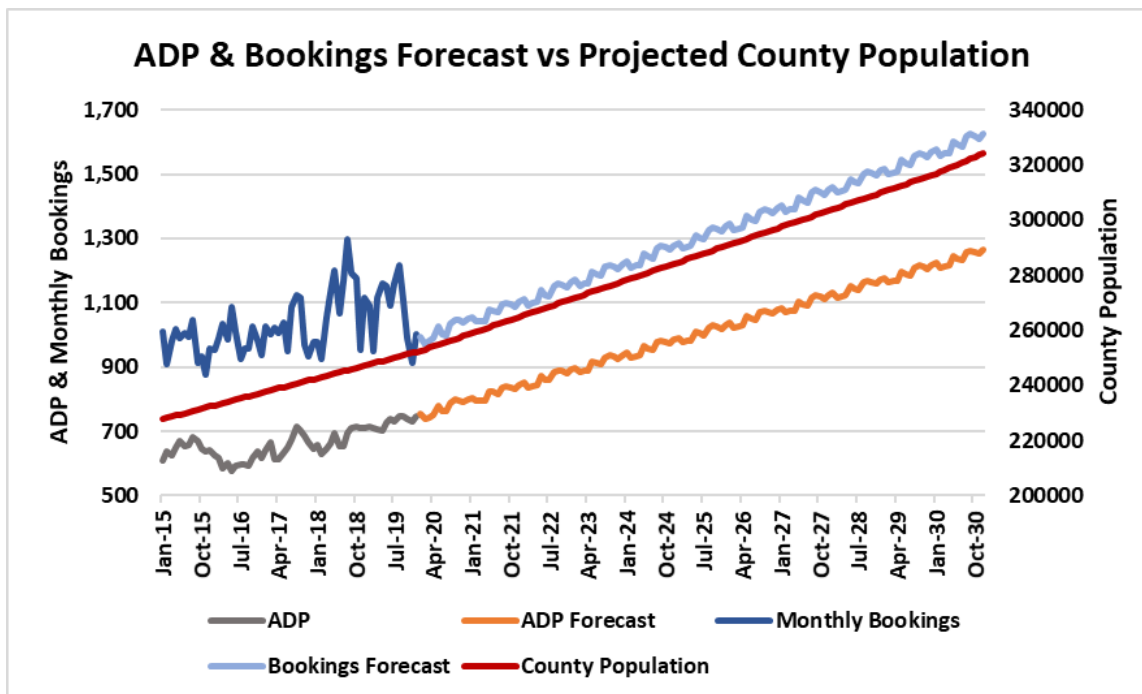


Figure 44 plots the bookings forecast and the ADP forecast against each other. The bookings forecast treated the decrease in bookings at the end of 2019 as a seasonal process, repeating similar decreases in previous years. Thus, the increase in bookings would be expected to drive the jail's population growth. Figure 45 takes the same information and adds the plot of the expected growth in the county's population.

Figure 45: Washington County Jail ADP, Bookings & County Population Forecasts



Forecast Discussion

Clearly, this forecast predicts an enormous increase in the jail's population. Given everything the data reveals at the start of 2020, the statistical guidance of all of the models produced generally called for a significant increase. The selected model performed the best in terms of statistical diagnostics.

That said, this forecast model is not a prescription for the future. The statistical model operates in a vacuum that does not know or care about the actual realities in Washington County. The largest such reality is that there is no capacity at present (or planned) to allow for such an increase. Essentially, the forecast model indicates that if nothing changes from the end of 2019 and capacity was not an issue, the result will be a massive increase in the jail's population. Thus, rather than treating the forecast as a prediction of population size that should be checked in 10 years to see if it was correct, the forecast should best be viewed as a warning that the pressure to grow the jail if nothing were to change in the criminal justice system of Washington County will be significant.

Aside from capacity limiting the predicted growth of the model, there are other factors that must be considered as well. The data extracts were requested and received immediately before the COVID-19 pandemic hit the United States, resulting in a significant reduction in the jail's

population. The forecast model in no way examines the potential impact of any changes that occurred in the wake of the pandemic. Any change that was implemented in any part of the criminal justice system to reduce the jail's population that is kept permanently will alter the shape of the forecast guidance. Again, the forecast model assumes that everything known about the system in early 2020 remains the same going forward in time.

It is expected that post-COVID-19, if the system returns as it was at the end of 2019 and the jail population returns to 'normal,' the predicted growth of bookings will drive potential growth in the jail's population. Moreover, this will place more emphasis on more immediate releases at the front end of the process. Absent some improved program for ensuring court appearance, more people will fail to appear, resulting in more arrests. The cycle will repeat itself. On the back end of the process, the increased caseloads and lower appearance rates could place additional jail growth pressure on the system in the form of longer case processing times.

Forecast Conclusion

There are two primary factors that drive any jail population—commitments and length of stay. These terms simply represent the number of people that enter the jail and how long they stay. During the course of this analysis, the NCSC team analyzed a large amount of data with the goal of producing a statistically valid time series forecast of the jail's population.

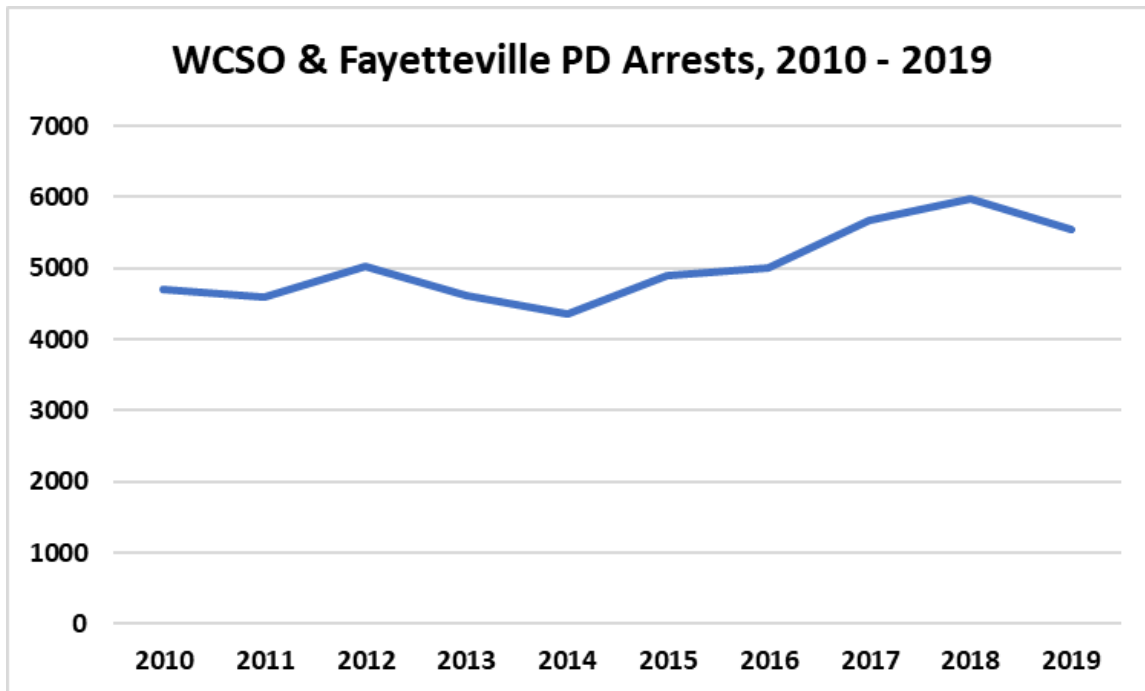
The conclusion of the team's analysis is that (absent something unforeseen and extraordinary) the population growth of Washington County and its resulting increase in admissions to the jail will continue to place significant pressure on the jail's population. The criminal justice system in Washington County must find ways to improve court appearance rates by reducing reliance on what are essentially signature releases at the jail's front door. Improving appearance rates would reduce the number of FTA detainees (the fastest-growing segment of the jail's population) and limit growth in the jail's population down the road. Furthermore, the reduced burden from the FTA population may help limit growth of the longer-staying jail population by reducing ALOS.

ACIC Age-Based Projections

To supplement the bookings time series forecast, the NCSC team sought to apply a similar methodology to arrest data for Washington County. Publicly available data from 2010 through 2019 was acquired from the Arkansas Crime Information Center (ACIC)³⁹. Because the ACIC arrestee age data are divided out by individual arrest agency, the initial decision was made to include the top three arrest agencies of WCSO, Fayetteville Police Department, and the Springdale Police Department. These three agencies comprise approximately 70% of the bookings into the jail. During the analysis, however, it was discovered that Springdale arrests were not in the ACIC annual report between 2010 and 2017. Thus, the analysis was limited to WCSO and the Fayetteville Police Department, constituting over 61% of the jail's bookings. Figure 46 shows the annual arrest trend from the ACIC data for these two agencies. The decline in arrests in 2019 mirrors what was reported previously in the analysis of the bookings trends.

³⁹ <https://www.dps.arkansas.gov/crime-info-support/arkansas-crime-information-center/crime-statistics/>

Figure 46: WCSO & Fayetteville PD Arrests, 2010-2019



The individual annual ACIC arrest data for both agencies was downloaded and extracted such that both Group A and Group B arrests for juveniles and adults by gender was produced. Table 12 below shows the 10 years of data by age category. The bottom of the table shows comparisons from the start of the data analysis as well as during the same timeframe as the jail data analysis. Note the arrest increases across all age groups over 30. Meanwhile, Table 13 relates the percentages within each year's data.

Table 12: WCSO & Fayetteville PD Arrest Statistics, 2010-2019

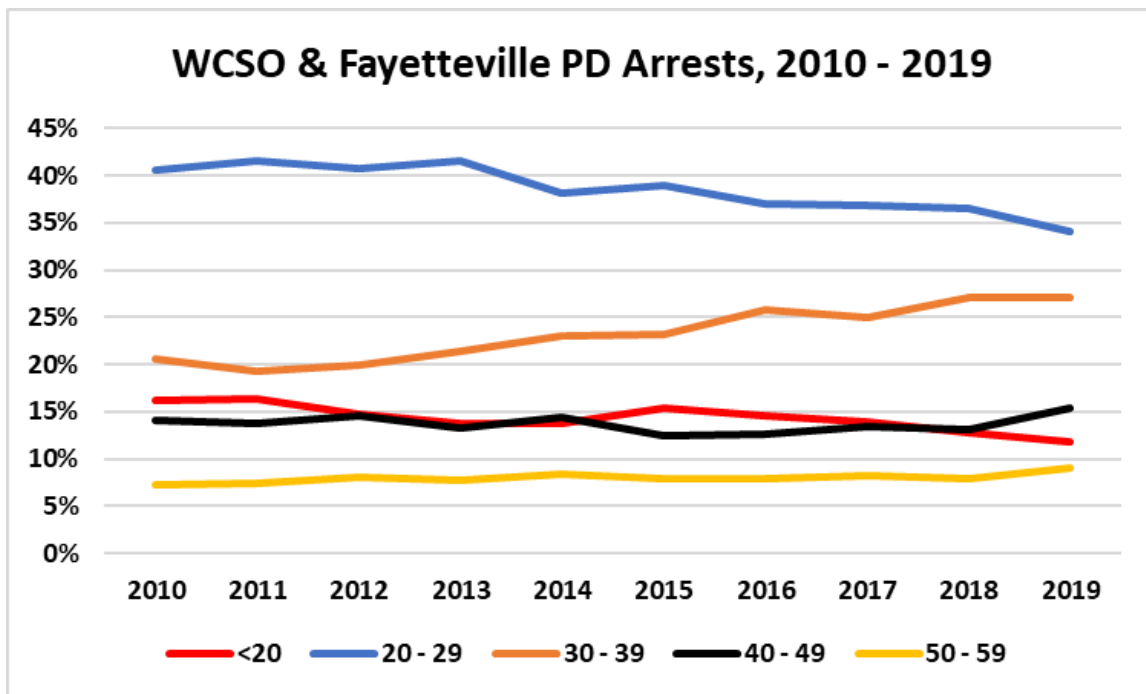
Year	<18	18 – 19	20 – 29	30 – 39	40 – 49	50 – 59	60+	Total
2010	325	434	1912	968	663	339	71	4712
2011	351	402	1913	883	630	341	80	4600
2012	288	455	2046	1005	730	408	93	5025
2013	262	370	1918	989	615	360	104	4618
2014	272	326	1663	1001	630	366	99	4357
2015	360	391	1905	1132	610	388	111	4897
2016	353	374	1848	1287	632	391	111	4996
2017	362	430	2085	1413	757	469	150	5666
2018	362	404	2181	1615	780	471	157	5970
2019	324	334	1889	1502	851	500	145	5545
'10 vs '19	-0.3%	-23.0%	-1.2%	55.2%	28.4%	47.5%	104.2%	17.7%
'15 vs '19	-10.0%	-14.6%	-0.8%	32.7%	39.5%	28.9%	30.6%	13.2%

Table 13: Age Percentages for WCSO & Fayetteville PD Arrest Statistics, 2010-2019

Year	<18	18 – 19	20 – 29	30 – 39	40 – 49	50 – 59	60+	Total
2010	6.9%	9.2%	40.6%	20.5%	14.1%	7.2%	1.5%	100%
2011	7.6%	8.7%	41.6%	19.2%	13.7%	7.4%	1.7%	100%
2012	5.7%	9.1%	40.7%	20.0%	14.5%	8.1%	1.9%	100%
2013	5.7%	8.0%	41.5%	21.4%	13.3%	7.8%	2.3%	100%
2014	6.2%	7.5%	38.2%	23.0%	14.5%	8.4%	2.3%	100%
2015	7.4%	8.0%	38.9%	23.1%	12.5%	7.9%	2.3%	100%
2016	7.1%	7.5%	37.0%	25.8%	12.7%	7.8%	2.2%	100%
2017	6.4%	7.6%	36.8%	24.9%	13.4%	8.3%	2.6%	100%
2018	6.1%	6.8%	36.5%	27.1%	13.1%	7.9%	2.6%	100%
2019	5.8%	6.0%	34.1%	27.1%	15.3%	9.0%	2.6%	100%

As discovered during the analysis of the jail’s average daily population, there are multiple internal shifts among the age groups within the arrest data. Note that the percentage of arrestees in their 20s drops, as does inmates who are 18 or 19 years of age. The first year of sustained decrease for those in their 20s is 2014. Meanwhile, the percentage of arrestees in their 30s grows rather steadily over time. The NCSC analysis indicates the next shift will occur for arrestees in their 40s, which is something that may be seen beginning in 2019 with a significant increase from 2018. Figure 47 below shows the steady decline for the 20s cohort along with the steady climb for the 30s cohort. The black line shows an increase at the end, representing the highest percentage of individuals in their 40s in the data.

Figure 47: WCSO & Fayetteville Arrest Age Percentages, 2010-2019



Because the ACIC data are not available monthly, there are not enough data points to produce a valid time series forecast as was done with bookings. However, known proportions of the agency arrest statistics to bookings were used to algebraically determine a forecast for arrests using the principles established by the bookings time series forecast, alongside the annual changes within the ACIC data. The result is a forecast that predicts a 19.2% rise in arrests between 2019 and 2030, and the forecast was compared to the Washington County Population projections from the Arkansas State Data Center. The population of the county is set to increase 28.4% during the same time. Meanwhile, the NCSC bookings time series model predicts, if nothing changes, a 40% increase during that same time. The bookings forecast is running higher because the history of the trend, with the exception of the end of 2019, shows consistent increases across time. The forecast model appears to view the end of 2019 as an outlier in the history of the data. The forecast based on the ACIC data is powered in large part by what happened during 2019 and possibly overemphasizes the decrease in arrests. Table 14 details the ACIC forecast through 2030.

Table 14: Age Cohort Forecast Using Selected ACIC Data, 2021-2030

Year	<18	18 – 19	20 – 29	30 – 39	40 – 49	50 – 59	60+	Total
2021	323.9	326.3	1886.7	1546.2	875.1	523.7	160.1	5642.1
2022	323.8	318.8	1884.5	1590.8	899.9	548.6	176.8	5743.2
2023	323.7	311.4	1882.2	1630.6	925.5	574.7	195.2	5843.3
2024	323.6	304.3	1879.9	1671.3	951.7	602.0	215.6	5948.3
2025	323.5	297.3	1877.7	1706.9	978.7	630.6	238.0	6052.6
2026	323.4	290.4	1875.4	1743.2	1006.4	660.5	262.9	6162.2
2027	323.3	283.7	1873.2	1774.0	1035.0	691.9	290.2	6271.3
2028	323.2	277.2	1870.9	1799.0	1064.3	724.7	320.5	6379.9
2029	323.1	270.8	1868.6	1824.3	1094.5	759.2	353.9	6494.4
2030	323.0	264.5	1866.4	1843.4	1125.5	795.2	390.8	6608.9

Moreover, the ACIC forecast also has the continuation of some of the age cohort shifts discussed previously. The proportion of arrestees in their 40s will continue to increase in time, and the increase of arrestees in their 30s is expected to flatten in percentage terms and even begin to decrease, which is exactly what is currently being seen with arrestees who are in their 20s. Logically, the cohort of arrestees in their 50s will also see increases as the age shift continues. Table 15 shows the percentages in the above forecast.

Table 15: Age Cohort Forecast Percentages, 2021-2030

Year	<18	18 – 19	20 – 29	30 – 39	40 – 49	50 – 59	60+	Total
2021	5.7%	5.8%	33.4%	27.4%	15.5%	9.3%	2.8%	100.0%
2022	5.6%	5.6%	32.8%	27.7%	15.7%	9.6%	3.1%	100.0%
2023	5.5%	5.3%	32.2%	27.9%	15.8%	9.8%	3.3%	100.0%
2024	5.4%	5.1%	31.6%	28.1%	16.0%	10.1%	3.6%	100.0%
2025	5.3%	4.9%	31.0%	28.2%	16.2%	10.4%	3.9%	100.0%
2026	5.3%	4.7%	30.4%	28.3%	16.3%	10.7%	4.3%	100.0%
2027	5.2%	4.5%	29.9%	28.3%	16.5%	11.0%	4.6%	100.0%
2028	5.1%	4.3%	29.3%	28.2%	16.7%	11.4%	5.0%	100.0%
2029	5.0%	4.2%	28.8%	28.1%	16.9%	11.7%	5.5%	100.0%
2030	4.9%	4.0%	28.2%	27.9%	17.0%	12.0%	5.9%	100.0%

There are several things that should be noted about the ACIC forecast. Keep in mind that the numbers only represent two agencies and it does not take into account the resulting ALOS in jail for anybody booked. Therefore, the ACIC forecast should not be used as an alternate forecast by proxy for the jail. As of this writing, the impact of COVID-19 on 2020 bookings is unknown. Moreover, the future impact of the pandemic after 2020 is impossible to predict. Essentially, the ACIC forecast is very applicable for two agencies at the end of 2019. An additional consideration for the jail's long-term population may lie in the decrease in bookings for 2019. If this decrease represents the start of a new trend caused in part by localities reducing their use of the jail due to financial considerations, future population levels may not rise to the levels predicted in the statistical models. At the time of the construction of the statistical forecasts, there was not enough of a bookings trend decrease to be able to predict a long-term population impact with certainty. At any rate, continued decreases in bookings will definitely have a positive impact on the jail's future population levels.

FTA Reduction Forecast

The main forecast model calling for a significant increase in the Washington County Jail inmate population in the next decade—while unrealistic given the bedspace realities involved—is not a guarantee of what the future looks like. There are steps that the criminal justice system can take in order to avoid a continuation of the observed significant jail population growth. This part of the analysis focuses on one of the most significant aspects of the jail population, the comparatively high number of detainees who have an FTA charge.

The research team assembled a hypothetical statistical model based on an assumed impact of the creation of a formal pretrial services process in Washington County. In essence, the team sought to test what the impact on the jail's population would be if pretrial services were in existence and then modeled that impact across the 10-year forecast horizon. The key assumption is that a pretrial services program would be able to improve appearance rates in Washington County such that subsequent FTA bookings would decline. Because it is difficult to determine which historical FTA detainees would have actually shown up for court and the actual court appearance rate is unknown, the team set up a target for a baseline impact of pretrial services. Simply put, the FTA booking and ADP numbers from 2015 were used as a target from which to derive the projections.

The rationale for this approach merits discussion. As demonstrated previously using the WCSO charge ranking method, there was an ADP of 102.8 detainees who had an FTA as their most serious charge in 2015. That number grew by nearly 82 inmates to 184.6 in 2019. Comparing the overall ADP for the jail between 2015 and 2019, the ADP was 647.6 in 2015 and 727.9 in 2019, a difference of 80 inmates which is almost exactly the FTA population growth. For the most part, the increased numbers of FTA detainees explains, if not outstrips, the overall growth of the jail. For instance, bookings of individuals with an FTA as their most serious charge grew by over 41% between 2015 and 2019 as compared to the overall bookings growth of 11.3%. ALOS is also significantly higher for this group—a mean of 24.3 days and a median of 1.64 days as compared to the overall population with a mean of 18.3 days and a median of 0.84 days. The growth in ALOS for the FTA group has outpaced the ALOS growth for the overall population, as well. In sum, this is a significant portion of the jail which is growing comparatively quickly.

The modeling procedure essentially asked the question, 'What if the FTA admissions and ALOS numbers had stayed at 2015 levels across time?' To be clear, this is another way of hypothesizing that a pretrial services program could improve appearance rates to where they were in 2015. The research team applied the 2015 data parameters to the modeling as well as the assumption that pretrial services would be empowered to release appropriate individuals at the front end of the booking process at approximately the same speed as the current Return on Own Recognizance (ROR) process. The previous ARIMA process was followed with some needed alterations. The previous booking forecast was modified to exclude the impact of the increased number of additional FTA bookings since 2015 (a byproduct of the assumption that pretrial services would reduce the need to book as many FTA detainees). Washington County population growth was also included as a predictor variable.

Figure 48 below shows the result of the new model. There is still growth, mainly as a result of the overall growth of the County. However, the final bed need is about 36% smaller, with an ADP in 2030 of 912 inmates. Figure 49 compares the new model with the main ADP model.

Figure 48: Washington County Forecast Assuming FTA Reduction

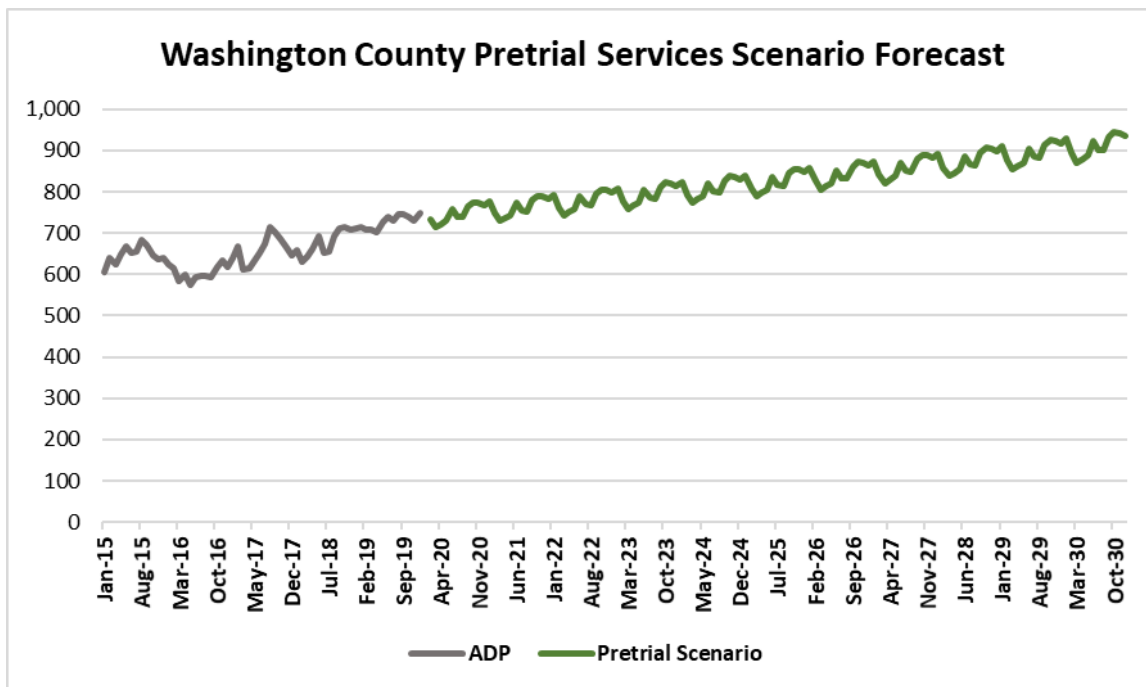
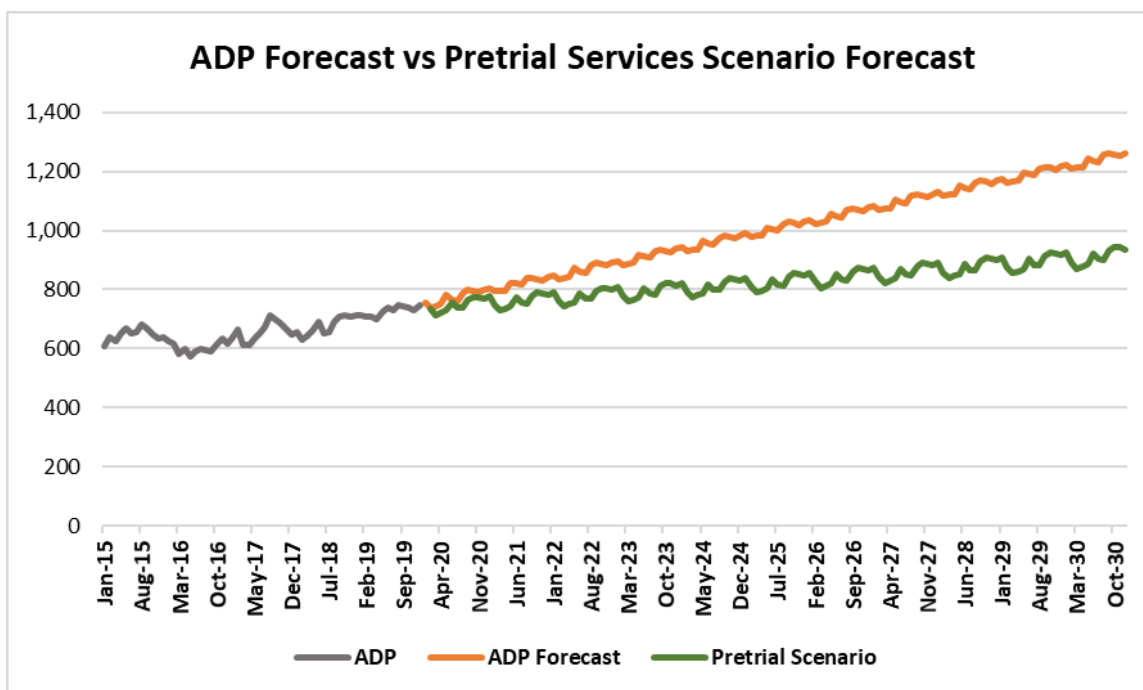


Figure 49. Washington County Forecast Comparison



The NCSC hypothetical FTA-reduction forecast is a conservative estimate in several ways. First, the performance witnessed in 2015 was selected as a target. The FTA population levels for 2015, while better than what was seen in subsequent years for Washington County, are still higher than would be expected in a large jail. The target of 2015 numbers is something that can be beaten in time. Improving upon that level of performance would reduce the expected ADP curve, assuming that everything else stays the same. Second, keep in mind that the results reported here do not take into account the impact of pretrial services on individuals who have charges more serious than an FTA. In fact, during the analysis, the team examined the ALOS for individuals who had a non-FTA most serious charge in addition to an FTA charge. The ALOS impact of having an FTA as a charge is significant and appears to raise the ALOS by a factor of nearly five. Improving appearance rates across the board may have additional population and systemic benefits that the hypothetical time series model did not attempt to capture.

One note of caution regarding implementing pretrial systems that are not evidence-based is that they can have a net-widening effect and actually bring more people into the system than prior to implementation. Judicial officers, out of excessive caution or punitiveness, may find themselves relying more on pretrial services to supervise defendants they would previously have released on recognizance or bond without conditions. Judicial officers must be prudent in their use of pretrial services and rely on the recommendations of duly trained pretrial officers based on a valid and reliable pretrial risk assessment.

Criminal Justice System Coordination & Savings

The criminal justice, behavioral health, and social services systems are composed of an array of leaders (many of whom are elected) and a range of agencies that serve overlapping and sometimes opposing purposes. Despite this structure, successful community leaders recognize that they cannot fulfill their duties by acting independently. Collaboration enhances the capacity of each agency to achieve common goals and makes possible that which could not be achieved alone.⁴⁰ Better outcomes appear to be associated with enhanced collaboration; for instance, drug courts where most agency staff attend drug court meetings and court sessions tend to produce lower recidivism rates.⁴¹ Many communities identify collaboration and consensus building as key to achieving successful outcomes.⁴²

Indeed, collaboration can be quite difficult in the criminal justice system—a loosely coupled organizational structure defined by components siloed by separation of powers that are often adversarial in nature. In effect, there is no ‘system’ that is organized to work toward a singular goal.⁴³ This diametric view is often brought to the table when entities begin to work together, often resulting in turf guarding and distrust. However, collaboration has been a hallmark of highly successful criminal justice system reforms, including the efforts to reverse mass incarceration and racial inequities in sentencing. These efforts brought together stakeholders from criminal justice, human services, and the community to build reform that works.

Collaboration is more than just exchanging information and sharing resources; it means coming together to develop policies, solve problems, and implement innovative solutions. Collaborating with other system stakeholders can help eliminate duplication, fill gaps in services, identify and address any barriers, and create a shared vision that supports the transition to evidence-based practices. Most importantly, collaboration across agencies increases the likelihood that probationers receive appropriate supervision and treatment services based on the risk-need-responsivity principles.⁴⁴

⁴⁰ Carter, M.M. (2005). *Collaboration: A Training Curriculum to Enhance the Effectiveness of Criminal Justice Teams*, State Justice Institute, 2005.

Duran, L. (2007). *Collaboration and Partnership in the Community: Advancing the Michigan Prisoner Reentry Initiative*, in *Topics in Community Corrections*, National Institute of Correction.

⁴¹ Carey, S., Crumpton, D., Finigan, M.W., Waller, M., & Byrne, F. (2005). *California Drug Courts: A Methodology for Determining Costs and Benefits*, Final Report submitted to The Administrative Office of the Courts, Judicial Council of California, NPC Research.

Carey, S.M. Finigan, M.W. & Pukstas, K. (2008). *Exploring the Key Components of Drug Courts: A Comparative Study of 18 Adult Drug Courts on Practices, Outcomes, and Costs*, NPC Research.

⁴² Justice Policy Institute (2010). *Juvenile Justice Reform in Connecticut: How Collaboration and Commitment Have Improved Public Safety and Outcomes for Youth*, Justice Policy Institute, 2013.

⁴³ Modley, P., Halley, D., Zandi, F. (2008). *Partnerships facilitate criminal justice problem solving*. *Corrections Today*. March-April. 148-154.

⁴⁴ Solomon, A.L., Osborne, J., Winterfield, L., Elderbroom, B., Burke, P., Stroker, R.P., Rhine, E.E., Burrell, W.E. (2008). *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes*, The Urban Institute.

There is little formal collaboration among Washington County criminal justice system agencies. Most collaboration is done one to one between agencies. This is not to say the relationships between agencies is negative or volatile. They are not. Washington County criminal justice agencies are content to conduct business as usual within the statutory confines and system roles of which they are responsible, reaching out and collaborating to problem-solve when necessary. There are two wider collaborations—the Sheriff’s Jail Work Group and the County Judge’s Criminal Justice Coordinating Board. The County Judge’s Board helped develop and oversee the Crisis Stabilization Unit. The Sheriff’s Work Group which meets monthly, has worked to address the issue of overcrowding. Both have a wide range of stakeholders. Some noted that often the meetings yield few results or concrete plans for improving the justice system. The fact that there are two groups competing for stakeholder time to work on related problems is an indicator that true collaboration does not exist in the Washington County criminal justice system. There are opportunities for system leaders to come together to problem-solve and develop innovative solutions that balance the need for public safety and effectively and efficiently manage system resources.

Some essential elements of collaboration include sharing a common vision; clarifying roles and responsibilities; creating open and frequent communication; establishing respect, trust, and integrity among collaborators; sharing data; and holding each other accountable.⁴⁵

⁴⁵ Carter, *supra* note 27.

System Demand, High & Low

Areas where bottlenecks and other slowdowns occur have been noted throughout the report. The following are proposed actions that will have the greatest impact for Washington County in building a model criminal justice system.

The largest issue facing Washington County's criminal justice system is the lack of strategic planning and coordination among partners. Washington County desperately needs a unifying entity to step up and lead stakeholders through the development of a true collaborative Criminal Justice Coordinating Committee and strategic planning process. Ensuring that each partner is treated equitably is essential, as is having frank but respectful conversations about how Washington County can incorporate Data-Driven Decision Making (DDDM) and evidence-based practices into daily operations. The only way Washington County will move the needle on improving system operations is to ensure the approach is a collaborative and strategic one.

The jail population in Washington County is driven largely by the pretrial population. In order to create a system that is fair to those accused but awaiting trial, Washington County must, at a minimum, address the disparities created through a bond determination system that does not take ability to pay into account, as well as the subjectivity of the current risk of flight assessment. While there is no statewide mechanism for a formalized pretrial services program, Washington County—both citizens and the government alike—would benefit from utilizing evidence-based practices to address the systemic inequities of the current pretrial treatment of the accused. This would include:

- Ensuring there is no real or perceived ex parte communication between prosecutors and judicial officers;
- Utilizing an evidence-based validated instrument administered by trained and certified professionals to determine pretrial risk to public safety and flight;
- Incorporating the results of the pretrial risk assessment into bail and bond condition determinations;
- Shifting attitudes of key stakeholders and the community about bond from the current punitive lens to one more closely aligned with its constitutional purpose of guaranteeing appearance in court; and
- Providing pretrial support, case management, and, in the case of higher risk offenders, supervision to defendants awaiting trial in the community.

Recommendations and Opportunities for System Improvement

As a result of examining the roles of each Washington County criminal justice agency, jail inmate background, jail admissions and releases, crime and inmate projections, the role of external factors, the role of alternative to incarceration, and case processing, the NCSC team has identified the following recommendations and opportunities for improvement to the Washington County criminal justice system.

The COVID-19 pandemic has forced criminal justice system leaders to come together to manage the justice-involved population and react to the significant impact of the pandemic while managing public safety. The pandemic resulted in a significant reduction in the jail population to safely manage the jail and mitigate any exposure and spread of the virus within the facility to inmates and staff. In addition to the reduction in jail population, the pandemic led stakeholders to implement some changes recommended in this report. This type of collaboration is laying the foundation for Washington County to continue to come together to manage system resources efficiently and effectively as a whole and shift away from making decisions agency by agency.

NCSC recommends utilizing the Integrated Model developed by the National Institute of Corrections and the Crime and Justice Institute to help criminal justice system leaders and stakeholders manage change and implement Data-Driven Decision Making and the evidence-based practices outlined below.

Change Management

There is little that polarizes an organization as much as change. For some, it is an exciting opportunity. For others, it is a devastating defeat. And for many, it lies somewhere on the continuum between the two. Good change management involves transparency, education, communication and relationship-building to bring everyone together around a shared vision, and motivates individuals to bring that vision to life. All of the steps listed in this document should receive careful attention to the change management process, and in particular, stakeholder buy-in.

In 2002, the National Institute of Corrections and the Crime and Justice Institute (CJI) partnered to develop “Implementing Effective Correctional Management of Offenders in the Community: An Integrated Model” (commonly referred to as “The Integrated Model”). The Integrated Model was a guide to help programs implement evidence-based practices, particularly the risk-need-responsivity model, at the client, organization, and system levels. The model emphasizes equal Evidence-Based Principles, Organizational Development, and Collaboration.

Evidence-Based Principles (EBPs) based on the Risk-Need-Responsivity (RNR) model are deemed the underpinning of effective supervision and service delivery. These eight principles, along with measurement/evaluation and related feedback, have become the foundation for probation supervision in America. CJI, contending that human behavior is universal, advocates for the use of the Integrated Model at the case, agency, and system levels. As the principles are applied to larger and larger systems, the more these concepts need to be abstracted; and programs need to clarify priorities and establish and train staff on protocols, reinforce staff proficiency, provide ongoing support to stakeholders, and establish quality assurance

measures. The framework CJI provides for implementing effective interventions at any level includes seven guidelines:

1. Limit new projects to mission-related initiatives;
2. Assess progress of implementation processes using quantifiable data;
3. Acknowledge and accommodate professional over-rides with adequate accountability;
4. Focus on staff development, including awareness of research, skill development, and management of behavioral and organizational change processes, within the context of a complete training or human resource development program;
5. Routinely measure staff practices (attitudes, knowledge, and skills) that are considered related to outcomes;
6. Provide staff timely, relevant, and accurate feedback regarding performance related to outcomes; and
7. Utilize high levels of data-driven advocacy and brokerage to enable appropriate community services (Crime and Justice Institute, 2009, pp. 26-29).⁴⁶

Organizational Development is the second component of the Integrated Model. CJI emphasizes the need for total organizational overhaul to effectively move traditional corrections to an evidence-based culture. Organizations are encouraged to re-examine their mission statements and core values, re-vamp their infrastructure to support EBPs, and effectively change their entire organizational culture. Emphasis is placed on making organizations' learning environments focused on improving processes to maximize productivity and outcomes. Organizations and systems utilizing the seven implementation guidelines are encouraged to assess their organizational culture; provide motivational enhancement to stakeholders; clarify organizational priorities and restructure protocols; provide ample training to staff including feedback and time to practice newly learned skills; incentivize staff proficiency; provide ongoing support; and develop quality assurance programs to both improve and report on the EBP's effectiveness.⁴⁷

Collaboration is the third component of the Integrated Model. Including outside stakeholders and engaging them in the change process is encouraged to develop system-wide buy-in for the new ways of doing business. The impetus behind the need for collaboration is that organizations do not operate in a vacuum. In order for an organization to successfully shift to an evidence-based culture, stakeholders who interact with the organization on a daily basis



Figure 50: The Integrated Model (CJI, 2009, p. ix)

⁴⁶ Criminal Justice Institute (2009) pp 26-29.

https://www.cjinstitute.org/assets/sites/2/2009/10/Community_Corrections_BoxSet_Oct09.pdf

⁴⁷ *ibid*

must support the change. The interdependence of organizations in the criminal justice system dictates the need for system-wide investment in the change to EBP.⁴⁸

The National Implementation Research Network (NIRN) notes that EBPs cannot be helpful unless they are fully implemented and practiced with the same fidelity as they were in the experimental environment. Full implementation of an EBP occurs when 50% or more practitioners in an organization utilize the EBP regularly and with fidelity.⁴⁹ There is an old adage that “what gets measured gets done.” This is true at any level of supervision, be it probation officer to juvenile, probation management to probation staff, or court administration to probation management. Ultimately, in order for any practice, evidence-based or otherwise, to stick, it has to become part of routine practice. Furthermore, it has to add value. Researchers note that leadership is key in ensuring implementation of the EBP, and it generally falls into one of three categories: leaders who “let it happen” by simply noting that an EBP will be implemented, leaders who “help it happen” by urging others to actually utilize the EBP but do not provide support or accountability, and leaders who “make it happen” by systematically working to implement an EBP with fidelity providing support and accountability.⁵⁰

Key to moving from “letting it happen” to “making it happen” are something the NIRN calls implementation drivers. These include competency, organization, and leadership supports. Since EBPs represent a new way of doing the work of probation, training must be coupled with ongoing coaching from experienced users of the EBP tools and fidelity checks to ensure that learning and competency are on track. Organizations must also have managers and infrastructure that is both supportive and reinforcing of the EBPs; utilize the fidelity checks as well as baseline and outcome data to determine where the flaws in the system lie; and make adjustments in managing the organizational change.⁵¹ This reinforces the information contained in the NIJ’s Implementation Model.

Lack of stakeholder buy-in at any level can be disastrous for implementation of any change. Ensuring buy-in from high-level stakeholders (administration, judges, probation director, outside agency leadership) will allow a project to get off the ground on its intended timeline. Ensuring buy-in from supervisors will help engender enthusiasm for the change. And ensuring buy-in from probation staff will greatly reduce the likelihood that they will adopt the change willingly. In all cases, utilizing education of stakeholders on the EBPs and their benefits to the clients and department, transparent communication of the implementation project and process/timeline updates, and nurturing relationships both up and down the organizational ladder will help lead to

⁴⁸ *ibid*

⁴⁹ National Implementation Research Network. (2016, April 23). *Implementation Defined*. Retrieved from National Implementation Research Network: <http://nirn.fpg.unc.edu/learn-implementation/implementation-defined>

⁵⁰ *ibid*

⁵¹ *implementation/implementation-defined*

National Implementation Research Network. (2016, April 23). *Implementation Drivers*. Retrieved from National Implementation Research Network: <http://nirn.fpg.unc.edu/learn-implementation/implementation-drivers>

successful change. These principles will be important in the implementation of any change, whether systemic or programmatic, to the Washington County criminal justice system.

Criminal Justice System Recommendations

This section of recommendations provides the structure, goals, and approach for Washington County to bring together criminal justice system stakeholders including the community.

Criminal Justice Coordinating Committee

This improvement falls squarely in the center of the Venn diagram, a marriage of all three components of the Integrated Model. The benefits of multidisciplinary teams are well-documented in the medical, business, and criminal justice fields: improving individual consumer outcomes, streamlining system operations, reducing costs, and enhancing overall feelings of procedural satisfaction. Criminal Justice Coordinating Committees (CJCCs) build upon the multidisciplinary team model by utilizing cross-agency collaboration and data and information sharing to ensure efficiency, efficacy, and procedural fairness in the criminal justice system. Membership should include representatives from all stakeholders including criminal justice agencies in the jurisdiction (police, prosecution, defense, judiciary, clerk, jail, and community corrections), representatives from agencies commonly affecting or affected by criminal justice matters (i.e., hospitals, behavioral health, social service, public transportation, employment, education, public health, etc.), and community members (including formerly incarcerated individuals or those who were previously involved in the criminal justice system). CJCCs have been documented as far back as the 1930s⁵² but have experienced a resurgence in the last decade, largely as a result of federal and state emphasis on collaboration in their grant requirements.

NCSC recommends the development and implementation of a CJCC for Washington County that includes decision-making representatives from county, courts, prosecution, defense, probation, law enforcement, detention, service providers, and community members. The National Institute of Corrections has a series of collaboration-related guides to assist localities in developing their CJCCs (these are currently being updated):

- Guidelines for Developing a Criminal Justice Coordinating Committee (2002),
- Getting it Right: Collaborative Problem Solving for Criminal Justice (2006),
- Guidelines for Staffing a Local Criminal Justice Coordinating Committee (2012), and
- A Framework for Evidence-Based Decision Making in State and Local Criminal Justice Systems (2017).

NCSC also recommends seeking technical assistance for the development and implementation of a CJCC. The CJCC should be housed within the Washington County organizational structure, preferably under a non-elected official to be insulated from any appearance of political influence.

⁵² Appier, J. (2005). "We're Blocking Youth's Path to Crime": The Los Angeles Coordinating Councils during the Great Depression. *Journal of Urban History*, 31(2), 190–218.
<https://doi.org/10.1177/0096144204270750>

Continuous Quality Improvement

Data-Driven Decision Making (DDDM) is an approach to management that requires policy decisions be substantiated with verifiable data. The DDDM process involves collecting data, analyzing it for patterns and facts, making inferences, and utilizing those inferences to guide decision-making. DDDM success is therefore reliant upon the quality of the data gathered and the efficacy of its analysis and interpretation. DDDM can be utilized in criminal justice to examine overall effectiveness of specific interventions or activities, programs, departments, or at the system level to examine collaborations between agencies, evaluate multi-agency initiatives, or do system mapping to address service gaps. NCSC recommends Washington County develop DDDM across the justice system to routinely monitor key metrics as a key activity of the CJCC.

Performance measurement provides a pathway to continuously monitor and report on a specific activity's progress and accomplishments, using pre-selected performance measures. Performance measurement is considered an essential activity in many government and non-profit agencies because it “has a common sense logic that is irrefutable, namely that agencies have a greater probability of achieving their goals and objectives if they use performance measures to monitor their progress along these lines and then take follow-up actions as necessary to insure success.”⁵³ Effectively designed and implemented performance measurement systems provide tools for managers to exercise and maintain control over their organizations, as well as mechanisms for governing bodies and funding agencies to hold programs accountable for producing intended results.

Performance measurement is distinct from program evaluation and consequently does not attempt to ascertain a program or activity's “value-added” over an appropriate “business-as-usual” alternative. Rather, performance measurements provide timely information about key aspects of the performance of the program or activity to managers and staff, enabling them to identify effective practices and, if warranted, take corrective actions.

Evaluations are systematic studies conducted to assess how well a program or activity is working and why. There are several types of evaluation, including process, outcome, impact, and cost-benefit. Process evaluations assess whether a program or activity is operating as designed and identifies areas for improvement. Outcome evaluations examine the results of a program or activity, both intended and unintended. Impact evaluations take outcome evaluation a step further, assessing the causal link(s) between program activities and outcomes. Cost-benefit evaluations utilize outcomes and compare them with the costs of the program to determine cost-effectiveness.

The quality of data is a key component in successful DDDM. Data must be accurate, complete, timely, and actionable for DDDM to work. Primary and secondary data sets should be utilized in order to get a complete picture of the client experience. Memoranda of Agreement between agencies that address data access, data quality (type, format, frequency, etc.), data security,

⁵³ Poister, Theodore (2003). *Measuring Performance in Public and Nonprofit Organizations*. San Francisco: Jossey-Bass, p. xvi.

and confidentiality/release of information should be enacted and updated annually, or as new data points are added.

Data can be quantitative or qualitative in nature, and the best research designs use both in tandem. Quantitative research should include both descriptive and inferential (pattern-finding) analyses, while qualitative data can be utilized to humanize the quantitative data and provide first-person experiential accountings of the activity, program or system being examined. Data sharing should happen regularly, as outlined in Memoranda of Agreement, in the form of dashboards (ongoing performance) or reports (periodic evaluation).

The DDDM cycle is not complete until the data and information gathered is utilized to make change. Decisionmakers utilizing data to make policy and/or protocol decision should ensure that the changes made reflect the most current research and evidence-based practices, minimize the burden on staff and clients, highlight and capitalize on strengths, and account for any biases inherent in the data or process. Finally, it is important to emphasize that DDDM is a cycle and does not end. The process must be repeated to ensure continual quality. In fact, DDDM should be incorporated into the culture of an organization to ensure DDDM is institutionalized in policy and procedure. As Washington County justice system stakeholders become more and more accustomed to reviewing and analyzing data, the ability to make data-driven decisions and monitoring outcomes will become the accepted practice.

Communication

Responsible transparency is a hallmark of good government. Transparency does not require carte blanche public disclosure, as often government agencies are dealing with protected information. However, it does require a responsible, accountable plan for communication of government activity to stakeholders and community members. NCSC has observed stakeholders either have misinformation or a lack of information regarding how the system operates or appropriate agency roles and responsibilities.

Develop and implement a communication policy for your CJCC and for each criminal justice agency that encourages responsible transparency. Many stakeholders did not have accurate information about one another which can lead to confusion, miscommunication, and decreased collaboration. Each policy should address:

- The mission of the agency, how it works to accomplish that mission, and its degree of effectiveness;
- The laws, directives, authorities and policies that govern agency activities;
- Any compliance or oversight the agency is accountable to and the framework for that oversight (e.g., accreditation boards);
- The channels through which information will be made available and under what timelines; and
- What types of information will be freely given, what can be made available upon request, and what and why information may not be communicated.

Communication should be proactive, clear, concise, timely, written at a 4th grade reading level, available in multiple languages, and accessible to those with visual, auidial, and processing

impairments or disorders, and include information on ways to provide feedback. Utilize mediums that will reach multiple and different types of constituents. Revisit your policies and procedures at least annually.

Criminal Justice Facility Recommendations

This section provides feedback on recommended changes to the existing facilities.

Jail Facility

Given the rapid population growth and development of Northwest Arkansas (NWA), boundaries between municipalities are becoming increasingly nondescript, while smaller jurisdictions are relying more upon WCDF for booking and pretrial detention. Washington County is well-positioned, both in NWA and with its current acreage, to consider development of a regional detention facility. The Washington County detention facility is close to Interstate 49, which provides relatively easy access from surrounding jurisdictions, and the existing site could easily accommodate a larger facility with additional housing, program, and recreation space.

Regional facilities are typically managed by an “authority” with representation from participating jurisdictions, so Washington County would share the responsibility for cost and operation of the facility with surrounding counties and municipalities as vested partners. These shared detention operations reduce the cost of incarceration by having several jurisdictions, often three or more, participate, whereby certain inmates as determined by the authority would be housed in a facility that supports each of the jurisdictions. In some cases, regional jails are program focused for inmates who are housed for longer periods of time or those whose trial date is farther in the future. A regional jail can reduce costs of staffing (e.g., it is cheaper to operate one facility than three), and there are greater opportunities for purchasing in economies of scale. On the downside, regional jails can increase burdens on local jurisdictions as inmates must be transported from the facility to their home counties for court, and there is often a reduction in visitation unless measures such as video visitation are employed.

Whether a regional option is feasible or not, Washington County will have to continually monitor the utilization of jail beds in relation to the projected jail population. The existing facilities are not sufficiently sized to accommodate the projected population.

In the meantime, given the COVID-19 outbreak and the likelihood of further respiratory-based virus outbreaks, Washington County may want to invest upgrading air filtration and circulation systems, and investigate the feasibility of an ultraviolet light decontamination portal.

Courthouse

Courthouse security was not a focus of this project; however, it is important to mention the flow of parties within the courthouse. The flow of parties within the courthouse provides cause for concern. While meeting with stakeholders throughout the courthouse, the team observed the comingling of parties throughout public and restricted areas as members of the public (the NCSC team), judicial officials, judicial staff, court security officers, attorneys, and defendants shared the same space.

A sectoring system dividing the building, or at a minimum restricting the flow of traffic, is important. Consider sectoring the flow into three distinct areas: public areas open to all; restricted areas where generally only judicial officers, jurors, and other staff have access; and secure access areas where only prisoners and law enforcement personnel are permitted.

Criminal Justice Agency Recommendations

This section of recommendations provides the specific feedback for criminal justice system agencies that influence justice system effectiveness and efficiency.

Courts

The NCSC team observed judges operating in a siloed manner with little collaboration and coordination within criminal court branches. Each judge sets his or her own scheduling practices, develops forms, and manages courtrooms without any collaboration or coordination with judicial colleagues. NCSC recommends the judiciary and court work to develop more consistent operating procedures through the creation of a court administrator or similar position. This position would be responsible for coordinating the assignment of cases across branches, developing operating procedures, managing courtrooms, assigning staff to courtrooms, scheduling interpreters, preparing routine reports for judicial officers, scheduling human resources, and coordinating court security needs with the sheriff.

The court and prosecution offices work well together; however, there is an issue that may need to be addressed. Court and prosecution meetings outside the courtroom to discuss cases prior to initial hearings do not appear to be transparent and have the appearance of ex parte communication. Even if the defense is privy to the fact that there was a meeting and does not object, there is no guarantee that the judicial officer was not provided with information that should be part of the formal record, which could potentially be a violation of due process for any defendant discussed. All discussions which occur in the pre-court meetings could and should occur at the initial appearance. While this may speed up the initial appearance process, the appearance of impropriety may outweigh the benefit. In addition, since the judge retains 75% of these cases on their caseload, it would be best to be transparent from the beginning of the case to avoid any appearance of impropriety or favoritism on the case.

Public Defender

Ensure appropriate public defender caseload ratios, compensation parity, and treatment of public defenders in comparison to prosecutors.

A study pre-published by Prison Policy Initiative on the effect of public defender caseloads on outcomes for defendants shows that felony defendants in counties with higher public defender and support staff caseloads are more likely to be detained pretrial, and higher support staff caseloads lead to longer sentences.⁵⁴ An in-depth analysis of the ramifications of high

⁵⁴ Gottlieb & Arnold (2020). Do Public Defender Resources Matter? The Effect of Public Defender and Support Staff Caseloads on the Incarceration of Felony Defendants. Submitted to the Journal of Society for Social Work and Research. Preprinted online by Prison Policy Initiative.
https://www.prisonpolicy.org/scans/gottlieb_and_arnold/EffectofPublicDefenderResources.pdf

caseloads on defendant outcome was completed by the American Bar Association which noted that high caseloads create a gap in the supervision and monitoring of public defenders, and increase the likelihood of violations of professional conduct and of ineffective assistance of counsel.⁵⁵ A workload study may be in order to help determine appropriate caseload sizes, given the ABA standards are nearly 50 years old and cases are far more complex and varied now.

A lack of parity in pay between prosecution and public defense creates a revolving door for public defense, as attorneys look to do similar work for higher pay often with more resources. Ensuring parity between public defenders and prosecutors of the same experience and education level will provide for greater longevity and stability in the public defender's office.

Public defenders should be given equitable access to information, technology, buildings, parking, etc. as the prosecution. Disparate treatment of public defenders serves to create a power differential that is unsupportive of fair and impartial hearings.

Programs

Washington County is resource-rich in services for behavioral health and expanding the safety net for the poor, unemployed, under-educated, and homeless, though there are gaps in the continuum of care. NCSC's research for Sequential Intercept 0 revealed difficulties in tracking down existing resources, including issues with the state's 2-1-1 website. NCSC encourages Washington County to work with the United Way of Northwest Arkansas to develop a regional services guide specific to NWA that is more user friendly and comprehensive than the existing 2-1-1 website. The guide should be updated quarterly and should be able to be indexed by both type and level of service and by agency.

Transportation and housing resources were listed as gaps by interviewees, particularly for those in more rural areas of Washington County. NCSC recommends Washington County work with local community and economic development agencies to ensure that transportation and housing for county residents is included in city, county, or regional strategic planning.

The largest gap, however, is not in service but in the coordination of services. The state has eliminated funding for valuable services like assertive community treatment, and other intensive case management services have seen their funding limited. Case management for most agencies has been limited to office-based interactions and referrals. For the justice-involved population, this coordination and case management often falls to probation. Probation and parole are near the end of the criminal justice timeline for most. In order to better serve the justice-involved, and to perhaps divert them from the system sooner, case management and service coordination need to happen at earlier intercepts. NCSC encourages Washington County to invest in a robust pretrial services program to provide the accused with adequate

⁵⁵ Lefstein, N (2011). Securing Reasonable Caseloads: Ethics and Law in Public Defense. American Bar Association Standing Committee on Legal Aid and Indigent Defendants. https://www.americanbar.org/content/dam/aba/publications/books/ls_sclaid_def_securing_reasonable_caseloads.pdf

Eighth Amendment protections and case management and linkage to services to address the root causes of their justice involvement.

One note of caution: It can be tempting for judicial officers to utilize pretrial supervision for defendants they may have otherwise released without conditions. NCSC recommends training judicial officers on the appropriate use of pretrial services, and ongoing performance measurement of the program and its effects on the pretrial community.

Pretrial Services

Institute a robust pretrial services program. Washington County is sorely lacking in pretrial services and is utilizing incarceration to manage pretrial defendants rather than community services. This is creating great stress on the jail and is unfair to those who have not yet been convicted of a crime.

Since the 1970s, the institution of pretrial services programs has been a significant component of the bail reform movement. As jurisdictions moved away from release decisions based on financial conditions and the crimes charged, toward considerations of the risks posed by individual defendants, they recognized the need for more standardized processes for gathering and reporting the information needed to make risk-based decisions. Pretrial services programs perform this critical function, as well as other key roles in mitigating the risks posed by defendants who are released pretrial. The Pretrial Justice Institute has derived six core functions of pretrial services programs outlined below from national standards set by the American Bar Association and the National Association of Pretrial Services Agencies.

Impartial Universal Screening of All Defendants, Regardless of Charge

Pretrial services programs should ensure that any person charged and jailed with an offense in their jurisdiction is interviewed prior to their initial court appearance to help determine appropriate pretrial release option(s). Possible exceptions may include probation/parole violations, anything excluded by statute, or when a defendant declines to participate. To avoid self-incrimination and interviewer bias, the interviews should not include any questions concerning details of the current charge(s). ABA Pretrial Release Standard 10.42 (b) notes that defendants should be informed that the interview is voluntary, that its purpose is to help determine pretrial release options, that information provided in the interview will not be used to determine guilt or in sentencing, and that information provided can be used to prosecute them for perjury or to impeach their testimony.

Verification of Interview Information and Criminal History Checks

Verification is key to ensuring accuracy of information, as self-report can be unreliable. All information provided by a defendant should be verified via local, state, and national criminal records; contacting references; and re-interviewing the defendant if discrepancies arise. If information cannot be verified, it should be noted in the report.

Assessment of Risk of Pretrial Misconduct Through Objective Means and Presentation of Recommendations to the Court Based Upon the Risk Level

Pretrial recommendations should be based on consistently applied objective criteria that include factors relevant to the risk of nonappearance in court and threat to public safety and should represent the least restrictive measures possible to ensure both. The best way to ensure this is to utilize an empirically validated actuarial risk assessment. The assessment should be able to place defendants into specific risk categories and identify any condition(s) of release that could be instituted to mitigate specific risks. The results of the assessment and investigation should be submitted in report form, along with recommended conditions of release. Conditions should be recommended in order of least to most restrictive, and if preventative detention is applicable, the report should indicate if it is appropriate. The report should be available to the court, prosecution, and defense prior to the court hearing, and pretrial staff should be present/available at the hearing to answer questions, explain condition(s) of release to the defendant, and facilitate prompt release of the defendant, if applicable.

Follow-up Reviews of Defendants Unable to Meet the Conditions of Release

Pretrial services programs should routinely and systematically review the status of any detained defendants to determine if there are any changes in eligibility for release. If such conditions are found, they should be communicated promptly to the court as indicated above, to facilitate timely release.

Accountable and Appropriate Supervision of Those Released, to Include Proactive Court Date Reminders

Supervision and monitoring of defendants released during the pretrial period is a key function of pretrial services. In performing this essential function, pretrial services programs should apply the same risk principle that underlies pretrial release decisions. Research indicates that supervision conditions should be tailored to the individual defendant's risk and needs related to public safety and appearance for court proceedings. Monitoring the defendant's compliance with conditions of release, recommending modifications of conditions of release, maintaining appropriate records of the defendant's compliance and referrals for appropriate treatment and ancillary services are all involved in effective supervision of defendants. Court date reminders have been shown to be an effective method to improve appearance rates for all defendants. Other common supervision conditions include regular check-ins with a pretrial officer.

Reporting on Process and Outcome Measures to Stakeholders

To assess the impact of a pretrial services program, the following data, at a minimum, should be kept and monitored routinely:

- pretrial release rate/by type of release (i.e., ROR, non-financial conditions, 10 percent deposit bail, full cash bail, commercial surety bail);
- time to pretrial release/by type of release;
- re-arrest rate;
- breakdown of type of re-arrests when they occur;
- number of re-arrests;

- failure to appear rate; and
- size and composition (i.e., percentage pretrial, percentage sentenced) of the jail population.

Mental Health Court

There were several stakeholders who lauded the success of Drug Court and Veterans Court and expressed an interest and need in Washington County for a Mental Health Court.

“Mental health courts straddle the two worlds of criminal law and mental health, requiring collaboration and consideration from practitioners in both fields.”⁵⁶ Adding a mental health twist to the popular Drug Court model, the first mental health court began operating in Broward County, Florida in 1997. Since then, some form of mental health courts has emerged in most states. According to the SAMHSA GAINS Center, there are 536 adult and juvenile mental health courts in 44 states, with many additional courts in the planning phase.⁵⁷ While differing greatly in approach, according to the Council of State Governments (CSG) Justice Center report, “Mental health courts generally share the following goals: to improve public safety by reducing criminal recidivism; to improve the quality of life of people with mental illnesses and increase their participation in effective treatment; and to reduce court- and corrections-related costs through administrative efficiencies and often by providing an alternative to incarceration.”⁵⁸

In an effort to ensure minimum standards for mental health courts, the Bureau of Justice Assistance (BJA) enlisted the CSG Justice Center to develop a list similar to the Drug Court 10 Key Components to guide grantees in developing their courts. In 2007, BJA and CSG published *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*. Ten Essential Elements are outlined in the publication and offer basic standards for the planning and administration of mental health courts, the target population, timely identification of participants and linkage to services, terms of participation, informed choice, treatment supports and services, confidentiality, the court team, monitoring and adherence to court requirements, and program sustainability.⁵⁹ Table 16 describes the ten essential elements of mental health courts and their components.

⁵⁶ Bernstein, R., & Seltzer, T. (2003). Criminalization of People with Mental Illnesses: The Role of Mental Health Courts in System Reform. *University of the District of Columbia Law Review*, 7(1), 143-162. Retrieved from The Bazelon Center for Mental Health Law.

⁵⁷ AMHSA GAINS Center. (2015, August 19). Mental Health Treatment Court Locator. Retrieved November 8, 2015, from SAMHSA GAINS : <https://www.samhsa.gov/gains-center/mental-health-treatment-court-locators>

⁵⁸ Almquist, L., & Dodd, E. (2009). *Mental Health Courts: A Guide to Research-Informed Policy and Practice*. New York: Council of State Governments Justice Center.

⁵⁹ Thompson, M., Osher, F., & Tomasini-Joshi, D. (2007). *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*. Council of State Governments, https://www.gaaccountabilitycourts.org/mhc_essential_elements-1.pdf

Table 16: Ten Essential Elements of a Mental Health Court

Strategy	Components
<p>1</p> <p>Planning and Administration. A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.</p>	<ul style="list-style-type: none"> • Planning and administration of the program should be collaborative and include decision makers from all justice and community stakeholders, particularly those with expertise in mental health. • The multidisciplinary planning committee should develop a program that complements the existing efforts to address individuals that intersect the mental health and criminal justice fields. • The multidisciplinary committee should develop eligibility criteria, policies and procedures, and monitoring protocols for the program that reflect its clear purpose and goals. • Once the program is up and running the planning committee should become an advisory committee that ensures the program continues to operate according to its mission and meet its intended goals.
<p>2</p> <p>Target Population. Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.</p>	<ul style="list-style-type: none"> • Mental health courts should be part of the continuum of community and criminal justice responses to mental health issues in the community. • Mental health courts should be coordinated with other therapeutic courts to minimize competition and overlap. • Clinical eligibility should be well defined and not exceed the continuum of care available in the community. • Treatment providers should work to continuously improve and expand treatment options and ensure they are evidence based. • Eligibility criteria should examine the relationship between the defendant's mental illness and their offense(s), and policies and procedures should set out how this will be identified.
<p>3</p> <p>Timely Participant Identification and Linkage to Services. Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.</p>	<ul style="list-style-type: none"> • Participants should be identified as early in the process as possible. • Referrals should come from multiple sources, but one or two agencies should be the primary source of referral. • Eligibility criteria and program requirements and benefits should be advertised to potential referral sources. • Referrals should be screened quickly, and competency determination expedited. • Final determination of eligibility should be a team decision. • Participants should be linked to services as quickly as possible. • Program and advisory committee officials should work to expand the continuum of services available to participants.

Strategy	Components
<p>4</p> <p>Terms of Participation. Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.</p>	<ul style="list-style-type: none"> • Terms of participation should be a balance of standard terms and individualized terms. These terms should be written and thoroughly explained to the defendant before entering the program, along with the consequences of nonadherence. • Plea agreements should include the possible legal consequences of a criminal conviction, including collateral consequences. • Neither the length of time it takes to enter the program nor the length of program itself should exceed the maximum period of incarceration or probation the defendant would otherwise be facing. • Program completion should be tied to adherence to court requirements, and connection to treatment. • Supervision conditions should be least-restrictive necessary. • Completion of the program should have some positive legal outcome such as dismissal or vacation of charges. • Participants should be able to withdraw from the program at a point without the withdrawal and participation in the program up to that point reflecting negatively on their criminal case.
<p>5</p> <p>Informed Choice. Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.</p>	<ul style="list-style-type: none"> • Participation must be voluntary and informed throughout the entire process. • Participants must be competent/fit when deciding to enter the court, and programs should have procedures in place to ensure this is handled in a timely manner. • Programs should ensure that, beyond competency, participants fully understand the legal repercussions of entering the court and lack of adherence to court requirements. • Defense counsel must be present to ensure participants rights are protected at court entry and any time liberty may be at issue. • Defense counsel should have specific training in mental health issues.
<p>6</p> <p>Treatment Supports and Services. Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use—and increase the availability of—treatment and services that are evidence-based.</p>	<ul style="list-style-type: none"> • An appropriate continuum of care should be available for participants. • Treatment plans should include the results of the mental health and substance abuse assessment, individual participant needs, public safety, and participant input. • Integrated co-occurring treatment should be utilized for those with co-occurring SUD. • Services should be gender-specific and culturally relevant. • Adjustments to treatment should occur as needed. Issues in treatment should be communicated to the

Strategy	Components
	<p>team, including any issues caused by supervision requirements.</p> <ul style="list-style-type: none"> • Case management should be provided and caseloads within best practice limits. • Programs should help prepare participants to transition out of the program and ensure there is an aftercare/continuing care plan in place. • Post-program assistance should be provided to graduates.
<p>7</p> <p>Confidentiality. Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.</p>	<ul style="list-style-type: none"> • Information shared among team members should respect the participant's wishes. • Information should be shared in a manner consistent with federal law. • Release of information should be utilized to ensure informed consent to information sharing. • Release forms should not be signed until the defendant is competent/fit. • Information about the defendant's mental illness should be kept separately from court documents to ensure that the information doesn't negatively impact criminal justice proceedings. • Clinical information shared with the team should be restricted to the most basic information necessary to allow them to make decisions, and information should never be discussed in open court or be part of the court record. • Redisclosure of information is strictly prohibited.
<p>8</p> <p>Court Team. A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.</p>	<ul style="list-style-type: none"> • Team composition: judge, treatment provider, prosecutor, defense, probation officer, coordinator. • Judge oversees the team and encourages collaboration. • Team members should have expertise or interest in mental health, and treatment staff should have criminal justice experience. • Team members should have cross-training and orientation before starting with the program, then have ongoing training to ensure up-to-date practices. • Program policies and procedures should be reviewed and updated regularly to reflect best practices and improve outcomes.
<p>9</p> <p>Monitoring Adherence to Court Requirements. Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.</p>	<ul style="list-style-type: none"> • Monitor supervision requirements • Monitor treatment needs and progress • Provide regular reports to the team • Review progress at regular staffings • Reinforce desired behaviors and discourage unwanted behaviors at regular status hearings • Ensure that sanctions, incentives and therapeutic adjustments are individualized and meaningful • Ensure sanctions and incentives are graduated • Incentivize and track progress with a phase system

Strategy	Components
<p>Sustainability. Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.</p>	<ul style="list-style-type: none"> • Performance Measures • Outcome Data • Formalizing policies & procedures • Plan for staff turnover • Cultivate long-term funding sources • Garner support from elected officials and other influencers • Community and media outreach

In brief, mental health courts utilize a collaborative approach to justice. Comprised of teams of specially trained judges, prosecutors, defense attorneys, law enforcement, pretrial or probation officers, and treatment professionals, mental health courts provide treatment, ancillary services, and intensive monitoring of offenders whose crimes are related to their mental health or co-occurring disorders. Mental health courts are considered diversion programs and may be situated pre- (diversion from prosecution) or post-adjudication (diversion from prison). Offenders referred to mental health courts are screened for ‘risk’ of recidivism and clinical ‘need’ to determine their eligibility for the court, and participation is voluntary. Once in the court, participants are required to participate in a judicially supervised case plan for treatment and supervision. Compliance with the case plan or other court conditions are rewarded, noncompliance may be sanctioned, and resistance or lack of progress with treatment are given therapeutic adjustments. Success or graduation is generally dependent upon completion of predetermined criteria such as minimum time in the program, compliance with the case and treatment plans, involvement in prosocial activities, clean time (if the participant has co-occurring substance abuse), and completion of program phases.⁶⁰

A mental health court would be a natural addition to the Washington County continuum of diversion programs for justice involved citizens suffering from behavioral health issues. NCSC would recommend considering the development of a pre-adjudication program that serves those with untreated severe and persistent mental illness who are frequently involved with law enforcement and the jail.

Continue Use of Video Visitation

Due to the COVID-19 pandemic, the jail and courts have shifted to a reliance upon video for visitation and hearings. Additionally, inmates are no longer being transported from Department of Corrections facilities to the jail and court. Washington County should continue to utilize video technology to reduce transportation and personnel costs related to transport.

Integration of Management Information Systems

As discussed earlier in the report, Washington County should incorporate DDDM as a routine way to manage the criminal justice system resources. As a means to that end, Washington

⁶⁰ Almquist & Dodd, *supra* note 43

County should work to establish mechanisms that join siloed management information systems together across agencies (courts, prosecution, jail, community corrections, etc.) to merge the data which would allow justice system partners to collect and analyze the data for the review and analysis of system operations and processes from arrest through disposition.

Appendix A: Stakeholders Interviewed

Interviewee	Role	Organization
Mike Parker	Area Manager	Community Corrections
Tyna Martin	Assistant Area Manager	Community Corrections
Dr. Laura Tyler	CEO	Ozark Guidance
Libby Bier	Director of Substance Abuse and Recovery Services	Ozark Guidance
Mike Peters	Chief of Police	Springdale PD
Frank Gamble	Captain	Springdale PD
Mike Reynolds	Chief of Police	Fayetteville PD
Gary Ricker	Chief of Police	Greenland PD
Cory Jenison	Chief of Police	Tontitown PD
Kyle Sylvester	Circuit Clerk	Washington County
Beth Coger	Co-Founder	Arkansas Justice Reform Coalition
Sarah Moore	Co-Founder	Arkansas Justice Reform Coalition
Nancy Kahanak	Coordinator	Judicial Equality for Mental Illness
Brian Thomas	City Prosecutor	City of Fayetteville/District Court
Kristin McAllister	Director	Crisis Stabilization Unit/Ozark Guidance
Judge Lindsay	Judge	Circuit Court
Judge Storey	Judge	City of Fayetteville/District Court
Judge Taylor	Judge	Circuit Court
Judge Beaumont	Judge	Circuit Court
Judge Threet	Judge	Circuit Court
Ann Harbison	Justice of the Peace	Quorum Court
Willie Leming	Justice of the Peace	Quorum Court
Judith Yanez	Justice of the Peace	Quorum Court
Patrick Deakins	Justice of the Peace	Quorum Court
Butch Pond	Justice of the Peace	Quorum Court
Lance Johnson	Justice of the Peace	Quorum Court
Susan Cunningham	Justice of the Peace	Quorum Court
Eva Madison	Justice of the Peace	Quorum Court
Butch Pond	Justice of the Peace	Quorum Court
Stan Adelman	Ombudsman	Quorum Court
Madeline Porta	Operations Manager	The Bail Project
Irvin Camacho	Bail Disruptor	The Bail Project
Matt Durrett	Prosecutor	Circuit Court
Denny Hyslip	Public Defender	Public Defender's Office
Leanna Houston	Chief Deputy Public Defender	Public Defender's Office
Blake Chancellor	Deputy Public Defender	Public Defender's Office

Appendix B: Collaborative Group Memberships

Sheriff's Work Group

Member	Affiliation
Joseph Wood	County Judge
Hon. Jeff Harper	District Court
Hon. Mark Lindsay	Circuit Court
Chief Mike Reynolds	Fayetteville Police
Chief Mike Peters	Springdale Police
Chief Bryan Watts	Elkins Police
Mike Parker	ACC Area Manager
Matt Durrett	County Prosecuting Attorney
JP Lance Johnson	Quorum Court
Denny Hyslip	Public Defender
Doug Sprouse	Mayor, Springdale
Eddie Cantu	Centro Cristiano Hispano Assembly of God Church
Charlie Rossetti	Educator, retired
Perry Webb	Springdale Chamber of Commerce
Lexie Robertson	College Student
Sarah Moore	Citizen at Large/AR Justice Reform Coalition
Nancy Kahanak	Judicial Equality for Mental Illness
Monique Jones	NWA NAACP

Appendix C: Glossary of Terms

Citation

A written order issued by a law enforcement officer who is authorized to make an arrest, requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

Failure to Appear

Occurs when a defendant or summoned person does not appear in court at a previously specified date, time and place. See a formal definition in Arkansas Criminal Code § 5-54-120.

First Appearance

The first proceeding at which a defendant appears before a judicial officer. See a formal definition in Arkansas Rules of Criminal Procedure §§ 8.1.

Order to Appear

An order issued by a judicial officer at or after the defendant's first appearance releasing him from custody or continuing him at large pending disposition of his case but requiring him to appear in court or in some other place at all appropriate times.

Probation Violation

Failure to comply with conditions of supervised release under community corrections. See a formal definition in Arkansas Criminal Code § 16-93-308.

Re-Arrest

Arrest occurring any time after a person's initial arrest. Re-Arrest is the most common form of recidivism.

Recidivism

A criminal act that results in the re-arrest, reconviction, or return to incarceration of a person with or without a new sentence during a three-year period following the person's release from custody. See a formal definition in Arkansas Criminal Code § 16-1-101.

Release on Bail

The release of a defendant upon the execution of a bond, with or without sureties, which may be secured by the pledge of money or property.

Release on Own Recognizance

The release of a defendant without bail upon his promise to appear at all appropriate times, sometimes referred to as “personal recognizance.”

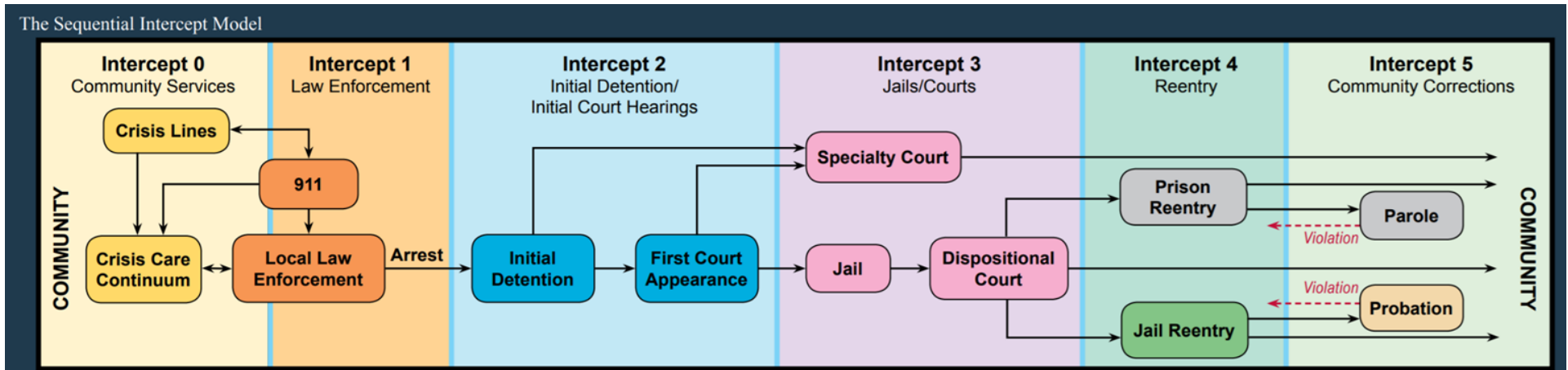
Summons

An order issued by a judicial officer or, pursuant to the authorization of a judicial officer, by the clerk of a court requiring a person against whom a criminal charge has been filed to appear in a designated court at a specified date and time.

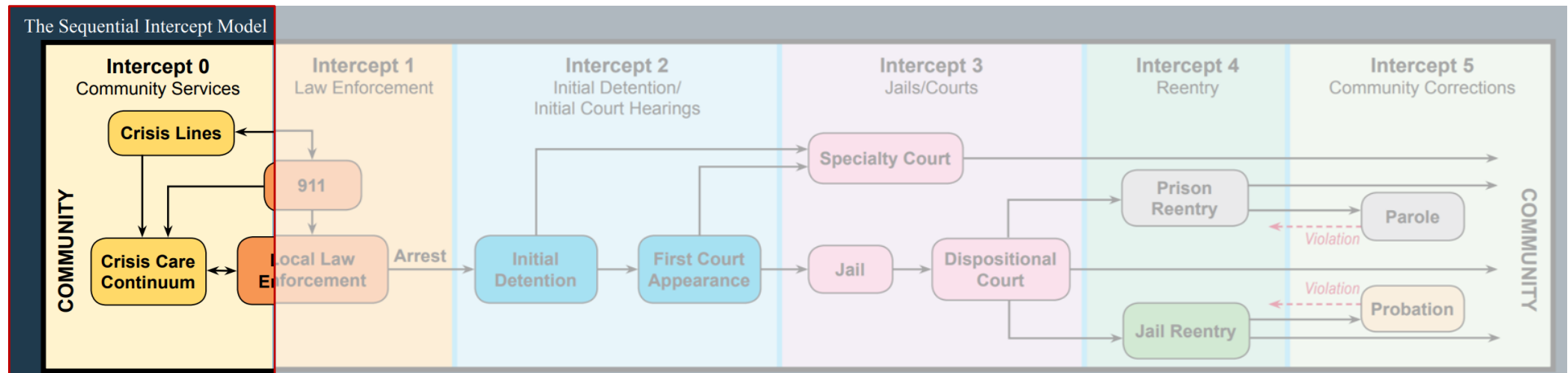
Warrant

A document issued by the court authorizing the police or another body to make an arrest, search premises, or carry out some administration of justice. Authority to arrest on warrant is defined under § 16-81-106.

Appendix D: Sequential Intercept Model



Intercept 0 Community Services



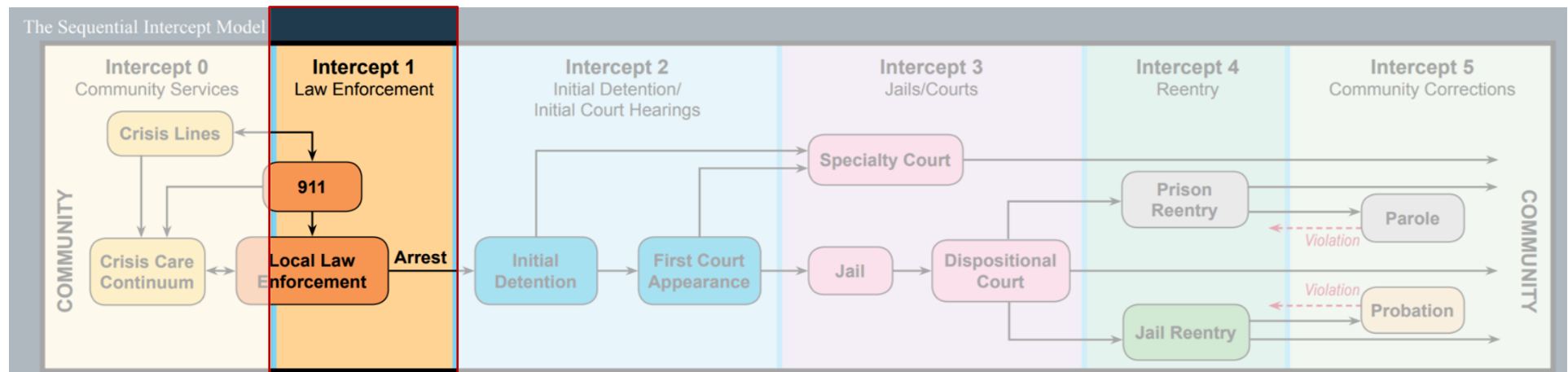
Intercept 0 Resources

- Arkansas 211 – information and services line
- Arkansas Crisis Center – Suicide/crisis hotline
- Ozark Guidance
 - Adult Intensive Services (AIS) are available Monday through Friday on their Springdale campus. AIS is specifically designed for individuals with a persistent, chronic mental illness and primarily uses the Rehabilitative Day Services model.
 - Crisis Stabilization Unit (CSU), a 16-bed facility, is available 24/7 in downtown Fayetteville. CSU is an acute stabilization unit for both mental health crises and ambulatory detox. Patients must be able to follow basic verbal commands and must be willing to be admitted voluntarily. Ozark noted that 50% of referrals are from law enforcement and the jail
 - Outpatient substance use disorder and mental health treatment. Can refer for residential SUD treatment.
 - Open Access on Tuesday and Thursday mornings – no appointment needed.
 - Psychiatric and medication monitoring.
- OG is the designated community mental health center for the area.
- Medicaid is accepted.
- Vantage Point Behavioral Health Hospital
 - Free screening offered 24 hours a day, 7 days a week via phone or walking in. Assessments are also confidential and free of charge so that those who may be requiring behavioral healthcare can have unrestricted access to exploring treatment options at Vantage Point.
 - SUD services include: Detox, residential inpatient, outpatient, and dual disorder treatment.
 - MH services include: Dual disorder, residential inpatient, and outpatient treatment.
 - Medicaid is accepted.
- Springwoods Behavioral Health
 - Free mental health assessments 24/7 along with free mobile assessments.
- 80-bed behavioral health facility located in Fayetteville, Arkansas, provides acute inpatient treatment for adolescent, adult, and geriatric patients.
- Intensive Outpatient Program (IOP), which provides treatment for adults with mild to moderate psychiatric or emotional disorders.
 - Medicaid is accepted.
- Community Clinic
 - A healthcare ministry of St. Francis of NWA. HRSA organization/FQHC.
 - The largest safety net health care provider in the region with 13 clinics, including clinics in Springdale, Fayetteville, and Lincoln.
 - Services include primary care, pediatrics, prenatal, behavioral health, dental, and physical therapy.
 - They offer services in English, Spanish, and Marshallese, and accept Medicaid, Medicare, and most other forms of insurance.

- A discount program is available to patients based on income and household size, and they are dedicated to serving all in need of health care, regardless of their ability to pay.
- **ARCARE**
 - FQHC in Springdale.
 - Provides comprehensive primary care and preventive care, including health, oral, and mental health/substance abuse services to persons of all ages, regardless of their ability to pay or health insurance status.
- **Karas Health Care**
 - For profit medical clinics in Fayetteville and Lowell.
 - Provide: primary care, urgent care, psychiatric/mental health.
 - Is the jail health care provider
- **Perimeter Behavioral of the Ozarks**
 - Licensed psychiatric residential treatment facility in Springdale for girls ages 6-17.
- **Piney Ridge Treatment Center**
 - A residential treatment center in Fayetteville that serves the needs of children and adolescents struggling with sexual behavior disorders and mental health illnesses.
- **Mercy Clinic Behavioral Health - Enterprise Drive**
 - Child and adolescent psychiatric and behavioral health clinic in Lowell.
- **CARDINAL CARE CENTER, P.L.L.C.**
 - Private clinic in Farmington providing individual and family counseling services for issues such as depression, anxiety, PTSD, adjustment, grief, divorce, marriage and trauma counseling. Target populations include adults, children and adolescents.
- **Northwest Arkansas Psychiatry**
 - A Mana Medical Associates clinic providing caring, comprehensive mental health care for all ages in Springdale.
- Psychiatric, medication and therapy are services provided.
- **Psychology Counseling Associates**
 - Private clinic in Springdale providing general psychiatry, child and adolescent psychiatry and psychology, and psychological assessment services.
- **Bridges to Wellbeing, LLC**
 - Private clinic in Fayetteville consisting of a multidisciplinary group of licensed independent mental health providers providing medication management as well as counseling or traditional "Talk Therapy" for adults, couples, families, and teens 15 years old+.
- **Behavioral Health Group of Fayetteville**
 - A provider of opioid addiction treatment services including medication-assisted treatment in an outpatient setting. They utilize a combination of medication such as methadone, buprenorphine and buprenorphine/Naloxone along with counseling to provide a comprehensive approach to treatment.
 - Accepts Medicare.
- **Wellness & Courage**
 - Private clinic in Fayetteville providing individual therapy, couples counseling, group therapy, clinical supervision and psychiatry.
- **Northwest Medical Center**
 - Medical center in Springdale with behavioral health services that include:
 - 24-hour behavioral health monitoring and supervision
 - Behavioral health diagnostic assessment and evaluation
 - Medication stabilization and management
 - Individual and group therapy
 - Recreation therapy
 - Family therapy
 - Patient and family education
 - Discharge and aftercare planning
- **ARC Center**
 - Clinic in Fayetteville providing medication-assisted treatment for opioid addiction using Suboxone, Subutex, or other buprenorphine products and counseling.
- **Integrated Neuropsychological Services**
 - Private clinic providing research-based, personalized, and confidential psychological services.
- **Vantage Point of Northwest Arkansas**
 - Inpatient behavioral health care for children, adolescents, adults, and seniors in Fayetteville.
 - Medically monitored detox is available as well.
 - Medicaid and Medicare accepted.
- **House of Hope Rescue Mission**
 - Faith-based homelessness intervention program.
 - Services include laundry, showers, a hot meal on Wednesday and Friday, a clothing pantry and food pantry.
 - There is a full-time social worker who can help with job searches and finding other resources in the community.
- **The Salvation Army of Northwest Arkansas**
 - Faith-based homelessness and low-income assistance.
 - Emergency shelter in Fayetteville open 365 days per year. Free meals in the evenings. Maximum stay is 10 days.
 - Corps Salvage and Rehabilitation Center (CSRC) Rehabilitation program for alcohol and drug rehabilitation. Six-month program for men only. Includes assessments, individual mentoring, therapeutic recreation, daily devotion and prayer, weekly worship, work therapy, and nightly classes which include Bible study, group therapy and AA meetings.
 - Provides cash and goods assistance in Fayetteville and Springdale including electric bill assistance, prescription assistance, food pantry, clothing vouchers, disaster relief furniture, and water bill and rental assistance on a limited basis.

- 7hills Homeless Shelter
 - Homelessness intervention program in Fayetteville.
 - The Day Center offers a space for those in need to do their laundry, receive their mail, store their belongings short- and long-term, and access phone and internet. The Day Center has two Case Managers on site who assist daily with crisis counseling, assessing for and assisting individuals with housing, completing mental health and other referrals, providing I.D., birth certificate, and prescription assistance, and assisting individuals with SNAP, social security, public housing, and other benefits applications. Partners with other agencies and individuals to provide additional resources for physical health care, legal issues, haircuts, and more.
 - The HOPE program provides three different types of housing programming to individuals and families experiencing homelessness:
 - Rapid re-housing, a short-term, community-based housing intervention that combines rent and utilities assistance with Case Management to assist participants in exiting homelessness quickly.
 - Transitional housing, provided at their Walker Family Residential Community, is offered to individuals and families for up to two years, combining affordable rent with Case Management to set participants up for success post-program.
- Permanent supportive housing is also offered at their Walker Community. This intervention allows individuals with a fixed income who have a disabling condition to have a safe, affordable place to live for as long as they need.
- Cooperative Emergency Outreach
 - A cooperative of churches providing emergency services as part of their outreach ministry.
 - When a financial emergency occurs, whether due to illness, job loss, natural disaster, or any other emergency situation, CEO can help by providing food, gasoline vouchers, clothing vouchers, utility assistance, rental assistance, and prescription vouchers.
 - Eligible persons are residents of Washington County, AR, living in Fayetteville, Cane Hill, Elkins, Farmington, Greenland, Goshen, Lincoln, Prairie Grove, Summers, West Fork, and Winslow.
- Northwest Arkansas Food Bank
 - Mobile food pantry serving many communities in Washington County.
 - Assists people in filing for SNAP benefits.
 - Provide first responders with emergency boxes of food to hand out.
- Economic Opportunity Agency
 - Headstart and home for abused children
 - Provide LiHEAP assistance
 - Located in Springdale
- Youth Bridge
 - Provides safe, supportive, and empowering services to children and their families.
 - Services range from providing an immediate safe haven, to individualized treatment plans, aftercare, prevention programs, and transitional living for children and their families suffering from abuse, neglect, addictions, homelessness, mental health and behavioral problems.
 - Based in Fayetteville
- Pathfinder, Inc
 - Job training for people with disabilities including MH and SUD
- Peace at Home
 - Family DV shelter and services
- Saving Grace
 - Faith-based transitional living for women 18-25
- Northwest Arkansas Women's Shelter
 - Domestic violence services

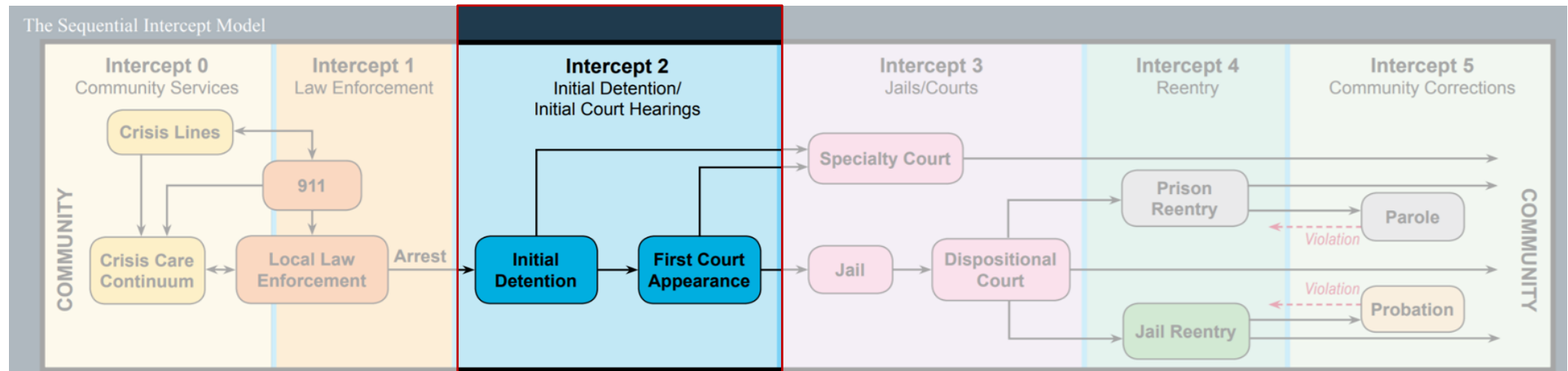
Intercept 1 Law Enforcement



Intercept 1 Resources

- CIT and Autism training for L.E. officers
- LEOs must determine if a crime occurred and if there is probable cause for an arrest
- If PC exists, a LEO may avoid taking an offender to WashCo jail officers by:
 - Writing a citation (Class A misdemeanors)
 - Booking and releasing at their own facility (Class A misdemeanors) –Fayetteville and Springdale; Springdale closing 40-bed facility.
 - Writing a summons for failure to pay fines and fees rather than a citation or arrest
- Amnesty on warrants if they turn themselves in—will cite instead of arrest; no warrants for fail to pay fines.
- Utilize other resources (particularly for crimes involving homelessness, mental health or substance abuse issues)
 - Crisis Stabilization Unit (no suicide ideation admissions)
 - Open Access at Ozark Guidance
 - Crisis Team from Ozark Guidance
 - Other emergency shelter at any of the options listed in Intercept 0.
- Currently Springdale books and holds until they have a van full and bring them down to the jail—about every couple of hours, will continue this with new facility
- Fayetteville has reduced their jail bookings from 10,000 in 2005 to 3600 in 2019 by using the tactics above, and booking fees
- A probable cause determination hearing may occur where the judge sets bail without seeing the client.

Intercept 2 Initial Detention/Initial Court Hearings



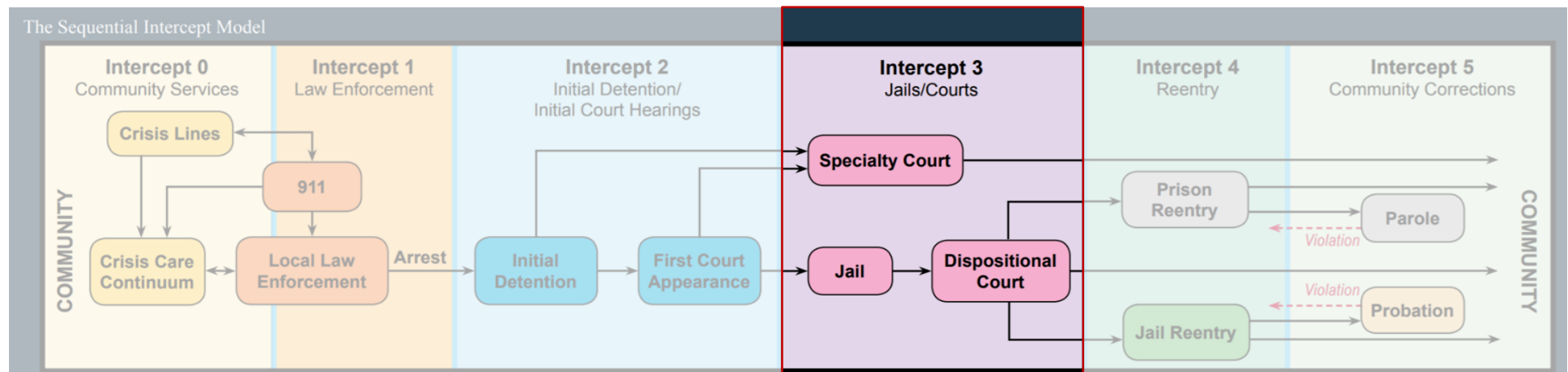
Intercept 2 Resources

- Hard copies of arrest information are printed and forwarded to the prosecutor.
- 8.1 hearings in the jail. Public Defender was just given space at the jail to be able to meet with defendants and appear at the initial hearings. They are appointed just for the 8.1 and can argue bond. Can take an hour to get to see a client at the jail. At 8.1 hearing the prosecutor will say they have not had time to talk to the victim before the hearing and they will not hear a bond reduction.
- The Bail Project assesses persons booked into the jail daily with bail \$5000 or under and attend 8.1 hearings. Provide services for those they bail out to ensure they appear.
- The sheriff can release those booked into the jail on personal recognizance bonds if charges are among those approved by the prosecutor.
- Booking area sized for 30 arrests; as many as 58 arrestees have been held at one time.
- For those cited/arrested for CM seen in District Court, there are mass arraignments at 8am on Mondays and Fridays (walk-in). For those who are incarcerated, there is video arraignment on M/W/F. No PD or Prosecutor at these.
- Ombudsman examines those booked into the jail and makes recommendations for release.
- Juvenile justice has developed a local responsive risk assessment administered by intake officers to determine if detention is necessary.
- In custody cases are prioritized.

Intercept 2: Other information

- Arraignment for those in jail occurs about 30-60 days after the 8.1 hearing and bond may be reevaluated.
- Indigency is not taken into account when setting bail.
- ICE is notified if the person is not a US citizen. The person is evaluated by ICE within 72 hours. If determined to be of interest to ICE and ICE hold is put on the person.
- Approximately 6-8 months for placement in a forensic mental health facility.

Intercept 3 Jails/Courts



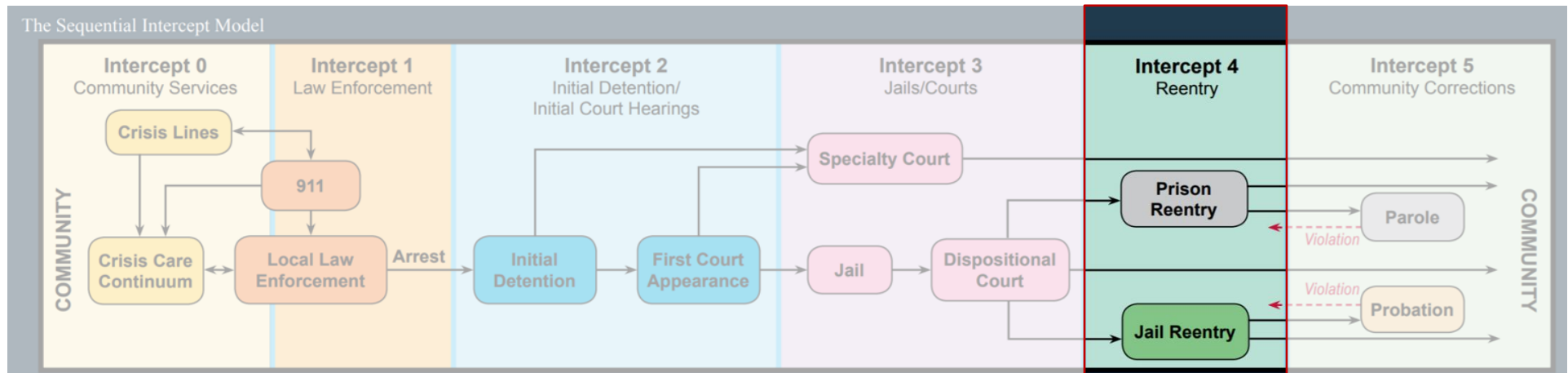
Intercept 3 Resources

- The sheriff releases sentenced prisoners at his discretion based on charges approved by the prosecutor (it is unclear what statute allows this).
- Of the approximately 1200 bookings per month, approximately 25% are related to methamphetamines and 25% are inmates with a mental health diagnosis.
- Jail has medical provided by Karas Healthcare 24/7. They also provide behavioral healthcare. A social worker is provided on staff.
- The two medical cells are typically used for inmates who are actively psychotic; inmates requiring medical housing are typically housed in booking.
- There are limited AA/NA groups in the jail. Some programs (e.g., GED, life skills, parenting) have been suspended due to jail crowding. An objective classification instrument is used, yet the system has been compromised due to jail crowding.
- Jail staff receive 172-hour Certified Detention Training beyond the 80-hours jail standards requirement. Jail staff do not routinely receive CIT training.
- There is an existing Drug Court and a Veteran's Court. They are a pre-dispositional court and the charge may be dismissed if the participant successfully completes.
- The court may do diversion order aside from drug/vet court as well. If they feel the crime/charges are completely out of character for the defendant, the judge/prosecutor will do a diversion order and set a date for a year out and if the defendant behaves themselves then the case is dismissed.
- For people on probation or suspended sentence, if the prosecutor feels like they are going to learn their lesson, and defense atty agrees, and probation agrees, then they will continue.
- Ark. Code Ann. §§16-93-301—16-93-303 (Act 346 of 1975) The First Offender Act is a rare and special way to enter a plea of guilty or no contest and then after a period of probation, if you apply properly, the judge dismisses and expunges the charges against you. The act can be used for both CM and CF but cannot be utilized in cases where there was a bench or jury trial. DUI/DWI are not eligible, nor are crimes of violence that require prison time.
- Ozark Guidance provides forensic outpatient restoration.
- Case processing delays are often attributed to competency evaluations and crime lab results (in some cases delays are up to one year).

Intercept 3 Other Information

- Two judges hear all District Court criminal cases 75% are heard by Judge Lindsay and 25% are heard by another judge.
- Judge Lindsay sets bail M-F and some weekends. He uses the factors that are mentioned in the AR rules of criminal procedures. Money bail shouldn't be set if they seem like they will be able to appear.
- A deputy prosecutor goes to Judge Lindsay's office every day of the week or calls him if he's out of office. They staff new arrest/detention cases with him, and they go over the charging documents, criminal history, and FTAs. Some make a recommendation, some don't. Sometimes the judge follows their recommendation sometimes he doesn't. On weekend jail emails probable cause reports.
- Failure to appear for court without a reasonable excuse in a pending criminal case can be charged as a criminal offense in Arkansas (Ark. Code. Ann. §5-54-120).
 - If a defendant fails to appear without a reasonable excuse in a case involving a felony charge, the offense of failure to appear is a Class C felony punishable by three to ten years in prison and a fine up to \$10,000 (Ark. Code Ann. §§5-54-120, 5-4-401).
 - The offense of failure to appear for a probation revocation hearing in a case involving a conviction for a felony offense is a Class D felony. This offense of failure to appear is punishable by up to six years in prison and a fine up to \$10,000 (Ark. Code. Ann. §§5-54-120, 5-4-401).
- If the underlying case involves a Class A misdemeanor, the failure to appear also is a Class A misdemeanor. Likewise, failure to appear is a Class B misdemeanor if the underlying criminal charge is a Class B misdemeanor. If a defendant fails to appear on a violation charge (a criminal offense punishable by a fine only and no jail or imprisonment), he can be charged with failure to appear as a Class C misdemeanor (Ark. Code Ann. §5-54-120).
- If a defendant fails to appear in a criminal case in which he is charged with an unclassified misdemeanor, the failure to appear also will be an unclassified misdemeanor (Ark. Code. Ann. §5-4-120).
- Class A misdemeanor failure to appear in Arkansas is punishable by up to one year in jail and a fine up to \$2500. Class B misdemeanor failure to appear is punishable by up to 90 days in jail and a fine up to \$1000. Class C misdemeanor failure to appear is punishable by up to 30 days in jail and a fine up to \$500. The penalty for an unclassified misdemeanor failure to appear is the same as the penalty listed in the statute for the underlying alleged crime (Ark. Code. Ann. §5-4-401).
 - Failure to pay is governed by the Arkansas Fines Collection Law. It states that judges should take into account a person's ability to pay but does not set out what guidelines to use. It then states, "Failure or refusal to pay as ordered by the court shall subject the defendant to imprisonment, as provided in § 16-13-703."
- (a) When a defendant sentenced to pay a fine defaults in the payment thereof, or of any installment, the court, upon its own motion or that of the prosecuting attorney, may require him to show cause why he should not be imprisoned for nonpayment.
- (b) The court may issue a warrant of arrest or summons for his appearance.
- (c)(1) Unless the defendant shows that his default was not attributable to a purposeful refusal to obey the sentence of the court or to a failure on his part to make a good-faith effort to obtain the funds required for payment, the court may order the defendant imprisoned in the county jail or other authorized institution designated by the court until the fine or specified part thereof is paid.
- (2)(A) The period of imprisonment shall not exceed one (1) day 30 for each forty dollars (\$40.00) of the fine, thirty (30) days if the fine were was imposed upon conviction of a misdemeanor, or one (1) year if the fine was imposed upon conviction of a felony, whichever is the shorter period.
- Mental Health Court was mentioned as a need.
- Majority of the cases are continued several times and then a plea is entered – particularly just prior to a jury trial.
- Local community service in lieu of fines is an option used to address local charges.

Intercept 4 Reentry



Intercept 4 Resources

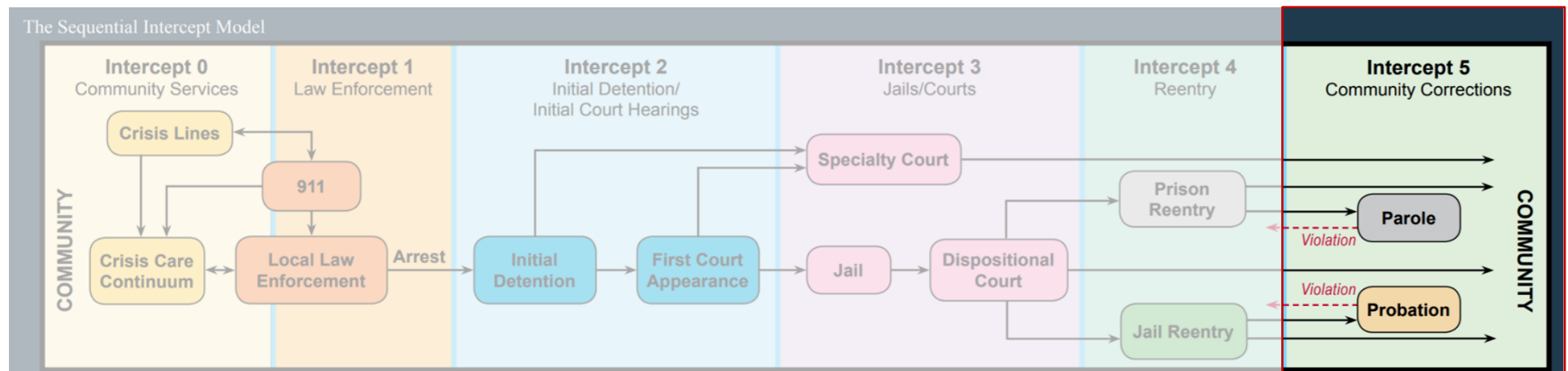
- Work release and other re-entry programs operated by the jail have been suspended to address crowding (e.g., the Work Release Center currently houses minimum custody inmates).
- The recidivism rate is approximately 72%. After approximately six months in operation, 193 inmates released have returned to jail (some are serving their sentence; 75% or more reportedly received new charges).
- A social worker in the jail is available to assist inmates with connection in the community; most of the connections are with health care providers.
- Inmates receive two days credit for every one day served.
- Community Correctional Centers are community-based residential settings that offer the offender structure, supervision, drug/alcohol treatment, educational and vocational programs, employment counseling, socialization

and life skills programs, community work transition, as well as other forms of treatment and programs as part of a Modified Therapeutic Community. There are five in Arkansas, two female and three male. Offenders with non-violent or non-sex related offenses may be ordered to a Community Correction Center (CCC) in one of three ways:

- Judicial Transfer** - The offender is sentenced to ADC with a transfer to incarceration at a CCC where the sentence is four years or less. Those who complete therapeutic programming may be released on parole, if approved by the Parole Board.
- Probation Plus** - Probationers may be ordered by the judge, as an added condition of their probation, to serve up to 365 days of incarceration at a CCC. Probation Plus offenders remain under the authority of the court and return to probation once they have completed their confinement.

- Drug Court Short-Term Treatment** - Offenders participating in a drug court program may be sanctioned by their judge to 30, 60, or 90 days of intensive drug treatment at a CCC. Drug court offenders remain under the authority of the court and return to drug court supervision once they have completed their confinement. Staff assist inmates with employment when feasible.
- Drug court offenders may also be sanctioned by their Judge to incarceration at a CCC for up to 365 days.
 - Northwest Arkansas Community Correction Center, the female center in Fayetteville, is a model for jails and prisons.
 - The Foundation for the Mid-South has an online re-entry guide for Arkansas that can be found here: <http://www.arreentryguide.com/>.

Intercept 5 Community Corrections



Intercept 5 Resources

- Parole/probation officers manage the offenders under supervision in the community. Each offender is assigned a supervising parole/probation officer and office location for reporting. ACC uses a comprehensive statewide case management system to assist in the supervision of offenders. Offenders are offered a wide variety of programming options to help decrease the likelihood of recidivating. Certified substance abuse program counselors provide treatment to offenders dealing with alcohol, drug, and tobacco use addiction. Offenders may also be referred by parole/probation officers to programs such as financial education, employment skills, anger management, life skills, and general education.
- Parole is early release from state prison to community supervision. The parolee must follow strict conditions of release, which are set by the Parole Board and include reporting to a parole officer. A revocation hearing judge determines if a parolee violates their conditions of supervision and if re-incarceration in prison or a community correction center is appropriate.
- Probation is a court-ordered alternative to prison where the offender remains in the community and is subject to conditions of behavior. The offender must report regularly to a probation officer. Violation of probation terms and conditions may result in revocation of probation, by the sentencing judge, where the offender may be sent to prison or a community correction center or have other sanctions imposed.

Intercept 5: Other Information

- The Public Safety Improvement Act-Act 570-was passed in 2011 to implement comprehensive measures designed to reduce recidivism, hold offenders accountable, and contain correction costs.
- A requirement of Act 570 was the development of administrative sanctions. DCC developed the Arkansas Interventions Accountability Matrix (ArAIM).
- The sentencing judge, prosecutor, or parole board is involved in the administrative response procedure. The probationer/parolee is not entitled to an administrative hearing on the fact of the violation and the appropriateness of the administrative sanction. Written notification of the alleged violation is not required. If the probationer/parolee does not admit the violation subject to an administrative sanction, the matter does not necessarily proceed to a revocation hearing.
- There's concern that the sanction program has shifted prison time to jail time, as jail sanctions can be as long as 570 days.

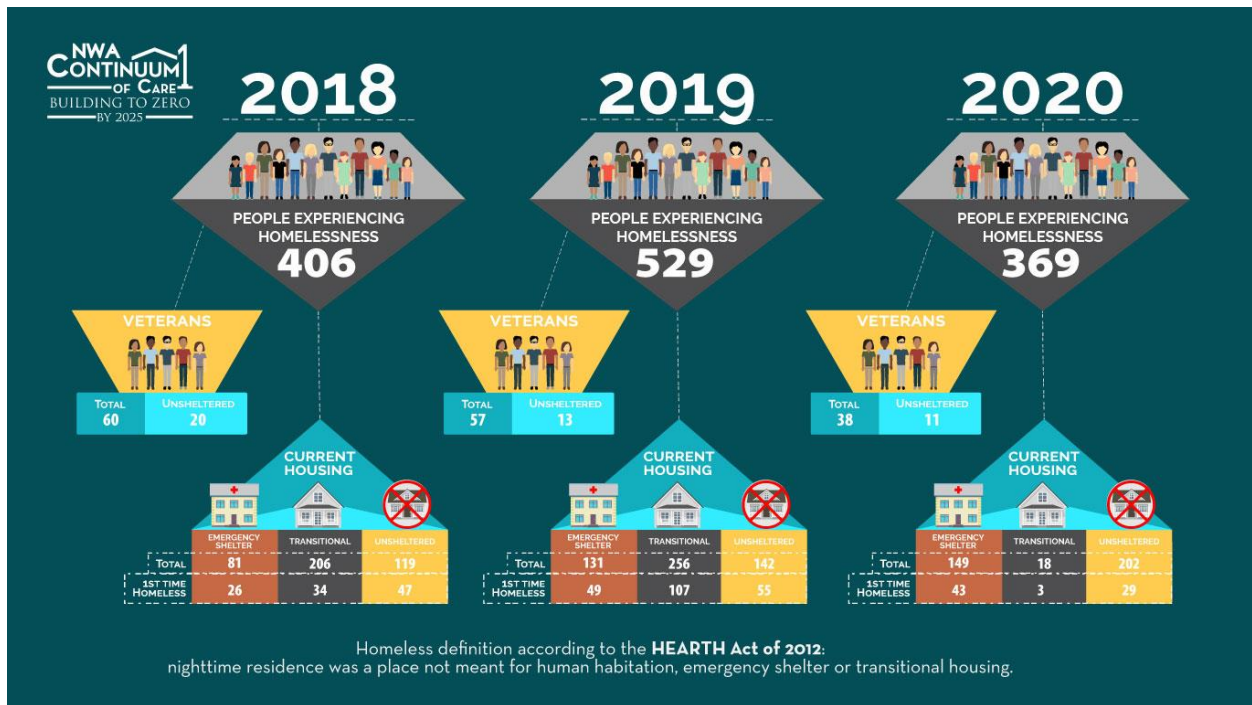
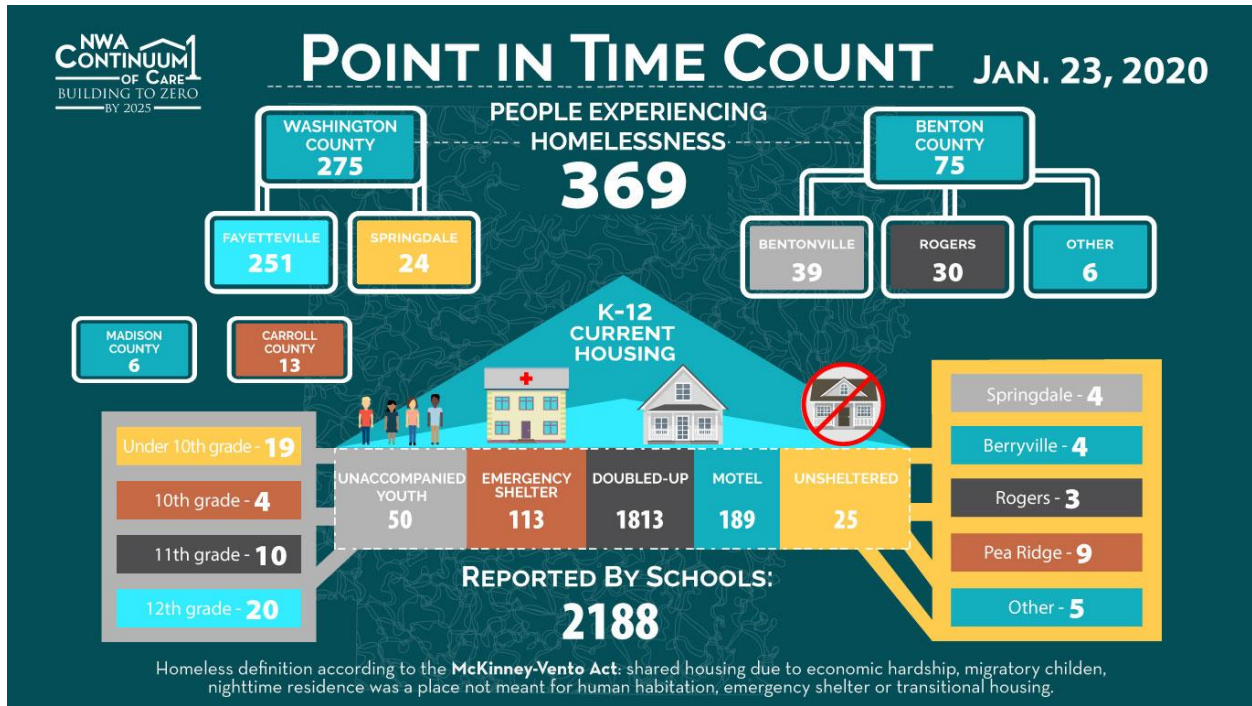
- The Criminal Justice Efficiency and Safety Act of 2017-Act 423-made changes in what is done with parole/probation violators and ensured that probationers were eligible for administrative sanctions.
- Bail for probation revocation in Washington County:
 - \$2500 bond for a probation revocation;
 - \$50,00-100, 000 if there is an FTA, 2weeks to30 days before hearing
 - \$175,000 if there is an FTA for drug court.
- There are currently about 6500 active offenders in on probation/parole, 10,000 if you include those offenders that are currently incarcerated.
 - For that number there are 62 officers, 11 counselors, 6 supervisors and 8 administrators.
 - Caseloads for probation are 130 per officer, 100-110 for parole, and 30-40 for drug court.
- Several local police departments are operating community service programs for offenders to work off fines.

Additional Resources

- Arkansas Chiefs Association
- Sheriff's Breakfast (includes all law enforcement and community treatment providers): This is potentially in response to the jail auditor suggesting a criminal justice coordinating council.
- Local Chiefs Meeting: "a lot of discussion, but no action."
- JEMI – Judicial Equality for Mental Illness

Appendix E: Homelessness PIT Count

The Northwest Arkansas Continuum of Care coordinates an annual point in time (PIT) count of homeless individuals in NWA. These graphics were developed by the CoC.



Appendix F: Additional Resources

Arkansas Sentencing Commission: <https://www.arsentencing.com/faqs>

Arkansas District Court Benchbook:

<https://www.arcourts.gov/sites/default/files/DistrictCourtBenchbookRev2017.pdf>

Arkansas Circuit Court Benchbook: <https://www.arcourts.gov/sites/default/files/Civil-Criminal-bench-book-2019.pdf>

Arkansas Circuit Clerks Procedures Manual:

https://www.arcourties.org/site/assets/files/4878/circuit_clerks.pdf

Arkansas Sheriffs Procedures Manual:

https://www.arcourties.org/site/assets/files/4815/county_sheriffs.pdf

Arkansas Justice of the Peace Procedures Manual:

<https://www.arcourties.org/site/assets/files/4894/jps.pdf>

Arkansas County Judges Procedures Manual:

https://www.arcourties.org/site/assets/files/4814/county_judges.pdf