

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/a-toolkit-for-jail-decarceration-in-your-community>

Policy Issue Resources

In recent years, there has been growing consensus that jail incarceration is harmful and unnecessary because it causes damage to peoples stability and health and does not meaningfully reduce crime and violence. In fact, research shows that pretrial detention in jail can increase a persons likelihood of harsher prison sentences and future system involvement. See generally Christopher M. Campbell, Ryan M. Labrecque, Michael Weinerman et al., Gauging Detention Dosage: Assessing the Impact of Pretrial Detention on Sentencing Outcomes Using Propensity Score Modeling, *Journal of Criminal Justice* 70 (2020), Article 101719; Lon Digard and Elizabeth Swavola, *Justice Denied: The Harmful and Lasting Effects of Pretrial Detention* (New York: Vera Institute of Justice, 2019), <https://perma.cc/47NM-9ENL>; and Paul Heaton, Sandra Mayson, and Megan Stevenson, The Downstream Consequences of Misdemeanor Pretrial Detention, *Stanford Law Review* 69 (2017), 711-794, <https://perma.cc/824L-RG6M>. Calls for new approaches to community safety and justice have risen from a broad range of voices, including from people directly impacted by the criminal legal system, community organizers, lawyers, government leaders, journalists, and more. Places that have heeded demands for change are beginning to see significant reductions in jail populations, showing that decarceration at the local level is possible when criminal legal system stakeholders make different choices.

The impact of jail decarceration efforts can be seen in the national data: After nearly four decades of dramatic jail population growth, the total U.S. jail population gradually dropped from a high of 785,533 in 2008 to 758,420 in 2019. Jacob Kang-Brown, Oliver Hinds, Eital Schattner-Elmaleh, and James Wallace-Lee, *People in Jail 2019* (New York: Vera Institute of Justice, 2019), <https://perma.cc/7HB9-Y8UC>. This is a positive shift, but jail incarceration still affects many people: in 2018, there were more than 10.7 million bookings into local jails in the United States. Zhen Zeng, *Jail Inmates in 2018* (Washington, DC: Bureau of Justice Statistics, 2020), 1-2, <https://perma.cc/TY3R-SEMF>.

But within this national trend are two opposing trends: As urban jail populations *declined*, many smaller cities and rural places have *expanded* their carceral footprint. Jacob Kang-Brown and Ram Subramanian, *Out of Sight: The Growth of Jails in Rural America* (New York: Vera Institute of Justice, June 2017), 12, <https://perma.cc/5QZQ-UWDN>. Put differently, the progress that big cities have made in *decreasing* their jail populations has been almost fully offset by the jail population *increase* in other communities. (Although many jails decreased their populations during the COVID-19 pandemic in the first part of 2020, the numbers began to rise again in late 2020. On 2020 trends, see Jacob Kang-Brown, Chase Montagnet, and Jasmine Heiss, *People in Jail and Prison in 2020* (New York: Vera Institute of Justice, 2021), <https://perma.cc/8L5F-Z4T5>.) This means that national jail incarceration numbers remain stubbornly steady, despite some places reform efforts.

Why is jail decarceration playing out so differently in different places?

Because the U.S. criminal legal system is a combination of thousands of city and county systems that operate differently, appetite and willingness for change can vary widely from place to place, even among places bound by the same state laws. It also means that for widespread change to occur, many different local systems must individually enact new policies and practices.

Moreover, because no one stakeholder has absolute control over every facet of the local criminal legal system, the independent decisions of many different agencies and people all collectively contribute to who in the community ends up in jail. John Wooldredge, James Frank, Natalie Goulette, and Lawrence Travis III, Is the Impact of Cumulative Disadvantage on Sentencing Greater for Black Defendants? *Criminology & Public Policy* 14, no. 2 (2015), 187-223. As a result, it can be difficult to hold any one system stakeholder accountable when the jail population grows. Additionally, it can be difficult to determine the exact policies that are contributing most to a communitys jail growth and where the most impactful changes could be made.

However, the decentralized nature of local criminal legal systems also means that local criminal legal system stakeholders can individually choose to make decisions that contribute to transformative change within their communities, without necessarily waiting for broad consensus or formal legislative change. And because each local system is just one of thousands, there are many examples of jail decarceration work from which to learn.

Most importantly, many different people in different roles throughout the community can play an important part in working toward decarceration, no matter how small or large the jurisdiction. This toolkit defines those roles and highlights steps that anyone in a community no matter what their role can take to better understand their local system and help drive change. Not only can your efforts make your community a safer and more just place, but when combined with the work of other communities across the United States, they will also have a decisive impact on national efforts to end mass incarceration.

No matter what your role in your local criminal legal system is, its important to understand the factors that impact the use of jail and the system in your community with geographic and historical context. Meaningful change is often the result of thoughtful and unified efforts from people who are not afraid to ask difficult questions. Powerful and informed jail decarceration work requires centering racial justice and gender equity, understanding your communitys local history, and amplifying the voices of local experts and impacted communities. Below, you will find additional resources to help you understand the problems surrounding jail incarceration as you aim to bring about

change within your community.

A complete analysis of a local criminal legal system requires prioritizing racial justice and gender equity, both of which are essential to unraveling the full impact of criminalization, incarceration, and community supervision (probation and parole) on communities. Longstanding, systemic underfunding of care and services in low-income communities of color coupled with higher rates of policing and criminalization has resulted in racial and ethnic disparities at every stage of the criminal legal system, leaving people of color disproportionately incarcerated in local jails and harmed by the accompanying negative downstream consequences, such as increased barriers to securing stable employment, housing, and health care. Digard and Swavola, *Justice Denied*, 2019; Megan C. Kurlychek and Brian D. Johnson, Cumulative Disadvantage in the American Criminal Justice System, *Annual Review of Criminology* 2, no. 1 (2019), 291-319; and John Wooldredge, James Frank et al., Is the Impact of Cumulative Disadvantage on Sentencing Greater for Black Defendants?, *Criminology & Public Policy* 14, no. 2 (2015), 187-223. Gender disparities also permeate the system: women detained in local jails are the fastest-growing group of people in confinement and tend to enter jail due to low-level charges related to coping with poverty. Elizabeth Swavola, Kristine Riley, and Ram Subramanian, *Overlooked: Women and Jails in an Era of Reform* (New York: Vera Institute of Justice, 2016), <https://perma.cc/3JWF-VQ7V>.

Tools:

Successful movements for justice have often been led by people who are directly impacted by a systemic injustice. If you do not have firsthand experience with incarceration, you should prioritize offering space and involvement in your efforts to people who do. People impacted by the criminal legal system deeply understand the problems inherent in it and have solutions for dealing with harm in healthier ways. To make tangible lasting change, their perspectives must be central to the reform process.

Tools:

Understanding local history will inform the larger story of jail and justice in your community. Although acknowledging past harms may result in uncomfortable conversations, this discomfort is critical to examining the truths within your community and creating a path forward. Whether your community is deciding whether or not to build a new jail, or whom to elect to certain positions of power, better understanding your community's past can help you to move toward a healthier and more equitable future.

Tools:

Understanding and centering needs specific to your community is critical to create tailored and effective policy solutions. Not only is it important to understand how local issues such as poverty, transportation scarcity, and lack of access to services present themselves, it is also important to know your community's strengths. There are almost always local resources that can help address community problems; knowing what those are and how to elevate and strengthen those resources can provide a useful place to start.

Tools:

With all of this in mind, determine the questions you would like to answer about your local jail and criminal legal system. Given the decentralized nature of the system, it can be surprising how little any given person, no matter their position in the community, knows about who typically is in jail. Asking questions like these can help determine where gaps in knowledge exist and pave the way toward determining better next steps.

For example: Who is in the jail? On what charges were they booked into jail? How long have they been in jail? How much does the county spend on jail incarceration? What can be done differently? Will the proposed changes actually reduce the reach of incarceration and supervision in the community?

Although every jurisdiction is different and your decarceration strategies will vary based on your role and resources, the following steps can help guide you along the path to decarceration in your community.

There is no one person in the community who makes all the decisions relating to the local criminal legal system. Instead, the decisions of law enforcement, prosecutors, judges, probation officers, county councils, and jail administrators all add up to determine which community members are incarcerated. But the power to enact change doesn't start or end with the government actors who have formal purview over certain operations. Everyone in the community should understand what unique power they wield to advocate for decarceration and determine how to use their position to best achieve change.

Due to the fragmented nature of local criminal legal systems, decarceration efforts will be most effective when people from multiple parts of the system and community are working together for change. Although the process for establishing collaborations and partnerships will vary based on your specific goal, your own role in the community, and the politics of your jurisdiction, taking one or more of the following steps will give others the opportunity to engage with your work.

To build a common understanding of a problem, its causes, and the potential impacts of various options for change, data is essential. Most local criminal legal system data at the county level is held by public institutions that have a duty to make that data transparent and accessible to local stakeholders (with appropriate protections for confidentiality).

Becoming familiar with available data and options for using it to answer different questions about local justice systems is not just the domain of professional researchers, data analysts, or people working inside government. Although some of the detailed steps in data analysis might be beyond the skillset of many people, everyone can understand what the data shows about local trends. Information alone does not usually change policies, laws, or practices, but it is a crucial component to bolster arguments about the current problem and proposed solutions.

Typically, administrative (official) data from local criminal legal system agencies is central to an analysis of jail populations. The primary focus is on jail data, but data from other government and non-government agencies can also be relevant. The goal of this section is to walk through how to think about the questions you want to answer, what data might help you answer those questions, and the

possibilities and limitations of different types of data. Vera's [Technical Guide to Jail Population Data](#) is an in-depth resource with suggestions for ways to access jail data and an explanation of the categories and types of data in a typical jail data system and what they mean in plain language. The *Technical Guide* also provides information on how to do some basic organizing and analyzing of standard jail data and how to use the findings. Some findings are helpful to understand the current jail population and the top contributing factors to it, while others are helpful to think through the likely effects of specific policy alternatives that may be proposed as solutions.

Depending on the type and scope of data you are able to collect, you should be able to determine the primary reasons that people end up in your local jail. These are the drivers of your local jail population. Your analyses will allow you to demonstrate which drivers are contributing most to jail population numbers, as well as which drivers have less of an effect. Understanding your local jails principal population drivers can help you to concentrate your efforts on policy changes that will have the greatest impact and can inform your arguments to other system actors or community advocates. Every jurisdiction will face unique issues, but below are some of the common trends in local jail populations that Vera researchers have observed in localities of various sizes across the country.

Once you have a sense of the primary drivers of your local jail population, you will be able to more clearly assess where policy changes will have the most impact on decarceration. Use your conclusions from data to form your local policy priorities by tailoring evidence-based reforms to your own community needs. The following policy solutions are not exhaustive, but they will provide you with a sense of your options and help you determine your next steps.

You are part of a broader movement

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As this toolkit illustrates, many individuals, organizations, and government agencies are advocating for jail decarceration in cities and counties across the United States. Although the details of every local community are unique, many of the tools, obstacles, and possible solutions are more similar than you might think. No matter your specific role in the community, you have the power to push for change that will make a powerful difference—even small efforts will create momentum, and that momentum will push toward transformative change that will leave your community safer, healthier, and more equitable for all.

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Read the Technical Guide to Jail Data Analysis [here](#).

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