

A nighttime photograph of a city skyline. In the foreground on the left, a large, illuminated sculpture with a white metal frame and a grid of glowing purple and blue panels is visible. The background shows a city skyline with several skyscrapers, including a prominent one with a blue-tinted top. The sky is a deep blue.

GREATER OKLAHOMA CITY CHAMBER CRIMINAL JUSTICE REFORM TASK FORCE

REPORT and RECOMMENDATIONS

December 14, 2016

The Oklahoma County Criminal Justice Reform Task Force (“Task Force”) was convened by the Greater Oklahoma City Chamber of Commerce in response to a crisis of jail overcrowding conditions at the Oklahoma County Jail and an ongoing investigation by the U.S. Department of Justice.

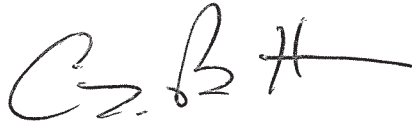
Chaired by Clay Bennett, the Task Force included members of the business community, Oklahoma City and County officials, state officials, and law enforcement stakeholders. The purpose of the Task Force is to collaborate on a civic improvement urgently needed in Oklahoma County: a local justice system that reflects our values of fairness, compassion and good governance; a system of pretrial detention that effectively prioritizes public safety through data-informed and evidence-based practices; and a jail that is a safe and humane place for both staff and inmates.

Our mission is to independently assess our community’s criminal justice system by analyzing the processes that lead to jail population, understanding how the decisions are made, identifying the costs associated with these decisions, recommending priorities to responsibly reduce jail population, and outlining long-term sustainability options. To effectively conduct this assessment, the task force received policy and research analysis from the Vera Institute of Justice (“Vera”), a renowned independent nonprofit national research and policy organization.

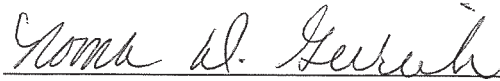
The current situation does not befit our vision for a great city. The jail is our county’s most restrictive and most expensive public safety resource and we think it is imperative that we examine whether we are using that resource wisely and justly. We believe that jail is not a humane or effective response to pressing public health issues such as mental illness and substance abuse. When citizens suffering from mental illness or substance abuse do end up in jail, there are not enough treatment resources to reach all in need; and that by overusing our jail, particularly for this population, we divert resources away from people who could be safely and compassionately managed in our communities. Public safety is an utmost priority.

The attached report contains Vera’s recommendations for establishing stewardship over the system; keeping people who are not a public safety threat out of jail; improving processes for determining who can be safely released to the community while awaiting trial; hastening the time to process a case a case in court; and reducing unnecessary jail admissions due to criminal justice debt.

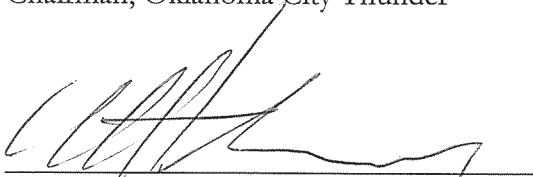
The task force intends to lead our community’s implementation of these proposed strategies and we believe they represent the beginning of a new era in Oklahoma County’s criminal justice system -- one that reflects our values of justice, fairness, equity, good governance and civic pride.



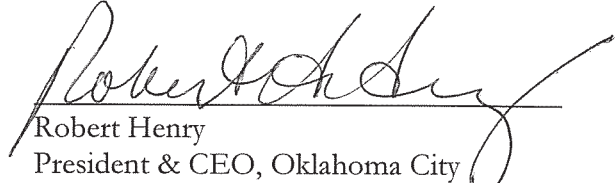
Clayton I. Bennett
Chairman, Oklahoma City Thunder



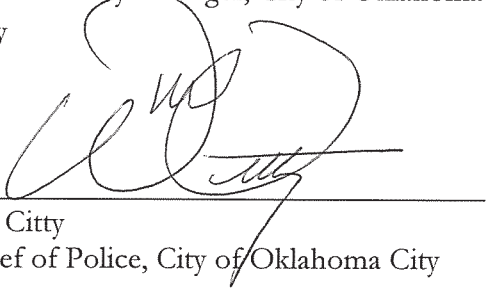
Justice Noma Gurich
Supreme Court Justice



M.T. Berry
Assistant City Manager, City of Oklahoma City



Robert Henry
President & CEO, Oklahoma City University




Bill Citty
Chief of Police, City of Oklahoma City



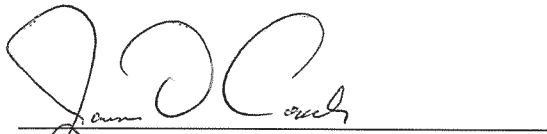
Timothy R. Henderson
Presiding District Judge
Oklahoma & Canadian Counties



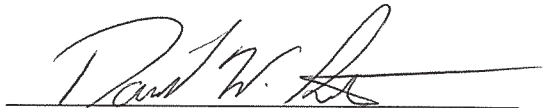
Mayor Mick Cornett
Mayor – City of Oklahoma City



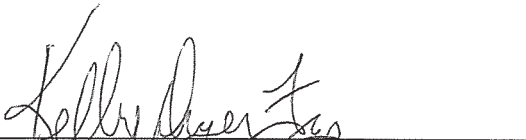
Larry Nichols
Executive Chairman, Devon Energy Corporation



James D. Couch
City Manager – City of Oklahoma City



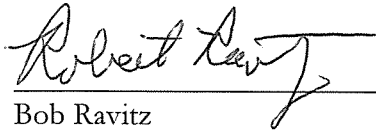
David Prater
District Attorney, Oklahoma County



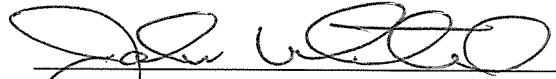
Kelly Dyer Fry
Editor & Vice President of News & Information Center,



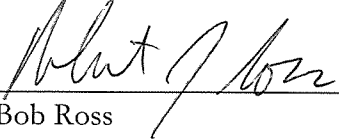
David Rainbolt
President/CEO, BancFirst Corporation



Bob Ravitz
Public Defender of Oklahoma County



John Whetsel
Sheriff, Oklahoma County




Bob Ross
Inasmuch Foundation, President & CEO



Terri White, M.S.W.
Commissioner, Oklahoma Department of
Mental Health & Substance Abuse
Services



Kris Steele
Executive Director, TEEM



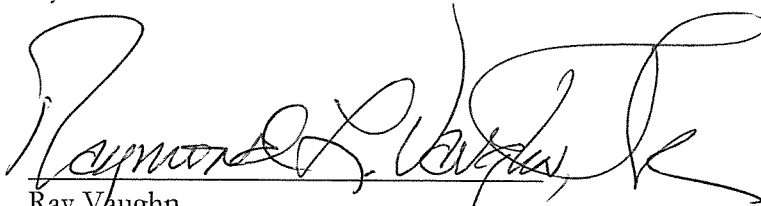
Roy Williams
President/CEO – Greater Oklahoma City
Chamber



Larry Stevens
City Manager, City of Edmond



Tony J. Tyler
Tyler Media



Ray Vaughn
County Commissioner, Oklahoma County



Rick Warren
Court Clerk, Oklahoma County

December 2016

Report to the Greater Oklahoma City Chamber Criminal Justice Task Force

*Nancy Fishman, Kaitlin Kall, Rebecca Silber, Jessi LaChance, Hanna Dershowitz, and
Stephen Roberts*

Acknowledgements

The authors would like to thank all of our essential partners in Oklahoma City and County. Tremendous thanks to the Task Force members who provided their insight, posed thoughtful questions, and helped to generate these strategies for reform. Special appreciation goes to Chairman Clay Bennett, who provided outstanding leadership to the Task Force. Additionally, we thank the Greater Oklahoma City Chamber of Commerce – namely Roy Williams, Cynthia Reid, and Micki Lara – for their excellent partnership and for bringing attention to these significant local criminal justice issues.

Vera also thanks Jari Askins and her staff at the Administrative Office of Courts, Judge Don Easter, Catherine Burton, Grant Billingsley, and Dr. David Wright for their generous assistance in shaping our understanding of the local justice system. Judge Phillipa James and LaShawn Thompson of the Oklahoma City Municipal Court and Cindy Richard, Deputy Municipal Counselor, lent their expertise in the city's court and police department. Thank you to Captain Ernest Bradley, Gary Kinney, Scott Ozment, Rachel Kraft, and Terri Street of the Oklahoma County Sheriff's Office for their assistance in obtaining and analyzing jail data, and to Major Patrick Stewart and Captain Robert Cornelson of the Oklahoma City Police Department for their help obtaining and interpreting police data.

Vera Institute of Justice staff who provided assistance with data analysis were Christian Henrichson, Dr. Leon Digard, and Navena Chaitoo. Alex Roth, we appreciate your thorough legal research, particularly around local and state fines and fees. Thank you to Vera Communications staff – Ram Subramanian, Mary Crowley, Erika Turner, and Karina Schroeder – for their thoughtful edits and feedback; to Gloria Mendoza for report design and layout; and to Alex Lesman for his assistance with citations.

© 2016 Vera Institute of Justice. All rights reserved.

Additional copies can be obtained from the communications department of the Vera Institute of Justice, 233 Broadway, 12th floor, New York, New York, 10279,

(212) 334-1300. An electronic version of this report is available for download on Vera's web site, www.vera.org.

Requests for additional information about the research described in this report should be directed to Nancy Fishman at the above address or to contactvera@vera.org.

Contents

Acknowledgements.....	2
Introduction.....	5
Executive summary of recommendations.....	8
Administrative data analysis: Oklahoma County's criminal justice system.....	10
Data limitations	10
Key findings.....	12
Recommendations.....	24
1. Create oversight and accountability mechanisms for the local justice system.....	24
Key findings and challenges.....	24
Responsive strategies	25
2. Reduce jail admissions for municipal violations and low level misdemeanors.....	29
Key findings and challenges.....	29
Responsive strategies	30
3. Create a fair and efficient pretrial release process that safely reduces unnecessary pretrial incarceration.....	35
Key findings and challenges.....	35
Responsive strategies	38
4. Identify and address district court case processing delays that increase jail admissions and length of stay	43
Key findings and challenges.....	43
Responsive strategies	47
5. Expand meaningful diversion program options, focusing on those with mental illness and substance use disorders	49
Key findings and challenges.....	49
Responsive strategies	51
6. Reduce the impact of justice system fines and fees as a driver of jail growth and recidivism.....	55

Key findings and challenges.....	55
Responsive strategies	57
Legislative agenda	58
Recommendations.....	59
Understanding the potential impact of these jail population reduction strategies.....	62
Appendix A: key data indicators	66
Appendix B: additional information and resources for establishing a criminal justice coordinating committee.....	74
Appendix C: Oklahoma county criminal justice system map.....	77
Appendix D: Oklahoma county criminal justice fines and fees system map	87

Introduction

Jails in the United States have experienced dramatic growth over the past 30 years. Between 1983 and 2013, annual jail admissions nearly doubled, from 6 million to 11.7 million.¹ There are more than 3,000 jails in the United States, holding 731,000 people on any given day. While bi-partisan national attention has focused on the cost of growing state prisons, and the need to reduce prison populations, many more people pass through *local* correctional facilities. The growing cost of those facilities, and the responsibility of managing them, falls to county and local governments.

Oklahoma County has followed national trends in explosive jail growth. Since 1983, the county jail population in Oklahoma County has grown from 495 people to 2,581, a more than fivefold increase.² The incarceration rate, the number of people incarcerated in the jail per 100,000 in the population, has nearly tripled, from 119 to 432.³ Oklahoma County has the highest jail incarceration rate of the five large counties in the state, and the highest jail incarceration rate of any county of similar size in Oklahoma or the states that surround it.

In 1991, when the jail population was 754 people and the incarceration rate was 190, the county opened a new, larger jail facility. Its design and functioning have been widely criticized almost from the day it opened. Conditions and overcrowding at the jail have now reached crisis proportions. Originally built to house up to 1,200 people, the jail now averages more than twice that many. In 2016, there have been 11 deaths in custody—five by suicide, others due to medical conditions—more than 2014 and 2015 combined.⁴ In 2003, the Department of Justice (DOJ) initiated an investigation of unlawful conditions at the jail. On July 31, 2008, the DOJ issued its findings. It identified four areas in which the jail's insufficiencies amounted to a violation of the constitutional rights of the people incarcerated there: failure to provide 1) reasonable protection from harm; 2) constitutionally-required mental health care services; 3) adequate housing, sanitation, and environmental protections; and 4) protection from serious fire-safety risks. The county and the DOJ entered into a memorandum of understanding (MOU) in 2009 citing 60 issues for repair by 2014. The county completed 56 of them as of the 2014 deadline and has received an extension on the remaining four.

In 2015, with concerns about the jail mounting and new discussions starting about whether to replace it, at significant cost to the county, the Greater Oklahoma City Chamber of Commerce (“the Chamber”) convened the Greater Oklahoma City Chamber Criminal Justice Task Force (“the Task Force”). There have been a number of initiatives in the past to address the question of what should be done about the jail. None, however, questioned why the jail was overcrowded, how it was used, and whether that use actually served the county's public safety needs effectively. But this Task Force, under the leadership of the Chamber and Chairman Clay Bennett, has successfully engaged state-, county- and city-level policymakers, criminal justice stakeholders, the judiciary, state agencies, and the local business

community to take on those questions. Rather than just consider whether to build a new jail and how big a new jail should be, the Task Force set out to study the factors influencing the size and characteristics of the county's jail population in order to learn the sources of the population pressures the jail has been experiencing and the steps that could be taken to reduce them.

In February 2016, the Task Force contracted with the Vera Institute of Justice (Vera) to assist and guide this analysis. Vera is an independent nonprofit organization that has worked over the last five decades to transform justice systems through research, policy, practice, and public engagement. Vera has worked all over the United States to help counties and local justice systems achieve their jail reduction goals.

Vera reviewed policies and practices, interviewed key stakeholders in Oklahoma City and at the county level, and worked with them to create a detailed map of the criminal justice system to understand people's pathways through it to the jail. In addition, Vera researchers analyzed administrative data from Oklahoma County and the Oklahoma City Police Department to shed light on the drivers of the jail population. Through these analyses, researchers aimed to develop a shared understanding of the local justice system among members of the Task Force, as a starting point for consideration and investigation of potential reform measures. Despite many limitations to the available data, the Task Force held robust discussions about how the justice system should function and what types of changes could be made.

This report presents the findings and recommendations from Vera's assessment, and offers guidance on how the county can safely reduce its jail population and create a more just and effective local justice system. There are four key points that Vera hopes any reader of this report will take away.

First, if nothing is done to address the systemic drivers of jail overcrowding described in this report, any new facility, regardless of its size, will experience the same problems as the current facility. The challenges that the Oklahoma County jail faces are the result of system failures, not just deficiencies in the physical plant. To be sure, there are critical humanitarian concerns with the current facility, but jail overcrowding is not a problem that the county can simply build its way out of. Rather, the county needs systemic reforms that address the root causes of the overcrowding. The strategies discussed in this report are aimed at addressing these systemic problems.

Second, change is possible. Decision makers on the ground in Oklahoma County control many of the levers that determine who ends up in jail and they can, collaboratively, make a different set of decisions and achieve a different result. Jurisdictions around the country have deliberately sought to reduce their jail populations by changing how their jails are used, with the goal of increasing fairness and making smarter use of limited public safety dollars. None have seen a growth in crime or disorder as a result. Examples are provided throughout this report.

Third, no change will happen without dedicated and meaningful collaboration and engagement by leaders and staff across the agencies that make up the criminal justice system and with the public. The size of a jail (or any correctional facility for that matter) is governed by two factors: who comes into the jail (referred to as “admissions”) and how long they stay (referred to as “length of stay”). No one person or agency is solely responsible for the policies and practices that drive those two factors: law enforcement, prosecutors, judges, county and municipal executives, and other stakeholders all play a role. To successfully reduce the overuse of the jail, the county must take a multi-pronged, cross-agency approach to reform. The ultimate goal of this process should be to develop a shared vision and create a thoughtful, coordinated system. This collaboration has to be institutionalized or any reforms will not be sustainable. Moreover, the effort must extend to the residents of Oklahoma County. Lasting change necessitates public engagement. Having the public’s support and understanding is critical to ensuring that reforms outlast political changes and challenges.

Finally, thinking wisely and efficiently about how and for whom the county uses the jail is not only a matter for the bottom line. Eighty percent of people in the jail are being held pretrial. And pretrial detention—being put in jail even if one has not (yet) been convicted of a crime and is awaiting disposition (through trial or a guilty plea)—should not be the default option for people awaiting trial; it should be used only as necessary to prevent flight or address a serious risk to public safety. The conservative use of pretrial detention reflects essential constitutional and equitable principles of due process and liberty. Furthermore, pretrial detention has adverse public safety effects. Research has found that detaining defendants who have been assessed as low-risk of flight or low-risk for committing a serious offense for a day or longer while awaiting trial is associated with higher recidivism rates two years after disposition, in addition to longer terms of incarceration.⁵ Just a day or two in jail can result in a lost job, disruption of childcare, schooling, and pro-social connections, and can worsen already fragile finances and economic stability. Unnecessary pretrial detention exacts human and moral costs, making the work of this Task Force even more urgent.

In the report that follows, we first present what Vera learned by analyzing administrative data. We then divide up our findings and responsive strategies into six categories: 1) improving governance, oversight, and accountability; 2) reducing admissions for municipal violations and low-level offenses; 3) creating a fair and efficient pretrial release process; 4) identifying and addressing case processing delays; 5) expanding diversion programming, particularly for those with mental health and substance abuse treatment needs; and 6) reducing jail admissions related to criminal justice debt. We subsequently provide recommendations for legislative changes that will support the recommendations in this report.

Finally, we estimate some of the jail population reduction that could be achieved if reforms are implemented.

Executive summary of recommendations

After collaborating with the Greater Oklahoma City Chamber Criminal Justice Task Force and the Chamber of Commerce, reviewing policies and practices that shape the local criminal justice system and analyzing available administrative data, Vera has identified six major areas for reform in the Oklahoma County justice system. These will not come as a surprise for those who work in the system or are familiar with it. While there are major constraints imposed by state law, tight budgets, and a subsequent lack of resources, Vera and the Task Force have developed strategies the county can implement locally, which will reduce the jail population and produce a more equitable justice system. Some can be enacted right away, some will take more planning, further research, and an investment of resources. These are not the only things to be done, but they provide a place to start.

The six areas for reform are summarized below:

1. **Provide governance and oversight of the local justice system.** The ever-increasing jail population has been enabled by the lack of oversight of local policies and practices. The independent actors within the local justice system who make these decisions do not share an understanding of how the jail, the most restrictive and most costly criminal justice resource in the county, should be used. There is no coordination or collaboration across the system, and no one is regularly collecting and reviewing the data that would tell them how that system is working. Section 1, on p. 25, contains recommendations for governance and data-driven decision making, beginning with the creation of a permanent, staffed oversight and policy advisory body that can spearhead and sustain reforms.
2. **Keep people charged with lower level offenses out of the jail entirely.** Vera estimates that 80 percent of people coming into the jail are pretrial; they are not being punished for an offense, they have not been found guilty. One-quarter of all jail admissions are for the lowest-level offenses: municipal and traffic violations—public drunkenness, not having a driver’s license at the time of a traffic stop, failing to pay a municipal fine or fee, etc.—from Oklahoma City. Section 2 provides strategies designed to reduce jail admissions for these types of offenses. Even though people booked into the jail on these charges do not stay long, they account for much of the volume in the booking area of the jail, taking up staff time and space and slowing other operations.

3. **Create an effective, evidence-based process for deciding who stays in jail while their case proceeds and who goes home, so that the jail is not filled solely by those who cannot afford cash bail.** Currently, who stays in the jail pretrial is determined by a bail schedule, which sets bail amounts cumulatively by charge, without any individualized consideration of circumstances. People who can't find the money to pay stay in; well-off people get out. Currently, the county does not consider the likelihood that someone will appear in court or if that person is an actual public-safety risk. As a result, no one in the county justice system can say whether the people are there for legitimate legal or safety reasons. Section 3 contains short-term strategies for improving current decision making and longer-term options for creating a system that reflects national best practices.
4. **Improve the processes that move cases through the court system.** While almost half of those who come into the jail get out within three days by paying bail or getting released on a municipal charge, those who do not will linger in the jail as their cases proceed through the court system. Delays and systemic inefficiencies make this process protracted, increasing the length of time defendants linger in jail. Section 4 includes recommendations on how defendants can be charged more quickly, shortening the amount of time it takes to dispose of cases, and reducing failure to appear warrants, which bring people back into the jail and the court system.
5. **Create alternatives to jail for people with mental illness and/or substance use disorders.** The data suggest that the jail in Oklahoma County, as in many places, has a high prevalence of people with mental illness. In addition, the most common state misdemeanor and felony charges for jail inmates were drug and/or alcohol-related, suggesting high rates of addiction. Oklahoma County does not have the resources and effective justice system pathways to get people out of jail and into treatment so that they don't keep coming back. Section 5 includes recommendations for how to place defendants into specialty courts more quickly, focusing resources on high-utilizers—a small but costly subset of people who cycle in and out of jails and hospitals, and expanding options for diverting people with special needs out of the jail and into community-based options.
6. **Stop putting people who don't have money in jail for not paying fines, fees, and court costs.** There are at least 103 fees and fines codified in state statute and 26 in the municipal code. Individuals can easily accumulate thousands, if not tens-of-thousands, of dollars' worth of criminal justice debt. Some will likely never be able to pay off these costs in their lifetimes and jail incarceration is an expensive and ineffective response to default on these debts. In Section 6, Vera

recommends strategies for reducing the arrests of people who have fallen behind on payments, improving indigency determinations, and reducing jail bookings for failure-to-pay warrants.

As noted above, the bulk of this report contains recommendations for strategies that can be implemented at the local level, but Vera has also suggested legislative priorities that would support the efforts of the county to run a better local justice system. Stakeholders should consider pursuing legislation that 1) improves pretrial practices across the state and 2) establishes mechanisms to better understand the role that fines, fees, and costs have in sustaining (or not sustaining) local criminal justice agencies and evaluate the costs to the government of attempting to collect outstanding debts.

Administrative data analysis: Oklahoma County's criminal justice system

Vera's analysis of Oklahoma County data focused on understanding the two components that drive jail populations: admissions and length of stay. With data provided by the Oklahoma County Sheriff's Office (OCSO), Vera analyzed all admissions during a one-year period ("2015 admissions cohort") and a "snapshot" of everyone in the jail on a single day (June 1, 2015). These two approaches shed light on how people are entering and exiting the jail as well as the makeup of the population on a given day.

Additionally, researchers reviewed data collected by the Oklahoma City Police Department (OCPD), which is responsible for about 60 percent of all bookings into the county jail. Although this data cannot shed light on the other 40 percent of jail admissions brought from other law enforcement agencies in the county, the OCPD data provides deeper insight into the charges of those admitted to jail which could not be captured in the County's jail data.

Data limitations

Data available for this assessment was severely limited because of current data collection practices and a lack of capacity in the county for data extraction and data sharing. This speaks to the critical need for the county to invest in a data system that will enable local officials to perform analyses and assessments of system performance. The recommendations on data and governance (page 26) pertain to this issue.

Although Vera was able to get some sense of the charges leading to admission into the jail, length of time spent in jail, and population demographics, there are many aspects of the criminal justice system in

Oklahoma County that impact jail population that Vera was unable to analyze. The major areas of limitation are detailed below.

First, it was difficult to get an accurate understanding of who was in the jail pretrial (awaiting disposition on a case) versus who was in the jail post-conviction (for a violation of supervision, unpaid fines, or serving a jail sentence). Vera approximates that at least 80 percent of jail inmates are in jail awaiting trial or plea or a hearing on some open matter, but this is a rough estimate based on who we know is *not* pretrial. The jail data do not allow us to distinguish between those who were admitted for a new charge and those admitted for a violation of probation while on a suspended or deferred sentence. It was also difficult to distinguish people held in the jail for multiple reasons, such as a new arrest in combination with a probation failure or a failure to appear on an old case. Jails in Oklahoma can also hold people who receive sentences of less than a year, usually for misdemeanors; the jail data records show no one in this category. It may be the case that no one serves a short sentence in Oklahoma (they either get a suspended or deferred sentence with probation or get a sentence of time served), but it is impossible to tell. This knowledge is crucial, particularly given the passage of State Question 780, which will convert certain felony offenses to misdemeanors; within current capacity, the county is unable to estimate the impact this will have on the jail population.

Second, as will be described at greater length in this report, Oklahoma County's pretrial system is dependent upon cash bail, but important data for analyzing bail-related outcomes were not available. While researchers were able to determine length of time between arrest and bail payment for in-custody defendants, data was not available on the amount of bond posted, nor was any information available regarding in-custody defendants who were *not* able to post bail pending their trials, including bail amount and length of stay.

Third, data on why people were released from jail—because they posted bond, served their sentence, were transferred to the Department of Corrections (DOC), or released on their own recognizance—was limited and sometimes contradictory. For instance, someone in the jail on three charges may have three different release reasons: one charge may have been dismissed, one may have resulted in time-served, and the third may have resulted in a transfer to the DOC. This made understanding what drove their length of stay difficult. Thus, Vera could not draw substantive conclusions from release type data.

Finally, case-level data from the district court system was not available from the Oklahoma Administrative Office of the Courts (AOC). This data set would have allowed Vera to better understand how cases get processed in the county, where delays occur, and how these delays impact admissions to the jail and length of stay. Vera reviewed a data report on the Oklahoma County District Court from the AOC, which shed some light on aggregate case processing times. However, these reports did not distinguish case processing times for people who were in jail versus people who were in the community pending trial. (See Section 4 for an overview.)

In spite of the data limitations, however, Vera was able to review some key data from the OCSO and the OCPD. The analyses from these data points, along with findings from Vera’s system analyses and policy review, underlie our recommendations. This section provides an overview of key data findings. Strategies for improving data collection in order to improve jail practices are included in Section 1 and in Appendix A.

Key findings

I. Who was detained in the jail in 2015?

Key findings from the Oklahoma County Sheriff’s Office 2015 admissions data include:

- **Almost 30,000 people entered the county jail in 2015.** There were 39,349 total bookings of 28,326 unique individuals, as some people were booked into the jail more than once in 2015.
- Figure 1 shows that the **majority of individuals were booked into the jail only once in 2015. But those who were booked more than once in 2015 (one-quarter of all individuals),** accounted for 45 percent of the bookings (17,824 bookings).

Figure 1.

Count of people and admissions into the jail

	People	Admissions
People with one booking	21,525 (76.0%)	21,525 (54.7%)
People with two bookings	4,497 (15.9%)	8,994 (22.9%)
People with three or more bookings	2,304 (8.1%)	8,830 (26.1%)
Total	28,326 (100%)	39,349 (100%)

- **Oklahoma County’s rate of female incarceration was high compared to the national average for a county of its size.**⁶ Twenty-seven percent (more than 10,000) of total admissions last year were women.
- For individuals booked into the jail, **the most common booking agency was the OCPD (59.5 percent), followed by the OCSO (21.4 percent).** (The booking agency is the law enforcement entity that brings an individual to the county jail.) Collectively, the smaller municipal police departments in the county were responsible for about 19 percent of jail bookings. This is in part just a function of their smaller size and also because some, like Edmond and Midwest City, have their own facilities for people who are charged with municipal violations. See Figure 2.

Figure 2.

Top five booking agencies in 2015
N=39,349 bookings

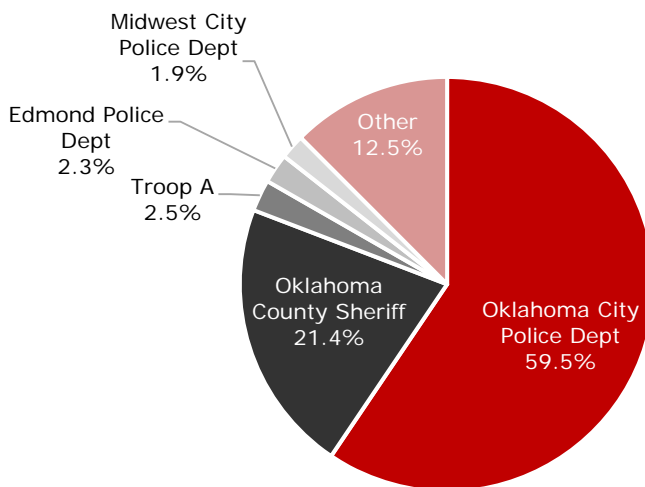
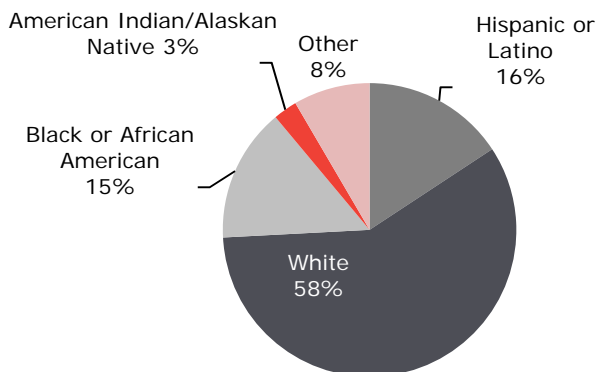


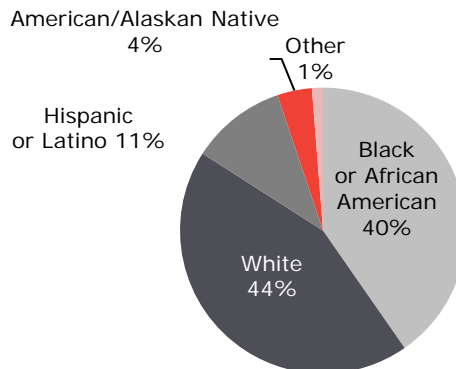
Figure 3.

Jail population by race vs. Oklahoma County population by race

OK County population by race



Jail population by race



II. What charges send people to jail in Oklahoma County?

This section contains three types of data. First, we provide data on what are called “arresting” charges in the OCSO data. An arresting charge is the reason a law enforcement agency cites for bringing an individual to the jail. While the person might have been originally charged with burglary, for example, the reason they were brought to the jail is a failure to pay a fine that was assessed as a result of a conviction for that charge, so failure to pay is the arresting charge. This data tells us how the jail is actually being used.

Arresting Charges in 2015

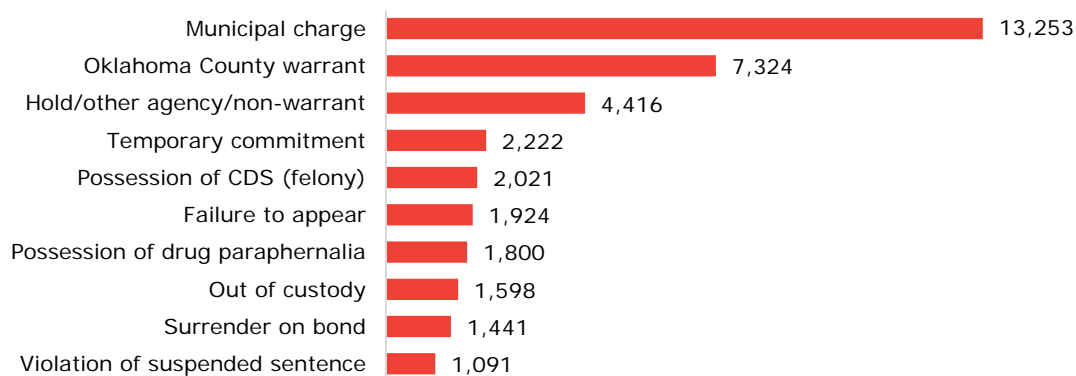
- **There were almost 60,000 arresting charges associated with the 39,349 jail admissions in 2015.** Some individuals were booked on more than one charge.
- **Municipal charges were the most common arresting charge in 2015.** A municipal charge is a violation of Oklahoma City’s municipal code. This category includes ordinance violations (known

locally as Class A charges) that carry a maximum penalty of \$500 and city misdemeanor crimes (Class B charges) that have a maximum penalty of up to a \$1,200 fine and up to 180 days in jail. Figure 4 on the following page details the top 10 most frequent arresting charges.

- After municipal charges, **many jail admissions were due to non-criminal behavior** (see Figure 4). The following categories of arresting charges do not indicate that a new crime was the reason for jail admission. In some cases, however, they point to system failures:
 - *Temporary commitment.* There were 2,222 temporary commitments made in 2015; these are short periods of incarceration ordered by a judge from the court, not for a new crime, but for some sort of violation. For instance, if a defendant has been mandated to secure private counsel but appears back in court without a lawyer, perhaps due to financial constraint, a judge can give him a temporary commitment in jail for being in “contempt of the court.”
 - *Failure to appear.* These are individuals who have missed one or more court date at any stage of the court process; the court then issues a warrant for their arrest.
 - *Out of custody.* Out of custody bookings are people with warrants who come to the jail on their own to post bail; they are processed and released immediately.
 - *Surrender on bond.* Surrender on bond takes place when a bail bondsmen “returns” a client back to jail; this can take place for any reason, such as failure to renew a bond amount. There were 1,441 instances of surrender on bond last year.
 - *Violation of suspended sentence.* Violation of suspended sentences often result when an individual does not or cannot pay his community supervision (e.g. DA probation) fees.

Figure 4.

The 10 most frequent arresting charges for individuals booked into the jail by all agencies



Next, we look at the underlying charges for those in the Oklahoma County jail. This provides an overview of the types of crimes leading to local criminal justice involvement. Figures 5, 6, and 7 capture the underlying charge of people who were booked into the jail in 2015. Some people were booked into the jail multiple times, which increases these numbers. For example, an individual might have been arrested and charged with felony possession of a controlled dangerous substance and misdemeanor possession of drug paraphernalia. He was released on bond but then failed to appear at a court date, was arrested on a warrant, and booked a second time into the jail. In this instance, the arresting charge was failure to appear, but the underlying charges were felony possession and misdemeanor paraphernalia. Then, this individual was sentenced to Community Sentencing, but violated the terms of his suspended sentence and was rearrested after the DA filed an application to accelerate his sentence. Because he was arrested a total of three times in 2015 for the underlying charges, Figure 5 would capture the felony possession charge three times and Figure 6 would include three charges for possession of paraphernalia.

- Drug- and alcohol-related crimes were the most frequent underlying charges of jail inmates.
 - Of the top 10 most frequent underlying felony charges displayed in Figure 5, 63 percent were drug/alcohol-related. The majority are non-violent. (Figure 5)

- Of the top 10 underlying misdemeanor charges, 69 percent were drug/alcohol-related. With the exception of domestic abuse (5 percent of the top 10 charges), the most common misdemeanor charges are non-violent. (Figure 6)
- Twenty-eight percent of the most common underlying municipal charges are alcohol-related. (Figure 7)
- Driver's license and insurance issues (excluding DUI) were very common underlying misdemeanor and municipal charges.
 - Twenty percent of the top 10 underlying misdemeanor charges were related to issues with a driver's license and/or insurance (Figure 6), as were 43 percent of the municipal charges (Figure 7).

Figure 5.

The 10 most frequent underlying felony charges for jailed individuals

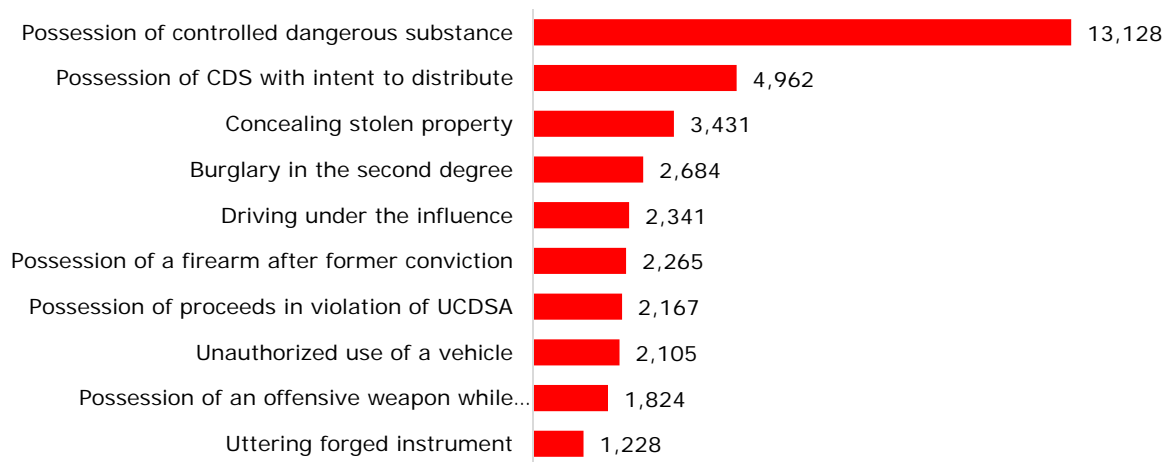


Figure 6.

The 10 most frequent underlying misdemeanor charges for jailed individuals

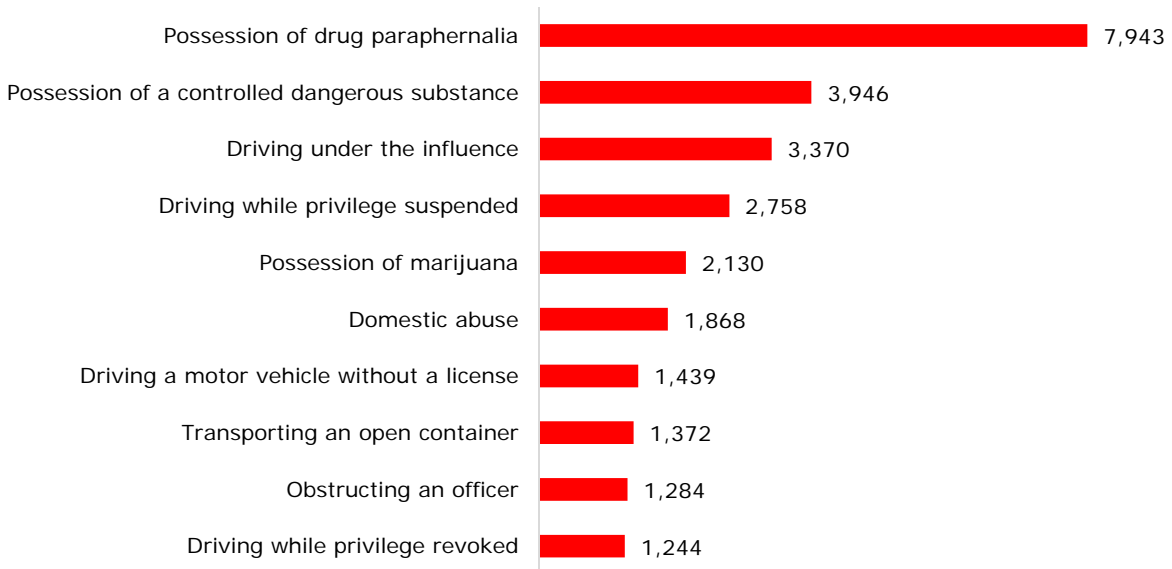


Figure 7

The 10 most frequent underlying municipal charges for jailed individuals



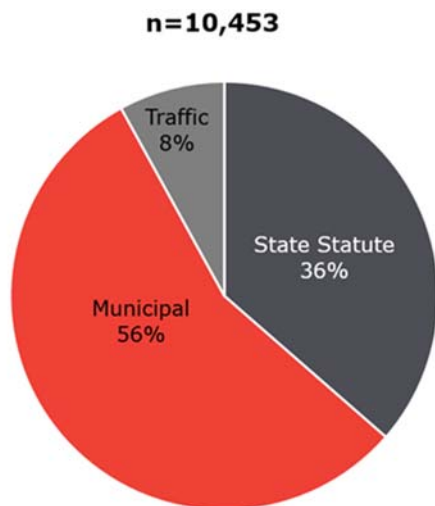
Bookings by the Oklahoma City Police Department

The third type of data is information about charges from the OCPD, which is responsible for about 60 percent of bookings into the jail. In addition to arresting charges, data from OCPD helps shed light on the role of warrants in driving jail admissions.

- **The OCPD made 24,942 bookings into the jail involving 18,860 individuals in 2015.** Although the vast majority of these individuals were booked just once in 2015, almost 4,000 people were booked at least one subsequent time. Of note, Vera identified 104 people who were booked into the jail by an OCPD officer at least six times last year.
- Of the 24,942 OCPD jail bookings, **57 percent had at least one state charge** (a misdemeanor or felony in state statute processed in district court). Thirty-six percent of the bookings did not involve a charge more serious than a municipal charge, and 7 percent had a traffic violation as their most severe charge.
- **More than half (58 percent) of all people booked by OCPD had an open warrant at time of arrest.** If an officer finds an open arrest warrant, he or she, in most cases, will have to make an arrest.
- **But of those booked into jail *without* a warrant, 64 percent faced nothing more serious than a municipal charge or traffic violation** (see Figure 8).

Figure 8.

Most serious charge for people booked into jail by OCPD without an open warrant

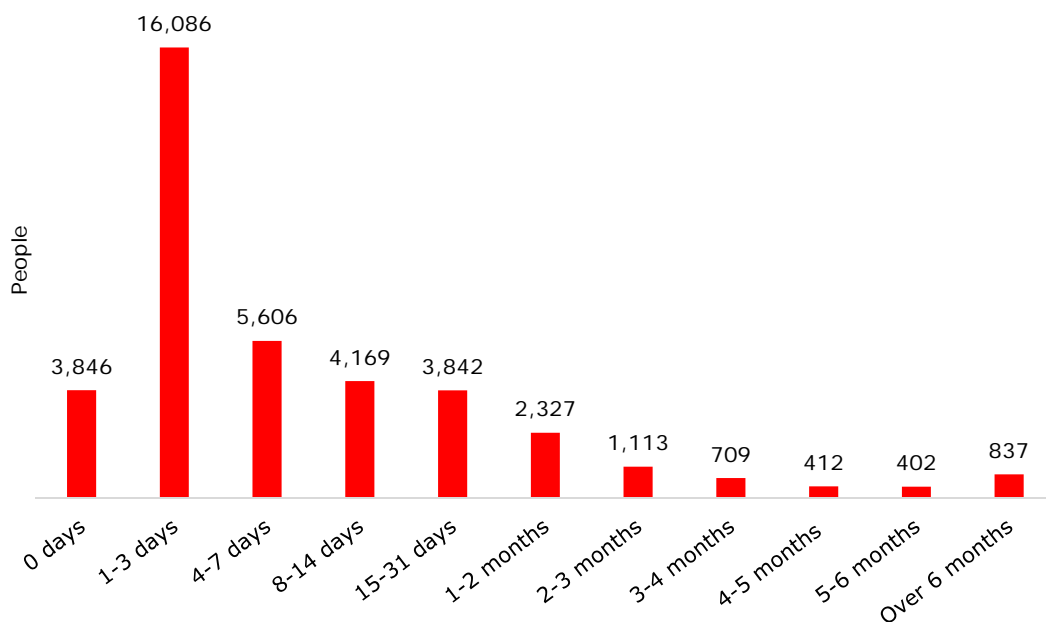


III. How long are people detained in jail?: Length of stay

Data from the 2015 admissions cohort reveals that **half of those who entered the jail were released within three days**. However, due to the number of individuals with longer stays (over 1,000 people were held five months or longer), **the average length of stay was 21 days**, which is similar to national averages.⁷ **For those who did not get out within this three day window, the average length of stay was 41 days.**

Figure 9.

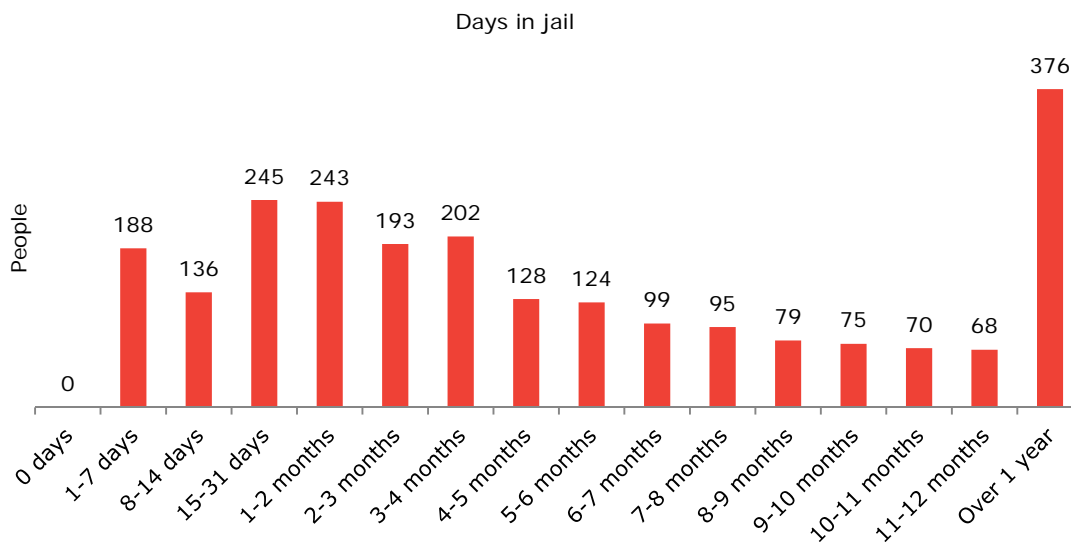
Length of stay, 2015 admissions cohort
N=39,349



- **Men stayed in jail longer than women.** Men who were admitted to the jail in 2015 stayed an average of 23 days; women stayed an average of 15 days. This is likely due to the relative severity of the types of charges men and women face.
- **People of color stayed in jail longer than white people.** White people had an average length of stay of 19 days, Native Americans 23 days, and black people 24 days.
- Vera also analyzed how many days each person had been in jail for the snapshot population on June 1. Statistically, this analysis captures more of the individuals with longer lengths of stay. **On June 1, the average length of stay was 184 days. 376 people had been incarcerated for over a year.** (See Figure 10)

Figure 10.

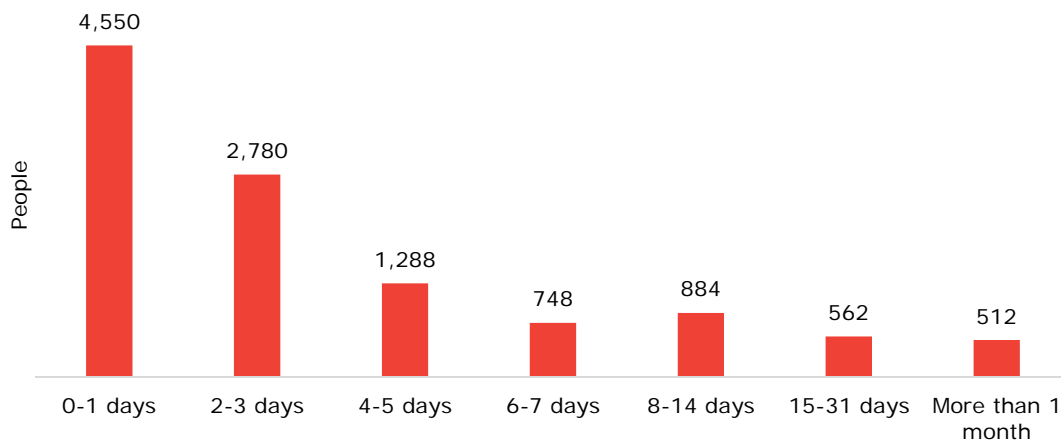
Length of stay of people in jail on June 1, 2015



- Data on bail set and paid is scant, but Vera’s analysis found that of **those who were released on bail, 76 percent did so within a week of booking**; 17 percent spent more than a week in jail before making their bond (Figure 11).

Figure 11.

Time spent in jail from admission to bail payment date
N=11,324



Recommendations

Vera and the Task Force developed the following recommendations by analyzing available data, reviewing policies and practices in the justice system in collaboration with Oklahoma County justice system stakeholders, and considering opportunities locally and statewide. As noted earlier, the quality of the data currently available to the Task Force has limited some of what we can say with confidence about the drivers of the jail population. Nonetheless, there are clear patterns in much of the data we have, pointing to areas ripe for reform.

1. Create oversight and accountability mechanisms for the local justice system

Key findings and challenges

- 1. Oklahoma City and county stakeholders do not have a history of collaboration and do not have mechanisms in place to jointly manage the local justice system and the jail population.*
- 2. The county government structure is not set up to provide effective oversight or management of the jail population.*
- 3. Criminal justice agencies in Oklahoma City and county have not been collecting, analyzing, or sharing the data that would enable them to understand who is in the jail and why or to make data-informed reforms.*
 - In many agencies, the data are collected but are not analyzed or used to inform policy or practice decisions. Each agency collects at least some information, but most of it is not reviewed or analyzed, in part because they lack the capacity. For example, the sheriff's office has staff at the jail who enter data in a database and use it to manage the population and the county has technical experts who keep the database up and running—but there is little-to-no coordination between these entities. No one within the county's information technology agency is familiar enough with the justice system or the jail to be able to properly analyze the data or address queries.

- In other cases, the data are not being collected at all and the agency lacks the system or staff capacity to do so. Even where some data are being collected, key information is still missing.

Examples include:

- Bail amounts assessed
 - Appearance rates in the municipal and district courts
 - Reasons for warrants
 - Declination rates by the DA's office
 - Continuance rates in the district court
 - Diversion offers and acceptances
- Across the board, data are not shared between agencies and are not publicly available. One main reason for the lack of data sharing is the absence of a forum for doing so; as noted above, there is no collaborative structure for oversight of the jail population. In addition, data systems used by respective agencies do not connect with each other: for example, some collect information by case, some by charge, and some by booking number.

4. Racial and ethnic data are not collected consistently across agencies, making racial disparities difficult to analyze and address.

Responsive strategies

The Task Force has provided something that Oklahoma County has not had before: a collaborative, deliberative body, composed of representatives from city, county, and state government and other community leaders that focused on understanding and improving the local justice system. Prior committees and task forces have studied the jail and addressed whether to build a new one, but none have actually looked at what has been driving jail population growth, or the policies and practices that determine who goes into the jail and for how long.

The decisions that influence the jail population are made by multiple, largely autonomous system actors such as law enforcement, judges, the district attorney, and the sheriff. No one decision-maker in Oklahoma County solely influences the size of the jail population. To understand and address the drivers of jail growth successfully, all stakeholders across the criminal justice system will have to work cooperatively around the issue of jail use.

The following strategies are aimed at enabling local oversight of the jail population and sustaining reform.

Strategy 1a: Establish and staff a planning team to advance implementation of the Task Force recommendations.

Ultimately, Oklahoma County, in collaboration with Oklahoma City and other municipalities within the county, should establish a permanent, staffed criminal justice council (see Strategy 1b), but this will take time. In the interim, an implementation planning team should be constituted to take on the work of advancing the reforms recommended by the Task Force. Membership should include the agencies necessary to implement new policies and practices, most of whom have been participating in the Task Force, as well as wider representation from community leaders. Each agency or entity should designate staff to participate, authorizing them to make at least preliminary decisions if the participant is not the agency lead, and commit to sharing data.

The obligations of each participating member can be established by a memorandum of understanding. The team should assign someone to be responsible for convening the group, documenting decisions, ensuring follow-up, and maintaining momentum. The group should also establish a timeline for its work and develop a shared communication strategy, with a commitment to public transparency and accountability. It can create smaller working groups, partner with local universities for data analysis and research assistance, and conduct outreach to the wider community.

Strategy 1b: Develop a standing regional criminal justice coordinating body with sufficient staff and research capacity.

Many counties that have implemented lasting local reforms have been guided by standing multi-agency councils. Most commonly referred to as criminal justice coordinating councils (CJCCs), these bodies monitor local criminal justice operations on a consistent and ongoing basis. Responsibilities range from data collection to setting budget priorities to addressing key systemic issues such as slow case processing times. Membership usually includes county and city agencies, which helps to break down silos and enhance cooperation, and can also include public members, such as community and business leaders and service providers. A CJCC can help a jurisdiction⁸:

- develop a deeper understanding of problems facing the local justice system;
- increase cooperation among various criminal justice agencies and other crucial government and non-governmental agencies;
- establish clear priorities for the system and support the implementation of those priorities; and
- gain efficiencies and reduce costs.

CJCCs usually do not have executive or fiscal authority, although they can be structured to do so. These bodies have, however, provided a mechanism for collaborative problem-solving and establishing mutual interests. An Oklahoma County CJCC would likely include many of the same agencies and individuals participating in the Task Force and on an implementation planning team but could also integrate non-criminal justice actors such as representatives from the nonprofit sector and from communities most impacted by jail incarceration.

In order to be effective, a CJCC needs staff to administer the group, collect and analyze data, produce reports, apply for grants, and take on other necessary tasks. Thus, although the investment is not significant, it is not without cost and it must be sustainable.

See Appendix B for additional information and resources about establishing a local criminal justice coordinating council.

Strategy 1c: Improve data capacity and collection across agencies and share data through the CJCC.

The local justice system in Oklahoma County is neither data-driven nor data-informed. This made the work of the Task Force more daunting: no one in the system regularly reviews, analyzes, or shares data and the data collection practices and systems that exist make answering even the most basic questions difficult, undercutting the ability of the Task Force to understand current jail use. While Vera was able to identify many potential drivers of jail growth through system-mapping (an intensive day-long exercise where all the local criminal justice stakeholders met and mapped all the entry and exit points of the system and how cases are processed) and conversations with stakeholders, only a limited number of those could be investigated empirically with data.

While short-staffing and resource constraints can deprioritize data collection, improving these efforts will be a crucial component of managing the jail population and relieving overcrowding. Appendix A provides a list of data points that the city and county should collect in order to form a baseline understanding of local jail usage and trends.

The CJCC can be the forum through which Oklahoma County justice system data is shared and used to inform policy and practice that impacts the jail population.

Strategy 1d: Commit to reporting local data publicly, to ensure that reforms are implemented and stakeholders are held accountable.

As city and county criminal justice agencies improve data collection, and as a CJCC begins collecting and analyzing that data to better manage the local justice system and the jail population, data on the functioning of the local criminal justice system should be made publicly available. Some counties produce “report cards” or “scorecards” that can be viewed by the public.⁹ These reports often include broader

measures of system performance such as public safety rates, incarceration rates, average daily jail population, correctional spending, and racial disparities.

Strategy 1e: Use data to analyze racial disparities and track impact of reforms.

There are a disproportionate number of people of color detained in the Oklahoma County jail. As in most local criminal justice systems, these disparities likely emerge across all of the decision points that determine the size of the jail population—from arrest through sentencing and post-release supervision. Obtaining accurate racial and ethnic data across the system is an essential first step for understanding these trends, identifying contributing factors, and developing responsive strategies for reducing disparities. For these efforts, it is vital that the various criminal justice agencies use the same categories and in their collection of race and ethnicity data. Appendix A provides guidance on improving racial data collection efforts.

There is no one-size-fits-all solution for reducing racial and ethnic disparities in criminal justice systems. Jurisdictions that have made progress in this area have used a multi-pronged, iterative approach, driven by data. Criminal justice reforms, when implemented without attention to differential impact by race and ethnicity may, in fact, worsen disparities. Thus, it is vital that stakeholders tasked with implementation track outcomes by race and ethnicity.

Reducing racial and ethnic disparities in Dane County, WI

Even though Dane County, WI (Madison) has significantly lower rates of jail incarceration than the state and national average, the local justice system continues to grapple with dramatic racial disparities; a black adult is eight times more likely to be arrested than a white adult, and black males make up 43 percent of the jail population, despite comprising less than 5 percent of the population. In May of 2015, the Board of Supervisors passed Resolution 556 to investigate solutions to racial disparities and mental health challenges in the Dane County Jail and local justice system. The resolution established a workgroup comprising three teams tasked with producing recommendations for 1) increasing alternatives to arrest; 2) decreasing length of stay; and 3) reducing solitary confinement of detainees with mental illness. Taking a data-driven approach, the workgroup produced a series of recommendations for reform to the public in September 2015. Recommendations include establishing a racial/ethnic equity data analyst position; providing cultural competency training for system actors; creating more opportunities for residents to resolve their warrants; increasing the capacity of pretrial services and instituting a reminder system; and adding five new members who have been personally impacted by incarceration to the Dane County Criminal Justice Council.

2. Reduce jail admissions for municipal violations and low level misdemeanors

Key findings and challenges

1. *A significant number of individuals with just traffic and/or Oklahoma City municipal charges enter the jail.*

According to the Oklahoma City Police Department data from 2015:

- Of those brought to the jail in 2015, 43 percent had only Oklahoma City municipal charges or traffic charges; they were not facing any state misdemeanor or felony charges.
- Outstanding warrants play a role in who gets booked into the jail; 58 percent of all OCPD bookings involved a warrant.
- Of the 10,453 bookings into the jail that didn't involve an open warrant, 56 percent were not facing charges more serious than an Oklahoma City municipal charge. (See Figure 8.)
- Municipal warrants are most likely to be for failure to pay fines and fees or failure to appear in Oklahoma City Municipal Court. Municipal cases can also involve multiple court appearances, which increase the likelihood that someone will fail to appear. Until recently, individuals who owed fines and fees to the court but did not have enough money to pay were not regularly given waivers or reduced amounts. Instead, they were given long installment agreements on which they had multiple opportunities to default and be rearrested.

2. *The length of stay of municipal bookings is short, but contributes to overcrowding and delays at the jail.*

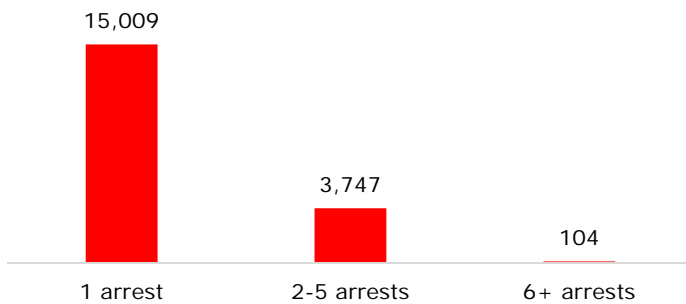
- The average length of stay of a municipal-only booking is three days (the median is one day).
- According to the sheriff's department and other key stakeholders, overcrowding and short-staffing in the booking area of the jail delays both booking and discharge from the jail; it can now take up to 48 hours to fully book someone into the jail.
- A standing Oklahoma City Municipal Court order from 1997 mandates that individuals booked on municipal charges who do not have an existing warrant be released from jail on their own recognizance after 10 hours for a Class A charge and after 24 hours for a Class B charge. Release times can take longer, however, due to the jail's severe overcrowding.
- While originally instituted to speed up the release of people charged with municipal offenses, the 1997 order now serves to keep people in the jail for no justifiable pretrial purpose.

3. *Oklahoma City, like many jurisdictions, has a group of individuals who are responsible for many jail bookings in a single year; they are arrested and booked into the jail repeatedly for lower-level offenses.*
 - While most people who were arrested by the OCPD in 2015 were arrested and booked into the jail only once that year, Vera’s analysis of OCPD data identified 104 individuals who were booked into the jail six or more times in 2015 alone. (See Figure 12.)

Figure 12.

Number of individual annual arrests by OCPD in 2015

N= 18,860 people



- Data from the OCPD gives some additional sense of who these individuals may be. Analysis of OCPD arrests shows that the most common charge for someone booked into the jail on a municipal charge is public drunkenness. While some of these individuals had accompanying charges such as disorderly conduct or trespassing, the majority (973 of 1,358) did not have any other charges.

Responsive strategies

The following are recommendations to reduce admissions to the jail for lower-level offenses: Oklahoma City charges (Class A violations and Class B misdemeanors), traffic offenses, and some state misdemeanors.

Strategy 2a: Expand the use of citations, in place of arrest and booking, for municipal charges and appropriate state misdemeanor charges.

A citation issued in lieu of arrest should be the default option for municipal charges absent exigent circumstances. The city has been making progress in this direction. The Oklahoma City Municipal Counselor's office is currently working with the OCPD to review the list of municipal offenses considered "jailable," with the goal of increasing the use of citations over arrest for these charges absent an open warrant. Previously, arrest and booking has been the default response for Class B violations (the more serious municipal charges) unless the arresting officer obtains approval from a supervisor for a field release, in which case an individual gets a ticket with a court date. Once OCPD and the municipal counselor establish their new policy, field release will be the default response for the majority of Class B charges.

In addition to municipal charges, state law permits law enforcement officers to issue citations in lieu of arrest for state misdemeanors.¹⁰ OCPD, in collaboration with the district attorney, should identify state misdemeanor charges for which a citation or book and release (see Strategy 2b) would be appropriate.

The decision to arrest someone versus some other police action is also often influenced by internal performance and evaluation metrics. In order to reduce arrests and jail bookings for traffic and city violations, the department should review internal practices and revise any policies that incentivize arrest over citation.

Using citations in lieu of arrest in New Orleans

As part of its jail reduction efforts, the New Orleans City Council passed an ordinance in 2008 that requires city police to use a citation in lieu of arrest for municipal violations absent special circumstances and charges (primarily domestic violence and DUI cases). In 2010, the city council passed an ordinance that allows local law enforcement officers to write tickets for people being charged with a first-time marijuana possession offense rather than make an arrest. In response to the 2010 marijuana ordinance, the New Orleans Police Department adopted a policy that instructs officers to treat small amounts of marijuana possession as a municipal offense, thus mandating the use of citations in most circumstances. After going into effect, 70 percent of people charged with simple possession of marijuana were issued a summons rather than brought to jail. From 2011 to 2014, arrests for marijuana possession decreased 31 percent. Importantly, data show that officers' discretion to use citations was applied equally to black and white residents. In March 2016, the city council voted to expand the use of summonses in lieu of arrests for third and subsequent simple possession charges.

Strategy 2b: In situations where citations are not appropriate, allow individuals to be booked and released, eliminating the 10/24 hour hold order.

“Book and release” is an intermediate step between a citation and a full jail booking, particularly appropriate where citation would usually be given but law enforcement cannot determine the identity of the individual in the field. In larger jurisdictions like Milwaukee and New York, a form of book and release is done at district police stations, avoiding the jail altogether. Individuals are arrested, brought in, fingerprinted and background-checked, and released on their own recognizance with a citation and court date. Oklahoma City is adapting a space for these purposes in the new municipal courthouse, which opens in 2017. This will enable law enforcement officers to bring individuals arrested on city charges to the courthouse during business hours where they will be either brought before a judge or fingerprinted, given a court date, and released immediately.

While this change will reduce bookings during business hours, it will not address those who are arrested on nights or weekends, which is when the majority of arrests happen. The city and OCSO should work towards creating a separate booking area at the jail or elsewhere where municipal arrestees could be brought, processed, and released on their own recognizance during hours when the courthouse is closed.

Reducing failure to appear warrants and criminal justice expenditures with robust reminder systems

Multnomah County, OR (Portland) established the Court Appearance Notification System (CANS), an automated calling system, in 2005. CANS resulted in positive outcomes almost immediately. In the first six months, Multnomah’s failure to appear rate dropped 37 percent and resulted in more than \$250,000 in net cost-avoidance to the local criminal justice system.

Enabling book and release 24/7 will facilitate the elimination of the 10/24 hour hold policy for Class A and B offenses.

For people booked into the jail on traffic violations by OCPD, the most common charge is not having a state driver’s license in possession at the time of the law enforcement encounter. Book and release is an ideal solution for this population and will help reduce jail admissions for traffic violations.

Milwaukee: Using book and release in an urban area

Milwaukee County, WI is working to reduce its jail population and racial and ethnic disparities in its criminal justice system. One strategy to achieve these aims is the expansion of the city’s book and release policy for low-level, non-violent misdemeanors, formerly available only in suburban areas of Milwaukee. Previously, book and release depended on cash bail; defendants had to post bond in order to be released directly from the station and spared jail. The Milwaukee Police Department has recently authorized officers who work in the city’s center, which has a higher concentration of people of color and people in poverty, to use book and release. Defendants will be released on their own recognizance from district stations and reminded to appear for their court hearing, reducing unnecessary jail admissions.

Strategy 2c: Reduce jail admissions of people with warrants for municipal and traffic violations by instituting a court date notification system in the municipal court and reducing arrests for failure to pay.

As noted previously, 35 percent of those booked into jail by OCPD with open warrants had warrants related to municipal and/or traffic violations. These warrants are likely a result of failure-to-pay tickets and other fees and/or missed court dates.

Instituting a court reminder system is a proven strategy to help ensure that people show up for their court dates. Evidence-based notification systems remind individuals with pending court appearances of the date, time, and location of their next court date. Some research has shown that live callers are most effective, but automated texts have also been shown to reduce failure to appear rates, warrants, and subsequent court and jail bed costs.¹¹

The Oklahoma City Municipal Court is currently looking at two strategies to reduce arrests on warrants for failing to pay fines, fees, and court costs. The court has made Rule 8 hearings—which are used to determine indigency and can provide some relief from court costs and fines—more frequent and has given people access to those hearings before they default on a payment, rather than after. In addition, the court will modify its data system to allow officers in the field to know when a municipal warrant is for failure to pay only. At present, officers cannot distinguish when a warrant has been generated for failure to pay, failure to appear, or another circumstance. Police will now have options other than arrest when they encounter individuals with failure-to-pay warrants, such as bringing them to the municipal courthouse to meet with a judge. These strategies will help reduce admissions to jail for failure or inability to pay criminal justice costs. Outcomes should be tracked and monitored.

Strategy 2d: Form an interdisciplinary team to identify and develop targeted responses to chronic low-level offenders.

Practically every community in the United States is faced with the challenge of a small, but incredibly costly, subset of individuals who cycle in and out of a community's jail, hospitals, and treatment centers. Referred to as “high-utilizers” (or sometimes “frequent users” or “frequent fliers”), the majority of these individuals face difficult behavioral health and substance abuse issues, bounce from institution to institution, and tax their communities' limited programs and services.

Research from other jurisdictions points to the likelihood that the 104 individuals admitted to Oklahoma County jail six or more times in 2015 suffer from mental illness, addiction, or both. For example, in 2012, Snohomish County, WA analyzed its 23 residents who had nine or more bookings into the county jail during a 10-month period.¹² Twenty-one of these 23 individuals had a mental illness, a

drug or alcohol disorder, or both. In just 10 months, these high-utilizers had 300 visits combined to mental health centers, hospitals, emergency rooms, and other medical services. Similarly, Miami-Dade County, FL analyzed the costs of its highest utilizers with mental illness. Researchers found that over four years, 97 residents spent a combined 39,000 days in jail, emergency rooms, state hospitals, or psychiatric facilities—costing an astounding \$13.7 million.¹³ (See Strategy 5b for more about Miami-Dade’s mental health diversion efforts.)

Oklahoma City currently has two main non-arrest options for individuals who may be high-utilizers. Officers may bring an individual believed to be in crisis due to mental illness to the Crisis Intervention Center and they can bring someone who is drunk to a sobering center. Stakeholders have stated that the sobering center is not over capacity, yet individuals charged with public drunkenness are still being brought to jail. According to the OCPD, those who end up arrested for public drunkenness may have either refused to go or been refused entry to the sobering center because of past or current disruptive behavior.

To better understand this population of high-utilizers, an interdisciplinary team should conduct further analysis. In other jurisdictions such teams have included professionals representing the local jail, hospitals, treatment centers, and the mental health community to share data and resources. The team should take a closer look at these individuals to better understand gaps in care and potential intervention points. Law enforcement and behavioral health services can work together to create intervention plans that target needs and decrease arrest and incarceration. This group should also look at how the sobering center is being used, and whether its policies and practices are appropriately matched to Oklahoma City’s public safety needs.

Strategy 2e: Eliminate the practice of dual charging for applicable offenses.

Currently, individuals who could be charged by the police with *either* a municipal or state charge because of the nature of the offense are charged with *both* types of offenses. By charging people with both state and local charges, individuals are routed to the jail and into the district court. Because state charges carry higher bail amounts, there is a greater likelihood that they will linger in jail. Those who do not bail out could wait in jail 10 days or longer before the district attorney’s office accepts or declines the state charge(s). If the state charges are dismissed, the defendant will then be released on his own recognizance and the city charge sent to the city prosecutor for review. By the time a state charge is declined by the prosecutor, the defendant will have likely already been in jail for an extended period, which not only unnecessarily fills a jail bed, but also has negative consequences for the individual. The OCPD and the district attorney should review all charges that can be filed at either the municipal or state level and identify those for which municipal charges should be officers’ default option. This will ensure that the people facing these charges will benefit from the other municipal reforms described in this section. To the

extent that OCPD already defaults to municipal charging in many cases, it would be useful for the district attorney's office to undertake a review of cases they decline to prosecute to determine whether OCPD and district attorney policy and practice align.

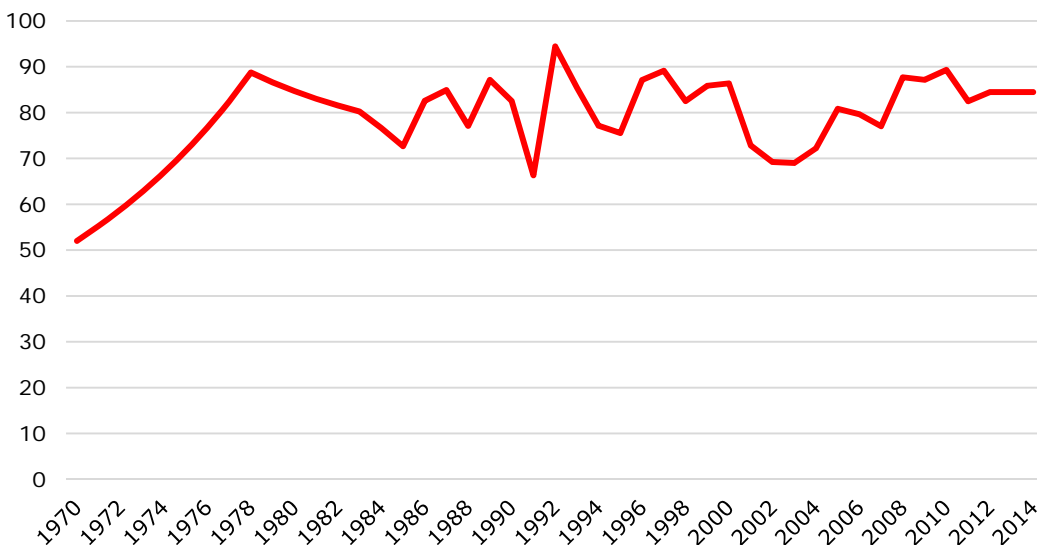
3. Create a fair and efficient pretrial release process that safely reduces unnecessary pretrial incarceration

Key findings and challenges

1. *The vast majority of people incarcerated in the Oklahoma County jail are classified as being in pretrial detention.*
 - As discussed in the Data Analysis section (see page 10), Vera's researchers were unable to determine which people incarcerated in the jail were pretrial, which were awaiting a hearing on a post-sentencing violation (such as failure to pay fines, fees, or costs), and which faced both. Data reported by the county to the Federal Bureau of Justice Statistics indicates that the vast majority of incarcerated people are considered pretrial, although this data likely has the same weakness as the county's data. In 2014, the most recently reported year, 84 percent of detainees were classified as awaiting trial. (See Figure 13.)

Figure 13.

Percentage of the Oklahoma County jail population awaiting trial (1970-2014)



2. *In Oklahoma County, individuals' ability (or lack of ability) to pay financial bail determines who stays in the jail and who waits at home while a decision is made about their guilt or innocence.*
 - Bail is set cumulatively for each arresting charge. This means that a person with several low-level charges from a single encounter with police may have a higher bond set than someone charged with a single but more serious crime. For instance, a person charged with failing to signal a lane change (\$500 bond), failing to stop at a stop sign (\$500), and driving on a suspended license (\$1,000 bond) will have a higher bond than someone charged with assault and battery (\$500 bond).
 - Individual bond amounts are determined not by a judge reviewing an individual case but by a preset bond schedule, which assigns a bond amount for each charge. The bond schedule for state charges is created and authorized by district court; municipal court oversees the bond schedule for city charges.
 - Defendants' likelihood of showing up to court, their risk to public safety, and their ability to afford to pay bail are not taken into account in the majority of pretrial decisions.

- In a cash-based system, wealthier defendants can bond out regardless of the danger they pose to the community, while less affluent defendants may be held on small amounts of bail even for non-violent misdemeanors.
3. *Judges are not provided with necessary information about defendants' risk-level that would assist them in making informed pretrial release decisions.*
- The criminal justice field has developed accurate tools known as pretrial risk assessment instruments which can be administered to defendants to quickly predict their risk of failing to appear in court and of committing a new crime if released into the community. Court services and district court do not use a validated pretrial risk assessment tool.
 - Instead of using the results of a validated pretrial risk assessment, the special judge simply recites the bond amount to defendants who have not made bail at a probable cause hearing held 72 hours after arrest. He does not make an individualized assessment or pretrial release determination for defendants.
4. *The county lacks adequate nonfinancial release options, including a range of community-based alternatives to pretrial incarceration.*
- Oklahoma County Court Services operates a program that facilitates nonfinancial release for a small number of individuals pending trial or plea for state charges. These are conditional release (CR) and own recognizance (OR) bonds. Under CR release, defendants are placed on a form of community supervision such as GPS monitoring or mandated programming at the NorthCare Day Reporting Center, a private agency. While CR defendants don't pay bond, they must pay associated costs for their supervision (\$40 to \$100 per month based on supervision level) or GPS monitoring (\$126 per month). Under OR release, the defendant does not need to post any money up front in order to secure release, but will owe the court money (equivalent to the bond) if she or he does not show up in court.
 - The process used by court services to evaluate defendants and make recommendations to judges on OR and CR release is not evidence-based and does not include an individual assessment using a validated pretrial risk assessment tool.
 - The CR and OR options are underutilized and do not make a large impact on the jail population. In 2015, of the 39,349 total admissions to the county jail, only 986 people were released on OR bond and only 462 were released on CR bond (less than 4 percent combined).

- State law excludes individuals facing certain charges from being eligible for release into a pretrial services program.¹⁴ A district court judge has the discretion to override those exclusions for individuals, but a special judge, not a district court judge, currently oversees the release decision during the probable cause hearing. Individuals who might be good candidates for OR or CR release often wait for weeks in jail to get in front of a district court judge.
- Oklahoma County places further restrictions on the use of court services pretrial supervision, so that some individuals who are not covered by the state exclusions are ineligible under county policy. The county policy, for example, allows exclusion from supervision for anyone with a prior failure to appear regardless of the length of time since that failure or the total number of appearances actually made.
- The process for judicial approval for release on CR and OR bonds is protracted, which leads to unnecessarily long pretrial detention for individuals who will eventually be released into the community before the resolution of their cases.
- According to Oklahoma law, the district court may release individuals on personal recognizance, whether or not they are referred to pretrial service programs like those run by court services. They have a bond amount set, but they do not have to pay it; the amount will be subject to a judgment if the individual fails to appear in court. This option appears to be rarely used independently of the court services pretrial release program.

Responsive strategies

The decision whether, when, and how to release individuals from jail who have been charged but not yet convicted of an offense significantly influences the size of a jail population. In the United States, pretrial release is the presumption; the only constitutional justification for holding someone in jail before they are convicted of a crime is when there is a likelihood that he or she will not appear in court and/or poses a serious risk to public safety. Due process protections, as well as Oklahoma State law, require that this decision be based on an individualized assessment of a defendant, taking into account risk of flight, risk to the community, and financial means.¹⁵

This section includes three sets of recommendations for 1) individualizing pretrial release determinations and expanding nonfinancial pretrial release options; 2) addressing high and inconsistent bond amounts; and 3) moving from a cash-based to a risk-based system in the longer term. The first two sets of recommendations can be implemented rather quickly and do not require substantial structural

changes. The latter series of recommendations will require a greater, but necessary, investment in resources and paradigmatic shift within the county's criminal justice system.

Individualize pretrial release decisions and expand nonfinancial release options

Strategy 3a: Expedite screening and assessment of those in jail who appear to qualify for OR or CR release.

Individuals who qualify for OR and CR nonfinancial release can still spend weeks in jail awaiting screening and judicial approval. The court services recommendation for OR and CR is not available to the special judge conducting probable cause hearings the first time the defendant appears in front of the judge in court. By improving efficiencies in the booking process, providing the space and time for court services to complete timely review and make recommendations, and giving the special court judge the ability to consider OR or CR release at the first appearance, individuals who qualify can be released much more quickly. A team of Oklahoma County stakeholders, composed of representatives from the offices of the sheriff, district attorney, public defender, court services, the district court, and the county have developed a proposal to implement these changes. Key components to be implemented include:

- Reconfiguring the booking area in the jail to provide space for court services to operate in the jail and screening people immediately as they come in.
- Expanding the hours of court services to include high volume nights and weekends.
- Providing court services' recommendations to the special court judge in advance of the probable cause hearing.
- Issuance of a standing order by the presiding district court judge authorizing the special judge to release individuals on OR or CR bonds at the probable cause hearing; the standing order will list charges that would be presumptively eligible for OR release, absent a valid specific reason to hold them.¹⁶

Strategy 3b: Expand eligibility for OR/CR bond release.

Although the state statute authorizing nonfinancial release excludes a number of offenses, most people in the Oklahoma County jail are not charged with those offenses; however, they are still being excluded from OR/CR release.¹⁷ The barrier appears to occur because individuals are being screened out by court services according to restrictions placed by the Oklahoma County Board of Commissioners. As such, the Oklahoma County Board of Commissioners, court services, the district court presiding judge, the district attorney, and the public defender should review data on who is and is not being released to court services to identify types of defendants who have been excluded but may actually be good candidates.

The district court should also approve a standing order authorizing the special judge sitting in probable cause hearings to consider release on OR/CR bond on a case by case basis, where release is appropriate and acceptable to the district attorney.

Strategy 3c: Provide counsel for defendants at probable cause hearings.

Early assignment of counsel is an effective strategy for reducing unnecessary pretrial detention.¹⁸ The public defender's office currently operates a pilot—funded by a private grant and supported by The Education and Employment Ministry (TEEM)—that provides for a part-time public defender at probable cause hearings. Authorized by the presiding district court judge, the special judge presiding over these hearings has considered downward departures from the bail schedule at the request of the public defender. While data on outcomes are still being collected, the public defender's office believes this has enabled more individuals to achieve reduced bonds and get out of jail without a negative impact on public safety.

Representation at the probable cause hearing represents a positive move towards individualized release determinations and departure from the bail schedule. It protects individuals from being deprived of their liberty without due process of law. Also, having a public defender in probable cause hearings will ensure that indigent defendants who are released on OR or CR bonds or on lowered amounts of bail are properly assigned counsel for the duration of their cases. However, the current position is likely temporary, as it is funded by a private source and needs to be supported by a long-term sustainable funding stream.

Reduce high and inconsistent bond amounts

There is no evidence that financial bonds are effective in preventing a defendant's failure to appear. A key study by the Pretrial Justice Institute of a sample of Colorado counties found that individuals released on unsecured bonds (where the defendant does not post any money up front prior to release) did not have statistically significant different failure to appear rates or reoffending rates compared to those released on secured bonds.¹⁹ Not surprisingly, defendants with secured bonds had much longer lengths of stay in jail before securing release than the defendants with unsecured bonds.²⁰ Furthermore, there is no research indicating that money bonds have any impact on the likelihood of committing new offenses while in the community.²¹ Cash bonds disproportionately impact low-income individuals, including women and people of color who are more likely to be poor.²² The disproportionate incarceration of black people in Oklahoma County and the high rates of incarceration for women may derive in part from the prevailing use of money bail. Shifting away from a cash-based system is possible, but requires long-term commitment and the reallocation of local resources. However, there are immediate steps the district court could take to mitigate the negative consequences of a money bail-based system.

Strategy 3d: Calculate bail amounts based on the highest charge, not cumulatively.

Under current practice, bail amounts are calculated cumulatively based on each charge a defendant is booked on. This practice raises the total bond amount even for people facing lower level charges, who are often charged with multiple minor offenses. Unaffordable bond amounts increase defendants' lengths of stay and the jail's pretrial population. As an alternative, bail should be assigned according to a defendant's most serious charge. This change will not require any amendments to local or state law and could be enacted immediately by district court.

Strategy 3e: Expand the use of personal recognizance bonds.

Because monetary conditions have no appreciable impact on pretrial outcomes, there is no benefit to requiring a monetary deposit to secure release, particularly if the bail amount is low. Currently, personal recognizance bonds, which are unsecured by a cash deposit or a third party surety (bail bondsmen), are only used in the context of the pretrial services program run by court services. However, Oklahoma law allows for the use of personal recognizance bonds and judges are not restricted to using them only in the context of pretrial services. Where the bail amount set by the schedule would be low, but the amount is still prohibitive for a defendant, the district court should use its discretion to release individuals on personal recognizance bonds.

The impact of evidence-based pretrial policy in Charlotte, NC

After implementing a new evidence-based pretrial policy in 2010, Mecklenburg County, NC (Charlotte) saw positive results almost immediately. Average bond amounts decreased 30 percent and release on unsecured bonds (which do not require the defendant to post any money up front but will owe the court that money if he absconds) increased from 2 percent to 21 percent in just the first year. Although more people were released in the community pending trial, the rates of re-arrest and failure to appear for pretrial defendants remained the same and the jail population declined. Mecklenburg has continued to implement a suite of local reforms, successfully reducing its jail population by over 33 percent from 2009 to 2014.

Strategy 3f: Institute a bail review at arraignment.

In-custody defendants, unless able to afford private counsel, are not assigned a public defender until they have been formally arraigned. Arraignment is the hearing during which defendants are informed of the formal charges against them by the district attorney's office. It typically takes place a week after the probable cause hearing and 10 days after jail booking. Arraignment could provide a good opportunity to review the original pretrial release decision; if an individual has been given a relatively low bail amount

but is still in the jail solely because she cannot afford to get out, the court should consider whether continuing to hold her represents a just and appropriate use of a jail bed and explore other options, such as personal recognizance release.

Move from a cash-based to risk-based system in the long term

In the longer term, Oklahoma County stakeholders should seriously examine their pretrial release decision-making system to ensure that it comports with the county's public safety priorities and evidence-based policy and practices. Individualized release decisions informed by a validated risk-assessment tool and the availability of a range of pretrial release and supervision options—with an understanding that pretrial release is the default and not the exception—represent the highest standards of practice in the field and Oklahoma County should aim to meet those standards.

Strategy 3g: Develop a comprehensive understanding among Oklahoma County criminal justice system stakeholders of pretrial risk and evidence-based practices in pretrial decision making.

Systems that use results of an evidence-based risk tool to guide pretrial decision making see both improvements to public safety and declines in the jail population.²³ Making the change in Oklahoma County, however, will require a major paradigm shift for all system stakeholders around pretrial safety and release, and this does not come easily. Jurisdictions that have done this successfully have undertaken education and communications strategies to reach all branches of the criminal justice system, including the judiciary, defense (including the private bar), the prosecutor's office, and the public at large. Oklahoma County will have to include this kind of effort as both a precursor to and an ongoing part of system change.

Strategy 3h: Identify and implement a pretrial risk assessment tool to guide judges' decisions about pretrial release.

The use of an objective, research-based risk assessment instrument by pretrial services agencies to assist judicial officers in making decisions is strongly recommended by both the American Bar Association and the National Association of Pretrial Agencies.²⁴ These tools measure defendants' likelihood of failure to appear in court and their danger to the community if released. Risk tools are not designed to replace judicial discretion around pretrial release but to inform it. Any instrument used to assess a defendant's risk should be validated to ensure it accurately predicts pretrial risk in the community in which it is being applied. There are many accurate pretrial risk assessment tools available today and the county should identify one that is the best fit.

Strategy 3i: Expand nonfinancial pretrial release options and implement evidence-based pretrial community supervision practices.

A validated pretrial risk assessment tool will provide judicial officers with accurate assessments of defendants' risks of flight and of committing a new crime pending trial. Defendants' scores will range from very low-risk to high-risk. Oklahoma County will then need a range of options to respond appropriately to each risk category; properly assigning individuals to different levels of supervision will also help the county allocate criminal justice resources effectively. For example, defendants assessed to be at low-risk can be released into the community with limited intervention, usually just calls or text reminders of upcoming court dates. Over-supervising or intervening with this population can have adverse impacts and actually increase failure to appear rates.²⁵ Moderate-risk defendants will be more successful in the community with oversight by court services, with supervision and conditions matched to both risk and needs to be kept in jail for public safety reasons.²⁶

Elimination of Cash Bail: District of Columbia

The District of Columbia has nearly eliminated the use of financial bonds while maintaining an 88 percent success rate for individuals released pretrial. Defendants are screened using a risk assessment tool by the Pretrial Services Agency, and approximately 80 percent are released without financial conditions, 5 percent are released with financial conditions, and 15 percent are held in jail. A statutory provision allows for financial conditions to assure court appearance, but only if it does not result in unintended preventive detention, so financial bond is used rarely. The law also allows for detention without bail in instances where a defendant needs to be kept in jail for public safety reasons.

4. Identify and address district court case processing delays that increase jail admissions and length of stay

Key findings and challenges

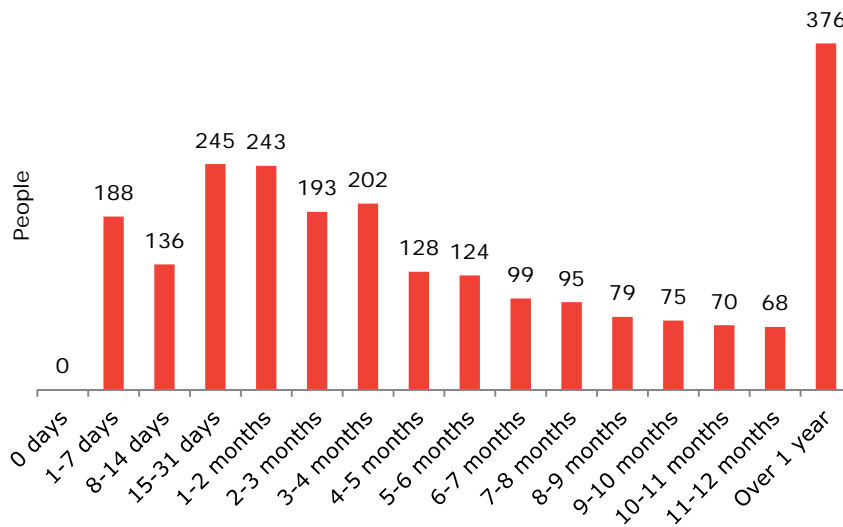
1. Case processing times are lengthy.

- While the average length of stay for individuals entering the jail is 21 days, the jail is filled with people who are staying much longer than that. The one-day snapshot of the jail population on June 1, 2015 revealed that one-third of incarcerated people (767) had been incarcerated for six months or longer and 376 people had been there for longer than a year. (See Figure 14.)

Figure 14.

Number of people in jail by days in jail on June 1, 2015

N=2,321



- Case processing time—the amount of time from filing of official charges to the resolution of a case (e.g. a plea agreement, a conviction, a dismissal of charges)—is a key driver of long jail lengths of stay. While the jail data does not allow us to say much about who is staying so long in the jail, data from the Oklahoma Administrative Office of the Courts (AOC) indicate that case processing times in the district court are slow. For people charged with misdemeanors, the average time from filing of charges to disposition in Oklahoma County in 2015 was 383 days, which is longer than the possible sentence for misdemeanor charges. The average time for all felony cases was 432 days, well over a year. Vera was not able to obtain administrative data from the courts that would allow for deeper analysis of what drives these delays, or whether case processing times varied based on whether someone was in or out of custody.

2. *System stakeholders identified numerous possible systemic drivers of case processing delays, none of which could be fully assessed by the Task Force because of data limitations.*

Systemic problems include:

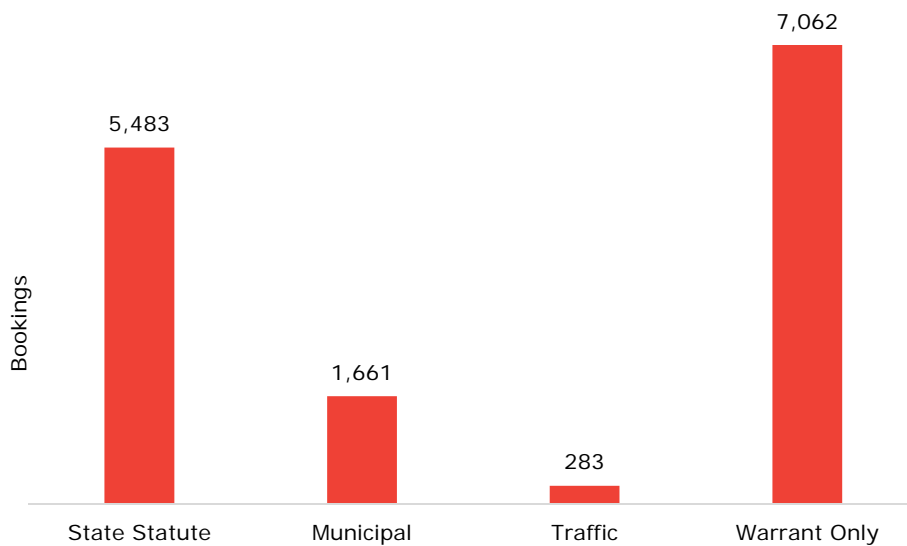
- The length of time from arrest to the filing of official charges by the district attorney's office is lengthy. It takes 10 days on average for charges to be filed for those who are booked into the jail and do not get out on bail. It often takes much longer for those who do get out. They may attend more than one court date awaiting formal charging. If they are not charged initially, they may be charged at some point in the future, without any notice to them. A warrant will then be issued for their arrest, and they will be admitted a second time and will have to pay bail again. The charging backlog is attributed in part to resource constraints at the district attorney's office.
 - Neither public defenders nor prosecutors are assigned to a case until after arraignment. This means that individuals may be in jail for weeks before talking to a public defender and that it is impossible to move even simple cases to plea or diversion until weeks after booking.
 - Public defenders face serious delays in being able to contact clients in jail. Jail overcrowding and short-staffing, as well as physical space constraints, restrict access. Delayed access to clients leads to slower case processing and longer jail stays.
 - Individuals who make bail, regardless of how low the amount they paid to the court or a bail bondsman, are presumed to be ineligible for a public defender. Cases can be delayed while they look for an attorney they can afford or document their inability to afford counsel. Private attorneys may delay cases until they get paid and the court accommodates those delays, increasing case processing time.
 - The "culture of continuances" is not just limited to the private bar. Stakeholders shared that it is also common for prosecutors and public defenders to request continuances and that these are granted by the court.
 - There is a lack of coordination between the court and the sheriff's office around the transporting of individuals to court. Resource limitations at the jail make it difficult to transport all inmates whose cases are on the court calendar that day. The sheriff's office will bring too many or too few to the courthouse, leading to logistical challenges and further delays at the courthouse. These issues may also be attributable, in part, to docketing issues on the court's side.
 - Overcrowding and resource constraints at the jail delay both booking and release, lengthening the amount of time people spend in jail.
3. *Case processing delays may be contributing to the high numbers of warrants, which in turn increases admissions into the jail.*
- Warrants are generated for many reasons, including failure to appear in court, failure to pay fines, fees, or costs, violations of probation, and when charges are filed and the defendant is not in custody at the time. Copious open warrants lead to increased jail admissions because law enforcement must make an arrest when they encounter someone with a warrant. The data show

that almost half of people booked into the jail on warrants by OCPD were not facing any additional charges besides their open warrant (See Figure 15).

Figure 15.

Most significant charges of people booked into jail on warrants, 2015

n=14,489 people



- Extending a case with multiple court appearances and adjournments increases the likelihood that someone will miss an appearance and a warrant will issue, leading to further delays and more jail admissions.

4. *Bail bondsmen can re-incarcerate a client in the jail without any due process or even notification to the court.*

- Known as “surrender on bond,” bondsmen merely need to present a defendant and the required paperwork to the jail and the jail has to automatically take custody of the defendant.²⁷ Bond surrender was one of the top 10 reasons for admission among all people admitted to jail in 2015—there were 1,441 bond surrenders that year.
- Those who were admitted solely on bond surrender had a much longer average length of stay (38 days), as compared to the general average of 21 days.

- Currently, there is no policy for notifying the court and relevant parties such as attorneys that bond surrender has occurred. This can lead to serious confusion and further case delays, increasing length of stay.

Responsive strategies

Strategy 4a: Expedite time to charging particularly for out-of-custody defendants.

Long times to charging by the district attorney are the beginning point of case processing delays and may also lead to the proliferation of warrants. Until recently, according to the district attorney, the average time to charging for out-of-custody cases was three months. A temporary investment in staff overtime brought charging time down to three weeks, but the backlog will build up again if a systemic fix is not developed. If Oklahoma County increases the number of people released pretrial, one of the most important strategies for jail reduction, backlogs, and case processing times could increase.

While resource constraints are in part to blame for these lags, a thorough review of protocols and practices will identify inefficiencies that can be addressed administratively. Other jurisdictions have achieved efficiencies by having more senior attorneys make filing decisions, opening up lines of communication between the police and the district attorney's office to identify cases that the police should charge at the city rather than county level (see Strategy 2e), and providing for early case conferencing to triage cases (see Strategy 4c), among other approaches.

Strategy 4b: Notify out-of-custody defendants once charges have been filed.

Once charges are filed by the district attorney, defendants who are not in custody should be notified and given their next court date. Under the current system, defendants may be rearrested for failing to appear for a court date about which they had no notice. This system is grossly burdensome on defendants, leads to arrests for non-criminal behavior, and wastes jail beds and court time. An individual who returns to court following such a notice should not be required to post bond again since she has demonstrated that she is engaged in her case and is not a flight risk.

Strategy 4c: Develop a capacity to sort cases, identifying those that can be fast tracked or diverted.

Not all cases that pass through the county district courthouse are equally complex. Other jurisdictions have identified ways to expedite cases that don't involve witnesses or extensive discovery, do not have the potential for any or extensive prison time, and/or when the defendant and his counsel are ready to plea to charges. An expediting team from the district attorney's office and the public defender's office should be established to conference and agree on cases that can be resolved at or soon after arraignment, including

expedited referral to diversion programs. The district court can designate a specific docket for resolving these cases, with expedited discovery dates, as needed.

Strategy 4d: Consider implementing proven strategies for reducing case backlogs.

Jurisdictions with significant case backlogs have used backlog dockets, sometimes called “rocket dockets,” to clear cases that have been lingering in the courts too long. Clearing cases that have been open for an extended period will impact the jail by targeting longer stays. If a judge skilled at case management is put in charge of this kind of docket, cases can be resolved or set for a specific date. Other jurisdictions, such as New York City, have demonstrated success in clearing cases using this method. Another strategy is to implement time standards for case processing, based on the type of case. Bernalillo County, NM (Albuquerque) has made impressive reductions of its jail population, in part because its courts have instituted strict deadlines for case resolution.²⁸

Before instituting any of these strategies, a team from the court should undertake an investigation into case processing delays, potentially by reviewing a representative sample of cases from the district court. This review should analyze both misdemeanors and felonies as well as in-custody and out-of-custody cases.

Strategy 4e: Implement a court notification system in the district court to reduce failure to appear.

As noted above with regard to the municipal court, evidence-based court notification systems have been shown to reduce failures to appear, thereby increasing case processing efficiency and reducing warrants. The county should institute such a system. It should also be used to notify people who are not in custody that charges have been filed against them by the district attorney and provide them with a court date. A reminder system could also be used to alert those who are behind on payments of their criminal justice debt and refer them to a court date at the cost docket, reducing the number of people who end up in jail on cost warrants.

Strategy 4f: Prioritize access to counsel in the jail.

Earlier access will allow attorneys to get an earlier start in prepping cases and will enable the defendant to more readily assist with his own defense. Delayed or denied access to clients in jail increases length of stay, as it justifies additional continuances, delays the relaying of plea offers and acceptance, and makes it difficult for defendants to assist in the preparation of their cases.

Strategy 4g: Review practices and procedures for bond surrender.

There is limited information about when bond surrender occurs and whether there is a mechanism for averting that process. Stakeholders need to gain clarity on the reasons for bond surrender. Notification

from the jail to the courts, the district attorney's office, and defense counsel once someone is surrendered on bond will allow the courts to expedite those cases or perhaps allow the defendant to be released on nonfinancial release. The city and county may want to consider pursuing a legislative remedy to this problem.

Strategy 4h: Institute a periodic warrant resolution program.

As a first step to reducing the number of open warrants, municipalities, counties, courts, and district attorneys around the country have sponsored programs to encourage people with outstanding warrants on lower level charges to come in and resolve their cases on their own volition. Tulsa recently held such a program for municipal warrants.²⁹ These events, usually conducted in an accessible location like a church or a downtown library, provide an opportunity for individuals with warrants to either address the issue on the spot with a judge or to receive a court date to do so at a later date. Individuals can be screened initially by a public defender, who can identify whether they have cases that can be resolved that day or if they need to seek further legal advice. Warrant resolution programs help courts clear their warrant backlogs, reduce arrests and unnecessary jail bookings, and allow individuals in the community to resolve old problems that may be holding them back.

5. Expand meaningful diversion program options, focusing on those with mental illness and substance use disorders

Key findings and challenges

1. *Individuals with addiction, mental illness, or both come into the Oklahoma County jail at disproportionately high rates.*
 - The sheriff's office reports that about 12 percent of its daily population has been identified to have a serious mental illness; this is twice the rate of the broader county population, but most likely underestimates the number of individuals with mental illness in the jail.³⁰
 - Exact figures on the number of people in the jail with substance use disorders are unavailable, but the most frequent felony charge among those entering the jail, representing almost 20 percent of all felony charges, is simple drug possession. The most frequent misdemeanor charges among those entering the jail, representing almost 25 percent of all misdemeanor charges, are possession of drug paraphernalia and drug possession. The top municipal charge is public intoxication.

- Data from Oklahoma Mental Health and Substance Abuse Services indicate that over 115,000 adults in Oklahoma County have mental health needs, and almost 50,000 are in need of substance abuse treatment.³¹
2. *Oklahoma County does not have sufficient diversion options to keep individuals with behavioral health needs out of the jail and address the underlying problems that cause them to come into contact, some repeatedly, with the criminal justice system.*
 - The OCPD has officers who have received Crisis Intervention Training to respond to people with mental illness who are in crisis, but there are insufficient crisis beds to support referrals, and officers sometimes must drive long distances to bring individuals to crisis or treatment services. This takes officers off the street for hours at a time.
 - Individuals are now screened for mental illness and substance use disorders at the jail through the Offender Screening Program run by the Department of Mental Health and Substance Abuse Services, but the screening is not currently being used to flag individuals for early diversion.
 - Diversion programs exist, including the Drug Court, DUI Court, Mental Health Court, Regimented Offender Discipline (RID), the County Veteran’s Program, and ReMerge (for women), but their numbers are small and their reach is limited.
 3. *The process of referral and assessment for entry into a county specialty court is a protracted process, leading to longer jail stays and delays to treatment and rehabilitation.*
 - Criminal justice system stakeholders agree that it takes on average 60 days from jail booking for someone to be accepted into a diversion program. The delay appears to be caused by a number of factors including a lack of early screening and other case processing issues which delay charging and assignment of counsel, and the lack of a structure to support early case resolution (see Section 4).
 - Because of this protracted process, candidates for diversion sit in jail pretrial for extended periods. While the programs provide an alternative to incarceration as a sentence, they do not serve to divert individuals from traditional case processing or from pretrial incarceration, which wastes jail beds and delays access to treatment.
 4. *Specialty court requirements, including length of required participation and the cost of participation, can be unduly burdensome, which deter enrollment.*
 - While data on the referral process to specialty courts, the number of people who accept or don’t accept diversion offers, and the failure and success rates of those who participate are not available, the scale of the programs relative to the size of the population in the jail with behavioral

health problems suggest that these programs are not reaching all of the people who are in need of treatment.

- Criminal justice system stakeholders suggest that the cost of these programs, which require payment for participation and auxiliary costs like drug tests, on top of payment for court costs, supervision fees, and other fines and costs, serve as a disincentive to enrollment and is a common reason for program failures.

Responsive strategies

Strategy 5a: Identify and enroll participants in specialty courts earlier in the criminal justice process.

The judiciary and the offices of the district attorney and the public defender should work together to troubleshoot the specialty court enrollment process and pinpoint earlier intervention points for diversion. One possibility is to flag individuals for possible referral to diversion during the expanded expedited pretrial release process described in Strategy 3a. The parties have discussed integrating the Department of Mental Health's Offender Screening program, which uses the Ohio Risk Assessment System (ORAS) risk/needs assessment tool, into the booking process, as a companion process to medical screening. This would allow for screening results to be available to the courts, prosecutor, and defender by the time of the arraignment hearing.

Strategy 5b: Invest in a continuum of diversion programming.

Criminal justice diversion, when adhering to best-practices, has been proven to decrease costs to systems and improve outcomes for participants.³² By moving up placement and also expanding early options, local diversion options can lessen the collateral consequences on individuals who could be more efficiently and effectively served in the community and also reduce the use of jail, particularly pretrial detention. As such, Oklahoma County should invest in a wider range of pre-booking and prosecutorial diversion mechanisms, which vary in duration as well as intensity, based on need and the seriousness of charges.

Expanding the range of diversion and alternative to incarceration programs in Oklahoma County does require the investment of resources, particularly for treatment. But there are effective diversion programs targeted to low-level offenses that are not necessarily resource-intensive, such as the ones described in Toledo and Philadelphia on the following page.

Pre-booking diversion

A pre-booking diversion program diverts an individual suspected of criminal behavior away from the criminal justice system before he or she is charged with a crime or even booked into jail. Some programs use a pre-arrest model, where law enforcement diverts individuals to treatment or programming without making an arrest. Oklahoma City's CIT-trained officers and the use of a detox center are two local examples. Under a post-arrest model, an eligible individual is arrested but, upon accepting services, avoids booking and formal charges. Diversion at this stage requires strong partnerships between law enforcement, treatment providers, and other community services.

OCPD and other local law enforcement agencies should explore other pre-booking models such as the Law Enforcement-Assisted Diversion (LEAD) program, which was pioneered in Seattle, WA in 2011. Instead of booking an individual suspected of a drug or prostitution crime into jail, police officers can offer arrestees the opportunity to be diverted to community-based services overseen by a case-manager. While most LEAD participants enter into the program post-arrest, officers are also empowered to refer residents in need of services to a case-manager via an informal interaction called a "social contact," preventing an arrest altogether. Using a harm-reduction approach, LEAD services include housing, healthcare, job training, addiction treatment, and mental health support. LEAD, unlike other diversion programs, is not intended for first-time offenders, but targets high-utilizers with prior criminal justice involvement. Initial results have shown that participants had reduced recidivism rates, reduced jail bookings, shorter lengths of stay, and were more likely to have stable housing and employment than before their enrollment.³³

Since showing success, LEAD is being replicated in approximately 30 cities across the nation. The Santa Fe Police Department (NM) was the second law enforcement agency to adopt the model, tailoring it to fit their community's needs.³⁴ Their police force had been grappling with high-utilizers, many of whom were addicted to opioids (pharmaceuticals and heroin) and were stealing to support their addictions. An assessment found that Santa Fe's top 100 repeat offenders has cost the local criminal justice and health systems \$4.2 million in three years; collectively, these 100 individuals were arrested 590 times and used 11,502 bed days. After launching in April 2014, law enforcement in Santa Fe found that LEAD reaches many typically underserved individuals: of the first 38 LEAD clients, 66 percent were female, 84 percent were Latino, 40 percent were homeless, and 30 percent were parents.

Post-booking and prosecutorial diversion

Prosecutorial diversion typically applies after someone has been booked into jail. Some post-booking diversion programs intervene before formal charges have been filed; these are known as pre-charge diversion programs (sometimes referred to as pre-filing programs). In contrast, under a post-charge model, prosecutors file charges, but these charges are dropped or reduced upon successful program

completion. Residential treatment and other forms of intensive rehabilitation are not always necessary for effective prosecutorial diversion. Many use existing departments of probation or pretrial services to provide supervision and rely on local organizations to provide programming and other personal development opportunities, such as job counseling or case-management.

Using prosecutorial diversion as a strategy for reducing racial disparities

In addition to decreasing unnecessary jail incarceration, prosecutorial diversion is one approach that can reduce racial disparities. After conducting a data-driven analysis of Lucas County, OH (Toledo)'s jail population, criminal justice stakeholders found racial disparities across almost every point of the justice system; black people made up 19 percent of the county population, but 58 percent of the jail population. A deeper dive into the data revealed that three charges—drug possession, disorderly conduct, and obstructing official business— were disproportionately bringing black people into the jail.³⁵ In response, the county is implementing a pre-charge prosecutorial diversion program that targets people with one or more of these three charges. Eligible individuals will be diverted at the point of arrest or booking, and successful participants will avoid charges and jail incarceration, likely having an impact on racial disparities in the jail.

In Philadelphia, there is The Choice is Yours diversion program. Developed by the district attorney's office, prosecutors can divert first-time, non-violent felony drug offenders into community-based programming instead of incarceration.³⁶ Participants, after learning about the program and its requirements, enter no-contest pleas prior to enrollment. They are then provided case-management and other services to support legal employment, such as job skills training courses. (The aim is to increase participants' likelihood of obtaining legal employment.) After successful completion, graduates' records are expunged, giving the first-time offender a clean record, reducing the collateral consequences of a criminal conviction, and sparing the individual and the state a costly prison sentence.

Spotlight on mental health diversion in Miami-Dade County

Over the last decade and a half, Miami-Dade County has been able to shift considerable resources from the criminal justice system to local mental healthcare. The Eleventh Judicial Circuit Criminal Mental Health Project (CMHP) of Miami-Dade County, FL was established in 2000 to divert individuals with serious mental illnesses (schizophrenia, bipolar disorder, major depression) and co-occurring disorders away from the criminal justice system and into comprehensive community-based treatment and support services. While this has not been a quick or easy process, Miami-Dade's results have been impressive; the jail population has declined from 7,800 to 4,800 people and one jail has closed, resulting in a savings of \$12 million per year.³⁷ To achieve these results, Miami-Dade created multiple intervention points:

- **Pre-arrest diversion.** Miami-Dade County utilizes CIT officers for diverting people with mental health needs pre-arrest. When appropriate, individuals in crisis are assisted in accessing treatment facilities in lieu of being arrested and taken to jail. In 2012, CIT officers from the Miami-Dade Police Department and City of Miami Police Department responded to 10,000 calls, resulting in over 3,500 diversions to crisis units and just 45 arrests. As a result of CIT, fewer individuals in acute psychiatric crisis are being arrested and booked into the jail, more individuals are being linked to crisis care in the community, and there has also been a dramatic reduction in fatal shootings and injuries of people with mental illnesses by police officers.

- **Post-booking misdemeanor jail diversion.** All defendants booked into the jail are screened for signs and symptoms of mental illnesses. Individuals charged with misdemeanors who meet program admission criteria are transferred from the jail to a community-based crisis stabilization unit within 24 to 48 hours of booking. Upon stabilization, legal charges may be dismissed or modified in accordance with treatment engagement. Individuals who agree to services are linked to a comprehensive array of community-based treatment, support, and housing services and are monitored for up to one year. Approximately 300 defendants participate annually. Recidivism rates among program participants have decreased from roughly 75 percent to 20 percent annually.
- **Post-booking felony jail diversion.** Participants in the felony jail diversion program are referred through a number of sources including the public defender's office, the state attorney's office, private attorneys, judges, corrections health services, and family members. All participants must meet diagnostic and legal criteria. Upon entering the program, the prosecutor will offer the defendant a plea deal that is contingent on his or her successful completion of the program, and legal charges may be dismissed or modified based on his or her engagement with treatment. All program participants are assisted in accessing community-based services and are supervised in the community. Individuals participating in the felony jail diversion program demonstrate reductions in jail bookings and jail days of more than 75 percent, with those who successfully complete the program demonstrating a low recidivism rate of just 6 percent. Since 2008, the felony jail program alone is estimated to have saved the county over 15,000 jail days, or more than 35 years.

6. Reduce the impact of justice system fines and fees as a driver of jail growth and recidivism

Terminology:

Fines are levied upon an individual as punishment for committing a crime.

Fees and **costs**, in contrast, are levied on defendants to recoup revenue for criminal justice agencies such as the jail, the courts, and community supervision offices.

Key findings and challenges

- 1. Fines, fees, and costs are levied on individuals at practically every point of the criminal justice system.*
 - Vera's legal research found over 103 separate statutory fines, fees, or costs assessed on defendants and/or those convicted of an offense under Oklahoma State law. An additional 26 fines, fees, or costs are imposed at the municipal level.
 - From fingerprinting fees at the jail door (\$5), to fees for applying for and being represented by a public defender (\$15 and approximately \$200 respectively), to drug court costs (up to several hundreds of dollars a month), and district attorney probation fees (\$40 per month), debt can be incurred at practically every step of the criminal justice system. People moving through the system can easily acquire thousands of dollars of debt. (See Appendix D for a system map of possible fines, fees, and costs.)
- 2. Individuals, including those without the funds to pay, are routinely brought back in to the jail for failure to pay criminal justice debt.*
 - In 2015, there were 1,052 bookings into the jail for failure to pay or failure to appear only; many other people had warrants for failure to pay in addition to other charges.
 - People booked into the jail on failure to appear and/or failure-to-pay warrants spent almost two weeks longer (33 days) than the average length of stay for the general jail population (21 days).
- 3. Individuals are not able to get fines, costs, and fees waived or lowered due to indigence until after they have failed to pay and have been brought back to jail.*

- Oklahoma law pertaining to the district court’s ability to waive or lower specific fines and fees is inconsistent, but Rule 8.5 of the Oklahoma Court of Criminal Appeals reads, “In the event the defendant, because of physical disability or poverty, is unable to pay fine and/or costs either immediately or in installment payments, he/she must be relieved of the fine and/or costs; or, in the alternative, be required to report back to the court at a time fixed by the court to determine if a change of condition has made it possible for the defendant to commence making installment payments toward the satisfaction of fine and/or costs.³⁸ Rule 8 hearings could be held immediately, but are most often held after people fall behind on their payments.
- In order to be placed on what is known as the “cost docket” for a Rule 8 hearing, an individual has to have already failed to pay. For people who have been arrested and have failure-to-pay holds, a judge sees them in jail, will release them if they post cash bond, and then will place them on a cost docket for a later date. Once at the hearing, the judge can grant more time to pay or provide another solution allowed by law.

4. *Excessive fines, fees, and costs disproportionately impact women and people of color.*

- Women, who are statistically poorer than men, were overrepresented in bookings for failure to pay; they comprised 37 percent of these arrest charges, but only 27 percent of all 2015 admissions.³⁹
- Because fines and fees weigh particularly heavily on those with low incomes, they can exacerbate racial and ethnic disparities in the jail population, an area of concern for Oklahoma County.⁴⁰

5. *Criminal justice debt is a barrier to reentry and contributes to recidivism.*

- In addition to causing people to end up back in the jail for failure to pay, significant criminal justice debt can lead to long-term economic harm to individuals and their families. Consequences include suspended drivers’ licenses (which can lead to more tickets and more jail time); housing insecurity; and missed child support payments.⁴¹ Community organizations in Oklahoma City report that criminal justice debt interferes with the ability of people to maintain employment. Multiple court dates and short jail stays due to failure-to-pay warrants can lead to job loss for people who are in financially precarious positions and for whom adequate employment is difficult to find.

Responsive strategies

The district court and other agencies are under pressure to collect fees and costs to support a justice system that is not fully funded at the state level. If these costs are driving jail admissions and ongoing involvement in the justice system, however, these fundraising efforts may be counterproductive, and undermine the economic vitality of communities in Oklahoma County.

While the fines and fees are set by the legislature, there are strategies that the county can pursue to soften their impact. Oklahoma City is currently looking into how they can avoid arrests on warrants based solely on failure to pay for municipal offenses. These strategies may also be models for efforts at the district court level.

Legislative recommendation 7b contains guidance for conducting a statewide analysis of fines and fees.

Strategy 6a: Conduct earlier indigency determinations, enabling people to manage their debt before they fail and ensuring that no one is incarcerated for being poor.

State law allows some fines and fees to be waived but others cannot be waived or lowered at all; and some can only be lowered if all of them are lowered an equivalent amount. Rule 8.5, however, allows for a determination of indigency, which can relieve the requirement to pay these costs.

Under the current system, indigency determinations are typically conducted *after* someone has already been rearrested for failure to pay or failure to appear. Rather than wait for someone to fail, the courts should proactively advise defendants that they have the option to pursue an indigency determination, the right to a hearing, and the possibility of a payment plan.

Strategy 6b: Develop a district court alternative to arrest and jail booking for cost warrants.

Jail incarceration is not an appropriate first response to a failure to pay or failure to appear and pay. In fact, the county may spend more money enforcing a cost warrant than it is likely to get from someone who simply does not have the money to pay. An alternative would be for individuals to receive a summons and court date to appear on the cost docket. Oklahoma City is moving to do this for municipal cost warrants by adding a new code into their data system so that officers in the field can know when an outstanding municipal warrant is only for costs; those individuals will not be brought to the jail. A similar system should be adopted for state cost warrants generated from the district court.

Strategy 6c: Make financial obligations easier to pay.

Not only are court costs themselves onerous, but so are the methods by which they can be satisfied. Currently, individuals with costs from district court cannot make payments online and must make credit

card payments in person during business hours. In contrast, the municipal court has a variety of payment options including online payment and longer evening and weekend hours for people to pay in person.

Furthermore, it can be difficult for individuals to keep track of various fines, fees, costs, and restitution, know how to prioritize these different debts, and decipher where and how to make payments.⁴⁰ People with criminal justice debt should be provided with a consolidated statement that itemizes each amount owed, its due date, and the legal basis for this cost.⁴² The statement should also provide directions for how and where to make these payments and what to do if she or he is unable to make the payment in full.

Legislative agenda

The Task Force has focused its work on strategies to improve the efficiency and fairness of the Oklahoma County criminal justice system and to safely reduce the jail population. Many of the changes necessary to achieve these goals can be accomplished at the local level through reform of policy and practice in Oklahoma County. There are, however, many aspects of the Oklahoma County system that are controlled or impacted by state law. This section includes recommendations for legislation that will support the goals of the Task Force and other efforts to improve local justice systems.

Significant change to state criminal law is on the horizon. Two ballot measures, State Question (SQ) 780, referred to as the Oklahoma Smart Justice Reform Act, and its companion, SQ 781, which establishes the County Community Safety Investment Fund, have just passed. These ballot initiatives make low-level possession of drugs a misdemeanor rather than a felony and raise the threshold amount that constitutes felony theft and other financial crimes to \$1,000. They also expand the judicial discretion to use community treatment for mental health and substance use issues in lieu of jail time. SQ 781 authorizes the creation of a fund from the prison savings realized by the changes in criminal penalties in SQ 780, and with monies distributed to counties to finance the expansion of treatment options in the communities.

While the conversion of felonies to misdemeanors will increase the number of offenses that are punishable by county jail time instead of time in state prison, and could therefore increase local jail populations, the measures allow greater discretion to use community sentencing instead of incarceration, with the prospect of increased funding for treatment resources. Misdemeanors carry lower bail amounts in Oklahoma County which could have an immediate impact on pretrial release and expand the use of OR and CR bond. At the same time, the pressure of a potential felony conviction is used to encourage participation in drug court. Thus, while it is impossible to say definitively how these measures would impact the jail in Oklahoma County, they have the potential to enable some reductions to the jail population, should that be the priority.

Oklahoma is also participating in the Justice Reinvestment Initiative (JRI), which is also expected to lead to legislation on criminal justice reform this session. While this effort targets drivers of prison population growth, many of these issues also effect local jail populations. It will be critical that the JRI Task Force consider the impact of proposed reforms on local jail populations and explore reforms that will reduce overreliance on jail.

There are two major areas—in addition to the sentencing reform issues being undertaken through the ballot questions and the JRI process—where state legislative reform could support better use of Oklahoma County’s jail: pretrial release and costs, fines, and fees.

Recommendations

Enable evidence-based pretrial release decisions

As discussed above, Oklahoma Statutes, Title 22, Section 1105.3 (“Pretrial Release Act”) authorizes the creation of pretrial release programs in the state. The statute allows any county to create a pretrial release program, and sets forth minimum requirements for the program, including reporting. The program is supposed to screen people who do not bond out to evaluate if they should be released and specify any conditions. The statute specifies 40 offenses that make a person ineligible, but separately provides that a district judge or associate district judge can order the release of someone who is otherwise ineligible based on their offense. Compounded by strict local court rules, these categorical exemptions severely limit nonfinancial pretrial release options in Oklahoma County because the judge making pretrial release decisions is a special judge, not a district court judge. In addition, the statute authorizes participation in a pretrial release program only for those who have failed to bond out of jail. This provision appears to limit the creation of a program that uses a pretrial risk assessment, rather than a bail schedule, to decide who should enter the jail, which is not best practice nationally.

Models for state legislative reform to support evidence based pretrial decision-making exist around the country. In some cases, legislation is stand-alone, and in others, pretrial reforms are contained within larger criminal justice reform bills. Examples of pretrial and bail statutes from other states that could help reduce unnecessary pretrial detention in Oklahoma include:

- Mandating that, in most circumstances, low- and moderate-risk defendants, as assessed by a validated evidence-based risk assessment instrument, be released on their own recognizance or on unsecured bonds (Alaska Senate Bill 91, 2016).
- Mandating that judicial officers use results of a validated pretrial risk instrument to inform their pretrial release decision making (Delaware Senate Bill 226, 2012).

- Encouraging counties to establish pretrial services offices that adhere to evidence-based practices (Colorado House Bill 1236, 2013).
- Establishing an option for preventive detention, in which a defendant deemed too dangerous for release into the community is denied pretrial release from the outset (New Jersey Public Question 1, 2014/Senate Bill 945, 2015). This allows a jurisdiction to move away from cash bail altogether; low-risk defendants are released on their own recognizance; moderate-risk defendants are released into the community but with conditions and/or pretrial supervision, and the highest-risk defendants are detained without the fear that they will be able to make bond.
- Allowing defendants who cannot afford bond to, within seven days of booking, request a bail review hearing (CO HB 1236).
- Establishing a presumption of release to the community on least-restrictive conditions (CO HB 1236).
- Outlawing the strict and sole use of a bail schedule, without individualized consideration of the defendant's circumstances (CO HB 1236).

At the very least, Oklahoma should consider reducing or eliminating restrictions on nonfinancial pretrial release, allowing local jurisdictions to craft appropriate pretrial release and supervision programs that achieve local public-safety goals and follow national evidence-based practices.

Fines, fees, and costs: Address criminal justice debt as a driver of justice system growth

Fines, fees, and costs are assessed throughout the Oklahoma County justice system; while some are local, most of these are mandated at the state level. Vera's survey of Oklahoma law found at least 103 separate statutorily authorized criminal justice legal financial obligations. In addition, individuals mandated to programming or drug testing will bear those costs as well. There is evidence from Oklahoma County's data that individuals' inability to meet these obligations leads to more contact with the justice system, including additional arrest warrants for failure to pay and/or failure to appear, as well as jail stays. The inability to afford the costs of mandated treatment or other programming may lead to absconding and program failure, not to mention failure to address the reasons behind an individual's criminal behavior. A significant portion of the justice system statewide, including the courts and the district attorney's office, are financed through these assessments, making the case for waivers and reductions and payment plans harder to make. Generally, individuals with fines, fees, and costs from the district court have to fail first before getting access to a hearing on the cost docket, which will get them a payment plan.

Because fines, fees, and costs are assessed at many points in the system and are dispersed to so many different agencies on city, county, and state levels, there is currently no easy source to assess criminal costs levied, collected, and outstanding debts owed. Furthermore, the costs of collecting—or attempting to

collect—these debts are unknown. The first step in addressing fines and fees should be to commission a thorough statewide audit of existing laws, policies, and practices around fines, fees, and costs, including a cost-benefit analysis. Legislation could commission this audit as a standalone item or through the establishment of a statewide task force charged with commissioning, auditing, and delivering recommendations.

A legislative approach to mitigating fines, fees, and costs

One example of a legislative approach to addressing the impact of fines, fees, and costs is the Illinois Access to Justice Act (HB 3111), passed in 2013. The act created a task force to study fines and court fees in both the civil and criminal court systems. Comprised of representatives from the three branches of government and both political parties, the task force released its findings and recommendations in June 2016.⁴³ Key findings include:

- Fines, fees, and surcharges had increased over time, resulting in a “byzantine system” for civil litigants and criminal defendants.
- New fines and fees were constantly added to statute, increasing over time and outpacing inflation.
- The use of fines, fees, and surcharges for both civil litigants and criminal defendants varied widely between counties, manifesting in vast inconsistencies and “threatening the fairness of the current system”.

- Cumulatively, these costs imposed a “severe and disproportionate impact on low- and moderate-income Illinois residents.” The report continues, “Without relief from runaway court costs, more and more Illinois residents will be forced to decide between protecting their legal rights and paying their basic living expenses.”⁴⁴

The task force produced three recommendations regarding criminal justice costs to the General Assembly:

- The General Assembly should authorize a uniform assessment schedule for criminal and traffic cases that is consistent across the state.
- The General Assembly and the Supreme Court should authorize a sliding scale to reduce court costs and fees, but not fines, imposed on criminal defendants living near the poverty line.
- The General Assembly should consult a proposed “Checklist for Review of New Assessment Legislation” before creating new fines, fees, or costs, to ensure that the statute is clear and precise.

In addition to or as part of an audit or statewide task force on fines, fees, and costs, the state should mandate that court systems, district attorney’s offices, and other criminal justice agencies, including private agencies, that assess fines, fees, and costs collect data and produce a public report that documents what was assessed and collected, the costs of collecting, failure rates and outcomes, policies implemented to assess and accommodate indigency, and other outcomes, like warrants issued and incarceration. Other legislative recommendations to consider include:⁴⁵

- Setting a statewide cap on the percentage of income that can be collected. For instance, some child support policy experts have suggested that no more than 20 percent of one’s take-home pay is reasonable and achievable.
- Eliminating the presumption that being able to pay a bond indicates that a person is able to afford fines, fees, and costs and a private attorney.
- Defining terminology used in statute such as “indigent,” “ability to pay,” “undue financial hardship,” and so forth, providing clarity to the courts and existing and future statutes.
- Requiring courts to make findings of a person’s ability to pay on the record.

Understanding the potential impact of these jail population reduction strategies

The dearth of good data about who is in the jail and why constrains our ability to accurately project the impact of these recommendations on the jail population. However, using the methodology on the following page and based on best-practices as applied in our work elsewhere, we can provide a sense of the potential impact if the county committed to enacting the recommendations provided in this report. A major recommendation for the county is for data collection practices to be improved and policy decisions to become routinely data-driven. This will also make impact projections easier and more accurate going forward.

There are several important conclusions to draw from these analyses. First, no one strategy alone will significantly reduce the jail population, which has an average daily population of 2,581. The drivers of the jail population in Oklahoma County are many and there is no one quick fix. Second, the implementation of multiple strategies can reduce the jail population significantly. Many of the levers that will impact the population in both the short term and the long term are within the control of stakeholders at the county and local level. If the will and the commitment is there, Oklahoma County can have a significantly smaller jail.

Calculations methodology

The basic approach to deriving the impact of different strategies on the average daily population of the jail is simple. To calculate the number of jail bed days occupied by any target population in a given year, we take the number of admissions for that group and multiply it by their average length of stay. To translate that into the impact on the average daily population, we divide the total jail bed days by 365. To calculate reductions in the average daily population, we multiply the population by the estimated number of days saved per case, and divide that number by 365. The calculations below, which provide a way of considering potential impact, do not account for the fact that a number of the strategies target populations that overlap; were all strategies to be implemented at the same time, the total impact would be less than the sum of all individual impacts together.

Reducing admissions for municipal charges

In 2015, there were 10,216 admissions to the jail for municipal violations only. People who are admitted to jail for municipal violations have an average length of stay of three days. They do not represent a significant portion of the people in the jail on any given day (approximately 84 people in the average daily population), but they make up a quarter of all the bookings and contribute to the overcrowding and delays in the booking area of the jail. In terms of impact, then, it is critical to look at how the policy proposals that aim to reduce municipal admissions will influence both daily and yearly admissions and the average daily population.

- The number of admissions for municipal violations in 2015 translates into an average of 28 admissions per day (out of a total of 108 people). **A 50 percent reduction in these admissions would mean over 5,000 fewer annual bookings into the jail and 14 fewer people admitted per day.** If Oklahoma County were to achieve **a 75 percent reduction in municipal admissions, this would mean that 21 fewer people will enter the jail on an average day (a 20 percent reduction in overall daily admissions)**—which is significant.
- In terms of the impact on the average daily population, **a 50 percent reduction in municipal admissions would reduce the number of people in the jail by 42 on a given day. A 75 percent reduction would reduce the daily population by 63 people.** The overall impact may be greater, however, as the reduction in daily admissions should speed up bookings and releases from the jail, reducing length of stay for those who do go in.

Creating a fair and efficient pretrial release process

Short term strategies: Expediting OR/CR bond releases and expanding eligibility

- In 2015, 1,448 people were released on OR and CR bond combined. Currently, the process for approval of OR/CR bond release is protracted. It requires a district judge's approval and recommendations of court services may be pending for weeks. If we assume, conservatively, that each of those 1,448 individuals stayed 21 days in the jail, which is the average length of stay for all admissions, then we can assume that there are approximately 83 people in the jail on a given day who could have been released on OR/CR. If release of these individuals was expedited to the probable cause hearing, which generally occurs within three days of arrest, this would shorten their length of stay by an average of 18 days—**reducing the average daily population by 71 people.**
- If the number of people released on OR/CR bond could be increased from 1,448 to 3,000 per year, with each of those individuals staying three days instead of 21, **this would reduce the average daily population by 148 people.**

Short term strategies: Reducing bail amounts

- In 2015, there were 11,324 people who were released from the jail after paying bail. Just over one-third of them, 4,550, got out on the first day. The remaining 6,774 spent an average of 12 days in jail before making bail. If bail amounts were set by the highest charge, versus cumulatively, and if public defenders were assigned at probable cause hearings to argue for bail reductions, these people might get out sooner. If time to release for those individuals was dropped to six days on average, **the average daily jail population would drop by 111 people.**
- Reduced bail amounts, combined with the increased use of personal recognizance bond, could significantly increase the number of people released on bond. If, in addition to faster release on bond of those who are already getting out, an additional 5,000 people were released on bond within six days, instead of staying on average 21 days, **the average daily population would drop by 205.**

Longer term strategies: Moving to an evidence-based pretrial release system

An evidence-based pretrial decision-making process will help identify low- and moderate-risk defendants who can be safely released to the community while awaiting a decision or a plea in their case. These defendants should also be supported by a good court reminder system and appropriate pretrial supervision.

- The jail data suggests that 80 percent of admissions are pretrial. If those who are admitted on municipal offenses only are removed, we can assume that there were approximately 21,263 state misdemeanor and felony pretrial admissions. If one-third of those detainees were released at three days instead of staying an average of 21, **then the average daily population of the jail would drop by 349**. If half of pretrial detainees were released at three days, **the average daily population would drop by 524**.

Reducing district court case processing delays

The lack of data around court processes makes impact calculations particularly challenging, but a simple exercise suggests how many bed days could be saved by reducing case processing for those in the jail.

- The average length of stay for all admissions is 21 days. Half of all admissions have stays that are three days or shorter; these stays will not be shortened by case processing improvements. However, for those who stay longer than three days (a total of 19,417 admissions), the average length of stay is 41 days, a number that better reflects the impact of case processing delays on the jail population. If, for those who do not get out in the first three days, the average length of stay could be reduced by 10 days, **the average daily population would decline by 532 people**.

Reducing admissions for warrants

In 2015 the OCPD booked 7,062 people on warrants only. Using the average length of stay (21 days), this translates into 406 people in the average daily population admitted for warrants. This analysis estimates the population impact of reducing those admissions:

- **A 25 percent reduction in bookings for warrants would reduce the jail population by 101 people.**
- **A 50 percent reduction in bookings for warrants would reduce the jail population by 203 people.**
- **A 75 percent reduction in bookings for warrants would reduce the jail population by 305 people.**

Appendix A: key data indicators

This appendix includes recommendations for key indicators for criminal justice agencies and for enhancing data collected on race and ethnicity in the criminal justice system. The indicators are organized by key pretrial justice decision point. These data will provide stakeholders with a baseline understanding of agencies' functioning, and if analyzed over time will be useful in tracking local system trends, emerging issues, and reform progress.

Many criminal justice fields now use sets of performance measures meant to paint a holistic picture of agencies' functioning. For instance, experts in law enforcement have developed metrics tracking various indicators such as public perceptions of safety and response times. While these are important, this appendix focuses on indicators that are most relevant to the jail population.

The following measures should be collected and analyzed so that race/ethnicity and gender can be disaggregated.

Arrest and law enforcement contact

These data should be collected by the county's municipal police agencies and the sheriff's office.

A. Total citations/summons, broken down by:

Charge (including distinction between city, state misdemeanor, and state felony)

B. Total arrests, broken down by:

- Charge(s), (including distinction between city, state misdemeanor, and state felony)
- Location of arrest—e.g., zip code or block
- Warrants status and warrant type—e.g. failure-to-pay
- Arrestee status—e.g., on probation or parole

C. Total diverted pre-arrest or pre-booking such as drop-offs at detox center and CIT responses.

Resources:

[Malcolm K. Sparrow, "Measuring Performance in a Modern Police Organization," *New Perspectives in Policing* \(Washington, DC: U.S. Department of Justice, National Institute of Justice, 2015\).](#)

Ed. Robert H. Langworthy, *Measuring What Matters: Proceedings from the Policing Research Institute Meetings*, (Washington, DC: National Institute of Justice, 1999).

Pretrial release measures

A. System wide indicators for pretrial release (district court and jail)

- Pretrial detainee length of stay: the length of stay in jail for pretrial detainees
- Pretrial detention rate: the percentage of defendants who are incarcerated throughout the pre-trial period
- Jail pretrial detention: the percentage of the jail population that isn't convicted (as distinguished from those awaiting hearing on post-sentencing matters)
- Average bail amount set by top-charge severity
- Percentage of defendants who make bail, broken down by total bail amount
- Appearance rates for all defendants, broken down by release type

B. Indicators from court services

- Screening rate: the percentage of defendants potentially eligible for release by statute or local court rule that are screened in a timely manner
- Concurrence rate: the percentage of cases in which the court/judges adhere to court services' pretrial release recommendations
- Appearance rate: the percentage of supervised defendants who make all scheduled court appearances, broken down by charge severity and/or supervision level
- Safety rate: the percentage of supervised defendants who are not charged with a new offense during the pretrial stage, broken down by charge severity and/or supervision level
- Success rate: the percentage of supervised defendants who 1) are not revoked for technical violations of the conditions of their release, 2) appear for all scheduled court appearances, and 3)

are not charged with a new offense during pretrial supervision, broken down by charge severity and/or supervision level

Resource:

[National Institute of Corrections, *Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field*, \(Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2011\).](#)

Charging/district attorney's office

A. Number of cases accepted/declined for prosecution, broken down by:

- Arresting agency/municipality
- Top charge severity
- Charge description/code

B. Number of prosecutorial diversions, broken down by:

- Charge(s)
- Success or failure
- Time from arrest to program enrollment
- Average time to program completion

C. Case outcomes, broken down by

- Convictions, dismissals, placement in diversion or specialty courts
- Time from initial appearance to disposition

D. Number on DA probation

- Demographics

- Length of time on supervision
- Success and failure rates

Resource:

[The American Prosecutors Research Institute, *Prosecution in the 21st Century: Goals, Objectives, and Performance Measures*, \(Alexandria, VA: American Prosecutors Research Institute, 2004\).](#)

Assignment of counsel

The following measures should be collected by the public defender's office.

A. Number of cases handled by the office broken down by:

- Charge type
- Average lawyer caseload size

B. Number of defendants who enter diversion programs, broken down by:

- Charge(s) and major crime categories
- Major crime categories
- Success or failure
- Average time to program completion

C. Case outcomes: Convictions, dismissal, placement in diversion or specialty courts

D. Times to disposition

System-wide measures:

A. Number of defendants represented by:

- Private counsel
- Public defender
- Court-assigned counsel

Resources:

[Marea Beeman, *Basic Data Every Defender Program Needs to Track*, \(Washington, DC: National Legal Aid & Defender Association, 2014\).](#)

[Ziyad Hopkins, *The Committee for Public Counsel Services Answering Gideon's Call Project: Best Practices, Objectives and Performance Indicators*, \(New York: Center for Court Innovation, November 2014\).](#)

Measures for the jail population

- A. Average daily population
- B. Total admissions, broken down by:
 - Arresting agency
 - Charge and severity (city, state misdemeanor, or state felony)
 - Warrant status
- C. Total releases, broken down by:
 - Release reason (including amount of bail paid if applicable)
 - Length of stay
- D. Daily population, broken down by:
 - Length of stay
 - Legal status (pretrial—including bail amount; convicted: sentenced to DOC; convicted: locally sentenced to jail; post-conviction: failure to appear, failure to pay, application to revoke/accelerate)
 - Charge(s) and severity (city, state misdemeanor, or state felony)
 - Mental health diagnosis—yes or no

Measures for case processing and courts

A. Total number of cases, broken down by:

- Dismissals/acquittals
- Convictions
- Other
- Total number of trials

B. Total number of convicted cases, broken down by:

- Prison
- Time served
- Jail (including split sentences)
- Deferred sentence
- Suspended sentence

C. Case processing times—average duration of time between stages:

- Arrest and arraignment
- Arraignment and disposition
- Disposition and sentencing

Sentencing and release (including sentencing and release to DOC)

Resources:

[Richard Van Duizend, David C. Steelman, and Lee Suskin, *Model Time Standards for State Trial Courts* \(Williamsburg, VA: National Center for State Courts, August 2011\).](#)

[CourTools, *Giving the Courts the Tools to Measure Success* \(Williamsburg, VA: National Center's Court Services Division, 2005\).](#)

Measures for specialty courts :

- Number of participants broken down by demographics and charge(s)
- Time from arrest to entry
- Time from entry to completion
- Completion/graduation rates
- Number of absconders
- Failures and reason for failure
- Post-program recidivism rates

Resources:

[Rachel Porter, Michael Rempel, and Adam Mansky, *What Makes a Court Problem-Solving?: Universal Indicators for Problem-Solving Justice* \(New York: Center for Court Innovation, February 2010\).](#)

[National Center on State Courts, *Performance Measures of Drug Courts: The State of the Art*, \(Williamsburg, VA: NCSC, 2008\).](#)

[National Center for State Courts, *Mental Health Court Performance Measures Introduction & Overview* \(Williamsburg, VA: NCSC, 2010\).](#)

Strategies for enhancing race and ethnicity data collection

As described in recommendation Strategy 1e, it is important to collect accurate race, ethnicity, and gender data at each key decision point to develop an understanding of disparities and for monitoring the impact of new reforms and initiatives. The following are recommendations for enhancing accurate data collection:

- A. Develop policies that promote racial self-identification whenever possible. System professionals, such as law enforcement officers, should be trained to ask individuals to self-identify at point of contact.
- B. Record race *and* ethnicity. Hispanic and/or Latino is considered an ethnicity and is not the same as race. To obtain the most accurate information, best practices, in accordance with federal guidelines,

include asking a series of three questions, with the first two limited to fixed categories.¹ They are as follows:

1. Are you Hispanic or Latino/a?

- Yes
- No
- Unsure

2. What is your race?

- American Indian or Alaskan Native
- Asian
- Black or African American
- Native Hawaiian or other Pacific Islander
- White
- Multi-racial

The third question is open-ended but may be useful, particularly for understanding local disparities amongst Native American populations.

3. Do you identify primarily with a country of origin, or, if you are Native American, a particular tribe?

C. Create consistent protocols for collecting and entering race and ethnicity data across agencies. Agencies should use the same racial and ethnic categories so outcomes and disparities can be analyzed across (and between) decision points.²

¹ *Guidelines for Collecting and Recording the Race and Ethnicity of Youth in Illinois' Juvenile Justice System*, Illinois Juvenile Justice Commission, October 2008.

² This recommendation and subsequent recommendations are adapted from The W. Haywood Burns Institute's *San Francisco Justice Reinvestment Initiative: Racial and Ethnic Disparities Analysis for the Re-Entry Council*, (Oakland, CA: Burns Institute, January 2016).

- D. Codify protocol around race/ethnicity data collection in staff training manuals. Employees should have periodic refresher trainings.
- E. Train data entry staff in protocols and monitor quality assurance. This data is only pertinent if it is entered (and analyzed) correctly.
- F. Develop capacity to report on key data metrics for each criminal justice agency by race, ethnicity, and gender.

Appendix B: additional information and resources for establishing a criminal justice coordinating committee

Initial steps for developing a regional criminal justice coordinating committee.

1. *Authorize and define purpose of committee.* As a first step, a new CJCC should be legally established by a joint resolution of local government, a joint powers agreement, a municipal ordinance, a resolution of the county government, or an executive order from a mayor or county commissioners.
2. *Determine geographic scope.* Most CJCCs are countywide, which means that they include representatives from both county government and the cities contained within the county. In less populated areas, small cities and counties have combined resources to form a *regional* committee.
3. *Establish internal structure.* A CJCC should be led by a chairperson and may benefit from a vice-chair. Many CJCCs have subcommittees or work groups; these can represent a major arm of the criminal justice system (e.g. the Courts) or be used to delve deeper into cross-agency issues (e.g. establishing a pre-arrest diversion program or tackling open air drug markets).
4. *Develop bylaws.* Bylaws outline operations (such as meeting schedule), delineate responsibilities and powers, describe rules around membership, and so forth.
5. *Determine representation and membership.* A CJCC should include both elected and general government officials, leadership from the integral justice agencies, and include city and county employees. Many councils also include members from other relevant agencies such as mental health or juvenile justice and community members.
6. *Select a chair.* The chairperson should be a strong leader, understand the regional justice system, and be able to generate consensus.

Resource:

[Robert C. Cushman, *Guidelines for Developing a Criminal Justice Coordinating Committee*, \(Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2002\).](#)

Staffing a CJCC. A well-run CJCC is supported by a full-time administrator, sometimes called the “planner.” Responsibilities often include:

- developing data capacity and encouraging agencies to use and share their data;
- collecting and analyzing data in response to committee’s needs and interests;
- monitoring pertinent local, state, and federal legislation;
- sustaining momentum and monitoring progress of reforms;
- developing shared regional vision and mission with members;
- planning for resource allocation and reviewing budgets;
- designing, implementing, and evaluating pilot projects and new initiatives; and
- providing and/or locating technical assistance and training opportunities.

In *Guidelines for Staffing a Local Criminal Justice Coordinating Committee*, Michael R. Jones suggests that the CJCC planner or administrator should be housed within the county manager’s office.³ The office is seen as more neutral than say, for example, the DA’s office, and the planner will have access to county databases and budget information. Most CJCCs fund their administrators from the county general fund. In other circumstances, several local agencies have pooled funds to cover his or her salary.

Resource:

[Michael R. Jones, *Guidelines for Staffing a Local Criminal Justice Coordinating Committee*, National Institute of Corrections, 2012.](#)

Principles of effective CJCCs. To create lasting change, Justice Management Institute, which convenes the National Network of Criminal Justice Coordinating Councils (NNCJCC), advises that CJCCs should avoid “quick-fixes” or tackling low-hanging fruit, which may be symptoms of larger scale issues. Qualities of CJCCs that enable sustainable, systemic change include:⁴

³ Michael R. Jones, *Guidelines for Staffing a Local Criminal Justice Coordinating Committee* (Washington, DC: National Institute of Corrections, 2012).

⁴ M. Elaine Nugent-Borakove and Marea Beeman. *Fostering and Sustaining Criminal Justice Reform: The Potential of Criminal Justice Coordinating Councils*, Arlington, VA: The Justice Management Institute.

- *Decentralized power.* Although a CJCC may have an elected or appointed chairperson, decision-making power is shared.
- *Low formalization.* The structure of CJCCs is often codified in local or state statute. However, CJCCs are generally adaptable in their focus and mission in order to respond to the jurisdictions' most pressing issues.
- *Even distribution of rewards.* Due to the collaborative nature of and shared power of CJCCs, these bodies often ensure that multiple agencies and the criminal justice system at large benefit from reforms. Thus, rewards are shared.
- *Highly trained membership.* CJCC members have a deep knowledge of their agencies and operations, integral to quality planning implementation.
- *Emphasis on quality over quantity.* Successful CJCCs have a comprehensive scope and take a systemic approach to reforms, with an eye towards sustainability.

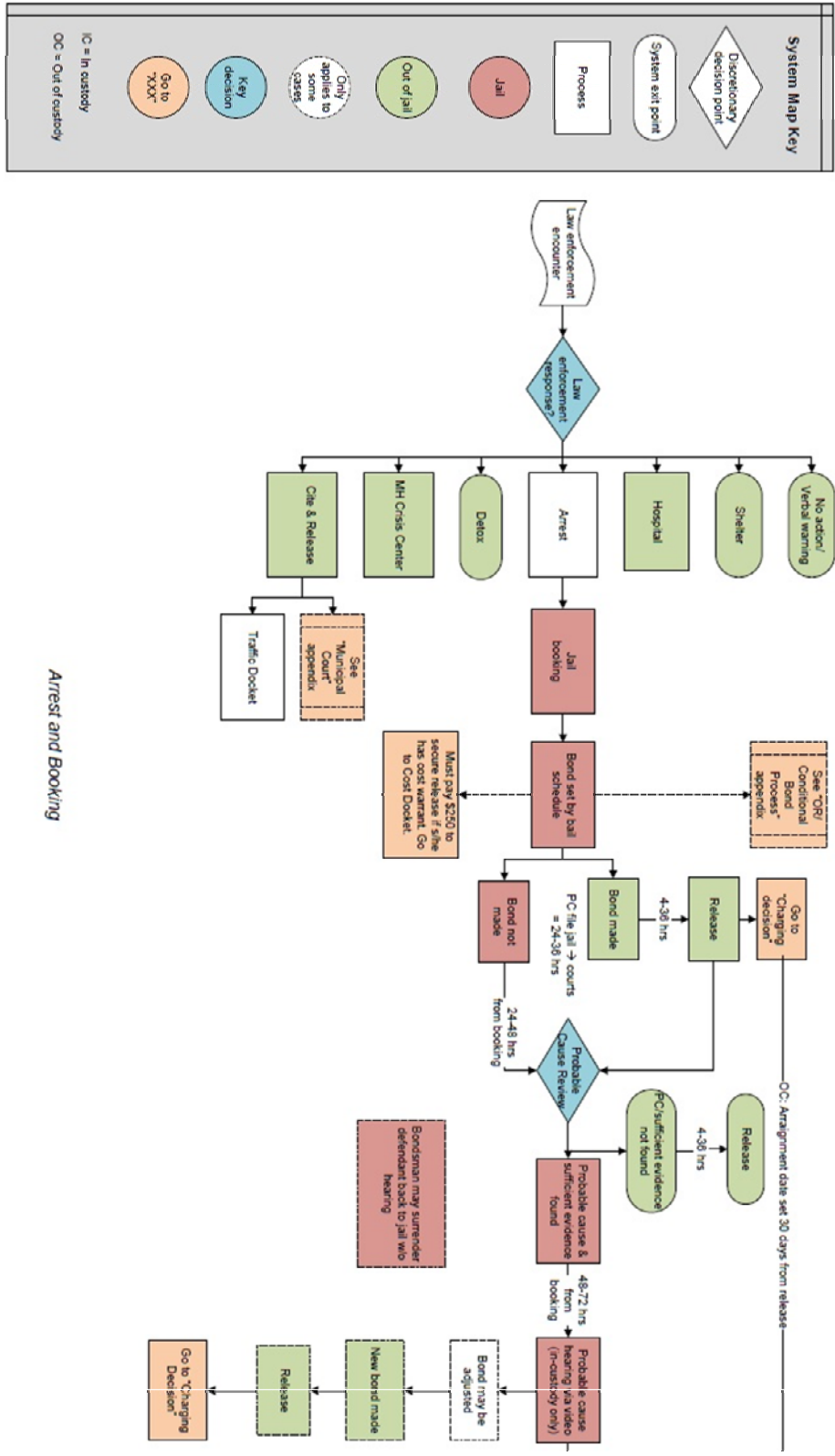
For a general overview of the importance of a CJCC in local criminal justice reform, see:

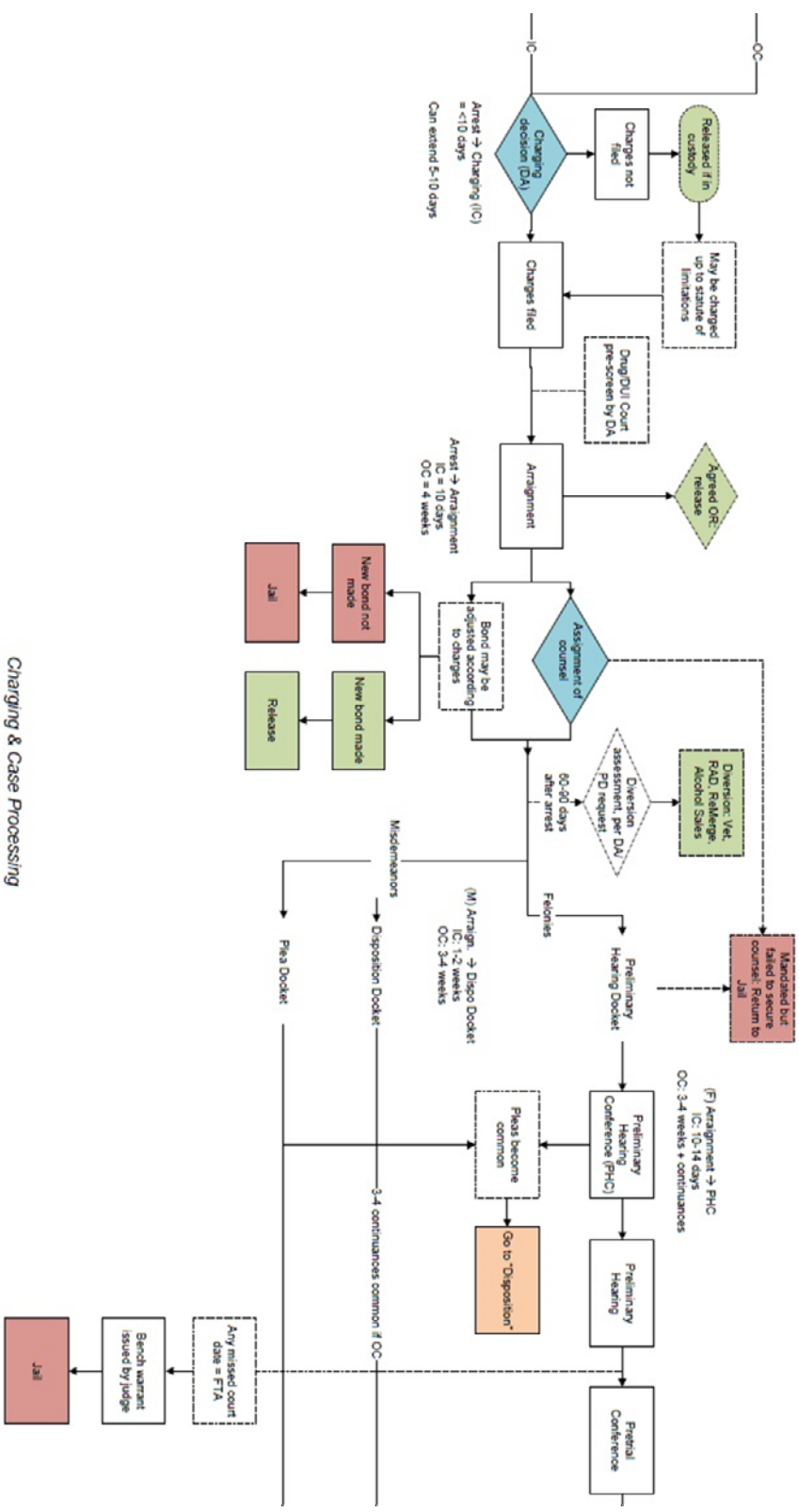
Resources:

[Aimee Wickman Barry Mahoney, and M. Elaine Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils*, \(Arlington, VA: The Justice Management Institute, 2012.\)](#)

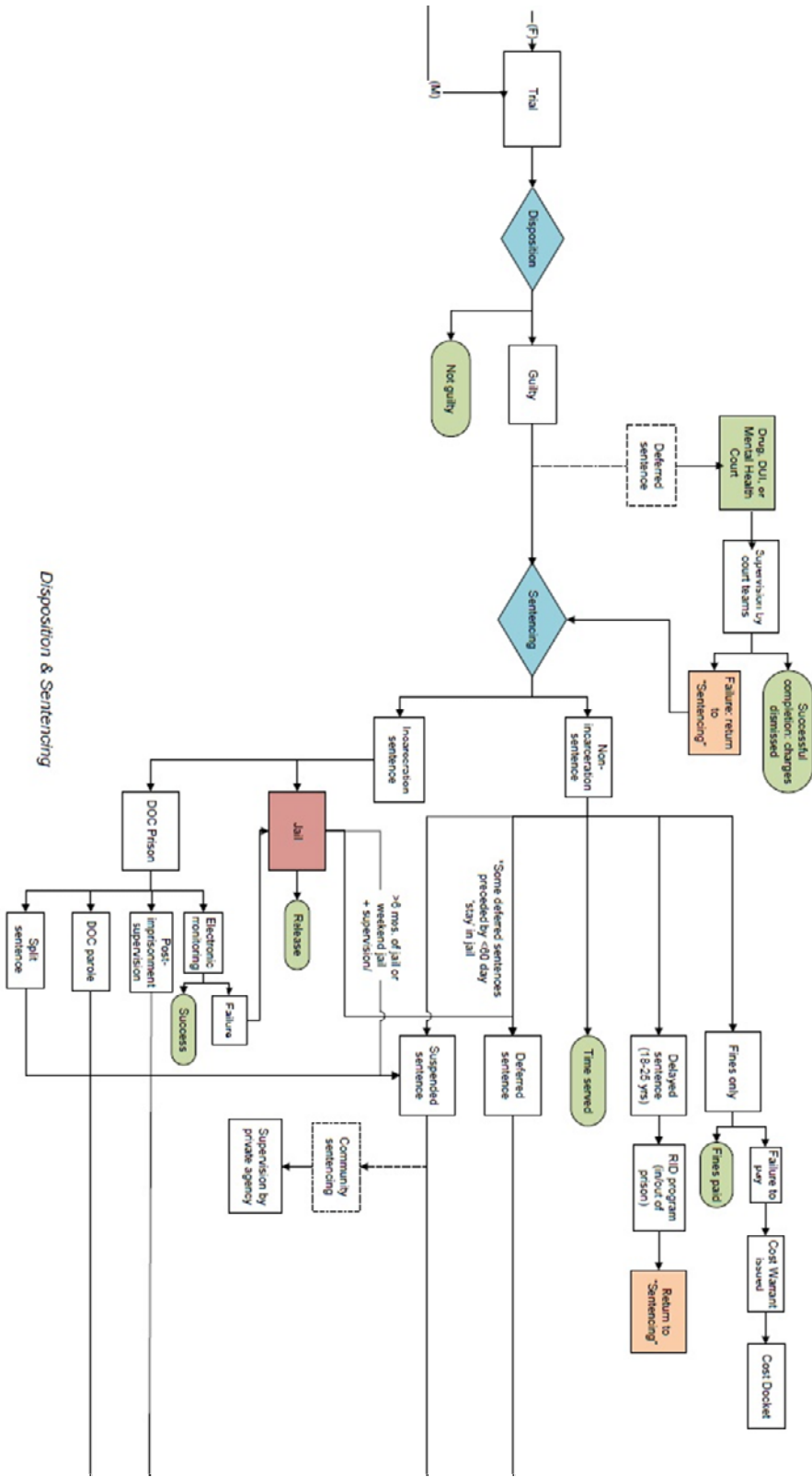
[M. Elaine Nugent-Borakove and Marea Beeman, *Fostering and Sustaining Criminal Justice Reform: The Potential of Criminal Justice Coordinating Councils*, \(Arlington, VA: The Justice Management Institute, 2013\).](#)

Appendix C: Oklahoma county criminal justice system map

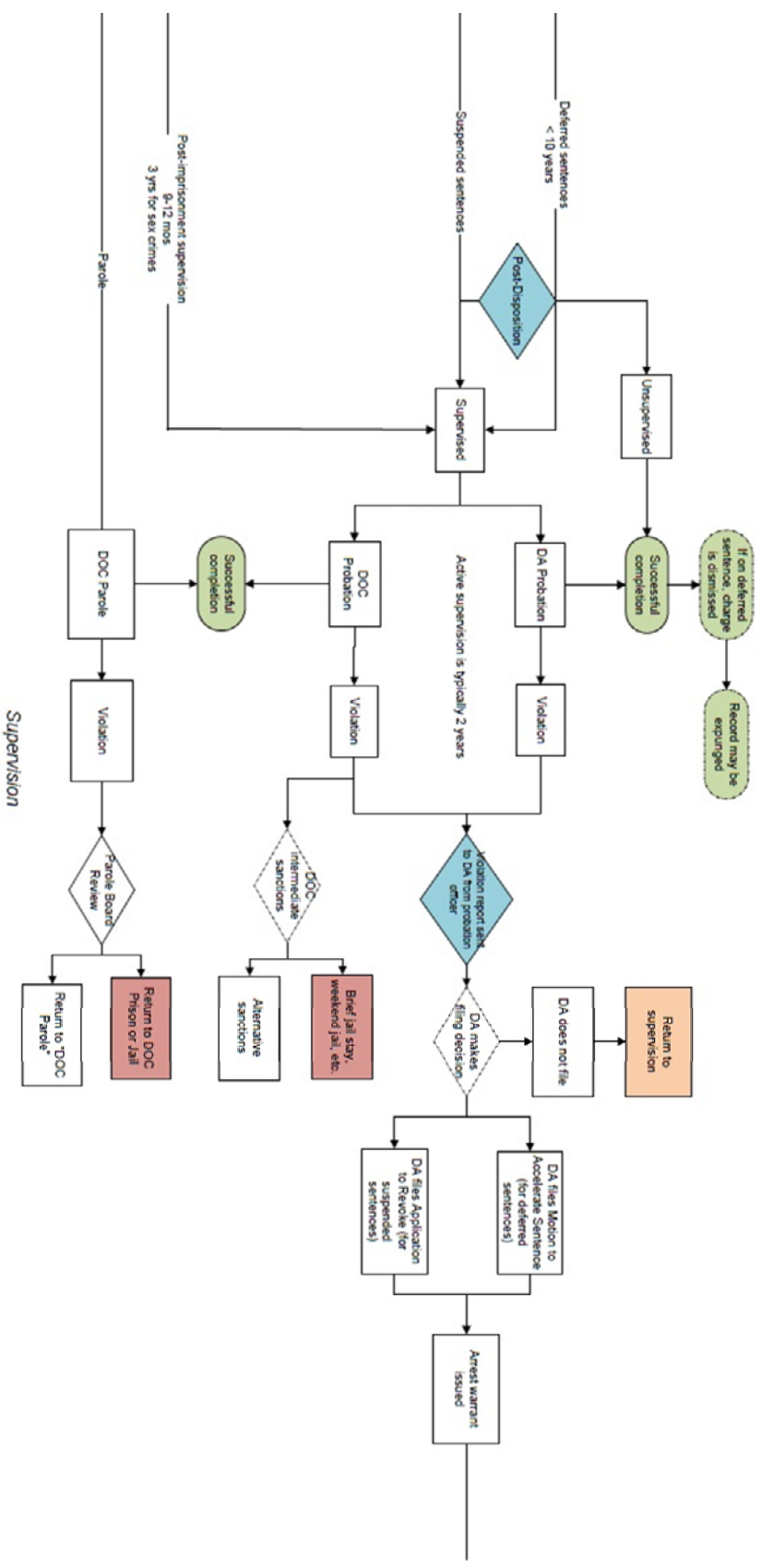


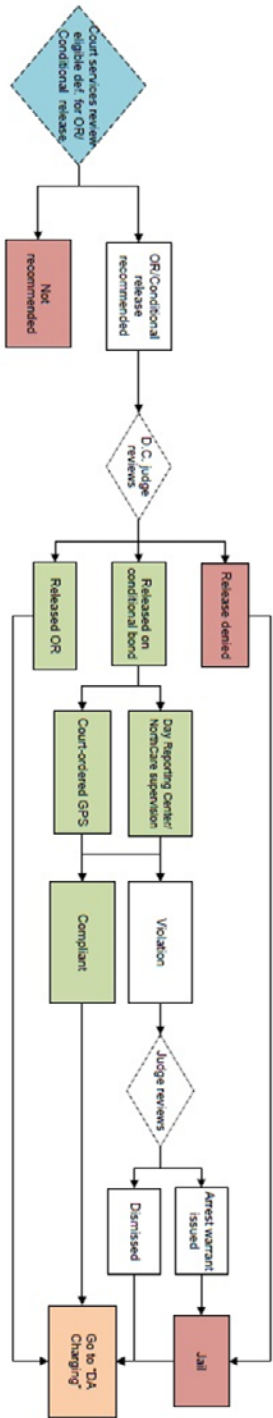


Charging & Case Processing

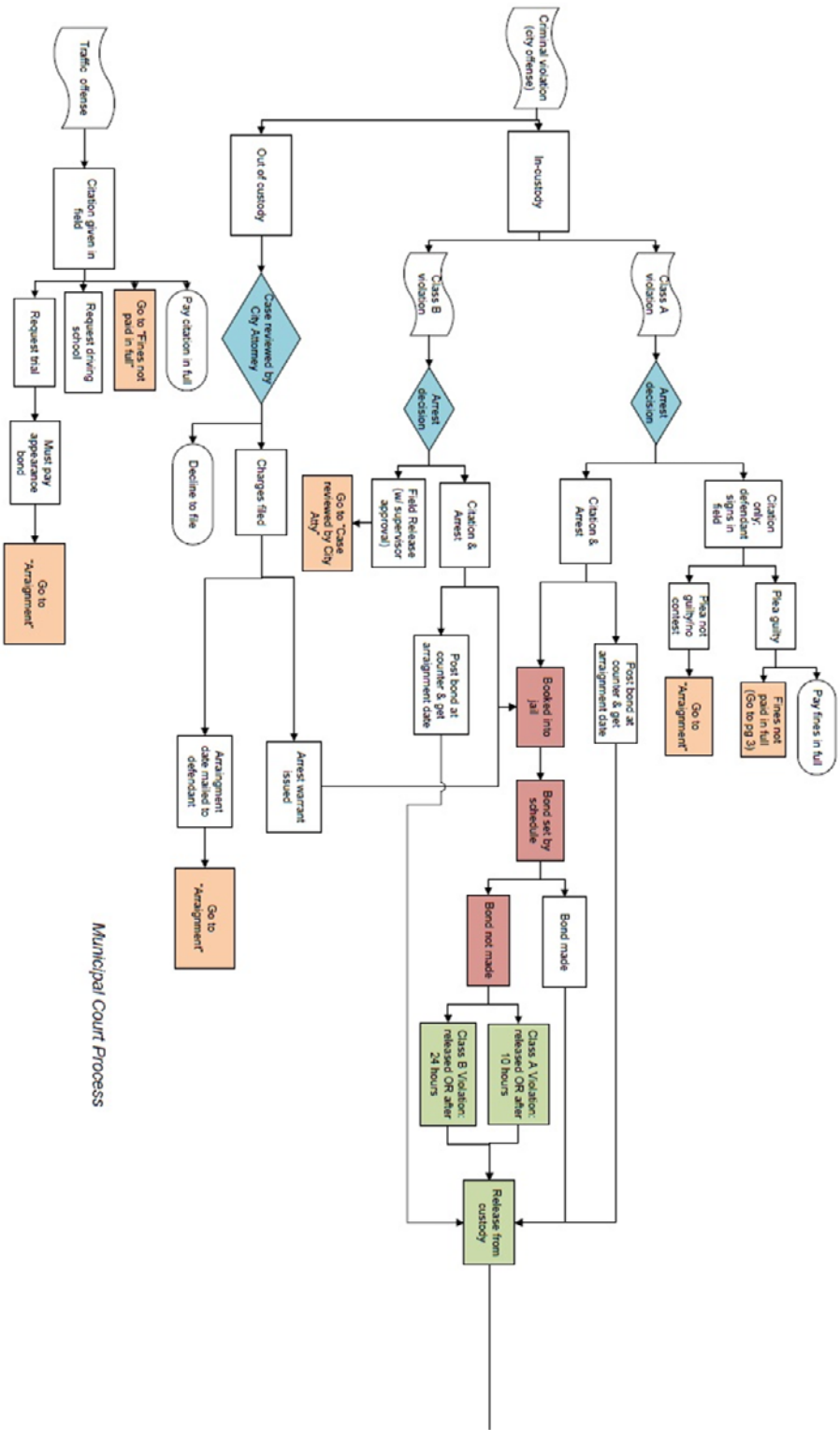


Disposition & Sentencing

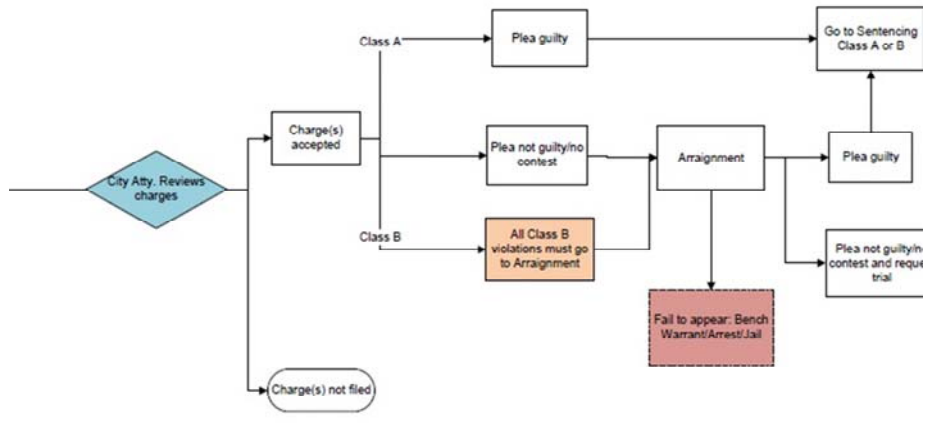




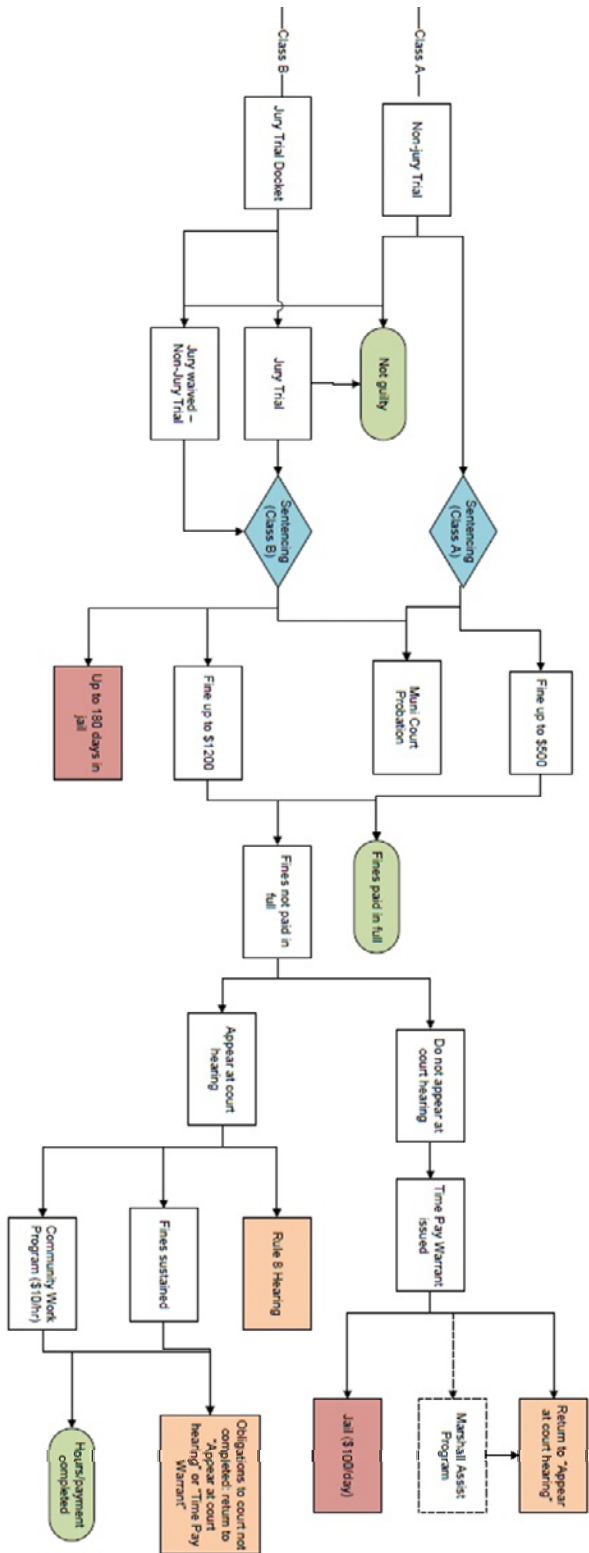
OR/Conditional Bond Process



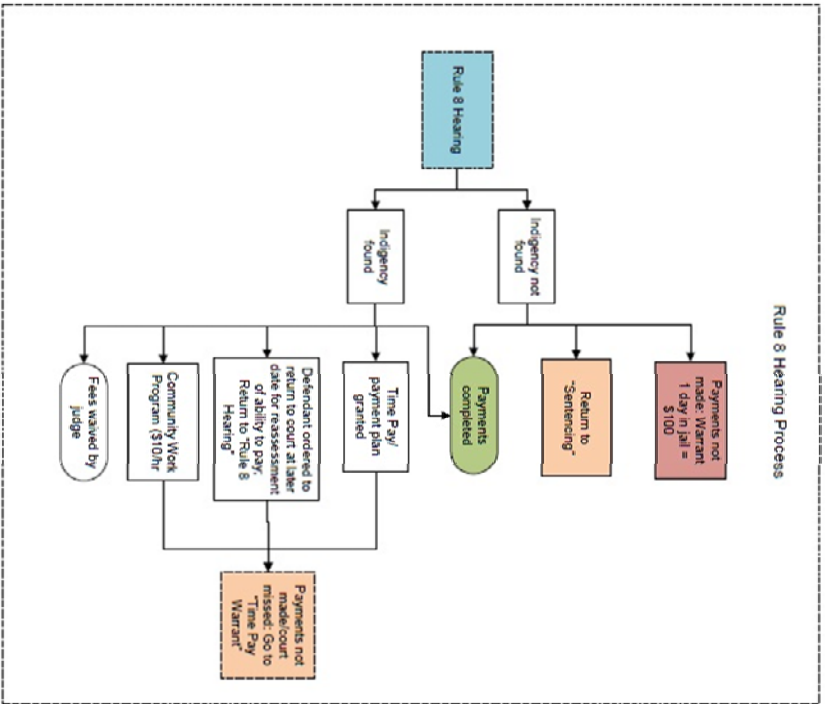
Municipal Court Process



Municipal Court Process

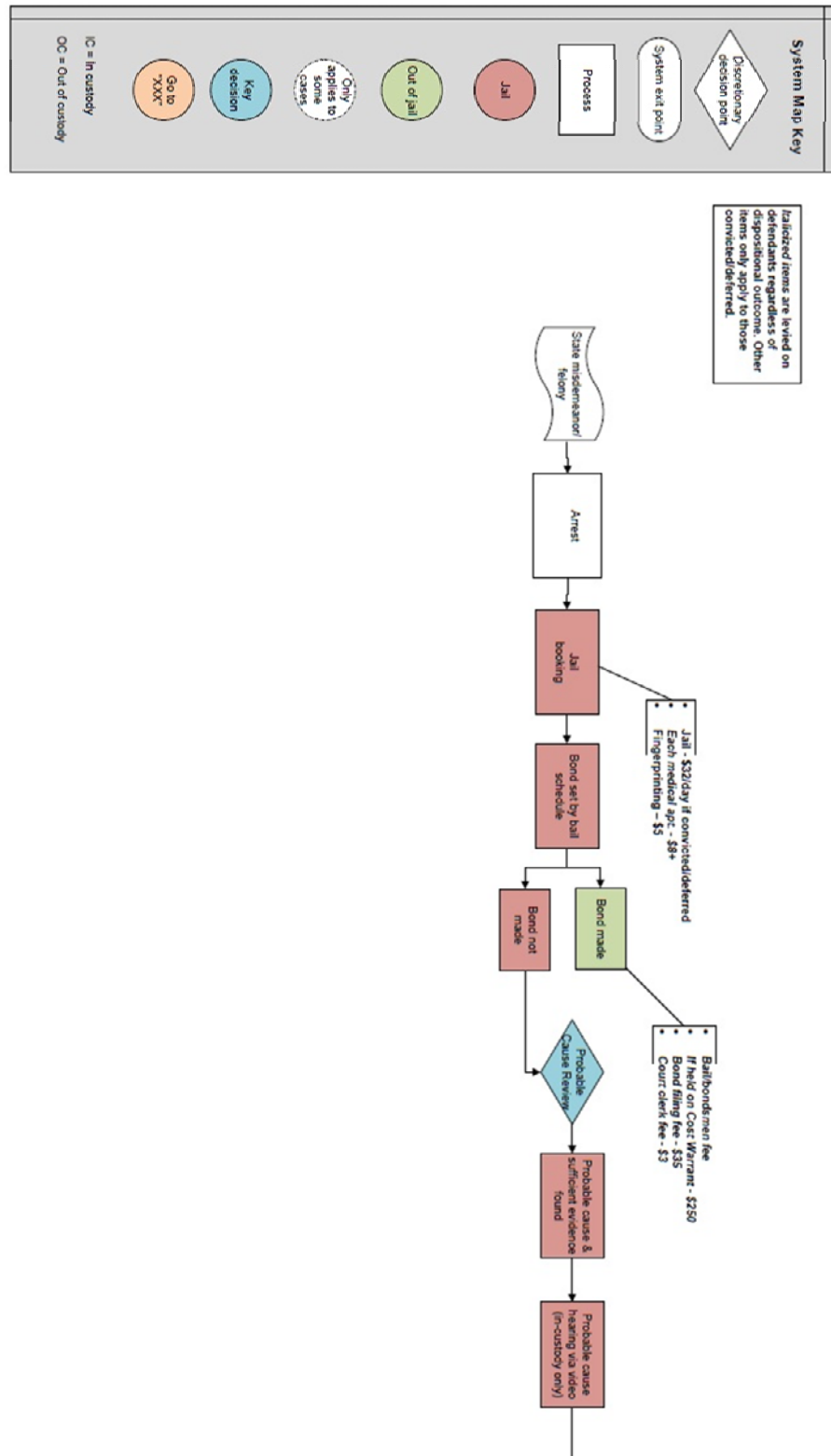


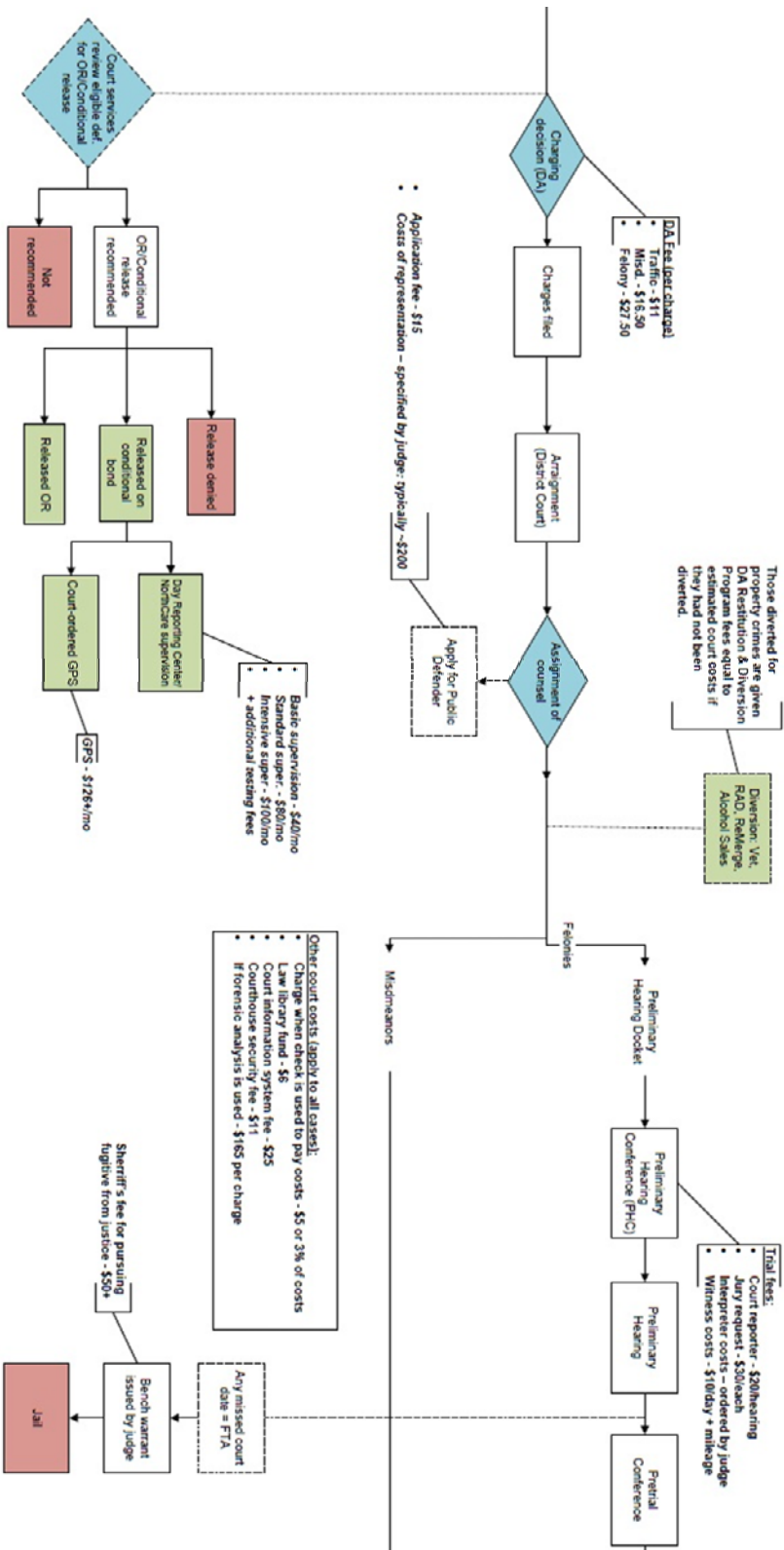
Municipal Court Process

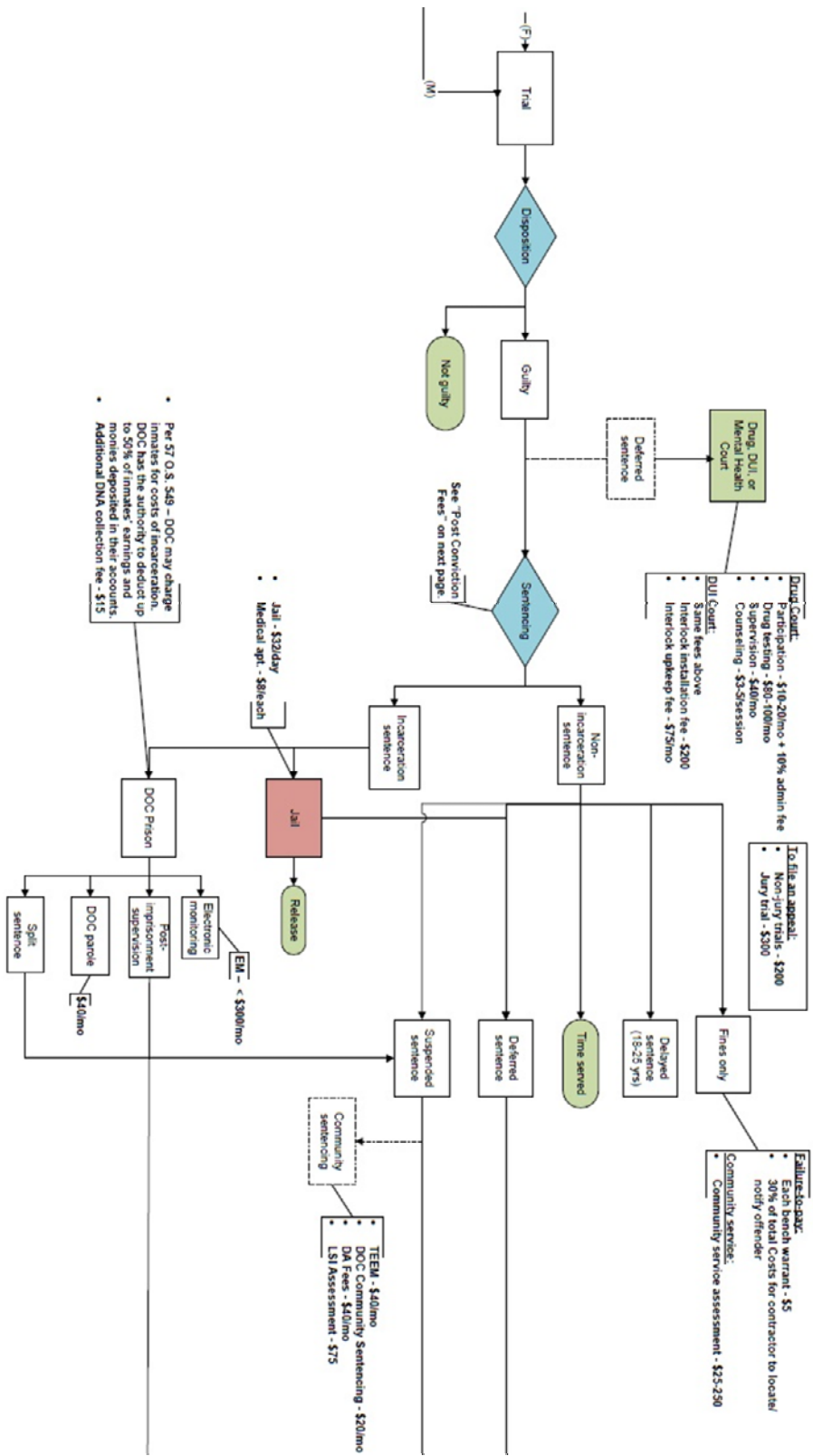


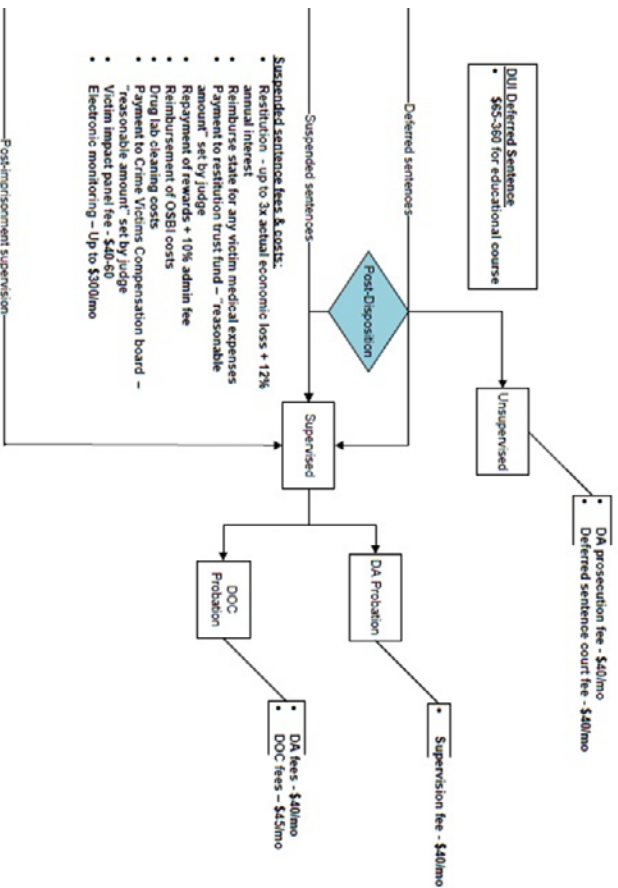
Municipal Court Process: Rule 8 Hearing

Appendix D: Oklahoma county criminal justice fines and fees system map









Other Post-Conviction Fees
(apply to all offenses except parking)

- CLEET fee - \$930
- AHS fee - \$530
- Forensic science improvement assessment - \$550
- Medical expense liability fee - \$110
- DNA collection (tooth) - \$163
- ACS Victim Services Assessment fee - \$3.30
- Sheriff's services fee - \$5
- Child abuse multidisciplinary assessment fee - \$3.30

Post-Conviction Fees - Drug crimes

- Drug Education fee - \$550
- Drug abuse & education assessment - \$100-3,000
- Trauma care assessment - \$110
- DA drug case assessment - Up to 10% of fines

Post-Conviction Fees - DUI crimes

- Drug abuse & education assessment - \$110
- Alcohol and drug assessment/evaluation fee - \$175
- Ignition interlock device fees - \$75/mo
- Electric monitoring fee - Up to \$75/mo
- Redless DUI penalty assessment - \$170.50
- Reimbursement for costs of collecting blood, breath, urine - \$ ordered by judge

Additional Court Costs by charge

- Speeding - \$177
- Non-speeding traffic - \$99
- Misdemeanor (non-DUI) - \$94
- Felony (non-DUI) - \$103
- DUI (misdike) - \$443

Victim Compensation Assessment

- (+ 10% admin fees)
- Injurious injury - \$50-10,000
- Non-injurious injury - \$45-1,000
- Misdemeanors \$30-300

Restitution

Set by judge - up to 3x times victim's economic loss, + 12% annual interest

Driver's License Reinstatement Court assessment

- Processing fee - \$25
- Reinstatement fee - \$25
- Other court costs - \$75
- Trauma care fee - \$200
- Reinstatement fee - \$25

¹ For 1983 admissions, see Craig A. Perkins, James J. Stephan, and Allen J. Beck, *Jails and Jail Inmates 1993-94* (Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 1995), 13. For 2013 admissions, see Todd D. Minton and Daniela Golinelli, *Jail Inmates at Midyear 2013- Statistical Tables* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2014), 4.

² This figure is the average daily population for 2015. See Vera Institute of Justice analysis of the Bureau of Justice Statistics Census of Jails and Annual Survey of Jails, available at <https://perma.cc/7FLY-4FWJ>

³ Ibid. The current jail incarceration rate for Oklahoma County is based on 2014 data.

⁴ Nolan Clay, "Another Inmate Dies in Oklahoma County jail," *The Oklahoman*, September 22, 2016 and Nolan Clay, "Nine Deaths at Oklahoma County jail raised concerns, criticism," *The Oklahoman*, July 3, 2016.

⁵ Christopher T. Lowenkamp et al., *The Hidden Costs of Pretrial Detention* (Houston, TX: The Laura and John Arnold Foundation, November 2013).

⁶ See Elizabeth Swavola et al., *Overlooked: Women and Jails in an Era of Reform* (New York: Vera Institute of Justice, 2016); and Ram Subramanian et al., *In Our Own Backyard: Confronting Growth and Disparities in American Jails* (New York: Vera Institute of Justice, 2016).

⁷ Ram Subramanian et al., *Incarceration's Front Door: The Misuse of Jails in America*, (New York: Vera Institute of Justice, 2015).

⁸ Aimee Wickman Barry Mahoney, and M. Elaine Borakove, *Improving Criminal Justice System Planning and Operations: Challenges for Local Governments and Criminal Justice Coordinating Councils*, (Arlington, VA: The Justice Management Institute, 2012.)

⁹ As an example, see Cuyahoa County, OH's (Cleveland) online criminal justice dashboards: <https://perma.cc/H6ZM-ELDM>.

¹⁰ 22 OK Stat § 22-209 (2014).

¹¹ Pretrial Justice Institute, *Using Technology to Enhance Pretrial Services: Current Applications and Future Possibilities*, (Rockville, MD: Pretrial Justice Institute, 2012).

¹² Sean DeBlicek et al., *Frequent Utilizers Project: Policy Brief No. 1-2013* (Snohomish County, WA: Human Resources Division, October 2013).

¹³ *Fact Sheet: Launching the Data-Driven Justice Initiative: Disrupting the Cycle of Incarceration*, (Washington, DC: The White House: Office of the Press Secretary, June 30, 2016).

¹⁴ 22 Okl. Stat. Ann. § 1105.3.

¹⁵ *Petition of Humphrey*, 601 P.2d 103, 108 (Okl. Crim. App. 1979).

¹⁶ Specific provision for such an order is provided for under 22 Okl. Stat. Ann. § 1105.

¹⁷ 22 Okl. Stat. Ann. § 1105.3.

¹⁸ *Early Appointment of Counsel: The Law, Implementation, and Benefits*, (Boston, MA: The Sixth Amendment Center and Pretrial Justice Institute, 2014).

¹⁹ Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* (Washington DC: Pretrial Justice Institute, October 2013).

²⁰ Ibid.

²¹ *Rational and Transparent Decision Making: Moving from a Cash-Based to a Risk-Based Process*, (Rockville, MD: Pretrial Justice Institute, 2012).

²² Swavola et al., 29; and Subramanian et al., 15.

²³ Subramanian et al. (2015)

²⁴ See, e.g., National Association of Pretrial Services Agencies, *Standards on Pretrial Release, 3d ed.*, (Washington, DC: NAPSA, 2004), <https://perma.cc/Y339-UJK3>).

²⁵ Marie VanNostrand, *Legal and Evidence-Based Practices: Applications of Legal Principles, Laws, and Research to the Field of Pretrial Services* (Boston, MA: Crime and Justice Institute, 2007).

²⁶ Christopher T. Lowenkamp and Marie VanNostrand, *Exploring the Impact of Supervision on Pretrial Outcomes* (Houston, TX: The Laura and John Arnold Foundation, November 2013).

²⁷ 59 OK Stat. § 1328 (2014).

²⁸ Subramanian et al., 37.

²⁹ Corey Jones, "Tulsa warrant amnesty program draws 'overwhelming response,' slows computer system," *Tulsa World*, May 13, 2015.

³⁰ Ibid.

-
- ³¹ Terri White, *Mental Health and Substance Abuse Services: The Impact of Untreated and Under-Addressed Behavioral Health Services in Oklahoma County and Opportunities*, presentation given to Task Force on Monday, September 26, 2016.
- ³² Catherine Camiletti, *Pretrial Diversion Programs: Research Summary* (Washington, DC: Bureau of Justice Assistance, October 2010).
- ³³ Susan E. Collins, et al., *LEAD Program Evaluation: Criminal Justice and Legal System Utilization and Associated Costs* (Seattle, WA: Harm Reduction Research and Treatment Lab, June 2015); Susan E. Collins et al., , *LEAD Program Evaluation: Recidivism Report* (Seattle, WA: Harm Reduction Research and Treatment Lab, March 2015); and Seema L. Clifasefi et al., *LEAD Program Evaluation: The Impact of LEAD on Housing, Employment, and Income/Benefits* (Seattle, WA: Harm Reduction Research and Treatment Lab, March 2016).
- ³⁴ Jerome Sanchez et al., *LEAD Santa Fe: An Overview of the Program – Powerpoint presentation*, October 19, 2015
- ³⁵ Lucas County 2016 Safety and Justice Challenge Fact Sheet, <https://perma.cc/N96S-QHTV>
- ³⁶ Wendy S. McClanahan et al., *The Choice is Yours: Early Implementation of a Diversion Program for Felony Offenders* (Washington, DC: Urban Institute, September 2013).
- ³⁷ Eleventh Judicial Circuit, Miami-Dade County, FL, *Eleventh Judicial Criminal Mental Health Project Program Summary*, <https://perma.cc/N4G3-R72F>
- ³⁸ Rules of the Court of Criminal Appeals. Title 22, Chapter 18. Appendix 8.5.
- ³⁹ National Womens Law Center, *Insecure and Unequal: Poverty and Income Among Women and Families 2000-2011*, (Washington, DC: National Women’s Law Center, 2012).
- ⁴⁰ Insight Center for Economic Development, *Lifting as We Climb: Women of Color, Wealth, and America’s Future*, (Oakland, CA: Insight Center for Community Economic Development, Spring 2010).
- ⁴¹ Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt: A Barrier to Reentry* (New York: Brennan Center for Justice, 2010).
- ⁴² This recommendation is adopted from another in the Criminal Justice Policy Program: *Confronting Criminal Justice Debt: A Guide for Policy Reform*, (Boston, MA: Harvard Law School, September 2016).
- ⁴³ *Illinois Court Assessments Findings and Recommendations for Addressing Barriers to Access to Justice and Additional Issues Associated with Fees and Other Court Costs in Civil, Criminal, and Traffic Proceedings*, Statutory Court Fee Task Force, June 1, 2016.
- ⁴⁴ Ibid.
- ⁴⁵ This recommendation is adopted from a recommendation in the Criminal Justice Policy Program. *Confronting Criminal Justice Debt: A Guide for Policy Reform*, (Boston, MA: Harvard Law School: September 2016).