

October 5, 2021

To the Citizens of Greene County:

The Greene County Coalition for Compassionate Justice (GCCCJ) was originally founded to oppose the creation of a 500-bed jail in our community. After the proposal was defeated in early 2020, we recognized that harms from pretrial detention still existed, whether or not a new jail was built. Consequently, we responded to a request for letters of interest from the Pretrial Justice Institute (PJI) in late 2020, seeking communities in Ohio who wished to receive support to pursue a local vision for pretrial justice.

After accepting an invitation from PJI, we have worked throughout 2021 to develop our three-part vision of pretrial justice: a reduced jail population; supports for people who have mental health or substance use needs; and collaboration between community members and county officials to better understand how pretrial decisions are made and to create a system that promotes safety for all. As part of this work, we also interviewed community members to better understand our racial history and its influence on current practices, and we held community conversations with citizens who have been impacted by the justice system to raise up the voices that are often overlooked in these conversations. These endeavors complemented our longer-standing commitment to identify alternative evidence-based approaches to criminal legal system involvement with both improved outcomes for community safety and health, as well as financial savings for taxpayers.

This document contains multiple components, reflecting the results of this work. That includes:

- A report from PJI, discussing the state of pretrial justice in Greene County;
- Highlights from interviews discussing the history of Greene County through a racial lens, featuring citizens from Wilberforce, Xenia, Yellow Springs and Fairborn; and
- A summary of community conversations held during the spring and summer of 2021.

As a final note, we would like to comment on the difficulty of engaging in a meaningful way with elected officials. As citizens, we have the right to hold elected officials accountable and to question policies that we believe are harmful to our community. At many points during this process, it appeared that community testimony was merely a perfunctory step in a decision that had already been made; our requests for data were outright ignored, even though we knew that information was being collected. We believe that in order to create a better and more just system, representatives of the criminal legal system and county government must be willing to have more honest and consequential conversations, particularly with communities that have been most hard-hit by mass incarceration.

We hope that this report will provide some food for thought for the citizens of Greene County as we decide what we need from our justice system for it to truly be just, and as we direct the use of our taxpayer dollars in the best interest of our community.

Sincerely,

The Members of the Greene County Coalition for Compassionate Justice

Pretrial System Assessment Report

**Developed by the Greene County Coalition for Compassionate Justice
with Technical Assistance from the Pretrial Justice Institute**

October 5, 2021

In 2020, The Pretrial Justice Institute (PJI) issued a request for proposals to local county collaboratives in Ohio to conduct a pretrial system assessment and provide recommendations for improvement. The Greene County Coalition for Compassionate Justice (GCCCJ) applied and was selected for this technical assistance. This report serves to provide a summary of system assessment work and findings to date, as well as questions that the Coalition, county officials, and citizens may want to explore as they debate the future of the local justice system.

This report demonstrates that there is limited publicly available information on the way that Greene County currently uses its jail, the people who are incarcerated and their needs, and the alternatives that may improve public safety in the county. Without this additional information and the opportunity for public discourse, it is difficult for citizens to make informed decisions about the building of a new jail and alternative uses for their tax dollars. However, there are many opportunities for transparency regarding the current system and how it functions, and for collaborative reflection on what a safe, fair, and equitable justice system looks like.

Why Focus on Pretrial?

Every day in the United States, roughly two-thirds of people in jail have not been convicted of a crime, and most are being held on an unaffordable money bond. This translates to 10 million people nationwide every year. Though legally presumed innocent, people are being punished without conviction. They often lose their jobs, homes, custody of their children, or even their lives. These punitive measures are rationalized in the name of public safety and court appearance, even though the vast majority of people released before trial do not flee prosecution or commit acts of violence. Pretrial detention purports to keep us safe, but instead causes significant physical and social harm. It is where mass incarceration starts.

A recent ACLU report¹ states that “despite experiencing the lowest crime rates since the 1960s, Ohio’s pre-pandemic pretrial incarceration rate was near the highest level since data was collected beginning in 1970. The most recent statewide estimate showed that in 2018, there were nearly 12,600 people incarcerated pretrial on any given day at an estimated annual cost to Ohio of between \$300 to \$400 million.” The most prevalent felony charge in Ohio is drug possession.

¹ ACLU of Ohio. (September 2020). [Ohio Could Save Big By Implementing Bail Reform: A Fiscal Impact Analysis](#).

Scope of the Assessment

PJI's approach to this work is generally to collect data, conduct interviews of system and community members, observe first appearance (bail setting) hearings, and review written policies and procedures. The information collected helps to understand how the front-end of the criminal legal system is operating, and what people in the system and the community want their justice system to achieve. Understanding the following helps analyze jail utilization in the pretrial stages of criminal cases:

1. Law Enforcement Contact:
 - a. To what extent is local law enforcement deflecting or diverting people from arrest (as allowable by law), i.e., connecting them to services rather than bringing them into the system?
 - b. To what extent is local law enforcement issuing citations in lieu of custodial arrest (as allowable by law), i.e., releasing them with information about when to come back to court?
2. Jail Lengths of Stay:
 - a. Once admitted to jail, how long do people stay before a hearing before a judge or magistrate?
 - b. To what extent is defense counsel provided at the first hearing at which liberty is at stake?
 - c. To what extent is the local prosecutor's office conducting early screening of charges to determine whether the person was charged appropriately, and if they are likely to move forward with the case?
3. Pretrial Release:
 - a. What is the rate of pretrial release by type (non-financial releases, financial releases, and releases with supervision conditions)?
 - i. Are there ability-to-pay determinations in places where financial conditions are required by law?
 - b. What is the rate of pretrial detention by type (denied release, a bond set but unable to be paid)?
 - i. Are there detention hearings for those accused of a serious violent offense (as allowable by law) in which clear and convincing evidence is required?
4. Pretrial Supports
 - a. What, if any, pretrial supervision is ordered by the court, e.g., requirements to report to pretrial services, or to comply with conditions such as drug testing?
 - b. What, if any, need-based community supports are available, e.g., transportation to court, childcare services, or behavioral health services?
 - c. How are violations of conditions handled by the court? Are there a range of responses available before release is revoked?

For this engagement, PJI sought pretrial data from the county, to be examined through a racial equity lens. This memo is organized around themes and opportunities to safely support the smallest pretrial detention population possible, based on a review of the jail and justice system needs assessment and option study, information from the county, and data from other sources.

It is important to note that PJI has focused its efforts on the pretrial population, due to its mission, but it is essential to consider the sentenced population as well when debating the jail and jail alternatives. It is also important to note that in August of 2021, the GCCCJ took a formal position in opposition to the pending ballot measure to fund a new jail in the county through a tax levy. PJI has not taken a position on the ballot measure, and its contributions to this report are for informational purposes only.

The Racial Context of Our Criminal Legal System

Like much of our criminal legal system, arrest, booking and pretrial practices are part of our legacy of slavery and oppression, and it is important to have this context in mind when considering the impact of modern criminal legal practices. Beginning during Reconstruction, when commercial bail bonding was invented, and continuing through Black Codes and the war on drugs and crime to the present day, the legal system has stripped millions of people of color and low income people of their freedom, and has extracted billions of dollars through fines, fees, and bail bonds. It is impossible to build healthy, equitable communities while the current punitive and carceral system is still in place.

Black people in the United States are more likely than white people to be negatively impacted by our pretrial policies and processes.² For example, while people of all races use marijuana at roughly the same rates, Black and Hispanic people are more likely to be arrested for its use.³ In addition to being arrested at disproportionate rates, people of color are more likely to have a money bond set by the court, and those amounts are typically twice that of whites accused of crimes. People of color are less likely to be able to meet a financial condition in order to be released, and they are more likely to be assigned conditions of surveillance and supervision. Research shows that unnecessary or inappropriate conditions of release often result in violations. This is mainly because they restrict liberty on individuals who have obligations such as school, work or family and are thus less able to manage required appointments, curfews, or geographic restrictions, or because they are unrealistic for people challenged by homelessness or behavioral health issues. While very little data on violations of pretrial conditions exist, analogous data on who is subject to violations of probation show that Black people are disproportionately punished for failing to comply with court orders. The current system exacerbates these disparities without making anyone safer.

Greene County needs to confront its own racial history in order to address current disparities in the local criminal legal system. In the late spring and summer of 2021, members of the GCCCJ conducted ten interviews with long term residents of Greene County who live in Wilberforce, Xenia, Yellow Springs and Fairborn. Residents were asked to reflect on their lives using a racial equity lens. Here are themes that emerged from some of the interviews.

²The following comes in part from https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/ accessed May 25, 2021.

³ B. Mueller. (May 13, 2018). [Using Data to Make Sense of a Racial Disparity in NYC Marijuana Arrests](#). *The New York Times*.

- **Growing up in a segregated society seemed normal to interviewees as children, in some ways.**

Interviews with Greene County citizens who had grown up here revealed some consistent trends. Older Black residents described how the segregation of their youth was a way of life in Xenia, Ohio. Comments included, “We knew where we could shop, and we knew where we could sit” and “Xenia was Selma Alabama North, because it was totally segregated.”

- **People discussed how Black children continued to be oppressed by white people who were in power after the schools were integrated.**

One woman’s father learned that Black kids were always put in the most basic classes, even if their test scores were high. Her father “raised hell” about this, and she and one other child were allowed into advanced classes.

All children played on sports teams until 6th grade. Children who excelled at sports were excluded if their grades weren’t high enough in 6th grade. This damaged the confidence of Black children who were good athletes and many lost interests in school.

After integration, one woman said that there were no more Black teachers above second grade.

Yellow Springs, which has a reputation for being progressive now, and with its history as a stop on the Underground Railroad, was deeply segregated until the civil rights era. Ninety-two-year-old Paul Graham discussed his work in desegregating the Gegner Barber Shop in the 1960’s. Gegner said he didn’t know how to “cut Black hair”. Activists sent in a white person with similar hair and Gegner had no problem cutting it. This led to a peaceful demonstration. Tensions escalated and many demonstrators were hurt and arrested. Paul and his group sued Gegner and the case was dragged out for ten years. Gegner had retired by the time the case was decided and the judge ruled it as a moot case, since the barber shop was no longer open. This was tremendously disappointing to the group. They worked hard, and at great expense, to establish a legal precedent upon which future cases would be decided.

Many of those interviewed actively fought for racial equality throughout their entire lives. Some have seen progress. Clint Allen, the first Black Councilman in Fairborn, formed Inclusive Fairborn, a community group working for greater job opportunities for a more diverse population. The group initiated the first MLK Day and first Gay Pride march in Fairborn, Ohio, which had been a Sundown Town until mid 1960s. However, others still see the evidence of racial discrimination in Greene County; a formerly incarcerated interviewee reported that there are differences in treatment and alternative programming options depending on race and socioeconomic status.

While these interviews represent a small slice of community perspectives in the County, they demonstrate the value of exploring community perspectives, and the need to understand how our history impacts our current experiences. This is also a conversation that is playing out across the country since the murder of George Floyd, as many communities have been forced to acknowledge racism in the criminal legal system.

Pretrial Incarceration

In Greene County, there is a pending ballot question asking taxpayers to fund the replacement of the existing downtown jail and Adult Detention Center. The county commissioned a Jail and Justice System Needs Assessment and Option Report⁴ (the HDR report) in the fall of 2018, and that report was delivered in May 2019. A key finding from that report, validating what county officials already believed, is that the downtown jail is badly in need of total replacement. Issue 12, proposed in the spring of 2020, was a 12-year, 0.25% sales tax on purchases made in Greene County which would pay for the cost of the new jail. The jail proposed in 2019 would have expanded the number of beds to 500. The issue failed.

A jail's population is the result of the number of people booked into the jail on new charges, their lengths of stay, their release rates, and their readmissions for violations of conditions of supervision. If any of these factors increase or decrease, the jail population will change. This is an opportunity for Greene County to reconsider how their jail is being used, and what the community needs to truly make it safer, before committing to a new jail.

Community Profile

In most jail assessment reports, you will find an overview of county demographics as a starting point for evaluating the size of the local criminal legal system. PJI evaluated the information presented in the HDR report, as well as from other data sources where more current information could be located.

Demographics. [Greene County](#), like most counties in the United States, is a rural county with a population of just over 166,000 living in roughly 65,000 households. There are cities, villages, townships and unincorporated areas. While previous projections noted the population could reach nearly 195,000 by 2040, it is not possible to know the impact that COVID-19 or economic hardships will have on population growth.

Greene County is a predominantly white county, with 86% of the population identifying as white and nearly 7% identifying as Black. Roughly 3% of Greene County residents identified as Latino or Hispanic, regardless of race. In 2016, Black people comprised 7% of the general population but 19% of the jail population.

Greene County is a highly educated county - nearly 95% have at least a high school diploma and roughly 40% of residents have a Bachelor's degree or more. In just 416 square miles, there are three public and four private colleges.

Economics. Greene County is described as an affluent county and many measures (2019, pre-COVID) exceed national medians:

- The median household income was just over \$68,000
- The median housing value was \$173,000
- 96% of residents reported having health care
- 66% of residents own homes

⁴ Greene County Jail and Justice System Needs Assessment and Option Study, HDR. May 10, 2019.

Not everyone in Greene County is, of course, affluent:

- 16% of children under 18 live in poverty
- The unemployment rate (pre-COVID) was 4.5% in January 2020
- Women earn on average \$46,000 while men in Greene County earn \$62,000

PJI was not able to examine median household income, home ownership or housing values, poverty or unemployment by race or gender. It's probable that racial disparities exist in Greene County for those measures, as they do in nearly all counties across the United States.

Crime and Incarceration in Greene County

PJI attempted to understand the state of pretrial justice in Greene County using a variety of sources. In addition to the HDR report, PJI was able to connect with the County Administrator and Deputy Administrator in February 2021 to discuss this project. PJI provided the county with a survey of policies and practices as well as a request for aggregate data. As of September 2021, the county had not yet responded to either data call. County officials have also not been responsive to requests for data from the GCCCJ at public hearings. Just prior to the publication of this report, Judge Beth Cappelli of the Fairborn Municipal Court reached out to the GCCCJ offering to discuss pretrial practices in that court, and the GCCCJ is scheduling that conversation. Hopefully, others will follow.

PJI also researched other available resources for information about Greene County's local criminal legal system. These sources included the National Association of Counties and Vera Institute of Justice's Incarceration Trends.

Crime Statistics. From 2017 - 2018, the state of Ohio reported a decline in Part 1 crimes, violent crimes and property crimes. According to the ACLU of Ohio, "...the state's pre-pandemic pretrial incarceration rate was near the highest level since data was collected beginning in 1970..." despite crime rates at half the rate they were in the 1980s and 1990s.⁵

The Ohio Department of Public Safety's [Office of Criminal Justice Services](#) reports crime statistics from across the state. Unfortunately, the most recent data is from 2017. In that year, with a population of 161,572, Greene County reported the following:

- 245 reports of violent crime
- 3,658 reports of property crime
- 4 murders
- 88 rapes
- 41 robberies
- 112 aggravated assaults
- 529 burglaries
- 2,863 larcenies
- 176 motor vehicle thefts
- 15 arsons

⁵ ACLU of Ohio, [Ohio Could Save Big By Implementing Bail Reform: A Fiscal Impact Analysis](#).

When considering the size of a jail for those accused of charges of violence, and theoretically those who would serve local sentences in lieu of transfer to a state prison, PJI would draw your attention to the relatively low level of violent charges in Greene County. Individuals accused of serious violent offenses would, in a model system, be held for a detention hearing at which the burden of proof rests on the state's attorney to show clear and convincing evidence that no condition or combination of conditions would adequately assure public safety or appearance. If Greene County were similar to the District of Columbia or the state of New Jersey, then roughly 50% of those eligible for detention would be released under some form of supervision, leaving very few individuals incarcerated before trial.

Though the impact of COVID and economic hardships on previously declining crime rates is not yet known, Greene County is often listed as among [the safest counties](#) to live in. It is important to consider crime rates or even the actual *numbers* of crimes, not just changes in percent from year to year.

Who gets arrested? According to the [Vera Incarceration Trends site](#), the rate of jail incarceration for white people in Greene County is 275 per 100,000 while Black people have a rate of 575 per 100,000. While the county's incarceration rate is below the national average, women comprise 30% of the jail population, which is twice the national average and attributed to high rates of substance use disorders among women in Greene County. They get arrested, put on probation, violate their conditions to stay clean and then are incarcerated for an in-patient recovery program (Greene Leaf). As stated earlier, the vast majority of arrests in Greene County are for misdemeanors and low-level, non-violent felony charges.

Where are they housed? The current downtown jail was built in 1969 and is by all accounts a severely outdated facility. The jail has a capacity of 146 beds but a functional capacity of 124 (meaning, the capacity rate which is optimal for the safety and security of residents and staff). The jail has been under a federal consent decree since 1989, which has limited the number of people who can reside in the jail at any one time. Often people are released from custody for the jail to stay under the federal cap. The facility has been reported to be "chronically overcrowded" for almost a decade. The second secure facility is the Adult Detention Center (ADC). It was built in 2000 to house minimum and medium custody residents. It also houses a substance use recovery program for men. It has a rated capacity of 236 with a functional capacity of 200.

How long are they staying? According to the HDR report, 16% of those released from jail in 2017 were released within 24 hours of booking. In addition, almost half of all admissions are released within three days. This offers an opportunity to redesign the process and make better use of citations in lieu of custodial arrests. The booking process is expensive and time consuming, while also dehumanizing and dangerous.

Only 9% of all people released before trial were released on a non-cash bond, and they had a length of stay of 12 days. This seems far too long for releasable individuals to be incarcerated, often on charges that do not carry a jail sentence. This is where an assessment or other non-custodial center could provide the needed space for law enforcement to bring newly arrested individuals and jail staff to meet with them, conduct needed evaluations and evidence collection, complete paperwork, and then either transfer people to the jail to await a first appearance hearing, or release them with a court date.

According to the HDR report, the average daily population of the ADC in 2017 was 160 (in space for 200) and the jail was 138 (in space for 124). Of these, 34% of the jail residents were people serving felony sentences and another 28% were people serving misdemeanor sentences. Thus, at that time 62% of the jail was composed of people in a convicted status, and 38% unconvicted. (It is unknown the extent to which this has changed as a result of the pandemic.) This provides an opportunity to examine who is being held before trial, under what mechanism and why. The national best practice would be that only people charged with serious violent felonies are held for a hearing at which all means of assuring appearance in court arrest-free are explored prior to ordering a person held until trial. Given the crime rates in Greene County, it is not likely that all of the 38% of people being held before trial met this standard of risk.

Thus, with the jail over its rated capacity and the ADC under, there are more people who are classified as medium/maximum custody levels, as well as those in need of medical and/or mental health care, and women. While the HDR report does indicate that the average daily population increased 18% from 2013-2017, more recent data would be needed to ascertain if this increase has continued, and if the jail is the best solution to the issues coming to the attention of law enforcement. If you build a larger facility, it will be used. HDR also proposed a series of recommended options in lieu of exclusive use of the jail⁶.

At a February 2021 meeting of the County Commissioners and Sheriff, the Sheriff noted that the jail population that day (2/11/21) was 243, with over 50% being non-Greene County residents (mainly from neighboring Montgomery County). It was noted that 93 of those 243 were in jail on probation violations, rather than new charges. The Sheriff noted that having 1244 people on probation but no space in the jail to put them for violations means there is nothing “hanging over their heads.” During COVID, the Sheriff reported having been able to get the population down to 135.

With respect to what HDR calls “court efficiency,” Greene County has a case clearance rate of 100%. The report also noted that Greene County has a “highly efficient” court system with a 100% clearance rate; however, it is not clear whether that clearance rate is achieved through a reliance on plea bargaining.

What are the risks versus needs? One important distinction when considering alternatives to incarceration is between risk and need. In many ways, static (unchangeable or historic) factors should be considered correlated with risk, and dynamic (changeable) factors correlated with needs. If something cannot be changed (a prior conviction for sexual assault) then it presents a risk to be measured and managed. If something can be changed (employment, housing, mental and/or physical health, etc.) then one might consider it a need to be addressed. Too often, the criminal legal system treats everything as a risk and punishes people for having needs. When people are seen as presenting many risks and the system’s main options for addressing them lie on a spectrum from arrest to incarceration, jail populations will rise. More people will be arrested and booked, and they will stay longer periods of time. Lack of options inside the facility will aggravate needs, which often results in behavioral issues. These then result in disciplinary actions that only increase someone’s “risk level” as

⁶ Page 11 of the executive summary offers what PJI would call traditional deflection, diversion and pretrial options. While some of them would not be recommendations PJI would make, they do highlight the finding that more can be done than is currently being done to support people in being successful in the community. One significant recommendation is the creation of a Criminal Justice Coordinating Council, to which PJI would suggest modifications in the stated membership and a charter for collaborative decision making.

defined by traditional classification and assessment tools. It is easy to see, then, how a population seems to get “riskier” over time, and how those risks are often perceived as being a function of those arrested, rather than a failing of the methods used to respond to risk and need.

According to the HDR report, and in keeping with national data, the vast majority (82%) of people in the Greene County jail have had prior contact with law enforcement or prior bookings. Most individuals in this category are accused of low-level offenses and represent a single demographic -- men who are, on average, in their mid-30s. They consume a significant amount of law enforcement and jail resources, and given the fact that they are cycling through the legal system without changing their behavior, the collective return on that investment is nearly zero. More needs to be understood about the needs and circumstances that drive their behavior, and what will be more effective at bringing about change.

Greene County needs more options for responding to both risk and need, and a more nuanced way of distinguishing between the two.

Community Conversations

During the summer of 2021, the Greene County Coalition for Compassionate Justice (GCCCJ), met with five local groups to discuss the criminal legal system here in Greene County. We approached existing groups so that we could learn from them about what mattered to them in the local criminal legal system. The groups included: Citizens for a Better Beavercreek, AME Church of Wilberforce, Inclusive Fairborn, Greene County Voices and the Unitarian Universalist Fellowship. Participants in the groups were predominantly white except for our meeting in Xenia with members of the United AME Church.

After introductions all the way around, we talked about personal stories of when a family member or friend was involved with the criminal legal system. Many of the stories described how a family member’s lack of medical care while incarcerated had lasting effects. Two people described the deterioration of people with mental illnesses because they did not get their medicine while held in jail. Where drugs and alcohol were concerned, people did not get the help that they needed to stay out of jail.

A woman described the pain of her boyfriend’s 16-year-old cousin discovering that his mother had been arrested again.

“My boyfriend has a 16-year-old cousin that’s like a little brother to him because his mom cares for the 16-year-old because the 16-year-old’s mom has been dealing with drug abuse since basically he was a little child. Yesterday was his first day of school, for the year, and she was arrested again for drugs. This has been sixteen years, and all it’s done is take his mom away. There’s been nothing provided to support him. I just think about all the wasted time and resources that go into locking her up over and over and over again that helps nobody.”

Punishments were seen as too harsh for what the person was convicted of—especially possession of small amounts of marijuana, for instance. Participants discussed the damage caused by taking plea bargains to get out of jail, in order to take care of children or to avoid worse consequences by going to trial.

One woman had an uncle who drank heavily, and had accumulated court debts from arrests in the past. When he was arrested again and unable to pay his debts, the judge indicated that he would be incarcerated for a very long time. She ended up paying for his court debts with her credit card. Had she not done that, she said, her uncle would have died in jail.

“I have a number of family and friends who have been incarcerated, mostly over alcohol. What bothers me is instead of treating the sickness, just arrest the person and throw ‘em in jail. And they’re eventually, hopefully, released and they go right back. It always bothers me to think of a new jail being built, but yet you’re not going towards any treatment.”

We asked participants to talk about what they would like to see in the Greene County criminal legal system going forward. The consensus in all of the groups was that people should not be put in jail for a mental health crisis or drug related illness and that there should be another intervention put in place to address those problems right when they happen, rather than having them picked up by the police. People talked about the lack of mental health and drug rehab programs in Greene County, for the general population as well as for those in jail.

There was a lot of concern about overcharging and the destructive effect of plea bargaining. People were shocked that a man who grabbed his girlfriend’s cell phone and hid it in the hollow trunk of a tree was charged with a violent felony, and worse, accepted the plea deal rather than risk going to trial.

“Everyone always says if you go to trial, you’ll have a much worse outcome. Maybe 2% of people have a better outcome when going to trial. So he took it. But because it was a \$10,000 bail and he was incarcerated, he couldn’t get any resources to support [his case]...the public defender said to me, the prosecutor wants a...victory.”

Overcharging and plea deals have led to a deep distrust of the legal system. They discussed the bail bond system needing to be revised so that people weren’t held in jail because their families could not afford bail.

Regarding the proposed new jail in Greene County, there was agreement that the current jail is an unhealthy environment and should be taken down. No one in our discussions thought that the jail should be bigger. Some felt that the jail should be replaced by a new building in the hopes of getting additional services later. Others thought that there would be no leverage to get additional services later, once the new building is built.

We concluded our meetings by discussing current efforts at reform, including proposed legislation that is in the Ohio General Assembly to end cash bail for people facing a variety of charges, and the potential for these laws to lower the jail population considerably. This pending legislation is one of the many factors that may influence pretrial justice generally and greatly reduce the number of people held in jail in Greene County.

Spotlight Issue: Mental Health

The issue of using the criminal legal system to respond to people with mental health issues has been the source of much research and experimentation. Mainly the work has been about what to do with people who present with mental health issues, rather than a significant examination around why rates of mental health disorders are rising in the US. Well beyond the scope of this memo, PJI encourages the GCCCJ to work with local mental health service providers in understanding the scope of mental health issues in Greene County, and the mental health impact of poverty and racism. If one does not have access or funds for medical treatment for mental health issues, one might resort to alcohol or illegal drugs (or illegal use of legal drugs). If the physical and mental stress of poverty exacerbates mood and personality disorders, then the stress of involvement with the criminal legal system will only worsen the problem.

HDR was not able to obtain the number of people in jail who require mental health services. “No data was received to reliably determine the total mental health caseload within the CJ and ADC total average daily population (ADP).” (p. 66) The investigators did note the number of mental health services provided, but that may overlook some people. The investigators did not speak to any people in the jail to ask about their experiences. “During the two days of onsite interviews, discussions were held with jail administration, correctional officers, programming staff, medical staff, and mental health professionals.” (p. 62) The HDR report did emphasize that additional mental health programs could divert those in crisis from the jail.

This seems to be a significant area for further research and examination as it relates to the jail population. The HDR assessment of the Greene County legal system’s mental health services is that it is woefully inadequate, even in the absence of data, though staff insist that good services are being provided. The recommendations section of Section Four of HDR’s report notes a large number of options that should be immediately considered. During the pretrial stage, these options are even more vital, as the first few days of a jail stay are the most dangerous for people with mental or behavioral health issues. When exhibiting signs of an acute crisis, people may be considered “higher risk” when in fact they are “higher need,” and jails are an environment where their condition may only worsen.

Spotlight Issue: Community Engagement

Finally, PJI draws attention to another important distinction: the definition of community. In several places in the HDR report, as well as in conversation with the county, it was clear that people are operating with different definitions of community. For example, the “community-based” providers of services (health, mentoring, programs) may be organizations or individuals who reside in Greene County, but they may not be from (or representatives of) the community most directly impacted by arrests and incarceration.

When asked about the involvement of the community in the development of the HDR report or in discussions being held about the need for a new jail, the county responded that the community would be engaged later in the process - when it was time to see what programming people wanted to provide to those in the jail. An alternative approach is to engage those most directly impacted by arrest and incarceration and to work with them and their communities to identify the problems and solutions needed to create safety and well-being for all.

In this process, one could also identify the negative impacts of a jail (large or small) in a community, from environmental to public health to economic. Many communities are beginning to rethink what they should or could be investing in - options ranging from 911 alternatives to prevent contact with the criminal legal system to community justice center models that allow for assessments and triaging to other services (employment, housing, health), and promote real community engagement in care.

Additional Questions

Given the lack of data available on the current jail population and the way that the system is functioning, there are many more questions that need to be considered before the county moves forward with plans for a new jail and/or jail alternatives. The answers to these questions will require both data on the current system as well as reflection on local goals and values--ultimately, what is the local justice system trying to achieve?

- Are law enforcement officers often responding to people in crisis due to mental or behavioral health issues? Are people being taken to the jail because officers have no other options?
- What options are available to address mental and behavioral health issues? What services are available in the community vs. a secure setting?
- For people who are booked into jail and ultimately released when they see a judge or magistrate, do they need to be jailed in the first place? Is there an opportunity to expand the use of citations to avoid jail stays?
- Are people staying in jail because they can't afford to pay a money bond?
- Are people returning to jail because of warrants for failing to appear in court? If so, is there any understanding of what is driving those missed court appearances, and any potential solutions to increase appearance rates?
- For people who are being jailed because they violate conditions of release, either pretrial or probation, is there a continuum of options available for responding to violations without incarceration? Are these violations being driven by needs, such as behavioral health issues, that require support rather than surveillance?
- The county was able to significantly reduce the jail population during the COVID-19 pandemic; what was working then?
- Why is the county's incarceration rate for Black people so much higher than for white people? How is systemic racism showing up?

Recommendation

Data are critical to a comprehensive pretrial system assessment, so without data, PJI is unable to make comprehensive recommendations regarding improvements to the pretrial process in Greene County. Additionally, people who have been impacted by the local justice system have only had limited opportunities to share their perspectives on the current system and needs for improvement. Voters are being asked to make a decision about jail funding with insufficient information about the jail population, needs, and programming. This debate is very nuanced, due to the poor conditions in the current facility, the active consent decree, the suspected but undocumented needs of the jail population, and the low levels of violent crime in Greene County. Whether to invest in a new jail is just one of many questions

regarding how to administer criminal justice in Greene County, and voters need more information and conversation to make an informed decision.

PJI recommends that the County Commissioners convene a public and transparent working group on the local criminal legal system, including elected officials; system stakeholders; community members, including those impacted by the local justice system; and community organizations. This group can work over the course of several months to gather and share data on the jail population, map services that are currently available in the community and the jail, identify services that are needed, and discuss the role of the jail and what it will take to keep the community safe. These questions cannot be answered in a consultant's report or a ballot initiative, and a transparent public process can offer more thoughtful solutions to the complex issues the county is facing.

In 2019, at the opening of a time capsule buried at the jail during its construction in 1969, Reynold Hoefflin, the then-prosecutor of Greene County, recounted the words he had spoken fifty years ago:

“It is unfortunate we need jails, sheriffs and prosecuting attorneys. However, I sincerely doubt that the need will ever cease. A man need not be involved in law enforcement long before he can see the real causative factors of crime. It is obvious even at a cursory glance that with few exceptions, those who shall be prisoners are the economically poor, the poorly educated, those from broken homes, and those who are psychologically maladjusted citizens. Lawful officials are painfully well aware there is little we or perhaps anyone can do to end this basic cause of crime – poverty.”

Those words ring as powerfully now as they did then, with a crucial exception: **the systemic harms of poverty do not need to be accepted as an unalterable condition.** Greene County stands at a significant crossroads, with an opportunity to address long-known drivers of incarceration and end cycles of harm to its citizens. This report will hopefully serve as the beginning of a conversation where county officials, system impacted people, and community members explore what it means to be truly safe in Greene County.

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