
The Need for a Second Question when Reviewing the Local Jail Population

by Michael R. Jones
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When the local jail¹ becomes crowded, decision-makers in the local criminal justice system often want to know who's in the jail in an effort to come to a consensus about whether the jail is being used in a reasonable and appropriate manner. To help answer this question, jail staff is often asked to produce a current roster of inmates. This roster often includes important information about the inmates, such as the inmates' charges and which charge is the most serious, whether they are on pretrial status or sentenced to the jail, which agency arrested or sentenced the inmates, and inmates' length of incarceration to date. Decision-makers then typically look over the roster inmate-by-inmate and ask the question, "Should this person be in jail?" to make a judgment about whether incarceration seems appropriate. In most instances, incarceration does indeed appear appropriate for almost all inmates on the roster. The decision-makers then conclude that the jail is being used in a reasonable and appropriate manner. Unfortunately, this sequence of events does not lead to initiatives to alleviate the jail crowding that brought about the question of "Who's in jail?" in the first place; rather, the sequence serves to foster the crowding. Local decision-makers then often conclude that they must resort to familiar jail crowding remedies (e.g., addition of beds, early release of inmates).

When decision-makers just ask the question, "Should this person be in jail?" the answer is almost always "yes" because all inmates are incarcerated under some authority of law and for purposes of processing the inmates' cases. The reason for incarceration can be, for example: the inmate was recently booked on new felony charges or a warrant; the inmate is on courtesy hold for a neighboring jurisdiction; the inmate is serving a sentence for a misdemeanor; or the inmate is awaiting transfer to prison or a community corrections facility; etc. All of these reasons are legal and appropriate uses of a local jail.

What is needed is a second and equally important question: "*How long* should this person be in jail?" By asking this question, decision-makers are recognizing that a worthwhile use of their authority is to agree *when* inmates should be released from the jail, because almost all inmates (typically over 90%) in jails nationwide return to the community within a short time frame (i.e., 14 to 28 days average in most jurisdictions). In addition, when the focus is on *when* inmates should be released (and under which circumstances, such as on a type of community-based supervision), then the decision-makers empower themselves to set local policies that determine how long inmates stay in the jail. Decision-makers who discuss how long inmates should stay in jail often set policies to expedite inmates' release, because they choose not to prolong the inevitable release (except in special circumstances, such as for very high risk persons). When decision-makers focus on how long inmates should be staying *in addition to* whether inmates should or should not be in jail on any given day, the expensive and valuable jail resource is used

¹ The concepts that pertain to the local jail and the local criminal justice system also apply to a large extent to prisons and the statewide criminal justice system. Readers of this article can, for the most part, substitute "prison" for "jail" and "statewide" for "local."

much more selectively. Worthwhile discussions, such as “Given the values of the community, how long should these inmates be detained pretrial and how long should these inmates be sentenced?” tend to emerge among local decision-makers. In a short time, the jail often becomes uncrowded, and expansion of jail bed capacity and the corresponding costs are delayed or avoided.

In sum, when decision-makers ask and answer the single question, “Should this person be in jail?” they are susceptible to placing themselves in a situation that fosters jail crowding for the reasons described above. However, when they also ask the second question, “How long should this person be in jail?,” they empower themselves to make decisions that determine inmates’ length of stay to durations that alleviate jail crowding while simultaneously honor local values about public safety, the administration of justice, and the expenditure of public funds.

About the Author: Michael R. Jones is the Criminal Justice Planning Manager in Jefferson County, Colorado, and part-time consultant for the National Institute of Corrections. In these roles, he assists justice system decision-makers in Jefferson County and other jurisdictions in developing or improving their local justice system’s policy planning and coordination capacity, in analyzing their jail population, and in developing strategies for addressing jail crowding and other local justice system issues. He can be contacted at mjones@jeffco.us or 303-271-4669.
