THE DATA DISCONNECT:
Adult Criminal Justice Data in Ohio

DATA brief

The General Assembly created the Ohio Criminal Sentencing Commission (Commission) and its Advisory Committee in Ohio Revised Code §181.21 through 181.26 to, among other things:

- Study Ohio's criminal laws, sentencing patterns, and juvenile offender dispositions; and
- Recommend comprehensive plans to the General Assembly that encourage public safety, proportionality, uniformity, certainty, judicial discretion, deterrence, fairness, simplification, additional sentencing options, victims' rights, and other reasonable goals.

Accordingly, since its inception, the Commission's members and staff have strived to produce relevant, credible, and meaningful reports consistent with their statutory obligation and its core values to enhance justice and ensure fair sentencing in Ohio. The Commission focuses on broad categories including juvenile justice, sentencing, criminal justice, and data collection and sharing.

As such, it is an objective, bipartisan group that seeks to produce relevant, current, informed processes and outcomes through creative solutions – beyond simplification and modernizing the Revised Code. Its work focuses on people, over-penalization, crowded prisons, mental health, drug addiction and sentencing.

Given its unique vantage point, the Commission is keenly aware of the value of connecting all relevant government entities and public partners in order to collect and use needed data and share the information to promote smart, effective use of resources and ensure measured, proportional responses. Thus, this Data Brief is the first in what will be a series designed to articulate the opportunities and challenges and also craft solutions to further advance sound, well-rounded criminal justice policy in the State of Ohio.

> "Few domestic social problems more seriously threaten our welfare or exact a greater toll on our resources (than crime). But society has relied primarily on traditional answers and has looked almost exclusively to common sense and hunch for needed changes."
>
> – *"The Challenge of Crime in a Free Society," A Report by the President's Commission on Law Enforcement and Administration of Justice, 1967**
>
> *ncjrs.gov/pdffiles1/nij/42.pdf

1 Andrews, Sara. Sentencing in the Heartland: A Perspective from Ohio (December 2017). Federal Sentencing Reporter, Vol. 30, No. 2, p. 94, 2017. sc.ohio.gov/Boards/Sentencing/resources/activities/FSRSentencingHeartland.pdf.

Comprehensive Data Does Not Exist

The Ohio Criminal Sentencing Commission (Commission) began in 1991 and is the only long-standing state agency designed, by statute, to bring judges, prosecutors, and defense attorneys together with members of the General Assembly, state and local officials, victims, and law enforcement officers.

The work of the Commission is dedicated to enhancing justice and ensuring fair sentencing in the State of Ohio through "impartial and consensus-driven analysis [of criminal justice policy, laws and sentencing trends in Ohio] and development of policies and practices that maximize public safety, reduce recidivism and equalize justice."[1]

Over the last two decades, the Commission has issued a series of reports that served as the basis for several major sentencing bills enacted by the Ohio General Assembly. As a result, nearly every sentencing statute currently used in Ohio's felony, misdemeanor, and juvenile courts grew out of recommendations from the Commission.

Ironically, however, the Commission is unable to answer simple questions or provide general statistics about adult felony and misdemeanor sentencing, criminal justice operations, procedures and outcomes for Ohio. Simply, comprehensive data does not exist to answer basic questions such as the following:

- How many people are on pretrial supervision in Ohio?
- How many people are held on bail vs. released pretrial?
- How many people (statewide) were sentenced for a specific offense this year in Ohio?
- How many people (statewide) were sentenced at a specific felony level this year in Ohio?
- How many people are on community control (probation)?
- When every person leaves the court, where do they go (what is their disposition)?
- What is the prevalence of plea bargaining in sentencing?
- How many people are subject to registration requirements and for what crimes?
- Is there evidence to support the thought that increased penalties are a deterrent for future crime(s)?
- How many defendants are indigent?

Because it is the only state agency that routinely brings together judges, prosecuting and defense attorneys, corrections officials, law enforcement, victims' advocates, community corrections experts, and others with a direct interest in criminal sentencing, the Commission is uniquely situated to present the challenges and opportunities that surround the current criminal justice data disconnect. And, ultimately, the Commission is well-positioned to identify strategies to improve data sharing and suggest comprehensive changes that affect prison and jail populations, provide an ongoing forum to debate policy initiatives, and serve the citizens of Ohio.

The State of Criminal Justice Data in Ohio

The notion of one criminal justice "system" is a misnomer. In reality, the "system" is a complex web of independent (state and local) systems all with their own structure, organization, data, and sharing protocols. Presently, Ohio adult[22] criminal justice data is collected by a variety of agencies and done so specifically for the purpose of conducting their respective work. In many cases, that data is for internal agency use only and data sharing agreements are underutilized. That practice diminishes the ability for other (criminal justice) agencies to access data and use it for case-level decisions or for policy analysis to make recommendations to improve criminal justice processes, improve workflow, and evaluate whether criminal justice policy is achieving intended outcomes, such as advancing public safety, efficacy and fairness.[3]

That is not to say data sharing does not exist. Many agencies are engaged in collaborative efforts to advance good public policy, but oftentimes these efforts do not filter to a wide audience or rise to the level of statewide policy implications and debate. Furthermore, the work only begins when agencies execute data sharing agreements, as Ohio does not have standardized parameters for how criminal justice data is collected and reported, resulting in disparity in similar types of data. Importantly, there is not a comprehensive, shared criminal justice repository that connects information, such as data on pretrial services and bail, plea agreements, diversion, sentencing (case disposition), community supervision, and demographic variables, across jurisdictions, or across criminal justice agencies. Simply stated, the current data system for criminal justice in Ohio is disparate, mismatched, and complex, and lacks the capacity to fully and completely narrate the comprehensive criminal justice story in Ohio.

Ohio's unaligned data collection and reporting effort is, in part, due to the historical legacy of being a home-rule state. Section 3 of Article XVIII of the Ohio Constitution states:

> "Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws."[4]

With some limitations, the home-rule provisions of the Ohio Constitution generally authorize municipalities[5] to govern themselves in local matters, independent of state law.[6] Home rule, in the context of the criminal justice system, means that municipalities select (and fund) their own court case management system and generally establish their own means to collect and report data. For perspective, across 88 counties, Ohio has 88 courts of common pleas, 129 municipal courts and 35 county courts, each of which may have an individual case management

2 Within this document, adult criminal justice data is referred to as criminal justice data; Juvenile data is not addressed here.

3 This references how information regarding incidents, defendants, cases, dispositions, outcomes, and more is not consistently linked together, nor does it have the ability to be linked together across criminal justice systems in a way allowing the state to better understand its system or process.

4 Ohio Revised Code Article XVIII Section 03; https://www.legislature.ohio.gov/laws/ohio-constitution/allSections;jsessionid=4c4f2dc289c2acf9e90ea381954d?id=18.

5 According to the Ohio Municipal League (omlohio.org), by the end of 2018, Ohio had 930 municipal governments.

6 Ohio Legislative Services Commission, "Municipal Home Rule" (Jan. 26, 2010). lsc.ohio.gov/documents/reference/current/membersonlybriefs/128municipalhomerule.pdf.

database.[7] The fractured nature of data applies beyond courts, to hundreds of local jails, probation departments, and law enforcement, each independently managing criminal justice data.

While the state of disconnected criminal justice data in Ohio and the inability to answer questions or inform policy may surprise many, it is not a unique situation. Garrett[8] notes that many local jurisdictions across the U.S. are in similar situations and the result, at large, is that "[c]riminal justice has persistently lacked adequate data to inform policy." The difference may be that other states are making systemic changes and gaining traction in collecting the measures necessary to capture the story of their data. Some made the decision to move to a shared system more than a decade ago (e.g., Pennsylvania's J-NET system).[9]

Maximizing Opportunities

In November 2017, the chief justice of the Supreme Court of Ohio, Ohio attorney general, Ohio Senate president, Speaker of the Ohio House and the governor endorsed the Commission to take the lead in facilitating and coordinating the state's effort for a second round of Justice Reinvestment (JR Ohio 2.0).[10] The premise was that comprehensive analysis of the Ohio corrections, community supervision, and justice-involved populations will lead to the development of policy options to enhance public safety while wisely parsing limited resources. Policy recommendations are expected to be final in the near future and will focus on four primary areas, one of which centers squarely on resolving Ohio's data deficits.

The connectivity and integration of criminal justice data will resolve this deficit. It will provide a platform that ensures information about a defendant follows him or her throughout the array of agencies and jurisdictions as (s)he progresses through the criminal justice system. Integration of data allows for a person-centered approach and enables agencies to share information about a defendant's risks and needs, contributes to the development of proactive strategies to address them, and reduces duplication of efforts or worse, counterproductive approaches.[11] Connectivity and integration of criminal justice data at the aggregate level will further allow for understanding of county- and state-level patterns, answer critical criminal justice questions, and provide for better evaluation of state policies.

7 Common pleas courts may have multiple case management databases, depending upon which system a division decides to adopt within that court. Information about the number and types of courts in Ohio is available at sc.ohio.gov/Publications/annrep/17OCSR/summary/20170CS.pdf.

8 Garrett, Brandon L., Evidence-Informed Criminal Justice (Sept. 18, 2018). George Washington Law Review, Vol. 86, No. 101, p. 126, 2018. https://ssrn.com/abstract=3251440.

9 Pennsylvania Justice Network, Annual Report 2016-2017 (Sept. 26, 2017). https://www.pajnet.pa.gov/Documents/jnet_annual_report.pdf.

10 The Pew Charitable Trusts, Justice Reinvestment Initiative Brings Sentencing Reforms in 23 States. (Jan. 22, 2016). https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/states-modify-sentencing-laws-through-justice-reinvestment.

11 Ball, David W., E Pluribus Unum: Data and Operations Integration in the California Criminal Justice System, (Sept. 24, 2010). Stanford Law & Policy Review, Vol. 21, p. 277. https://digitalcommons.law.scu.edu/facpubs/11/.

Accordingly, Andrews[12] writes the work of the Commission is to improve the connectedness of criminal justice data in Ohio and outlines such challenges, as well as hopes for future data collection in Ohio.

The Commission implores Ohio's state government leadership to move toward a data-informed environment that allows for the comprehensive understanding and analysis of the criminal justice system by its own actors and those making policy decisions. In a data-informed approach, qualitative and quantitative data is used to help inform or guide[13] those in decision-making roles, thus ensuring needed information is available and used in the creation of policy. A data-informed approach allows for the creation of sound state policy, which leads to maximized public safety, a reduction in recidivism, and equalized justice.[14] But first, the data must be available – and shareable – from all points in the criminal justice system.

Who Collects Criminal Justice Data in Ohio?

There are a number of agencies that collect criminal justice data in Ohio by necessity or statutory obligation. But data is often held in agency-specific vacuums with varying degrees of sharing agreement.[15] Most have a piece or part of the larger criminal justice narrative and there is no single source for aggregate, statewide criminal justice data.

These agencies include:[16]

- Ohio Attorney General, including the Ohio Bureau of Criminal Investigation (BCI)
- Department of Public Safety, including the Ohio State Highway Patrol, Office of Criminal Justice Services (OCJS), and the Bureau of Motor Vehicles (BMV)
- Police departments
- Sheriffs' departments and jails
- Pretrial agencies or personnel
- Defense attorneys and public defenders
- County prosecutors
- Clerks of court
- Court personnel
- Community supervision personnel
- Community corrections agencies
- Ohio Department of Rehabilitation and Correction (ODRC).

12 sc.ohio.gov/Boards/Sentencing/resources/activities/FSRSentencingHeartland.pdf.

13 https://files.eric.ed.gov/fulltext/ED504191.pdf.

14 sc.ohio.gov/Boards/Sentencing.

15 In Ohio, LEADS and OHLEG allow the sharing of some criminal history information (e.g., warrants, parole status, and missing persons) across law enforcement agencies in the state.

16 This is not an exhaustive list, but one to demonstrate the variety of touch points in the state criminal justice system that may collect criminal justice data. As one example, the Ohio Courts Network (OCN) is not included on this list. OCN, housed in the Supreme Court of Ohio, allows courts to send or upload data to the Supreme Court of Ohio. The original sources of that data (for example, Clerks of Court and other agencies) are included on this list, as they are primary data sources. OCN is moving toward serving as a central repository for courts and some portions of the criminal justice system. Information about the Ohio Courts Network is at: http://www.sc.ohio.gov/IT/OCN. Federal agencies are intentionally omitted.

The Value of Shared Criminal Justice Data in Ohio

The promise of "justice reinvestment"[17] is that the state can save money and improve societal outcomes through incarcerating fewer people and redirecting a portion of the savings toward community programming. Fulfilling this promise, however, requires that policymakers and program administrators have timely, accurate, and comprehensive system-wide information to inform decisions and allocate resources. The National Consortium for Justice Information Statistics (SEARCH), states, "the success of justice reform depends upon building automated pipelines of information among all the partners that collect information and make decisions about the adjudication, supervision, and rehabilitation of people accused of and convicted of crimes."[18]

Ultimately, a shared criminal justice repository will provide critical data and analysis at the individual and aggregate level. The benefits can be summarized across three areas of the criminal justice system: (1) Investigation and officer safety; (2) Diversion, sentencing, and incarceration; and (3) Reentry to the community.[19]

Investigation and Officer Safety

Crime is not confined to jurisdictional boundaries, and often defendants cross city, county, or even state lines. Currently, information-sharing among the many agencies within the criminal justice system requires the establishment of memorandum of understanding or sharing agreements, joint task forces, or sometimes chance phone calls or paper file reviews. Jurisdictions that have developed a unified information-sharing system are more able to investigate and prevent criminal activity through access to a one-stop portal linking criminal information from disconnected agencies and jurisdictions.[20]

A shared repository also increases situational awareness for officers on patrol by providing comprehensive information about people, places, vehicles, and situations they encounter on the ground. A case study of Los Angeles County's information sharing initiative found that law enforcement had a better understanding of crime trends and other factors allowing for more effective community-oriented policing.[21]

Diversion, Sentencing and Incarceration

Similar to the investigation and sentencing category, integrating comprehensive defendant data at the "front end," prior to incarceration, helps streamline classification and rehabilitative programming. This is especially critical for the population suffering from medical and mental health disorders who need timely treatment. Assessment

17 Ohio currently is participating in Justice Reinvestment (JR 2.0) efforts and is well-positioned to move toward a comprehensive, holistic, understanding of its criminal justice system. According to the Council of State Governments, "[j]ustice Reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism."

18 Came, Scott M., "The Importance of Information Sharing for Justice Reform." (May 2015). SEARCH. http://www.search.org/files/pdf/TheImportanceofInformationSharingforJusticeReform.pdf.

19 Ball, E Pluribus Unum.

20 Came, Scott M., "The Importance of Information Sharing for Justice Reform."

21 SEARCH, "Information Sharing Case Study: Los Angeles County, California." (2009). http://www.search.org/files/pdf/LA_COUNTY_CASE_STUDY.pdf.

and treatment programming for those populations require comprehensive, proactive supports and services using a collaborative, multiagency approach that promotes public safety. In California, for example, defendant data is used to divert mentally ill defendants away from incarceration and into temporary crisis beds.[22] In Virginia, a pilot study used aggregate data to examine outcomes for defendants sentenced to jail or to an alternative punishment (i.e., probation or a specialty court).[23]

Reentry to the Community

Release and reentry into the community from incarceration is one of the most consequential transition points of the criminal justice system. Each person has unique circumstances, needs, risks, and assets (including material assets and intangible assets, such as a social safety net). A one-size program and/or plan does not fit all. Further, reentry involves an assortment of agencies providing a wide range of interventions for a person. Connecting criminal, social, psychological, and medical history to the very end of the criminal justice system allows for better coordination and allocation of those resources and more appropriate programming for defendants according to their individual risk and needs[24] and can profoundly impact public safety.

Of the reentry data that exists, most is focused on a single metric in recidivism rates. This data point, however, does not capture contributing factors of recidivism or identify the point at which a breakdown occurred. Good policymaking requires knowing what works, what does

22 Ball, E Pluribus Unum.

23 Ibid.

24 Ibid.

Examples of States & Counties with Shared Criminal Justice Systems

As states thoughtfully and intentionally develop shared criminal justice data systems or repositories, each one is constructed, operated, and funded differently. Each has gone down a different path to share criminal justice data based on the needs of a particular state.

Examples illustrate different approaches that allowed states to meet the same goal of sharing criminal justice data among criminal justice partners (and in some states, allows for aggregated analysis of information to inform policy decisions). Examples are presented to show what is possible, not as endorsement as to what Ohio should do. Click on the links below to read about different states and their criminal justice data sharing repository or system.

It is important to note that the federal government also is a proponent of sharing data. The Bureau of Justice Administration developed the Global Justice Information Sharing Initiative, whose overarching goal is the "efficient sharing of data among justice entities." It focuses on improving information sharing between criminal justice agencies at the state- or local-level jurisdiction, which in turn can information-share to improve recommendations and initiatives at the U.S. Department of Justice. A central focus of this initiative is the ability to share information. The initiative "promotes standards-based electronic information exchange to provide the justice community with timely, accurate, complete, and accessible information in a secure and trusted environment." Information is available at it.ojp.gov/global.

HAWAII (hijis.hawaii.gov)

NEW HAMPSHIRE (ncsc.org/sitecore/content/microsites/trends/home/Monthly-Trends-Articles/2016/New-Hampshire-Integrates-Its-Criminal-Justice-System-Online.aspx)

PENNSYLVANIA (pajnet.pa.gov/Pages/default.aspx)

not work, and why. These fundamental questions cannot be answered without comprehensive data spanning the full spectrum of the criminal justice system.

Aggregating data in Ohio and across agencies provides an unprecedented level of information for criminal-justice-system practitioners and policy makers. A shared criminal justice repository can be used to develop and implement new law enforcement interventions and policing strategies, refine extant criminal justice policies, leverage resources and programming to improve outcomes for the criminal-justice-involved population and help inform judicial decision-making.

Establishing a shared criminal justice repository provides for more efficient and effective investigating, decision-making, sentencing, and broad scale evaluation of criminal justice policies. It also advances effective technologies and practices, identifies operational and program needs and efficiencies, promotes performance measurement, and wisely spends tax resources.

FLORIDA

laws.flrules.org/2018/127

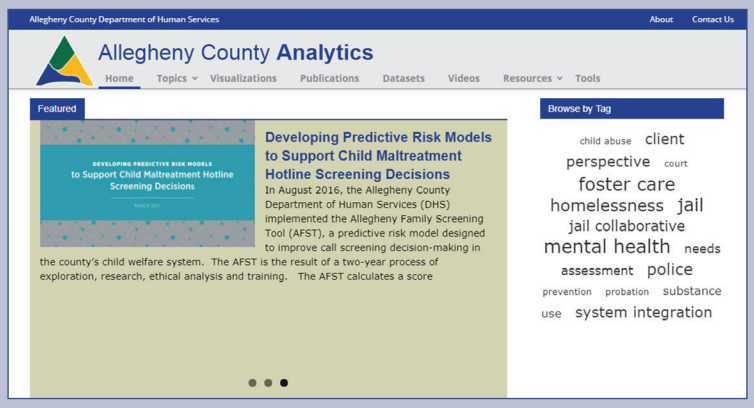
Florida is early in the process of creating a larger shared criminal justice data system. Legislation passed in early 2018, laying out the data that will be included and shared in its system.

> **Chapter 2018-127**
> Section 2. Section 900.05, Florida Statutes, is created to read:
> 900.05 Criminal justice data collection.— (1) LEGISLATIVE FINDINGS AND INTENT.—It is the intent of the Legislature to create a model of uniform criminal justice data collection by requiring local and state criminal justice agencies to report complete, accurate, and timely data, and making such data available to the public. The Legislature finds that it is an important state interest to implement a uniform data collection process and promote criminal justice data transparency.

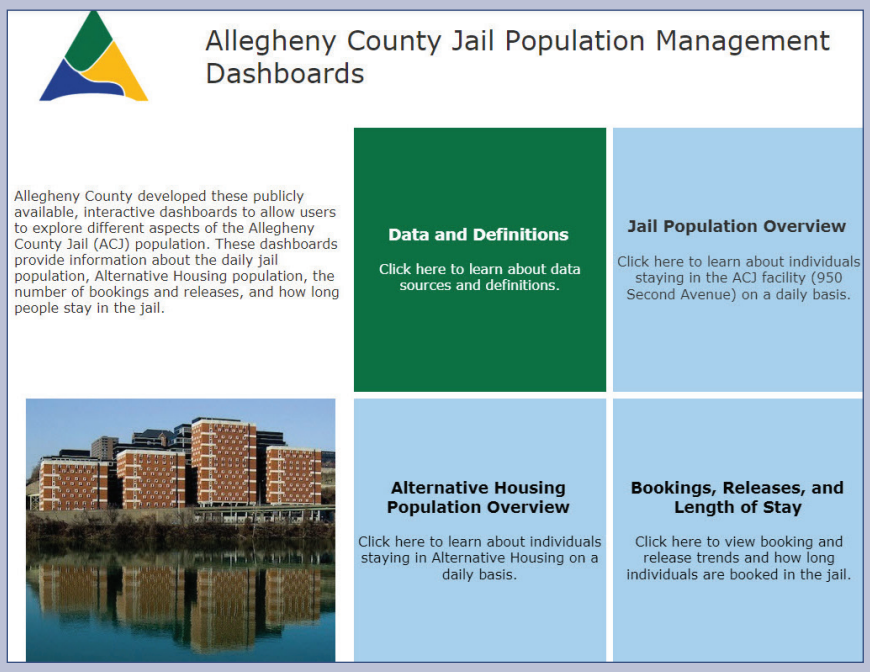
ALLEGHENY COUNTY, PA
(alleghenycountyanalytics.us)

While not a state, Allegheny County, PA is an example of how criminal justice data can be shared among criminal justice agencies. Allegheny County, the second most populated county in Pennsylvania that encompasses the city of Pittsburgh, has a publicly available dashboard for sharing information about the criminal justice system.

In Allegheny County before the [integrated criminal justice data] dashboards, the courts did not recognize how the practice of putting people on detainer for violations of probation had an impact on the jail population. Once the data were presented through dashboards, the probation office created a new procedure to only recommend detention when the person is a public safety risk and to conduct monthly reviews of detainers with each criminal court judge.+



The Urban Institute, in "Developing Data Dashboards to Drive Criminal Justice Decisions," stated, "What's refreshing with this initiative is that before the dashboards, no one understood the basis of their efforts or the impact of their efforts. No one knew how their decisions impacted the jail population, and now we do."++

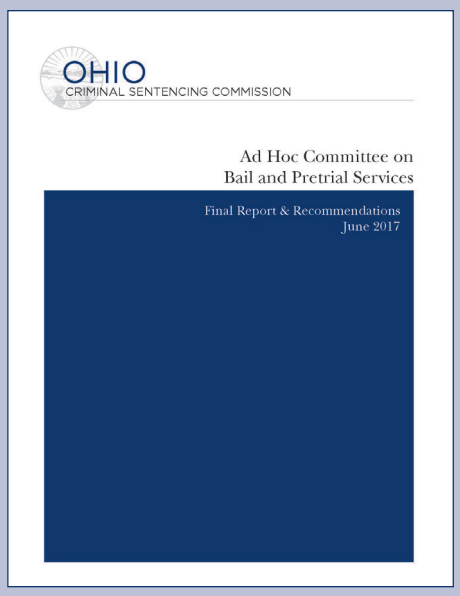


+ Urban Institute, "Developing Data Dashboards to Drive Criminal Justice Decisions" (October 2018); https://www.urban.org/sites/default/files/publication/99171/developing_data_dashboards_to_drive_criminal_justice_decisions_0.pdf.

++ Ibid. p. 13.

Commission Reports: Bail & Pretrial Services

In the summer of 2017, the Ohio Criminal Sentencing Commission issued a report from the Ad Hoc Committee on Bail and Pretrial Services, which included data collection recommendations specific to bail and pretrial services. (sc.ohio.gov/Boards/Sentencing/resources/commReports/bailPretrialSvcs.pdf)

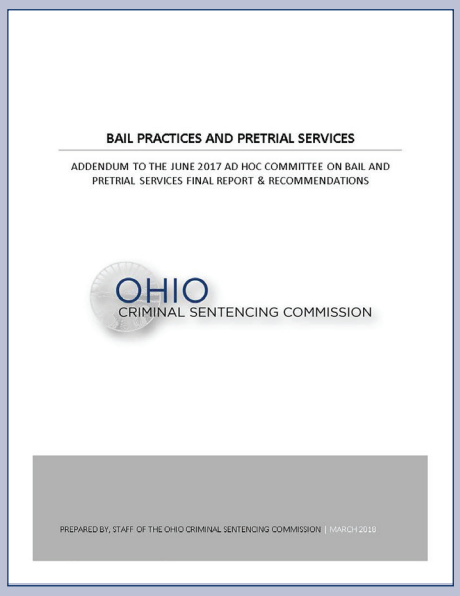


From "Ad Hoc Committee on Bail and Pretrial Services Final Report and Recommendations"

"Data collection costs would vary, dependent upon whether a court's case management system has the ability to currently track the data or if the system has to be modified to add database fields or codes. The Ad Hoc Committee is fully aware that implementation of these recommendations, particularly implementation of risk assessment systems, dedicated pretrial service staff, increased diversion opportunities, and increased data collection, will have fiscal implications for both the state and local governments.

"...It should be remembered, however, that the price of reform is offset by the potential savings in the cost of detention.

"...Of vital importance... is education and training of court personnel, including judges and clerks of court, prosecutors, defense counsel, and others with a vested interest in the pretrial process. Without training and education, the individuals operating within the system will remain reluctant to embrace risk assessment and alternatives to monetary bail. The Ad Hoc Committee encourages ongoing monitoring, through data collection and analysis of the pretrial system in Ohio, and suggests that the Ohio Criminal Sentencing Commission be tasked with periodically reporting on pretrial practices and operations."



In early 2018, the Commission released an addendum to the report. One area expanded upon was data collection. This portion of the addendum, reviewed the state of Ohio courts, as well as the challenges for collecting data. It also highlighted other states that had moved forward in data collection. This report is useful for those who wish to learn more about data challenges in these courts and learn more about other states and solutions they are considering or have implemented. Although much of the conversation is specific to bail and pretrial, it is an informative conversation. (sc.ohio.gov/Boards/Sentencing/resources/commReports/bailPretrialSvcsAdd.pdf)

The Future of Criminal Justice Data in Ohio

It is time to tell the criminal justice story in Ohio – the whole story – and move toward development of a robust, shared criminal-justice-data system. Policy makers and criminal justice agencies must have relevant and complete information available to maximize public safety and develop sound, well-reasoned policy. The establishment of a shared criminal justice repository not only is an investment in an evidence-informed public policy decision-making process, it is an investment in a safer, fairer, and more cost-efficient criminal justice system.

RECOMMENDATIONS

The following recommendations will contribute to a strong foundation to move Ohio toward consumable, useful, and comprehensive criminal justice data collection:

- **The Commission should create a document depicting the work flow of the criminal justice system and case processing, including identification of all data collection points.**
- **The General Assembly should compel the legislative drafting and enactment of the data policy recommendations from the Justice Reinvestment Ad Hoc Committee (JR 2.0 – 2018).**[25]
- **The Ohio General Assembly, the governor and the chief justice of the Supreme Court of Ohio should mandate the Commission to convene an Ad Hoc Task Force to examine the development of a shared criminal justice repository.**

These recommendations are fundamental for the realization of future criminal justice and policy reform efforts in Ohio. Mapping case flow processes demonstrates the potential of information sharing that already exists and achieves, through careful review, a data-sharing repository that ensures all points are appropriately and accurately identified and included. Copious examination to develop such a system and the details involved is non-negotiable for success. In other words, the long-term goal is the development of a shared criminal justice repository through a thoughtful, mindful, and intentional approach to ensure it benefits all users in the data repository.

25 https://csgjusticecenter.org/wp-content/uploads/2018/11/JR-Ohio-fourth-presentation.pdf.

Future data briefs will explore aspects of the criminal justice data disconnect, including arrest, law enforcement, bail and pretrial services.

OHIO
CRIMINAL SENTENCING COMMISSION

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