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## V. Factors Impacting on Jail Census

Obviously a number of factors impact on size of the jail census and the characteristics of those who populate it on any given night. These include the following issues addressed elsewhere in the report:

- the arrest trends previously discussed;
- recent steady increases in the Tompkins County population, but projected to be followed by slight declines in the resident population in future years, including slight net reductions in numbers of residents in most of the most crime-prone age groups (as referenced briefly in Chapters II and IV);
- what is happening within alternative and community-based programs designed in part to minimize the size of the jail population (discussed in more detail in Chapter VII).

Beyond these factors, some other issues are addressed briefly in this chapter as illustrative of other factors contributing to the numbers and characteristics of individuals likely to spend time in the jail in the future, absent other actions discussed throughout this report. These factors are presented in no particular order of priority.

### Existing Jail Capacity

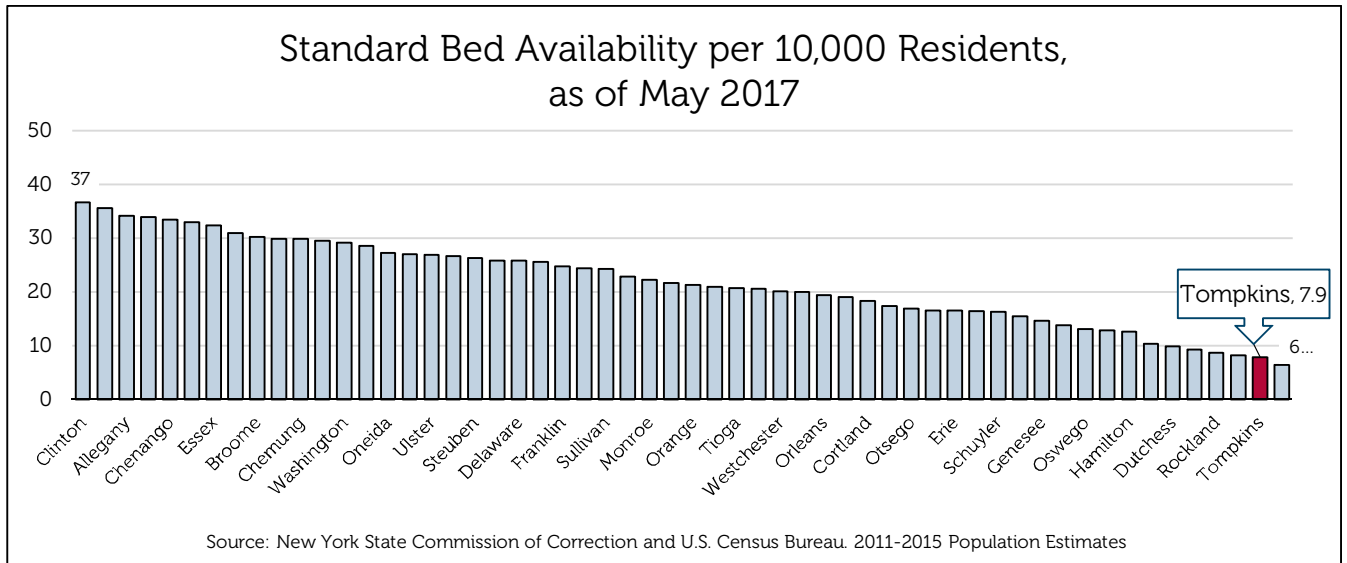
We have previously established that Tompkins has among the lowest arrest and incarceration rates in the state. Also contributing to the low incarceration rate is the fact that the County jail has the second-lowest rate of licensed beds per capita of any county in the state (second only to Herkimer, based on 2015 data), as indicated in Graph 25. The standard bed availability rate is based on the number of CoC-approved, non-variance beds: 82 at the present time, following the addition last year of seven newly-constructed and approved beds in space formerly set aside for recreation activities.

The County jail has regularly reported on a monthly basis the average number of available/open beds, including the variance beds in those calculations. Until about mid-way through 2016, those bed totals have consistently been smaller than the number (18) of the jail's variance beds allowed by the Commission of Correction – meaning that if the variance had not been in effect, there would have been no open beds and even more focus would need to have been placed on boarding out on many nights.

However, beginning in mid-2016, and continuing each month since then, the open bed number has consistently been at or above the variance-bed total. In most

months, the number has been around 25 or above, and in several months above 30 – thereby providing some cushion, subject to classification requirements, to enable the jail to continue to limit the numbers of inmates needing to be boarded out, even if and when the variance is withdrawn by the CoC,

**Graph 25**



Any estimates of the numbers of future beds required will need to factor in classification requirements set broadly by CoC, and implemented by the jail Captain. In general, though there is considerable flexibility in terms of how the classification requirements are implemented, the general rule of thumb is that the practical realistic capacity of the jail is 80 percent of the official capacity – thus 66 beds based on the County jail’s rated capacity of 82, exclusive of variances.

In addition, attention must be paid to peaks of demand for beds that can occur at any time that an emergency occurs, such as if there is a drug or gang raid or other event that leads to an abnormal number of arrests at one time. Peaks in daily census over and above the average daily census for any given time period tend to range to as many as 10-12 needed beds over the average daily census. Chapter IX addresses in more detail how factors such as classification requirements and demand peaks affect future projections of needed jail cells.

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## Presumption of Non-Financial Release

The recent Tompkins County Municipal Courts Task Force<sup>10</sup> report prepared on justice courts raised a number of issues beyond just local courts, including the larger issue of recommending the presumption of release on recognizance or release under supervision, as opposed to detaining people on bail in most misdemeanors and even in many felony cases, consistent with community safety. Clearly there will be exceptions, but the recommendation is for the presumption and default position to be non-financial release. Importantly, the new District Attorney has independently issued a similar policy directive to shape DA practices.

Although it is too early for the effect of these pronouncements to be fully realized, it is likely that over time such a change in attitude and decision-making should have a profound impact on the overall criminal justice system in general, and the jail and its unsentenced population in particular.

## Legislation to Raise the Age of Juveniles

Over the next two years the age of juveniles in New York will increase from its current 16 to 18, meaning that more young people will be covered under the juvenile and Family Court system and fewer in the adult criminal justice system and jail. Local officials, while generally supportive, have some concerns about the added costs to the juvenile detention facility. Jail officials do not expect this to have a major impact on the jail's population, as there have been few juveniles 16 and 17 in the jail in recent years anyway.

Arrests among 16- and 17-year-olds have declined in the county over the past five years, from more than 100 a year from 2012 through 2014, to 80 and 76 the past two years. Reductions have occurred in both misdemeanors and felonies. Straight jail sentences for juveniles have gone from 16 in 2013 to 3 in 2016, and split jail/probation sentences have been reduced from 4 to 1 since 2012.

## The Effects of Race and Poverty

Many of those we have spoken with and listened to throughout this study have raised issues about the perception of racial bias against people of color within the law enforcement and criminal justice systems. Several sets of data confirm that these perceptions are partially correct, in particular as it pertains to the black community.

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<sup>10</sup> Available at [http://www.tompkinscountyny.gov/tccog/municipal\\_courts](http://www.tompkinscountyny.gov/tccog/municipal_courts)

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Regardless of motivation, the practical effect is that blacks are disproportionately represented throughout various components of the criminal justice system. Although only making up about 4 percent of the total county adult population (perhaps up to 5.5 percent, factoring in people of mixed races), black/African American people are involved in about 20 percent of all arrests in the county. An even higher proportion – about 22-23 percent – of inmates in the jail are typically African Americans (perhaps slightly higher including those of mixed race heritage). The proportion of blacks in the probation system is about 15 percent – well above the county population proportion, but suggesting in comparison with the jail population that for whatever reason there appear to be differences in the processing of cases and sentences across the judicial system.

Similar differences are not apparent in analysis of comparable data for Hispanics. Consistently across arrest, jail and probation data, the proportion of Hispanic/Latino individuals in these different components of the system is virtually identical to the 4 percent representation in the larger community. By contrast, Asians are significantly underrepresented in the jail compared to their proportion in the larger population.

Financial data are not maintained in a way that enables an objective independent analysis of the impact of poverty on the jail population. Intuitively, however – with the high proportion of repeaters in the jail, a 30 percent proportion of inmates with less than a high school degree in an otherwise highly-educated community (only 5 percent of the county's adult population have less than a high school education), Pre-Trial Release data indicating that 64 percent of those interviewed in the jail were unemployed and many had been in their current residence for less than six months, and conversations with many community residents including ex-inmates – it seems highly likely that there is a direct relationship, even though the data to document it conclusively do not seem to exist.

Many within the community are working to address these issues, through efforts to strengthen employment opportunities, accessible affordable quality housing, education, access to services, transportation – all with strong connections to providing doors out of poverty and low income stagnation. The community's ability to develop policies and practices and connections that help address and correct these larger community concerns is likely to also have a direct impact in reducing the jail population in the future.

## Substance Abuse and Mental Health Access

As indicated in the previous chapter, much of the population in the jail on any given night is suffering from substance abuse and mental health issues, and in many cases

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both. Far too few services are available within the jail to address either of these sets of issues on a consistent basis, and in some cases even where services do exist, many of the inmates are not in the jail long enough to benefit from them. But efforts are expanding to strengthen those services, and particularly to help link persons in the jail with community-based services once they are released from the facility (see next chapter).

Among other initiatives, the County Mental Health Department is expanding its footprint in the jail, with increased staffing, new programs, and an effort to develop a planned approach to assess the mental health and substance abuse needs of inmates on a regular basis – with the goal of both strengthening those services in their own right, but also to help inmates link directly with needed services once they return to the community. The Department clinic and other mental health providers in the community have instituted a same-day direct access policy to help ensure that people needing services immediately, including those returning to the community from the jail, do not have to wait and can begin to develop a relationship with a provider instantly, once the first connection is made.

As discussed in the previous chapter and in more detail in Chapter VI, one of the major needs impacting the jail population is the need for a medically-oriented detox facility, in part to replace the current need for detox to occur with limited medical support within the jail, surrounded by other inmates – because no other options currently exist in the county. Ongoing efforts to develop a detox center could have substantial value and impact in helping reduce the inmates going through various phases of the detox process in the jail on any given night.

Beyond that, an equally-compelling need exists for expanding in-patient rehab services in the county. A proposal is also wending its way through various stages of approval and funding to create new in-patient residential rehab beds in the county to help make such services more accessible to all county residents – and, in the context of this study, for inmates in the jail. Currently, significant numbers of inmates are thought to need residential treatment, but there have been limits on the numbers receiving adequate assessment to access treatment. Furthermore, even when the assessments are done, many of the services that are ultimately accessed are outside the county, and too often there are long delays in actually accessing the treatment facilities.

As shown in Table 35, an average of 70 assessments were done each year to determine the need for in-patient rehab or other treatment services (not counting 2016, for which only partial year data were available).

Anecdotally, there are substantial numbers of jail inmates on an average night who are in need of treatment for severe substance abuse or addiction issues, and yet only an average of about 1.3 assessments per week were completed in recent years. The person responsible for conducting these assessments was dividing time between this and other assignments, and was only authorized to conduct assessments that were ordered by a court official. Many have argued that a number of other individuals in the jail need to be assessed without having to wait for an official order. Many have suggested that non-judges should have the ability to request an assessment, based on information from correction officers, the nurse, or perhaps re-entry workers who have made connections with individuals and suspect that intensive treatment may be needed.

**Table 35**

Year	# of Referrals	Average Days from Booking to Eval	Average Days from Eval to Referral	Average Days from Referral to Treatment Admission	Average Days from Booking to Treatment Admission
2010	84	16	10	26	47
2011	69	23	9	18	48
2012	71	26	16	19	59
2013	65	33	12	23	65
2014	59	25	11	18	60
2015	73	27	10	30	57
2016	31	16	8	44	65
<b>Total</b>	<b>452</b>	<b>24</b>	<b>11</b>	<b>24</b>	<b>56</b>

Note: the Average Days from Booking to Treatment Admission does not equal the totals of the separate components of the process in each year. Some may not complete the process or may get released from jail before all the steps in the process are complete; in other cases some data are missing. Thus the final column only includes cases that make it all the way through the process.

Thus the first and perhaps most compelling argument suggested by data in the table is that far more inmates should be evaluated for possible substance abuse treatment outside the jail than has been the case up to this point. The assumption is that many inmates are in effect stuck in the jail, when what they really need and would most profit from is removal from the jail into a residential rehab facility. If the potential for such a referral is only even possible for a little over one inmate per week, the jail will continue to house people with substance abuse issues who in many cases need a level of service and treatment that the jail cannot provide.

For those who are able to have an assessment initiated, a long process up to this point has typically ensued before an actual placement in a facility occurs. After a wait of an

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average of 3.5 weeks from admission at the jail until an evaluation/assessment is actually undertaken, in the past it has then taken an average of another 11 days from the completion of the evaluation until an actual formal referral to an existing bed has been initiated. Finally, even after an agreement has been made to admit the inmate in a treatment facility bed, it takes on average another 3.5 weeks before the actual admission and placement happens. On average, the entire period from intake to final treatment admission takes 8 weeks – 8 weeks that a person who needs intensive treatment is sitting in jail.

Data were not maintained consistently about the extent to which treatment was successfully provided in these referrals, or on the recidivism rates. We do know that about 60 percent of the evaluations that were undertaken resulted in admission to treatment. Ways of increasing that number in the future are suggested in Chapter VIII.

If ways can be found to expedite the access to treatment from the date the assessment is completed, to shorten the process between jail admission and initiating the assessment, and to increase the numbers of successful admissions to treatment – and if more assessments can be initiated in the first place – it should be possible to remove significant numbers of people from the daily jail census who would be better served in a different type of facility.

## Dispositions and Sentences

Finally, in terms of impacts on the jail population, we return to the judicial process and the decisions that ultimately determine who enters the jail or not at the sentencing level. We have discussed bail and release decisions and timing at the unsentenced level. This section asks of the arrests and initially unsentenced cases, what happens to them in terms of convictions and sentences.

Consistently, of all arrests involving felony charges, about 80 percent wind up with convictions, with nearly all cases disposed of via pleas. Among misdemeanors, the conviction rate is slightly lower – just under three-quarters of all dispositions between 2010 and 2016.

Over the years, just over half of all felony arrests wind up with felony convictions, with 42 percent pled to misdemeanors and 7 percent to non-criminal violations. Of the misdemeanor arrests, 56 percent in the past seven years have resulted in misdemeanor convictions, and about 43 percent of the cases were convicted at the violation level.

The detailed data presented in the following Table 36 indicate what happens at the sentencing level once the conviction has been determined.



Among cases that started with felony arrests, the numbers resulting in a state prison sentence have remained relatively constant over the past seven years, representing about 20 percent of all felony dispositions. Local jail and a combination of jail plus probation account for about 30 percent of all felony charges, with an average of about 5 cases a year being released from jail on a sentence of time served as an unsentenced inmate. Thus, even with felony arrests, only a bare majority of the cases wind up serving an incarceration sentence.

The proportion of cases receiving an incarceration sentence is predictably considerably lower among misdemeanors. About 22 percent receive sentences involving some jail time – 17 percent straight jail, 1 percent jail plus probation, and an average of 27 cases a year released based on time served (3 percent of all original misdemeanor charges). Straight jail sentences in misdemeanor cases have declined steadily from a peak of 200 in 2013 to half that in 2016, bringing the number of jail sentences back to approximately the level in 2010.

Of all felony and misdemeanor cases, almost a quarter of the sentences result in time spent in the jail, either as a direct jail sentence, time served, or jail plus probation. Another 15 percent of all cases get sentenced to probation, some including ATI supplements, and the majority of all convictions (56 percent) receive either a fine or a conditional discharge.

Just as there were fewer arrests in 2016 compared to previous years, the number of cases sentenced to jail also declined in 2016, with most of the decline among original misdemeanor charges (plus some reductions in split jail/probation sentences among initial felony charges). We have seen how these reduced jail sentencing decisions were reflected in the reduction in jail admissions in 2016 and have continued to reflect lower numbers early in 2017. Whether judicial decisions resulting in reductions in numbers and proportions of jail sentences will continue as in 2016 will go a long way to determining the future size of the daily jail census in the future.



Table 36

## Sentence by Arrest Charge

Felony	2010	2011	2012	2013	2014	2015	2016	Total	% of Total
Prison	48	62	49	46	46	68	55	374	20%
Jail	41	32	42	41	39	46	45	286	15%
Time Served	3	4	6	1	10	8	3	35	1.8%
Jail + Probation	48	44	41	46	43	36	32	290	15%
Probation	63	62	65	72	81	87	80	510	27%
Fine	11	18	17	22	31	21	29	149	7.8%
Cond Discharge	21	30	44	34	42	43	39	253	13%
Other/Unknown	0	0	3	1	6	3	2	15	0.8%
<b>Total</b>	<b>235</b>	<b>252</b>	<b>267</b>	<b>263</b>	<b>298</b>	<b>312</b>	<b>285</b>	<b>1912</b>	<b>100%</b>
Misdemeanor	2010	2011	2012	2013	2014	2015	2016	Total	% of Total
Prison	5	2	0	1	0	0	2	10	0.2%
Jail	97	135	127	200	185	157	101	1002	17%
Time Served	20	19	23	17	44	44	24	191	3.2%
Jail + Probation	8	6	15	13	11	19	6	78	1.3%
Probation	89	84	100	102	88	102	87	652	11%
Fine	338	383	364	368	436	333	321	2543	42%
Cond Discharge	219	184	211	187	214	202	248	1465	24%
Other/Unknown	10	12	10	3	13	10	8	66	1.1%
<b>Total</b>	<b>786</b>	<b>825</b>	<b>850</b>	<b>891</b>	<b>991</b>	<b>867</b>	<b>797</b>	<b>6007</b>	<b>100%</b>
All	2010	2011	2012	2013	2014	2015	2016	Total	% of Total
Prison	53	64	49	47	46	68	57	384	4.8%
Jail	138	167	169	241	224	203	146	1288	16%
Time Served	23	23	29	18	54	52	27	226	2.9%
Jail + Probation	56	50	56	59	54	55	38	368	4.6%
Probation	152	146	165	174	169	189	167	1162	15%
Fine	349	401	381	390	467	354	350	2692	34%
Cond Discharge	240	214	255	221	256	245	287	1718	22%
Other/Unknown	10	12	13	4	19	13	10	81	1.0%
<b>Total</b>	<b>1021</b>	<b>1077</b>	<b>1117</b>	<b>1154</b>	<b>1289</b>	<b>1179</b>	<b>1082</b>	<b>7919</b>	<b>100%</b>