JAIL PROFILE SURVEY:

RECOMMENDATION FOR THE COLLECTION OF INFORMATION RELATED TO LATE-NIGHT RELEASES FROM JAIL

BACKGROUND

Since the early 1980s the Board of State and Community Corrections (BSCC) and its predecessor entities[1] have administered the Jail Profile Survey (JPS) to collect county jail population data from local jurisdictions. Over the years, the data have provided counties a means of tracking changes in their jail populations and projecting program and facility needs. It has also provided a means to inform stakeholders, researchers, policymakers, and other interested parties about local detention populations.

The current version of the JPS was developed in 2001. Some data elements are collected monthly (Attachment 1) and others are collected quarterly (Attachment 2). The data are reported to the BSCC quarterly. Combined, these forms are used to collect data about:

- The average daily population (ADP), including a breakdown of the ADP by gender, sentenced and nonsentenced, and felony and misdemeanor populations.
- Inmates that require medical attention.
- Inmates that require mental health attention.
- Inmates housed under contract.
- The number of early releases due to a lack of housing capacity.
- The number of inmate assaults on staff.
- The amount spent on medications and psychotropic medications.

On February 13, 2020, the Board authorized the modification of the JPS to collect information about late-night releases, after consultation with reporting jurisdictions and subject matter experts.

DRAFT RECOMMENDATION

The BSCC's draft recommendation for the collection of information related to late-night releases from jail is outlined below. The recommendation:

- Divides the release time into three time periods (6 a.m. to before 5 p.m., 5 pm to before 11 p.m., and 11 p.m. to before 6:00 a.m.).
- Adds **Section I, Late-Night Release Information**, to the monthly survey form to collect three new data elements:

  I-1) Total number of individuals released during the month between 6:00 a.m. and before 5:00 p.m.

  I-2) Total number of individuals released during the month between 5:00 pm and before 11:00 p.m.

[1] Formerly the Corrections Standards Authority (CSA) and Board of Corrections (BOC).

I-3) Total number of individuals released during the month between 11:00 p.m. and before 6:00 a.m.

- Defines release as:
  - Individuals who were released from a county jail upon completion of a sentence served.
  - Individuals who were released for reasons other than the completion of a sentence, including individuals released:
    - on their own recognizance, includes book and release, or ordered by the court.
    - after their charges are dropped or dismissed by the court.
    - after acquittal by a jury, cited for a misdemeanor, or posting bail.
- Defines screening criteria for submitted data. At a minimum, changes in reported values that change by two or more standard deviations from previously reported values will be flagged for discussion with the reporting agency.

RATIONALE FOR THE RECOMMENDATION

Existing California Law

Existing law permits the sheriff to release individuals from the county jail on the last day the individual may be confined at any time that the sheriff considers to be in the best interest of the individual.[2] The sheriff may offer a voluntary program that permits the individual to stay in custody so that the individual may be released to a treatment center or during daytime hours.[3] The individual can only stay in custody for up to 16 additional hours or until normal business hours, whichever is shorter. The individual can also revoke consent and be discharged as soon as possible or practical.

California jails cannot hold individuals longer than permitted by law; doing so is commonly referred to as over-detention, which can result in civil liability for cities and counties.[4]

The Dangers of Late-Night Releases from County Jails

Articles regarding late-night releases from county jails highlight the dangers of the practice. One frequently cited example is the death of Jessica St. Louis on July 28, 2018, after she was released from Alameda County's jail at 1:30 am.[5] St. Louis was found dead hours after her release outside a train station from a drug overdose. The

[2] Pen. Code, § 4024, subd. (a); amended by Stats. 2014, Ch. 90, Sec. 2. (SB 833) Effective January 1, 2015.
[3] Pen. Code, § 4024, subd. (b)(1).
[4] See *Shoyoye v. County of Los Angeles* (2012) 203 Cal.App.4th 947.
[5] Madison Pauly. (July/August 2019). Getting out of jail after dark can be dangerous–and sometimes deadly. Mother Jones. Retrieved from https://www.motherjones.com/crime-justice/2019/07/left-in-the-dark/; Senator Nancy Skinner. (September 12, 2019). The California Legislature Approves SB 42, "Getting Home Safe." California State Senate. Retrieved from https://sd09.senate.ca.gov/news/20190912-california-legislature-approves-sb-42-"getting-home-safe".

death of Mitrice Richardson is another example. Her remains were found in a canyon 11 months after she vanished in 2009 after being released a little after midnight from a Sheriff's station in Los Angeles.[6] Mitrice Richardson was offered the option to wait at the station until daylight, but she declined.

These incidents have supported legislative efforts to modify the existing law and practices.

Proposed Legislation

Senate Bill 42 (2019-2020 Reg. Sess.)[7] proposed to reduce late-night releases from county jails. As part of the legislation, the Legislature found and declared, in part, that:

- Late-night releases are "especially dangerous for women, including transgender women,[8] who become targets for physical abuse, sexual abuse, and sex trafficking from predators who are familiar with county jail late-night release practices."
- "Persons who suffer from mental illness or substance addiction are far less likely to be able to access immediate treatment services following a late-night release from county jail."
- "The release of people from a county jail during late-night hours is not only dangerous for the person being released but also for the public health and safety of the community at large."
- "Despite legislation passed and signed in 2014 that allowed county jails to voluntarily participate in a program that would reduce the number of late-night releases throughout California, few jails have changed their release policy and, instead, jails continue to regularly release jailed persons during late-night hours." (Senate Bill 42 (2019-2020 Reg. Sess.) § 1.)

Senate Bill 42 also proposed to amend existing law to *require* that the sheriff offer an individual scheduled to be released from jail between the hours of 5 p.m. or sundown, whichever is later, and 8 a.m. the option to voluntarily stay until the individual can be released during daytime hours.[9] In the alternative, the sheriff would be required to provide the opportunity for a person "to have a safe place to wait to be picked up with adequate and sufficient ability to charge a personal cell phone and access to a free

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[6] The Times Editorial Board. (October 17, 2019). Editorial: Release people from jail in the middle of the night? Not without safe options. Los Angeles Times. Retrieved from https://www.latimes.com/opinion/story/2019-10-17/jail-release-los-angeles-night.

[7] Prior to Senate Bill 42, Senate Bill 1142 (2017-2018 Reg. Sess.), was introduced in the California Legislature to address late-night releases. However, this bill was introduced late in the 2018 legislative session and was never heard in committee.

[8] Woman is defined as an individual who self-identifies her gender as a woman, without regard to her designated sex at birth.

[9] In accordance with existing Penal Code section 4024, the individual could only stay in custody for up to 16 additional hours or until normal business hours, whichever would be shorter. The individual could also revoke consent and be discharged as soon as possible or practical.

public telephone." The county jail would also be required to track the number of individuals released between 5 p.m. or sundown, whichever is later, and 8 a.m. and provide that information to the public upon request.

The Governor vetoed Senate Bill 42, writing in the veto message that the intent could be achieved without creating a state reimbursable mandate. In addition, the Governor noted that while releases should not occur during overnight hours, at a minimum, jails should provide "a safe place to wait and arrange transportation" when they do occur.[10]

Recent Legislative Changes in Texas

In 2019, Texas passed legislation requiring inmates upon completion of a sentence to be released between 6 am and 5 pm.[11] To accomplish this, inmates can be credited with up to 18 hours of time served and released between 6 and 5 pm one day prior to the day their sentence is complete. Those released for other reasons may be released between 5 pm and before 6 am (e.g., post bond, agrees to or requests a release after 5 pm and before 6 am, to execute an arrest warrant to another county, transfer of custody, admit to inpatient services).

Time Periods Selected for Data Collection

Three time periods were selected for data collection:

1. 6:00 a.m. to before 5:00 p.m.
2. 5:00 p.m. to before 11:00 p.m.
3. 11:00 p.m. to before 6:00 a.m.

Limiting the data collection to three time periods accomplished the following:

- focused on the primary concerns expressed regarding late-night releases – safety and the availability of resources.
- streamlined data collection and tracking for reporting agencies.

For the preferred time period to release individuals (6:00 a.m. to 5:00 p.m.), 6:00 a.m. was selected as the start for the time period because:

- transportation services are usually available at this time such that early morning transportation can be used to arrive at services by the start of business hours,
- it is usually daylight during most periods of the year, and
- maximizes the length of the preferred time period for the release of individuals from county jails.

[10] SB 42 Veto Message. Retrieved from https://www.gov.ca.gov/wp-content/uploads/2019/10/SB-42-Veto-Message.pdf.
[11] State of Texas, Code of Criminal Procedure, Section 1, Article 43.13.

Limited Scope of Data Collection

The collection of information related to late-night release was designed to fit within the current context of the JPS and in support of routine, clear data collection. Outside of the JPS, the BSCC intends to survey reporting agencies to identify those that offer individuals the option to voluntarily stay under existing Penal Code section 4024. The information gathered will be made public on the BSCC website.

Attachment 1: Monthly Jail Profile Survey

BOARD OF STATE AND COMMUNITY CORRECTIONS
MONTHLY JAIL PROFILE SURVEY

Agency:			[Month]	[Year]
Person Reporting:		Reporting Period:		
Phone:		Date:		

Section A: Total ADP

Name of Facility	Type	Population Cap	Non-Sentenced		Sentenced		Totals
			Male	Female	Male	Female	
1)							0
2)							0
3)							0
4)							0
5)							0
A1) ADP Totals			0	0	0	0	0
A2) Average number of felony inmates							0
A3) Average number of misdemeanor inmates							0
A4) Date of highest one-day population for the month					The highest count was		

Section B: Classification Profile of Inmates Comprising ADP

~~B1) ADP of maximum security inmates~~	(No longer collected)	NC
~~B2) ADP of medium security inmates~~	(No longer collected)	NC
~~B3) ADP of minimum security inmates~~	(No longer collected)	NC

Section C: Inmates Requiring Mental Health Attention

C1) Number of mental health cases open on the last day of the month	
C2) Number of new mental health cases that were opened during this month	
C3) Number of inmates, on the last day of the month, receiving psychotropic medication for a mental health disorder	
C4) Number of inmates needing, and actually assigned to, mental health beds on the last day of the month	

Section D: Inmates Requiring Medical Attention

D1) Number of inmates that were seen at inmate sick call this month	
D2) Number of physician/mid-level practitioner occurrences (excluding dental) during this month	
D3) Number of off-site medical appointments during this month	
D4) Number of dental encounters during this month	
D5) Number of inmates assigned to medical beds on the last day of the month	

Section E: Holding Areas

E1) Average number of inmates not assigned to housing (e.g., holding, sobering and safety cells) during this month	

Section F: Contract Housing

F1) Average number of your inmates in contract beds in other public/private institutions during the month	
F2) Average number of federal inmates housed in your system on contract during the month	
F3) Average number of state inmates housed in your system on contract during the month	
F4) Average number of inmates from other counties housed in your jurisdiction on contract during the month	

Section G: Other Inmate Categories

G1) Average number of inmates in your system who are sentenced and awaiting transport to state prison during the month	
G2) Average number of inmates in hospital(s) outside of your jail facilities during the month	

Section H: Additional Information

H1) Total number of persons booked this month	
H2) Total number of pre-trial release (e.g., cite out, felony O.R.) DUE TO LACK OF HOUSING CAPACITY	
H3) Total number of sentenced inmates released early (e.g., work release, electronic monitoring, court-ordered, or other capacity release) DUE TO LACK OF HOUSING CAPACITY	
H4) Total number of juveniles in custody this month (per WIC Section 707)	

Please refer to the JPS Workbook for survey instructions.
Submit completed surveys to: https://app.bscc.ca.gov/jps/login.asp
For questions, contact BSCC's FSO Analyst at JPS@bscc.ca.gov; (916) 323-9704
As of September 2018

Attachment 2: Quarterly Jail Profile Survey

BOARD OF STATE AND COMMUNITY CORRECTIONS
QUARTERLY JAIL PROFILE SURVEY

Agency:			[Quarter]	[Year]
Person Reporting:		Reporting Period:		
Phone:		Date:		

Section A. Quarterly Data

1)	~~Current number of inmates classified as "3rd strike"~~	(No longer collected)	NC
2)	~~Current number of inmates classified as "2nd strike"~~	(No longer collected)	NC
3)	~~Current number of unserved felony warrants in your county~~	(No longer collected)	NC
4)	~~Current number of unserved misdemeanor warrants in your county~~	(No longer collected)	NC
5)	~~Percentage of your current inmates believed to be undocumented aliens~~	(No longer collected)	NC
6)	Number of inmate assaults on staff during this quarter		
7)	Amount of money spent on medication during the previous quarter		
8)	Amount of money spent on psychotropic medication during the previous quarter		

Section B. Average Length of Stay

1)	All releases from your system	
	A) Pre-trial [non-sentenced] releases	
	B) Sentenced releases	

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As of September 2018