



The Criminalization of Poverty in Tennessee

Vera
INSTITUTE OF JUSTICE


Free Hearts

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Introduction

In 2018, Tennessee had the 12th highest jail and prison incarceration rate in the most incarcerated nation on the planet.¹ At the end of that year, more than 49,000 adults (nearly one in every 100 residents) were locked up in jails and prisons across the state and over 72,000 were on probation or parole. The same year, over 30,000 people were incarcerated in county jails alone, with more than half of those people awaiting trial, most likely because they could not afford their bail.²

Counties across Tennessee have invested scarce local resources into building up the capacity to incarcerate, detain, and criminalize. Over the past decade, Tennessee's counties have steadily increased their spending on the operation of jails, workhouses, and work release programs.³ In 2019, counties spent roughly 15 percent of general fund dollars, or a total of \$534.2 million, to jail people.⁴ These are funds that could have been invested in local resources that promote

community health and safety and address the root causes of crime and incarceration.

People who have been criminalized know what needs to change and have a vision for a different Tennessee. Poverty is not itself a crime, but this report explains how poverty has been criminalized across Tennessee and what this means for people who live in communities across the state. Criminalization is commonly defined as the designation of certain activities as illegal and of the people who are caught engaging in these activities as “criminals.” Crime, at the most basic level, is understood as a violation of the law. The criminalization of poverty occurs when being poor is made illegal. In other words, it is when poor people are arrested and charged for activities they are forced to engage in to survive—such as driving without a license, sleeping outside, or being unable to pay outstanding fines and fees. The effects of the criminalization of poverty are compounded through the collection of money bail; additional fines, fees, and costs; and barriers to housing, transportation, education, and employment.

This report by the Vera Institute of Justice (Vera) and Free Hearts analyzes the relationships between state and local policies and the changes in local incarceration rates. With deep dives into several counties across Tennessee, the report shows how incarceration and policing are related to other structures that both punish and exacerbate poverty in the state. Finally, the report outlines actionable steps that can be taken now to build toward a vision of safety that includes all Tennesseans. Recognizing that those with lived experience are uniquely able to provide insight into the current state of the criminalization of poverty, Vera partnered with Free Hearts, a Tennessee statewide organization led by formerly incarcerated women, to better understand the situation from the point of view of those on the ground.



Free Hearts and the Decriminalize Poverty Survey

Free Hearts provides support, education, and advocacy for families impacted by incarceration. Founded in 2016 by a small group of formerly incarcerated women in Nashville, the primary goals of the organization are to build up the leadership of incarcerated and formerly incarcerated women, reunite families torn apart by incarceration, and keep families together. They achieve this by fighting to end mass incarceration through support, education, advocacy, and grassroots organizing. Free Hearts has partnered with the In Our Backyards project at Vera since 2019 to challenge incarceration, criminalization, and jail expansion across Tennessee.

In 2018, Free Hearts began surveying people in Tennessee about their lived experiences with poverty and the criminal legal system in all its facets as part of a statewide campaign to decriminalize poverty, referred to as the Decriminalize Poverty Survey. Free Hearts organizers canvassed thousands of people in communities across Tennessee, speaking with people in rural and urban neighborhoods across the state—at churches, college campuses, homeless shelters, grocery stores, public events, and the streets—as well as soliciting responses through an online survey. The responses came from all 31 of the state’s judicial districts.

The survey invited respondents to reflect on their experiences of criminalization, share how these experiences affected their lives, and propose solutions for addressing harm and creating more just communities in rural and urban Tennessee. The survey centered around two vital

Gicola Lane, Andrea Murphy, and Bushra Shabazz at the Decriminalize Poverty Tour stop in Wilson County, TN.

but rarely asked questions: (1) How do Tennesseans experience the criminalization of poverty? and (2) What do Tennesseans who have had such experiences need in order to live safe and full lives?

The results of the survey reveal some of the ways that incarceration and criminalization affect communities in Tennessee, but they also point to the transformative potential of divestment from punitive systems and investment in community-based solutions designed to meet people’s needs. In this report, Vera researchers summarize the results of the survey and highlight some of its key themes and findings in order to put them into historical context and into the context of broader incarceration trends. Then, using a sample of counties from across the state, we detail how the criminalization of poverty impacts individual communities to highlight the necessity of transforming these systems at both the state and local levels so that families and communities can thrive. Throughout this report, we include quotes from the survey respondents to frame our findings with the lived experiences of Tennesseans.

SURVEY RESPONDENT CHARACTERISTICS

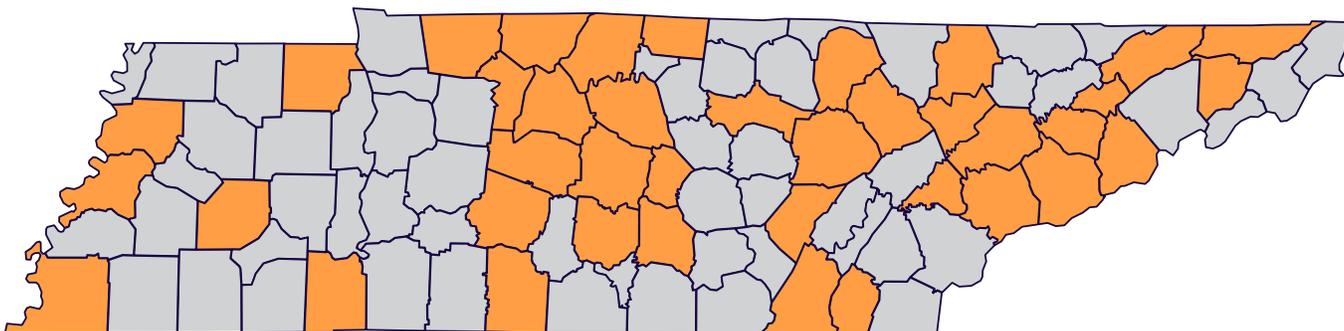
Starting in the summer of 2018, Free Hearts organizers began systematically collecting responses from people in Tennessee about the effects of criminalization and incarceration on their daily lives. Free Hearts talked with or received electronic responses from nearly 500 people across the state. Women made up 65 percent of the respondents, men 30 percent, and the remaining 5 percent of respondents either were gender nonconforming or nonbinary, or preferred not to answer.

In the survey, 55 percent of respondents identified as Black; 34 percent identified as white; 6 percent identified as two or more races; and 5 percent identified as Latinx or Asian, or had no response. Of the respondents, 19 percent said that they lived alone, 58 percent said that they lived in households of between two and five people, and 6 percent said they lived in households of six people or more. Seventeen percent of people did not respond to the question about household size, which may reflect the fact that 21 percent of respondents identified as homeless or housing insecure. At the time of their submission, 70 percent of respondents were living below the poverty line. As Figure 1 illustrates, Free Hearts organizers spoke with people from rural and urban counties, in every region of the state, with an emphasis on Davidson County—the second most populous county in Tennessee and where Free Hearts is based.

Figure 1

Map of Free Hearts Survey Responses

Counties from which Free Hearts received responses are indicated in orange.





Aniya Wiley with her daughter Malachia Wiley working on the Community Mural at the Decriminalize Poverty Tour block party in Nashville, TN.

Incarceration and criminalization are widely shared experiences in Tennessee and across the United States, and disproportionately harm Black people, poor people, women, and children. In 2018, a survey by bipartisan lobbying group FWD.us and Cornell University found that over half of Americans have had an immediate family member who was incarcerated in a prison or a jail. Moreover, the survey found that Black people in the United States were 50 percent more likely than white people to have had a family member incarcerated and three times more likely to have had a family member incarcerated for longer than a year.⁵ And while the exponential rise of women’s incarceration is a more recently recognized phenomenon, women have long borne the costs of their loved ones’ justice system involvement. A 2015 study found that 83 percent of the family members primarily responsible for the court-related costs of incarcerated loved ones were women and that 87 percent of the family members responsible for phone calls and visitation costs were women.⁶

Of the respondents to the Free Hearts survey, approximately 32 percent had a currently or formerly incarcerated family member and 26 percent were currently or formerly incarcerated themselves. By focusing on the experiences and knowledge of those most affected by incarceration and other forms of criminalization, the Decriminalize Poverty survey helps us reveal the real human and economic costs of criminalizing and incarcerating the poor in Tennessee. Respondents’ visions for community solutions and alternatives also provide a roadmap for ending Tennessee’s failed experiment of mass incarceration, “tough on crime” laws, and “truth in sentencing,” and instead give the people and communities harmed by these systems of punishment the support they need so that they can thrive.

A Brief History of Race and Class in Tennessee

In order to understand the current landscape of criminalization and poverty in Tennessee, it is important to recognize the history of race and incarceration in the state, and to consider the state's unique geography of three Grand Divisions (West, Middle, and East).

Tennessee's racist practices of slavery, segregation, violence, and mass incarceration of the poor are embedded in all three regions. But the experiences of poor Black and white people have not been uniform across the regions. Local economies and lifestyles on Tennessee's Gulf Coastal plains—where cotton was grown by enslaved people on large plantations and shipped from Memphis down the Mississippi River—vary greatly from the hilly farmland of Middle Tennessee surrounding Nashville. Both regions differ from the eastern Appalachian highlands stretching north from Chattanooga and Knoxville, where tobacco, corn, and other crops were grown in mountain valleys on a smaller scale.⁷

In her study of Cherokee, Black, and white people on the 18th century Tennessee frontier, historian Cynthia Cumfer writes that most of the first free and enslaved Black transplants to East and Middle Tennessee came from North Carolina and Virginia, as did early white migrants.⁸ The early enslaved people lived largely in isolation from other Black people, as most early slaveholders on the frontier owned only one or two enslaved people.⁹

In contrast, the white planters and slave owners in West Tennessee who founded Memphis in 1796—the same year that Tennessee became the 16th state—were, at the time, among the wealthiest people in the world. They imagined the lower Mississippi Delta region as the seat of a future empire that would one day rival the Nile Valley civilizations, and so they named their city after the ancient capital of Egypt. “For African Americans,” explained geographer Clyde Woods, “the Delta came to represent a slavery within slavery, and oppression of biblical proportions.”¹⁰ Memphis grew to become the unofficial capital of the Delta, home to the largest cotton warehouses and cottonseed enterprises in the world.

After the Civil War and Emancipation, local jurisdictions in Tennessee passed a series of laws designed to limit the movement of Black people. These laws—combined with selective and racist enforcement of the law—created a de facto Black Code in the state.¹¹ The first Ku Klux Klan was founded in Pulaski, Tennessee, in 1866. It quickly became a terrorist organization aimed at enforcing white supremacy. The Klan was an active political force in the state in the 1920s and helped elect Governor Austin Peay in 1923 and U.S. Senator Lawrence D. Tyson in 1924.¹² Between 1866 and 1955, the State of Tennessee enacted 20 Jim Crow laws, including six that required school segregation and four that outlawed interracial relationships. The legacy of Jim Crow can be seen today in Tennessee's stringent voting rules, which disproportionately affect Black and poor voters, which makes the state one of the most difficult places in America to vote.¹³

Black Tennesseans produced the cotton and other crops that created the wealth of the planters and the rest of Tennessee, first as enslaved people, then as sharecroppers.¹⁴ Alongside the mechanization of agriculture, racial terror, and eviction of Black tenants in the 20th century, large planters lobbied local governments—through regional economic development organizations like the Memphis Chamber of Commerce—to lure manufacturing firms to the South. They pushed local governments to offer tax exemptions to companies and to finance new factory construction with public debt.¹⁵ Instead of investing tax revenue into public transportation, public education, and health care infrastructure, counties subsidized corporate profits. The legacy of slavery and Jim Crow—built into the economic and social landscapes of present-day Tennessee—is a legacy of criminalization and uneven economic development that continues to affect

Black Tennesseans in the present.¹⁶ Although racist practices are embedded throughout the political fabric of the state, they have varied across communities and have been met with organized resistance. Historian Bobby Lovett explains that a civil rights movement has always existed in Tennessee, since the days of slavery.¹⁷

Poor Black people were not the only Tennesseans lacking agency over their lives. A poor white underclass developed in the state during its earliest frontier days. During the Civil War, countless families and fortunes were destroyed, influencing the outcomes of future generations. In the 19th and early 20th centuries, many Tennessee counties confined the poor, elderly, and so-called mentally incompetent to “poor houses,” with some operating “poor farms” where able-bodied residents were required to work under an “overseer of the poor.” This system is rooted in England and was adopted in many other states until the Social Security Act of 1935 took effect. The Lincoln County Poorhouse and Poorfarm, in southern Middle Tennessee, is listed on the National Registry of Historic Places.

Tennessee has consistently used incarceration not only as a method of social control, but also as an economic development tool, ever since the first Tennessee State Penitentiary opened in 1831 in Nashville. Men incarcerated in the penitentiary were leased out to help build the state capitol building in Nashville between 1845 and 1859. Legislators in that same building later sought to make Tennessee prisons profitable by leasing out men in state custody to furniture manufacturers and coal and iron mining companies. This “convict leasing” system destabilized local economies, inflamed race relations, and led to a labor insurrection in five East Tennessee communities in the 1890s, known as the Coal Creek Wars.¹⁸ Convict leasing served to devalue labor and directly undermine worker organizing.¹⁹

Scholar Karin Shapiro explains the rapid racialization of Tennessee’s prison system as follows:

After emancipation, the ratio of [Black people] in Tennessee prisons increased rapidly. In November 1866 [Black people] accounted for 52 percent of [people locked up in state prisons]; by 1891 the proportion of [incarcerated African Americans] had risen to approximately three in four. The rise in the percentage of [incarcerated Black people] was accompanied by an explosion in the number of persons incarcerated by the State of Tennessee. From the close of the Civil War in 1865 to 1890, the number of Tennessee’s inmates grew sixfold—from 240 to 1,500; this increase dwarfed that of the state’s population, which grew only by 63 percent from 1860 to 1890.²⁰

Tennessee also gave rise to the modern private prison industry. Corrections Corporation of America (CCA), the industry’s oldest company, was founded in 1983 in Nashville and then rebranded in 2016 as CoreCivic.²¹ The company helped spawn an entire industry, fueling many competitors as well as adjacent companies that profit from selling health care and other services to jails, prisons, and detention centers.²² When CCA took over a jail in Hamilton County, TN, in 1985 to operate it as the Silverdale Detention Facility, the warden told the press: “Silverdale is the place where everyone will decide if a private company can or should operate a prison.”²³ In 2021, Hamilton County began the process of reassuming control of Silverdale after a long history of allegations of abuse and violence.²⁴

→Students are escorted through the corridors of the Shelby Training Center, owned by Corrections Corp. of America, CCA, a private juvenile detention facility in Memphis, TN on June 15, 1987.

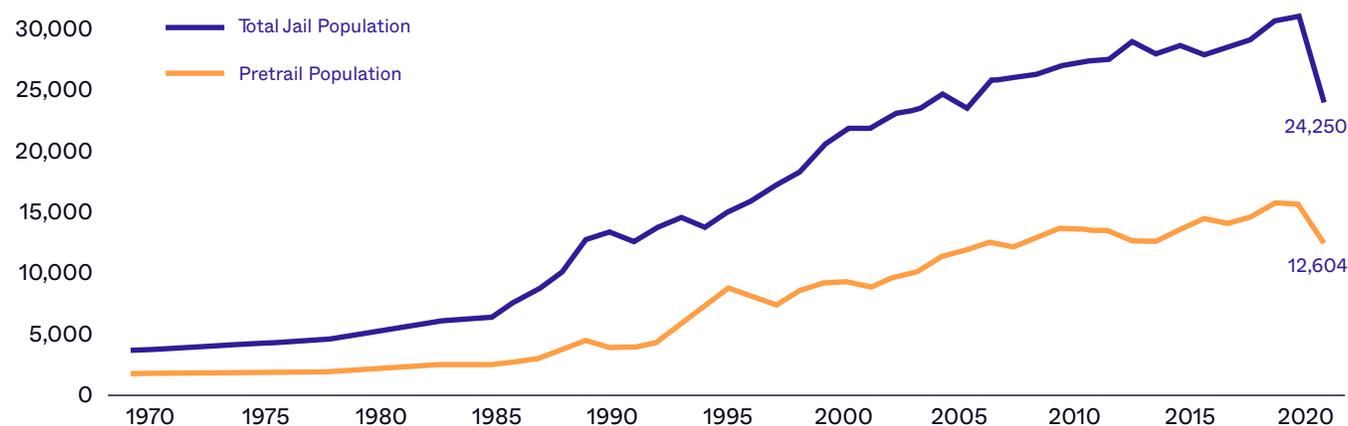


Jail Population Increase in Tennessee

From 1970 to 2019, Tennessee’s jail population rose by 761 percent—from 3,622 people to 31,186—before declining in 2020.²⁵ This decline was largely the result of attempts to reduce county jail populations in response to the COVID-19 pandemic. In the second half of 2020, however, jail populations began to rebound, with the population of Tennessee’s rural jails increasing the most sharply.²⁶ However, historically (and presently), rising jail incarceration has not been experienced evenly by all Tennesseans. The sections that follow will provide more in-depth examinations of the ways that jail incarceration has differently affected communities in the state.

Figure 2

Total & Pretrial Jail Population in Tennessee (1970–2020)



Measures represent the average daily jail population (often called “ADP”) and the average pretrial population.

Source: Data for 1970–2015 comes from Vera’s Incarceration Trends website while data for 2016 and beyond comes from the Tennessee Department of Correction Jail Summary Reports.

THE ROLE OF ECONOMIC PRESSURES IN JAIL POPULATION INCREASE

Memphis remained Tennessee’s largest city until 2016 when Nashville, the state capital, overtook it. Between 2000 and 2018, Nashville’s population grew by more than 20 percent, while Memphis’s population stagnated.²⁷ During that period, statewide employment in almost every sector lagged behind population growth. The only exceptions, where employment opportunities expanded, were at the two ends of the labor market—high-wage professional and managerial jobs and low-wage service occupations. Although Tennessee’s manufacturing workforce shrank by more than 30 percent between 2000 and 2018, manufacturing is still central to the state’s economy.²⁸ However, Tennessee has one of the lowest levels of union representation in the nation, meaning that employers are free to pay workers less than their unionized counterparts and bosses can easily fire workers.²⁹ Today, tourism, real estate, and professional and managerial occupations are the fastest growing sectors of the state’s

economy and much of this growth has centered around Nashville. As a result of these wide-ranging economic, political, and demographic shifts, by 2019 almost 14 percent of Tennessee's total population, including nearly 20 percent of the children, lived below the poverty line.³⁰

Tennessee's rural counties have also experienced profound occupational restructuring and increased wealth and income inequality. Working-class residents without college degrees have generally had to accept poorly paid, nonunion service employment without job security or benefits, or else drive long distances for better paying work. However, many working people in Tennessee struggle to afford motor vehicle insurance and registration. Many cannot afford cars to begin with and there is a lack of public transportation in much of the state. People who are unable to pay outstanding traffic fines or criminal legal debt can have their license suspended until they maintain a payment plan and are then faced with additional fees to reinstate their license.³¹ Still, many people need to drive in order to work and take care of their families, making them vulnerable to increased criminalization and indebtedness if fined or incarcerated for driving illegally.

County mayors, commissioners, sheriff's departments, and local police departments have responded to the array of social and economic problems in rural and urban communities across the state—including unemployment and underemployment; lack of public transportation; struggling schools; debt; and the lack of stable, affordable, quality housing, childcare, and health care—by building more and bigger jails and then filling them. According to ongoing tracking and analysis by Vera, at least 54 counties across the state—representing more than half of the state's 94 counties—have built new or expanded jail facilities since 2006, and some counties have expanded their jails multiple times.³²

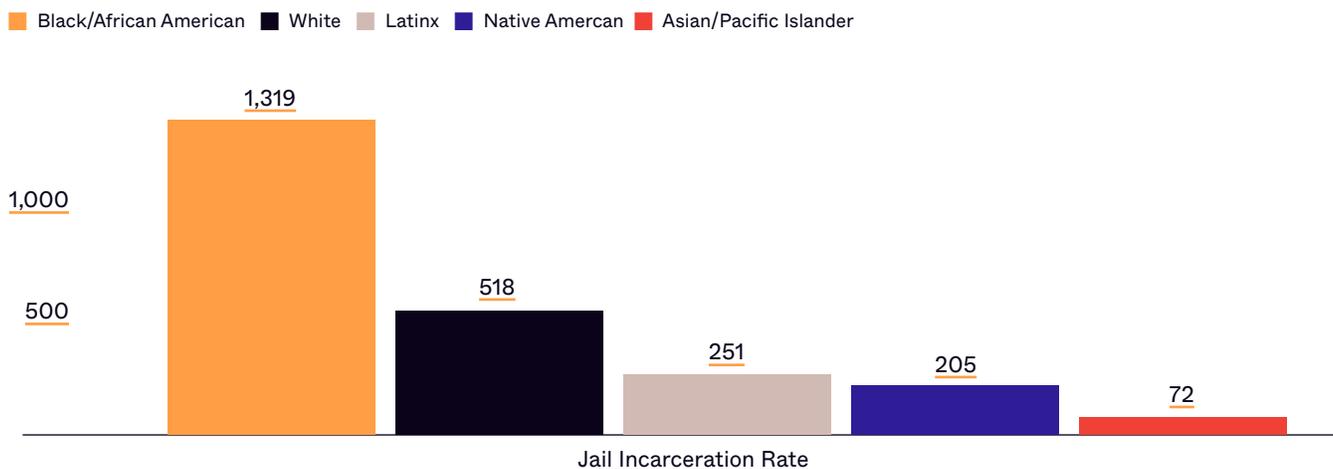
THE ROLE OF RACE IN JAIL POPULATION INCREASE

As incarceration rates have risen in the state, the tremendous physical, mental, emotional, and economic tolls of incarceration have not been borne equally by all Tennesseans. Since 1990, people of color have been jailed at consistently higher rates than white people in Tennessee. In 2015, the most recent year that the federal government collected statewide data on the race and ethnicity of people in jail, Black people were jailed at more than two and a half times the rate of white people.³³ In the United States, at every stage of the criminal legal system, Black people are treated more harshly than white people charged with similar offenses and are more likely to be incarcerated as a result.³⁴ A 2002 comptroller's report found, for example, that Black and Latinx drivers were stopped by Tennessee law enforcement at higher rates than people of other races or ethnicities. Black and Latinx drivers were also more likely to have their vehicles searched and more likely to be arrested as a result of the traffic stop, regardless of the reason for the stop.³⁵ Racial disparities in jail incarceration improved slightly for Latinx people in the years leading up to 2015, though the misclassification of ethnicity often leads to underestimates of Latinx incarceration.³⁶

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Figure 3

Jail Population Per 100k Residents Ages 15 to 64 in Tennessee, by Race (2015)



The total jail incarceration rate is measured as the total jail population for every 100,000 working-age residents, defined here as people ages 15 to 64, since these groups are at very low risk of jail incarceration. The total jail population is represented as the average daily jail population (often called “ADP”).

Source: Data comes from Vera’s 2018 Incarceration Trends website (trends.vera.org).

THE ROLE OF GENDER IN JAIL POPULATION INCREASE

While the U.S. criminal legal system has historically targeted Black men, particularly in the post-Emancipation South, mass incarceration is also a matter of gender justice.³⁷ In 2019, women made up a greater share of the Tennessee jail population than at any time in the previous decade. From 2010 to 2019, the female jail population increased by 46 percent in Tennessee, compared to a 15 percent increase in the number of men sent to jail. In 2018, Tennessee ranked fifth highest in the United States in terms of women’s overall incarceration.³⁸ Given that nearly 80 percent of women held in jail nationally are mothers and that children’s primary caregivers are typically women, the rising number of women in jail has devastating consequences for children, families, and communities.³⁹ In 2016, 144,000 young people living in Tennessee had a currently or formerly incarcerated parent.⁴⁰ Since women on average have lower incomes than men, they are less likely to be able to afford money bail, legal fees, commissary, expensive phone calls, and communication through tablets to stay in touch with their families while in jail.⁴¹ Although data on the pre- and post-incarceration incomes of women in Tennessee was not available, research by the Prison Policy Initiative shows that nationally, most women who are held in jail because they are unable to meet bail have incomes that fall below the poverty threshold and that Black women have the lowest incomes prior to being jailed.⁴² These income disparities are present for women in state prisons as well. In 2014, women in prison had a median annual income of \$13,890 prior to incarceration—42 percent less than non-incarcerated women.⁴³ Research affirms that women are less likely to be able to afford money bail when it is set, and that women are usually incarcerated for drug-related offenses and property crimes often associated with surviving poverty.⁴⁴

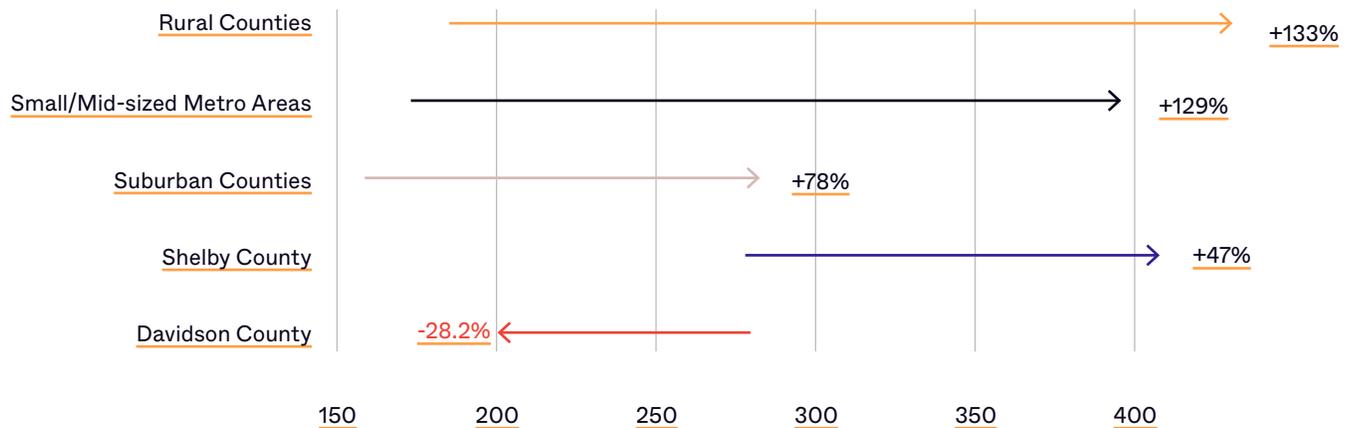
THE ROLE OF GEOGRAPHY AND COMMUNITY IN JAIL POPULATION INCREASE

People are jailed at particularly high rates in Tennessee's rural areas.⁴⁵ In Tennessee and across the country, racial disparities in incarceration and the growing number of women in jail are the most pronounced in rural communities, where the majority of people are held in pretrial detention. Pretrial detention occurs when people are held in jail before trial, despite the fact that they have not been convicted of their charge. This is often because they simply cannot afford to pay money bail, which is an amount of money or valuable collateral (such as property) set by a judge, ostensibly to guarantee someone's appearance in court. Tennessee's constitution guarantees a right to bail in nearly all cases; preventative detention—the outright denial of release for people who have not been convicted—is only allowed when someone has been charged with a capital offense or has already been released with pretrial conditions or on probation and has their release revoked.⁴⁶ The status quo across the state, however, is to keep poor people in jail by setting unaffordable bail. Comparing the pretrial detention rate to the total jail incarceration rate gives a sense of how pretrial detention puts pressure on local jails, especially in rural areas.

In August 2021, the pretrial incarceration rate in rural Tennessee was 11 percent higher than in Memphis and surrounding Shelby County, and more than double the rate in Nashville and surrounding Davidson County.⁴⁷ From 2002 to 2019, the pretrial incarceration rate in Tennessee's rural counties increased by 133 percent—ballooning from 185 to 431 people held pretrial for every 100,000 working-age residents.⁴⁸ The rate of pretrial incarceration increased more rapidly in rural communities than it did in small to mid-sized cities, suburban areas, Memphis, or Nashville. Today, the pretrial incarceration rate in Tennessee's rural counties is 15 percent higher than in Memphis, and more than twice the rate in Nashville.⁴⁹

Figure 4

Percentage Change in Pretrial Incarceration Rates by Geography in Tennessee (2002–2019)



The pretrial incarceration rate is measured as the total number of people held in jail pretrial for every 100,000 working-age residents, defined here as people ages 15 to 64, since these groups are at very low risk of jail incarceration. The number of people held pretrial is a point-in-time measure as of July 31 each year.

Source: Pretrial jail population data comes from the Tennessee Department of Correction Jail Summary Reports (<https://www.tn.gov/correction/statistics-and-information/jail-summary-reports.html>). Resident population data comes from the NVSS Bridged-Race Population Estimates by country, year, race, gender, and age group (https://www.cdc.gov/nchs/nvss/bridged_race/data_documentation.htm).

THE REAL-WORLD EFFECTS OF INCARCERATION, CRIME, AND INTERPERSONAL HARM

Behind these abstract counts of people in jail on a given day, tens of thousands of Black, Latinx, poor, and working people—mothers, fathers, friends, loved ones—cycle in and out of jails with profound and long-lasting negative effects, and many people lose their lives while detained or incarcerated in local jails. A survey of 501 of the nation’s biggest jails found that at least 7,571 people died in local jails between 2008 and 2019.⁵⁰ In the 10 most populous Tennessee counties that were included in the survey, more than 140 people died. Incarceration also makes people more vulnerable to premature death after their release, worsens mental health, and causes chronic economic hardship and homelessness.⁵¹ Short jail stays can also be profoundly destabilizing, causing people to lose their jobs, their homes, their health, and even their lives.⁵²

Many law enforcement and elected officials justify such high rates of incarceration as necessary for public safety. But in reality, incarceration does not keep communities safe. Most offenses for which people are arrested, charged, and incarcerated do not involve the victimization of another person. In 2019, 334,804 arrests were reported to the Tennessee Bureau of Investigation, yet fewer than 14 percent of these were for “crimes against persons.”⁵³ While interpersonal violence is often among the clearest examples of harm, survey research shows that violence in the United States declined dramatically beginning in the 1970s before increasing marginally in 2020.⁵⁴

The reality is that the criminal legal system fails to meet crime survivors’ needs for safety and accountability. Most crimes in the United States go unreported (57 percent of violent crimes and 66 percent of property crimes), which means that the criminal legal system provides nothing to the majority of crime victims.⁵⁵ And of the minority of crimes that are reported to police, less than half are resolved.⁵⁶ When crimes are reported, almost half are reported by someone other than the victim, and studies suggest that dissatisfaction with the criminal legal system is a leading driver of these low rates of victim participation. In the first ever national survey of crime victims’ views on safety and justice, the Alliance for Safety and Justice found the following: (1) 70 percent of crime victims had been victimized multiple times; (2) two out of three victims of crime did not receive help following the incident, and those who did receive help were far more likely to receive it from family and friends than the criminal legal system; and (3) the top two reasons for not reporting crime were feeling that the police would not do anything to help, and feeling that the prosecutor would not do anything to help.⁵⁷ The survey also found that, by a three to one margin, crime victims believe that prison makes people more likely to commit crimes than to rehabilitate them, and that crime victims prefer holding people accountable through options other than prison.⁵⁸

Nearly two decades of research affirm this belief. A review of 116 different studies affirmed that custodial sanctions—sentences served in a jail or prison—have no impact on reoffending or slightly increase the likelihood that someone will commit another crime in the future.⁵⁹ In states and communities with already high incarceration rates, sentencing more people to serve time can also undermine safety by weakening family and community bonds and removing people who care for children.⁶⁰

Investment in poor urban and rural communities is desperately needed in the state of Tennessee, yet the resources poured into jails and courts in the name of “public safety” have instead exacerbated social harm and economic hardship and have destabilized these same communities. The time has long since passed to disinvest from these systems of criminalization that multiply suffering for Tennessee’s historically marginalized residents and instead invest in structures that provide what these communities need to thrive: education; public transportation; well-paying jobs; affordable, high-quality housing, health care, childcare, and caregiving; and community-based responses to harm that provide accountability, healing, and safety.

In reality, incarceration does not keep communities safe. Most offenses for which people are arrested, charged, and incarcerated do not involve the victimization of another person.

Tennessee National Guard soldiers assigned to the Military Medical Response Force (MMRF), administer COVID-19 tests in Bledsoe County, TN. (Photo by U.S. Army Sgt. Sarah Kirby)



COVID-19 Effects on Incarceration and Poverty

The COVID-19 pandemic has brought both the mass incarceration crisis and the criminalization of poverty in Tennessee into sharp relief and made decarceration even more urgent. In response to the heightened risk of COVID-19 transmission in Tennessee's jails, the Supreme Court of Tennessee issued a March 2020 order directing the presiding judge in each of the state's judicial districts to develop a written plan to reduce jail populations. While most counties in Tennessee saw significant initial declines in their jail populations, many counties have since seen their jail populations—and pretrial populations in particular—rebound. As of April 30, 2020, 16 of the state's 115 jail facilities (14 percent) were operating at or above capacity, and the number of people held before trial increased 25 percent from April 2020 to April 2021.

At the same time, low-income workers in vulnerable industries, who are disproportionately Black and Latinx, have suffered the most severe economic effects of the COVID-19 pandemic—among them job loss, unemployment, and underemployment, as well as food and housing insecurity. On April 23, 2020, the U.S. Census Bureau began surveying households to track how people's lives have been impacted by the pandemic. As of the two-week period from March 17 to March 29, 2021, 39 percent of adults in Tennessee had experienced a loss of employment income for themselves or someone in their household since March 13, 2020, and 14 percent of adults in Tennessee expected someone in their

household to have a loss in employment income in the next four weeks.⁶¹ These effects were felt most acutely by Latinx people, with 76 percent of Latinx households experiencing a loss of income since the beginning of the pandemic.

One consequence of lost income is the high number of Tennesseans at risk of losing housing. According to the U.S. Census Bureau's Pulse Survey conducted in August 2021, 8.5 percent of all renter households and 12 percent of Black renter households reported that they were currently behind on their rent payments, and only 55 percent of all households and 30 percent of Black households felt very confident that they could pay the following month's rent. Of the households that were not caught up on rent, 66 percent said they were somewhat or very likely to be evicted from their home in the next two months. In addition to the risk of losing housing, 31 percent of Tennessee households with children reported that there had been either sometimes or often not enough food to eat in the last seven days.⁶²

Research also shows that job loss and increased jail incarceration each lead to higher rates of drug overdose deaths and play an even larger role in the overdose crisis than the prescription rate of opioids.⁶³ As the COVID-19 pandemic has made very clear, investment in a system of criminalization and incarceration can be deadly, and jails are exactly the opposite of the sorts of community-sustaining resources that are needed for people to flourish and live healthy and dignified lives.

The Profound Effects of Pretrial Detention and Bail

When speaking with those most impacted by incarceration—such as AnnaLee in Nashville, or Michael in rural Bledsoe County—it becomes clear that bail and pretrial detention have profound effects on people in Tennessee. As described earlier, thousands of people locked up in jails in Tennessee on any given day are only there because they cannot afford to pay bail. People who have been arrested and are awaiting trial, acquittal, or conviction on misdemeanor or felony charges made up 52 percent of all people held in Tennessee jails in 2020, up from 29 percent in 1990.⁶⁴ Bail amounts—monies that are supposed to guarantee a person’s appearance at court—are usually set by judges at arraignment, often the first court appearance a person faces after arrest. A person’s inability to afford bail usually leads to a longer jail stay, increased pressure to plead guilty, and a higher likelihood of a criminal conviction—which can affect the well-being of that person and their family for the rest of their lives.⁶⁵

People detained before trial are also more likely to lose their housing—even when the charges against them are dismissed—as well as their jobs and custody of their children. Those who cannot afford to pay often are forced to pay bail bond companies a nonrefundable fee or draw on the resources of family and friends. The money bail system in Tennessee both punishes and creates poverty; strains familial relationships; and facilitates the extraction of resources from Black, brown, and poor Tennesseans. The increasing numbers of people held pretrial in overcrowded county jails across the state increases pressure and incentive for county governments to invest scarce local resources in jail construction and bigger jails.⁶⁶

The money bail system creates a two-tiered system of justice—one for rich people and one for poor people—in which poor people sit behind bars until they can purchase their freedom or their case comes to a close, while those with means can walk free. It persists largely because of the enduring myth that this system delivers public safety and ensures court appearance. Research has shown that being detained before trial, even for a short time, can significantly increase the likelihood that someone will be charged with a new offense.⁶⁷ Because the experience of pretrial detention is so destabilizing, spending hundreds of millions of public dollars annually on jails actually undermines community safety. Money bail is also no more effective in ensuring court appearance than unsecured bond or release with pretrial conditions or referrals to supportive services. In Tennessee and across the country, community bail funds that post bond for poor people and offer them supports and services free of charge overwhelmingly ensure that their clients return to court and are not rearrested.⁶⁸

Of the people who responded to the Decriminalize Poverty survey, 46 percent had bailed someone out of jail, 42 percent had themselves been bailed out of jail, and 23 percent had to remain in jail at some point simply because they could not afford to pay bail. Of those with experience of bail, 61 percent reported bail amounts set at \$1,000 or more—an impossible sum for most Americans,

When you show up to court in a jumpsuit because you weren’t able to make bail, you automatically are going to be judged more harshly based on appearances. You do not “look” like a productive member of society, so you will not be treated as such.

—AnnaLee, Davidson County, TN

If you are innocent until proven guilty, why is bail even an issue at all?

—Michael, Bledsoe County, TN



70 percent of whom have less than \$1,000 saved, not to mention low-wage earners, who are most likely to be arrested.⁶⁹

When asked about how bail impacted them, respondents to the survey spoke about the strain that bail caused on family and loved ones, as well as time lost trying to recover from disastrous financial situations caused by having to pay for freedom or time lost waiting in jail. “As it is used today,” said Ari, a white man from Nashville, “[bail] is a tragic attempt to punish the most vulnerable.” One man in Williamson County said, “Not being able to pay bail not only hurts [people] but is a drain on our county and state justice system. It provides no benefit to either party.” Others pointed out the arbitrary and unpredictable process of setting bail, and how bail amounts vary from district to district and from judge to judge. As an anonymous young Black woman from Rutherford County accurately summarized the process: “It’s complicated and often relies on the discretion of the judge or magistrate of the judge.”

Willie Santana, an assistant public defender in Hamblen County, advising his clients before their court hearings in Morristown, TN, Dec. 10, 2019. (Photo by Kristine Potter/The New York Times)

Fines, Fees, and Court Costs

The people quoted here from the Free Hearts' Decriminalize Poverty Survey live and work in Tennessee. Their words attest to the injustice of expensive and burdensome fines, fees, and court costs, and the role that these punitive costs play in the criminalization of poverty across the state. Tennessee law authorizes more than 360 fines, fees, and other costs that can be imposed on people in the criminal legal system, including fines imposed by the courts, fees that people are charged for their incarceration, probation supervision fees, and drug screening fees, among others.⁷⁰ As the criminal legal system has grown over the past several decades, so has the number of fees and costs imposed on criminalized and incarcerated people and their families. Recent studies show that because people are often unable to pay accumulated debt from fines and fees and because the cost of collecting these fees can be so significant, many jurisdictions see only a fraction of the revenues expected from fines and fees.⁷¹ Some jurisdictions have spent more attempting to collect criminal legal system debt and jailing people for unpaid fines, fees, and costs than they are ever able to collect.⁷²

Fifty-one percent of survey respondents previously or currently owe court costs, tickets, or other fines and fees.

Of the people who responded to the Decriminalize Poverty Survey, 51 percent previously owed or currently owe court costs, tickets, or other fines and fees. When asked what they had to do in order to pay off the fees, respondents said they borrowed money from relatives or other creditors, held off on paying important bills, filed for indigency, pawned valuables, or set up payment plans and slowly paid off their debt over time to avoid being jailed. People are also prevented from being able to exercise their right to vote, as judges who set court fees (and who decide whether or not to waive them) can have an impact on who is able to vote. While 38 percent of respondents who answered this question owed less than \$500, a similar number of respondents (33 percent) owed between \$1,000 and \$5,000, and some respondents owed many thousands of dollars in court costs, tickets, or other fines and fees at the time of the survey. However, for many people who are experiencing poverty or lacking other resources, even small amounts of money owed can have extremely harmful effects and can trap people in cycles of debt and incarceration.

Many of our homeless clients are accruing ridiculous and outrageous fines for vagrancy, jaywalking, etc. This amounts to profiling and harassment.

—Rebecca, Knox County, TN

I feel that once I serve my time I shouldn't have to pay to be free.

—De'Angelo, Montgomery County, TN

I feel that it's a way of criminalizing poverty and stifling [the] working poor.

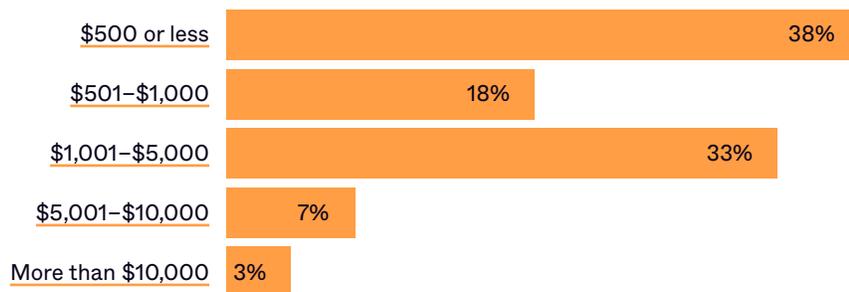
—Napoleon, Sumner County, TN



Figure 5

The Financial Burden of Criminalization

How much did people have to pay in court costs, tickets, or other fines and fees?



Source: Data represents responses to the Free Hearts Decriminalize Poverty Survey.

The front entrance to the Davidson County Court House and City Hall in Nashville, TN.

Driver's License Suspension and For-Profit Probation

On November 19, 2015, Karen McNeil pleaded guilty to driving on a revoked license in Giles County, Tennessee. She was sentenced to nearly a year of probation and charged several hundred dollars in fines and fees. The bulk of her monthly payments—for probation fees, drug screenings, and, later, bail bond services—went to private companies that contracted with Giles County. Because she could not afford to pay her criminal legal debt, McNeil's license was suspended and she was unable to drive, making it even more difficult for her to attend her probation appointments and earn the money required to pay down her debts. She was repeatedly arrested and charged with violating her probation, adding to her growing debt. She ultimately spent more than four months imprisoned in the county jail and even became unhoused. If McNeil could have afforded to pay the fee for driving on a revoked license, she would have avoided a cascading series of debts and criminalization.⁷³

Forty-two percent of survey respondents have had their driver's license revoked or suspended.

Many of those who are unable to pay outstanding criminal legal debt have their driver's license revoked by the Tennessee Department of Safety and Homeland Security (TDSHS), the state agency that administers motor vehicle licensing. Between 2012 and 2016, TDSHS suspended more than 320,000 driver's licenses due to criminal legal debt and more than a quarter of a million people's licenses solely for unpaid driving-related fines and other traffic debt.⁷⁴ Of those who responded to the Decriminalize Poverty Survey, 42 percent reported having had their driver's license revoked or suspended and of those, 59 percent had to pay upwards of \$500 to get their license back. When asked what they had to do to pay off driver's license debt, people reported being forced to take out loans and work multiple jobs for many years before having their license reinstated. Sometimes they had no other option but to drive on a suspended license to make it to work. Many people pointed out the contradiction between having one's license revoked and needing it in order to commute to work and pay off reinstatement fees. Because of a lack of public transportation, driving is a necessity for the vast majority of working people in Tennessee. This is true for both rural and urban residents.⁷⁵ TDSHS's policy is currently the subject of several class action lawsuits. While a lower court initially found the practice of suspending driver's licenses for outstanding debt unconstitutional and prohibited the practice, the U.S. Court of Appeals for the Sixth Circuit reversed the decision,

It's a nonsensical punishment, because if someone cannot drive to work, then they cannot pay off their debts. Similarly, if they cannot drive to court and have no public transportation, they're at much higher risk of missing court dates.

—Anonymous woman,
Rutherford County, TN

leaving Tennesseans in limbo. In response, the Tennessee legislature has taken half measures to address the practice, instituting the ability to pay hearings and use payment plans while preserving TDSHS’s authority to suspend licenses if people are not able to keep up with payments or take too long to pay down their debt.⁷⁶

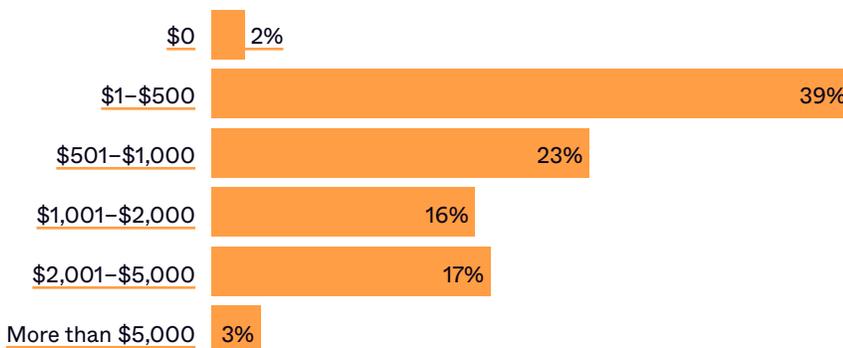
Karen McNeil’s story also illuminates how license suspension and revocation can entrap people in multiple for-profit systems, with snowballing debt. McNeil was subject to Tennessee’s “pay-only probation” system, a system of supervision that is not an alternative to incarceration so much as a mechanism to generate profit for private probation companies.⁷⁷ In addition to the \$426 levied in fines and fees after she pled guilty, McNeil was ordered to pay \$25 each week in court costs and fines, \$45 a month in supervision fees, and \$45 for each randomly administered drug test. Mimicking the money bail system, the for-profit probation system offers an “off-ramp” for people with access to resources: If McNeil had been able to pay all of her costs and fees in full after four months, she would have been transitioned to unsupervised probation. Instead, she was threatened with jail for nonpayment, forced to undergo drug tests, and repeatedly jailed for nonpayment and low-level violations. She then borrowed money from friends to pay a bail bonding company. For people like McNeil, jailed on misdemeanor and misdemeanor probation violations in Giles County, even accessing a public defender can come with a cost: because counsel is not immediately assigned, detained people have to pay a private phone provider to call their lawyer. In 2019, Giles County brought in \$73,005 in phone fees, essentially kickbacks given to the jail by the phone company to sweeten their contract.⁷⁸

In 2018, McNeil was one of five women who challenged the constitutionality of the system of for-profit, user-funded misdemeanor probation in Giles County. As a result, the Giles County sheriff is currently prohibited from jailing people charged with probation violations solely because they are too poor to pay. A pending agreement would also waive all debt owed by people subject to misdemeanor probation in Giles County, immediately halt enforcement of outstanding warrants for misdemeanor probation violations, prohibit drug tests for people who haven’t been charged with drug offenses, and terminate the practice of keeping people on supervised probation solely because they can’t pay outstanding debt.⁷⁹ While the legal challenge to Giles County’s probation system pushed the county to abandon its contract with a private probation provider, overall private probation companies, the for-profit bail industry, and telecommunications companies are still free to generate profits on the backs of poor Tennesseans across the state.

Figure 6

The Financial Burden of License Suspension

How much did it cost for people to get their driver’s license back?



Source: Data represents responses to the Free Hearts Decriminalize Poverty Survey.

It is impossible to pay fines when you lack transportation to and from employment.

—Dawn, Sumner County, TN

Why would you revoke a person’s license when infrastructure in most towns does not support walking communities? Limiting someone’s ability to operate a car keeps people who are already disadvantaged in a struggling place.

—Brandon, Bradley County, TN

Paying for Surveillance: Electronic Monitoring and Drug Screening

As the people quoted in this section can attest, punitive and costly surveillance does not address problems of poverty and addiction, but rather, often exacerbates these problems. And as the quote from Miranda in Davidson County illustrates, private companies in Tennessee are in a position to extract money from some of the poorest people in the state with the threat of incarceration. Drug screening and electronic monitoring—the use of electronic ankle shackles, specialized cell phone apps, or other surveillance tools to track the location of people pretrial or people released from prison or jail on probation or parole—are often seen as alternatives to incarceration, ways to reduce the number of people behind bars. At the same time, drug screening and electronic monitoring in Tennessee are run by private companies that are paid to conduct surveillance for the state, often charging people hundreds of dollars a month for the cost of electronic monitoring and administration of drug tests, an arrangement that further criminalizes poor people who cannot meet these costs.

As formerly incarcerated activist and author James Kilgore has written, electronic monitoring, or e-carceration, is “another form of incarceration,” even as he emphasizes the importance of people making whatever decisions they have to make to get out of prison and jail and closer to their families.⁸⁰ “When we put a person on a monitor after they have served their prison or jail sentence,” Kilgore writes, “we are only extending that sentence by restricting their movement. We are setting them up for failure. Similarly, when we put a person on a monitor while they await judgement in their court case or their asylum hearing, we are punishing them before they have been convicted of anything, violating the fundamental legal premise of innocent until proven guilty.”⁸¹ Despite the rapid increase in the use of various forms of e-carceration, there is no compelling evidence that it meaningfully contributes to community safety. Instead, surveillance technologies have a “net-widening” effect, and can lead to more, not less, criminal legal system contact because of the potential to pull people deeper into the system as they are subject to more conditions.⁸² Monitoring also has documented negative impacts on employment and relationships, deepening social and economic vulnerability.⁸³

Use of electronic monitoring and drug screening varies by county in Tennessee, as different sheriffs and judges make deals with private companies and have different policies around the use of these forms of surveillance. In 2016, the state of Tennessee created an Electronic Monitoring Indigency Fund, which pays private companies up to \$200 a month to electronically restrict someone’s movements if the person can prove that they meet certain criteria such as extreme poverty and only if a county has opted into the program. Electronic monitoring and drug screening, however, largely depends on the jurisdiction and can often cost poor people thousands of dollars for what can be very punitive and restrictive conditions.

The private owners would call me, literally screaming at me to pay and threatening me with jail.

—Miranda, Davidson County, TN

Screens are not a prevention measure. People who use [drugs] need help and treatment, not a stick over their heads.

—Marquinta, Davidson County, TN

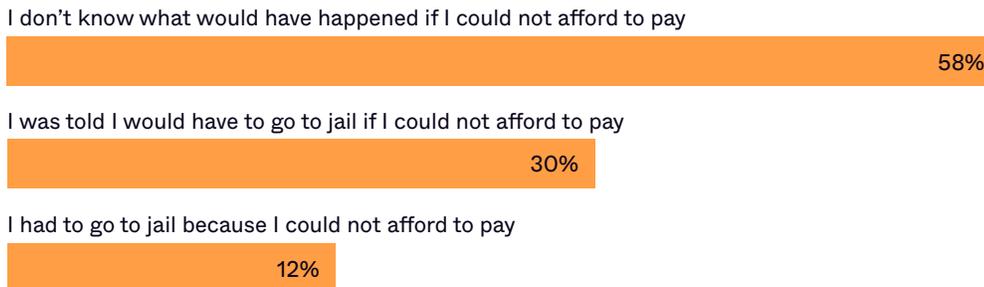
Eleven percent of people with electronic monitors or court-required drug screening were mandated drug screens despite not having a substance use problem.

Of the Free Hearts survey respondents, 11 percent had been on an electronic monitor or had court-required drug screening at some point in their lives. Of these people, 15 percent had had a probation or parole officer threaten them with incarceration for nonpayment of electronic monitoring or drug screening fees. Another 11 percent of the people who had been on electronic monitoring or court-ordered drug screenings said that they had been mandated drug screenings despite not having a substance use problem. As illustrated in Figure 7, of the Free Hearts survey respondents on electronic monitoring or court-ordered drug testing, 36 percent were told that they would go to jail if they were unable to pay fees to electronic monitoring or drug testing companies, 30 percent were unsure of what would happen to them if they were unable to pay, and 9 percent were re-incarcerated for not being able to pay.

Figure 7

Supervision and the Threat of Reincarceration

What did respondents think would happen if they could not afford to pay for electronic monitoring or drug screens?



Source: Data represents responses to the Free Hearts Decriminalize Poverty Survey.

Electronic monitors and drug screens don't really address what's needed. Treatment should be the focal point for anyone struggling with addiction.

—LaShunda, Davidson County, TN



County-Level Case Studies from Across Tennessee

Mass incarceration and the criminalization of poverty in Tennessee, as in the rest of the country, are local issues—the result of decisions made by system actors and local officials. County jails are mass incarceration’s front door and local jail populations have been growing at an alarming rate, particularly in rural areas. At the same time, many counties have been investing millions of dollars into new and bigger jails, the result of which is vastly expanded jail capacity across the state. In the case studies that follow, we take a series of deep dives into four different counties—in the western, central, and eastern regions of Tennessee—to better understand the relationships between criminalization, poverty, and incarceration.

In Hamblen County, in eastern Tennessee, we discuss the role of pretrial detention in the struggle over jail expansion. In Weakley County, in the northwest corner of the state, we look at the effect of license suspensions and criminalization in a rural agricultural county with little to no public transportation infrastructure. We then look at Wilson County, a suburban county just east of Nashville, and the relationship of income inequality and gentrification to rising incarceration and jail expansion. Finally, in Sullivan County, in the Appalachian Mountains of northeast Tennessee, we discuss the problem of rural hospital closures and how disinvestment in health infrastructure, along with the criminalization of homelessness, has gone hand in hand with rising jail incarceration.

Buildings stand against the setting sun in LaFollette, TN, Thursday, March 29, 2018. (AP Photo/David Goldman)

PRETRIAL DETENTION AND THE CRIMINALIZATION OF POVERTY IN HAMBLÉN COUNTY

Hamblen is a small county in the Appalachian Mountains of east Tennessee with a population of around 65,000 people. Morristown, with a population of approximately 30,000 people, is the only city in the county and is the county seat. Hamblen is a mostly white county, with a growing Latinx community. About 4.2 percent of people living in Hamblen are Black and 11 percent are Latinx.⁸⁴ In the spring of 2018, Immigration and Customs Enforcement (ICE) agents raided a meatpacking plant in the county, arrested 97 workers, and took them away on buses.⁸⁵ In the weeks after the ICE raid, many people in the county came together to support their neighbors by holding a vigil and distributing donated food and money to the affected families.

Over 17 percent of people living in Hamblen County are living below the poverty line and many residents are dealing with substance use and criminalization.⁸⁶ In 1970, 16 out of every 10,000 people in Hamblen County were incarcerated in the county jail. By 2018, 103 of every 10,000 people in the county were incarcerated in the local jail, a 544 percent increase.⁸⁷ The Hamblen County Jail is notoriously dangerous and crowded, regularly holding over 400 people (before the COVID-19 pandemic) in a facility with a capacity of 255.⁸⁸ A 2019 *New York Times* story on overcrowding in the jail quoted the sheriff, who is responsible for managing the jail, describing the facility as “a cesspool of a dungeon.”⁸⁹ Rather than consider whether 544 percent more people need to be locked up in the Hamblen County Jail today than in 1970, the county is instead planning to build a new 500-bed jail at a cost of at least \$73 million.

Vera researchers spoke to a local attorney in Hamblen County who emphasized the need for better jail conditions in the county, but stressed that jail overcrowding in Hamblen, like counties across the state, is driven by decisions made by law enforcement and the judiciary. He pointed to the fact that the general sessions judge in Hamblen has created his own minimum sentencing and bail bond guidelines, and that bail is set much higher than people can afford, a situation that has led to more and more poor people being locked up in a dangerous jail with devastating financial and social consequences for the county residents most in need.

One example of the judge’s minimum sentencing guidelines pertains to theft. For the first offense in Hamblen County, a person is sentenced to 48 hours in jail; for the second offense there is a 10-day minimum. If convicted of a third theft, a person will be sentenced to at least 30 days in the Hamblen County Jail. Speaking with people from Hamblen, we heard stories of people in theft cases being served with multiple warrants and being charged with multiple crimes, resulting in people spending an ever-increasing number of days in the Hamblen County Jail.

Walmart is the fifth largest employer in Morristown, and as is often the case in poor rural communities and small cities across the country, Walmart relies on the local criminal legal system in Hamblen County to serve as an auxiliary loss prevention arm. We heard the story of one young woman, poor and housing insecure, who was caught stealing sanitary pads from Walmart. Brought before the court, she was sentenced to over two weeks in jail, 100 hours of community service, and a \$100 fine. Poverty and substance use in the county are manifest in arrests for theft. The combined impact of unaffordable bail, escalating jail sentences, and additional fines and fees further compound the underlying poverty and precarity that often lead to theft in the first place. There are real needs among poor people in Hamblen County. Instead of addressing these needs, however, the county has created a situation of jail overcrowding. It is investing tens of millions of dollars to increase its capacity to jail people.

Following the onset of the COVID-19 pandemic, from February to April 2020, Hamblen County reduced its jail population from 384 to 196, a drop that was largely driven by a 55 percent reduction in the number of people held before trial.⁹⁰ This drop was likely a result

In 2020, four women charged with misdemeanors and low-level drug felonies filed suit against Hamblen County after they were detained solely because they were too poor to pay money bail.

of local policies implemented after the Tennessee Supreme Court directed judges in each judicial district to work with other members of the criminal legal system to reduce local jail populations and mitigate the effects of the pandemic. In response to the Supreme Court's order, Hamblen County increased its use of citations rather than pretrial detention and emphasized release on recognizance rather than monetary bonds. As these numbers reflect, the jail population overwhelmingly reflects policy decisions made by courts and police about what to criminalize and how harshly to punish people. This decarceration affirms that communities have alternative ways to deal with jail overcrowding than simply building more jail beds, particularly when the cost of doing so comes at the expense of other resources that are desperately needed to address existing community needs and the continued effects of the COVID-19 pandemic.

In 2020, four women charged with misdemeanors and low-level drug felonies filed suit against Hamblen County after they were detained solely because they were too poor to pay money bail.⁹¹ They challenged the status quo not only on their own behalf, but also on behalf of all people who had been or would be subject to the county's pretrial criminal legal system and jailed because they were unable to pay bail. The U.S. District Court for the Eastern District of Tennessee issued a preliminary injunction in the case, prohibiting the sheriff of Hamblen County from jailing anyone who hadn't been given a bail hearing in which they had access to a lawyer and an ability to be heard by the court, as well as meaningful consideration of whether money bail was necessary in their case or whether they would be able to pay if it were to be imposed.⁹² While county officials protested that such basic changes would constitute an overhaul of the criminal legal system, a federal judge wrote that he was "not persuaded by this 'sky is falling' argument as the issue in this case dealt with constitutional concerns."⁹³

As of April 30, 2021, there were 226 people in jail in Hamblen County, up 15 percent from 196 in April of the year prior—the lowest jail population reached during the COVID-19 pandemic.⁹⁴ This recent increase was driven primarily by rising numbers of people being held pretrial and partially by higher numbers of people held for the Tennessee Department of Correction (TDOC). In April 2021, 55 percent of people in the jail were held before trial, compared to 48 percent in April 2020. In other words, rather than apply the knowledge learned during the pandemic that pretrial detention and other jail incarceration does not produce public safety, Hamblen County returned to business as usual, suggesting that public safety is not the true basis for its harsh criminal legal policies and that policies of holding poor people in the jail pretrial are driving the decision to build a bigger jail.



CRIMINALIZATION AND IMMOBILITY IN WEAKLEY COUNTY, TN

Martin, TN in Weakley County.
(Photo by Jack Norton.)

Weakley is a rural county in West Tennessee, lying on the Kentucky border and roughly 30 miles east of the Mississippi. One afternoon in the fall of 2020, Chris Smith called Vera researchers from his car. He was on the highway, just starting an hour and a half drive back to his office in Martin, a small city in Weakley County. Smith had just left the house of someone who had called him earlier that morning and who was hoping to get sober. As the lifeline coordinator at the Weakley County Prevention Coalition, Smith oversees nine counties in northwest Tennessee. His job is to help people struggling with substance use issues to get recovery. But because there is virtually no public transportation in the region and most of his clients do not have access to a car, Smith told us that he spends much of his time driving to meet with people and give them rides to recovery meetings, court appearances, probation meetings, and other appointments. “It’s really not part of my job,” he told us, “[but] we’ve kind of taken that on, as far as transportation for these men and women, because we do want them to be successful.”

Across Tennessee, criminalization has systematically stripped poor people of freedom of mobility. As detailed earlier, the Tennessee Department of Homeland Security suspended hundreds of thousands of driver's licenses to coerce people to pay outstanding criminal legal debt. In almost every case, however, these people simply could not afford to pay their fines and fees. U.S. District Judge Aleta Trauger, who oversaw a pair of class action lawsuits regarding TDSHS's policy, pointed out that suspending a person's license made it difficult for them to keep their job and therefore to pay their outstanding debts. "[A]n individual who cannot drive is at an extraordinary disadvantage in both earning and maintaining material resources," she explained. "[T]aking an individual's driver's license away to try to make her more likely to pay a fine," she continued, "is [like] using a shotgun to treat a broken arm. There is no rational basis for that."⁹⁵

In rural areas across the United States, workers travel—often far from home—to find jobs where they are available and return home with their earnings at the end of the day, month, or season. Many Weakley County households sustain themselves in this way. Yet, for people who are on probation or whose driving privileges are restricted, this is not an option. Chris Smith gave us an example of a man he knew who worked as an electrician for two decades prior to an arrest. After he was released from jail, the man found that "all the work's out of town; it's overnight," Smith said. "It's not just overnight, it's out of town for several months," he continued. "But he's got to report monthly or biweekly [to his parole officer] and he can't get a job with his skillset in town." As a result, Smith explained, the man fell behind on child support payments. Because of these outstanding debts, a judge revoked the man's driver's license, even further undermining his job prospects and his ability to keep up with child support, probation fees, and other fines associated with his conviction. In Weakley County, as elsewhere in Tennessee, criminalization is a cause of poverty. An overdeveloped sheriff's department and criminal court system erodes people's livelihoods, hobbles their mobility, and makes the poor poorer.

Because Weakley County is part of the Mississippi River floodplain, its soil is rich with alluvium deposits, making it ideal for agriculture, which plays a much greater role in Weakley's economy than that of the average U.S. county.⁹⁶ Farmland covers nearly a fifth of the county area, particularly soybean and corn, and the county is ranked second in the state in terms of crop value.⁹⁷ But the work of farming is highly mechanized, and only a small share of the county's workforce (3.8 percent) was employed in the agricultural sector in 2018.⁹⁸ The University of Tennessee at Martin, the MTD Products Incorporated commercial mower factory, and various service job employers were some of the most important employers in the county that year. The biggest section of the county's workforce was employed in managerial or professional roles—for example, at the university—or designing, engineering, and marketing the commercial mowers, or supervising the workers who produced them at MTD. The MTD factory and its importance to the county's economy meant that manufacturing jobs were much more prevalent in Weakley than the typical U.S. county. Champion Homes—a mobile home manufacturer located in the county seat of Dresden, Tennessee—is another major employer. In 2018, more than 18 percent of workers were employed to make or move things, compared with about 13 percent nationally.⁹⁹ But because the county is small and isolated with just a few firms (MTD's factory and its local suppliers and shippers), workers there are particularly vulnerable to downsizing and layoffs at the plant. In fact, between 2000 and 2018, the proportion of Weakley's workers employed in manufacturing fell by more than 40 percent. Those job losses clearly undermined the livelihoods of working people in the county. During that eight-year period, the percentage of residents whose yearly incomes were below the poverty threshold grew by more than 25 percent. The decline of manufacturing work and the lack of diversification in the county's economy intensified the wealth and income inequality between county residents.

The Tennessee Department of Homeland Security suspended hundreds of thousands of driver's licenses to coerce people to pay outstanding criminal legal debt. In almost every case, however, these people simply could not afford to pay their fines and fees.

Working-class residents in the City of Martin—Weakley County’s largest city and home to both the University of Tennessee campus and MTD’s factory—felt the effects of economic restructuring most acutely. The city is home to the highest proportion of Black residents in the county.¹⁰⁰ Many Black people in Martin lived in segregated neighborhoods on the west side of the city. As factory jobs vanished, Martin’s middle class stopped growing. Many people left town, sought work in the informal sectors, or were driven out of the workforce into jails and prisons. By 2019 almost 30 percent of city residents lived under the poverty line, nearly triple the national average. As Weakley County Sheriff’s Captain Terry McDade summed it up, “Economics-wise, nobody is living high on the hog, so to speak.”

Weakley County’s jail incarceration rate has been rising consistently since 1993. In 2000, Weakley County opened a new and bigger jail—the Weakley County Detention Center. With more jail beds available, even more people were incarcerated. From 1999 to 2018, the county’s incarceration rate increased threefold. Jail admissions—a measure of the number of people who enter the jail—also increased substantially after the detention center opened. In 1999, before the new jail opened, 780 people were booked into the county jail; in 2006, nearly 1,600 were booked into the jail.¹⁰¹

Weakley is a mostly white county where Black people are incarcerated at almost five times the rate of white residents. From 2010 to 2017, nearly a third of people locked in the Weakley County Detention Center on any given day were Black, although only about 9 percent of county residents were Black. Incarceration rates have risen significantly for both white and Black residents over the past 20 years.

The proportion of people held in the county jail on a pretrial basis has also increased dramatically since the Weakley County Detention Center opened. In the first five years after the jail was built, the pretrial population more than doubled. Pretrial detainees made up 82 percent of the local jail population in July 2020, up from 31 percent in July 2002.¹⁰² Most pretrial detainees were people who could not afford to pay their bail.

Like many counties in Tennessee, the Weakley County Sheriff’s Department receives a modest daily reimbursement from TDOC for incarcerating people sentenced for felonies. In fiscal year 2019, Weakley County received \$627,705 from TDOC. This revenue accounted for almost 44 percent of the total jail budget. At the end of September 2020, more than a quarter of the jail’s total population was being held for TDOC.¹⁰³

Many Black people in Martin lived in segregated neighborhoods on the west side of the city. As factory jobs vanished, Martin’s middle class stopped growing. Many people left town, sought work in the informal sectors, or were driven out of the workforce into jails and prisons.



Overcrowded Prisons Drive Incarceration Costs in Jails

One contributor to Tennessee's high jail incarceration rates is the large proportion of people who are held in county jails for the Tennessee Department of Correction (TDOC). This includes both people who are serving felony sentences of up to three years in local jails and people who have been sentenced to state prison but are held in county jails because no beds are available in Tennessee's crowded state prison system. According to a 2017 report by the Tennessee Advisory Commission on Intergovernmental Relations, the state's practice of housing people sentenced to TDOC in local jails has long placed a financial burden on many counties and contributed to both overcrowding and legal liability.¹⁰⁴

Building a new jail is often one of the largest investments a county makes, especially smaller counties. Counties go into substantial public debt—often backed by special sales or property taxes—in order to build newer and bigger jails. This debt usually takes the form of bond issues that take upwards of 20 to 30 years for a county to pay off, with interest. When counties invest in incarceration and mortgage the future of the county to increase jail capacity, increased jail incarceration usually follows.¹⁰⁵

Many counties in Tennessee, strapped for resources and struggling with overcrowded jails, have invested heavily in jail expansion in hopes that revenue from per diem reimbursements (the money the state gives local jails to incarcerate people sentenced to state time) might alleviate their financial burdens.¹⁰⁶ However, the revenues that counties generate from housing people for TDOC, on average, cover only half the daily cost of locking people up who are sentenced to state time.¹⁰⁷ Many counties are left paying off debt from jail construction for decades, leaving scarce resources for the types of services and programs that could address the needs of families in Tennessee—affordable access to health care, childcare, transportation, housing, and other social services.

An incarcerated person at their hearing at the Hamblen County Courthouse in Morristown, TN, Dec. 10, 2019. (Photo by Kristine Potter/The New York Times)

The Weakley County Sheriff's Department took several steps to prevent the spread of COVID-19 in the county jail. Although Weakley's jail was not crowded beyond its designed capacity, people in jails and prisons are usually confined in close quarters with one another with little access to fresh air or ventilation. Recognizing this risk, the sheriff's department released several people from jail; by April, there were more than one-third fewer people in the county jail than in January.¹⁰⁸ By the end of April, about 25 percent of people in the Weakley County Detention Center were being detained pretrial, compared with 42 percent in January. Five people were awaiting trial on misdemeanor charges, compared with 25 people in January. By July (when COVID-19 cases reached their summer peak in Tennessee), however, the jail population was more than 20 percent higher than in April. Close to half of the people in the Weakley County Jail that month were people without convictions being detained before trial.¹⁰⁹

Many people who have been convicted of a crime in Weakley are required to pay restitution and monthly probation fees. Legal trouble often leads to unemployment or lost wages, however, making it difficult to keep pace with these costs. Cannon Brawley, a program coordinator at the Weakley County Prevention Coalition, described to Vera researchers what he called a "zero-tolerance policy" among local employers. People who have lost a job because of an arrest or conviction have a hard time finding another, he explained. In the City of Martin, even minimum wage work is out of reach for many people. According to Brawley, many service job employers prefer to hire University of Tennessee at Martin students rather than permanent residents.

As noted previously, many jobs that are available to Weakley County residents are located outside of the county. This makes transportation and freedom of movement especially important to people's autonomy and economic well-being. Yet, traveling outside of the county—for example, to access specialist medical care not available in Weakley—is difficult or impossible for many residents. Lack of transportation, and especially public transportation, is a problem common to many rural areas across the United States, and West Tennessee is no exception. Krista Paul, an official for the regional United Way, told Vera researchers that West Tennessee is a transportation desert. "We don't have transportation within most of the counties," she said. "And, certainly, it's hard to get from one county to the other without a car."

For those without access to a car, the only form of public transportation is Northwest Tennessee Human Resource Agency Public Transportation (Northwest). Northwest offers wheelchair-accessible bus rides, seven days a week before 6:00 p.m., to people of all ages in the nine counties of northwest Tennessee. Round-trip rides cost between \$1 and \$5 within the region, \$7.50 to Jackson, and \$12.50 to Memphis or Nashville. Reservations are required and Northwest encourages people to plan five days in advance. Chris Smith said that Northwest is inadequate to meet the transportation needs of people in the region. "You have to call ahead," he explained. "[And sometimes] you have to be somewhere a certain day but they're already full." The average household in Weakley County spends 34 percent of its income, or \$12,468 annually, on transportation costs.¹¹⁰ In addition to economic well-being, people in Weakley County need transportation to access medical, mental health, childcare, and other necessary care. As Michelle Chapell, a Free Hearts regional organizing trainer who lives in Weakley County, told Vera researchers: "The county needs to invest in resources to address substance use and mental health, and jail is not the place those in need of services should be. For the most part, jail is a revolving door."

Criminalization and transportation are intricately connected in Weakley County. According to Tennessee statute, people can have their licenses revoked and can even be jailed due to nonpayment of fines. In practice, this means that people without other means of transportation who drive on a suspended license—or who may not know their license is suspended—can end up serving jail time or probation, incurring additional fines, fees, and supervision costs in the process and becoming trapped in the carceral and court system for many years.

INCOME INEQUALITY IN WILSON COUNTY

Wilson County, with a population of approximately 144,700 people, is a suburban county just east of Nashville characterized by population growth as well as rising housing costs and income inequality.¹¹¹ In April 2015, police in Lebanon, the county seat, pulled over 24-year-old Ashley Sprague. The officers alleged that she was speeding. Sprague, who is a single mother of five, had no valid proof of insurance and by the end of this traffic stop she owed more than \$450 in traffic fines.¹¹² At the time she worked as a server at Waffle House, earning \$2.13 an hour plus tips. The additional expense of several hundred dollars on top of her existing costs of living was insurmountable.¹¹³

As we detailed previously, Tennesseans who cannot afford to pay outstanding traffic debt often have their driver's licenses suspended or revoked. This is what happened to Sprague, although she did not know it until months later. In 2016, Lebanon police pulled over and ticketed Sprague two more times. The second time, she learned from officers that she had been driving on a suspended driver's license. In total, she owed \$946 in traffic fines to the City of Lebanon and \$388 in driver's license reinstatement fees to the state agency responsible for overseeing vehicle licensing.¹¹⁴ Clerks at the Lebanon Municipal Court refused to allow Sprague to arrange a payment plan for her debts and she could not afford to pay the lump sums. Without reliable transportation, Sprague lost her server job. She picked up part-time work at gas stations nearer to her house, but soon lost these jobs too because she had trouble getting to them. In 2017, she worked informally for her mother's cleaning business, earning less income than her rental costs.

Due to her criminalization, Sprague faced the prospect of eviction in a rapidly gentrifying county. Rental prices in Lebanon increased by 35 percent between 2010 and 2018, compared with 27 percent for surrounding Wilson County (of which Lebanon is the county seat) and 24 percent across Tennessee. Many Lebanon residents, who are poorer than Wilson County residents on average, have struggled to keep up with rising costs.¹¹⁵ "Here in Lebanon rent is ridiculous," said Carmella Ingram of the Wilson County Help Center, a local community organization that provides food, clothing, and financial assistance to low-income and elderly people in the area. "Around here," she continued, "everybody seems to need help with rents." Joyce Gaines, who works with several housing organizations in Lebanon, told Vera researchers that housing insecurity is a growing problem. She said that many people she encounters through her work in the community express their need for more affordable housing. She said, "We constantly have people asking, 'Do you know where we can find an apartment?'" She described long waiting lists for public housing and Section 8 vouchers. "Last I heard," she said, "there [were] 150 people waiting for one-bedroom houses" in Lebanon Housing Authority apartments.

Without affordable housing or adequate emergency shelters, many homeless people in Lebanon end up in the Wilson County Jail, Gaines told us. She had often heard of business owners calling the police on unhoused people for trespassing. "Not that they're breaking in," she clarified; instead, unhoused people sometimes camped out in undeveloped areas on private property or loitered in front of businesses during the day. John Grant, executive director of Compassionate Hands, a shelter and housing assistance organization in Lebanon, told us that many people without homes in Wilson County camp out on parcels of undeveloped land, such as the woods behind strip malls or empty lots. As land in the county has become more valuable, however, property owners are more likely to fill in vacant lots. Because there are few shelters in the area and no affordable housing, Grant told us, many unhoused people

The ordinance, drafted by the Lebanon Police Department, made it illegal for people to solicit money from road medians, intersections, strip mall driveways, gas stations, and similar high-traffic areas. People who panhandle in violation of these restrictions may be fined, jailed, or both.



try to scrounge together money to stay short-term in hotels. In 2018 the Lebanon City Council passed an ordinance criminalizing people who panhandle.¹¹⁶ The ordinance, drafted by the Lebanon Police Department, made it illegal for people to solicit money from road medians, intersections, strip mall driveways, gas stations, and similar high-traffic areas. People who panhandle in violation of these restrictions may be fined, jailed, or both. Referring to local unhoused people he knows, Grant said, “I know that several of our friends have been arrested for, you know, just standing there holding a sign beside a main intersection.” As Gaines noted, many people do not hesitate to call the police on people who are unhoused. “The homeless aren’t really wanted in any neighborhood [in Wilson County], honestly,” Gaines said.

In December of 2020, Wilson County Commissioners approved almost \$40 million in municipal bond debt to expand the Wilson County Jail. With this money, they hoped to nearly double the current capacity of the jail by 2022.¹¹⁷

Commissioners and the Wilson County mayor asserted that the new jail was a natural outgrowth of the county’s growing population. Between 2010 and 2018, Lebanon’s population grew by about 40 percent. Mount Juliet, the county’s largest and most prosperous city, added 50 percent to its population. The county’s commissioners and mayor have taken steps to manage this growth. In the last few years, commissioners approved increases in construction and sales taxes and earmarked the revenue to finance new school construction, the jail expansion, and other capital projects.¹¹⁸

Mount Juliet is a wealthy suburban community just outside of Nashville. In 2018, close to half of the city’s residents were professional or managerial workers. Many were employed as professors, doctors, managers, or administrators at Vanderbilt University, Vanderbilt Medical Center, Nissan North America, or other institutions in Nashville. In 2006, the Tennessee Department of Transportation built a commuter rail service between Wilson County and Nashville called the Music City Star. Although nearly 40 percent of Mount Juliet’s residents earned \$100,000 or more that year, the affluence is not distributed equally.

The city’s prosperity is made possible by the low-wage workers who stock grocery store shelves, operate cash registers, launder clothing, care for other people’s children, and perform

Lebanon, TN, the seat of Wilson County. (Photo by Stephen Jones.)

other necessary work to support the city's wealthy households. Between 2010 and 2018, Mount Juliet's service sector workforce grew by 65.5 percent and was by far the fastest growing sector in the city.¹¹⁹ Much of that is accounted for by low-wage work. While Mount Juliet's professional and service sectors grew in tandem during that period, the city's middle class collapsed, and wealth and income inequality intensified.

The city has experienced an influx of relatively wealthy residents in the past decade. With greater demand from wealthy residents, Mount Juliet's home values shot up by 38 percent (compared with 18 percent statewide) and the stock of affordable housing (homes valued under \$200,000) shrank.¹²⁰ Real estate market inflation forced poorer residents to move out of town, fundamentally reshuffling the city's class composition. Gentrification, in short, displaced hundreds, or perhaps thousands, of low-income people, making each of them and their households more vulnerable to poverty, homelessness, and criminalization.¹²¹

The City of Lebanon, Mount Juliet's neighbor to the east, is a working-class city and a vital manufacturing and logistics hub. Low incomes in that city are the basis of high profits for many of the large multinational firms located there including Amazon, Starbucks, Bridgestone, and Nissan. Between 2014 and 2018, Lebanon's median household income was nearly 40 percent lower than the county average and 65 percent lower than in Mount Juliet.¹²² In 2012, Lebanon's workers made and moved nearly \$2 billion worth of goods.¹²³ Lebanon is an industrial city in a deindustrializing nation. Tennessee's anti-union policies enforced low wages for workers and enticed many firms to locate their operations in the state.¹²⁴

Put simply, Wilson County's economic development over the previous 20 years has involved the growth of an impoverished workforce and increased social control of the county's working-class residents. Benny Nolen, a Lebanon native and head of the city's largest food bank, summed it up in an interview with Vera researchers: "As our county grows, and as prosperity grows," he told us, "there are some people who are hurt by that."

Wilson County's overall incarceration rate grew by about 40 percent between 2010 and 2018, roughly in line with population growth in Lebanon and Mount Juliet during that same period. But the proportion of women locked in the jail more than doubled during those years, while the number of women living in the county increased by only about 28 percent. The incarceration rate for Latinx residents increased 189 percent, while the county's Latinx population grew by 68 percent. Incarceration rates surged by 65 percent for white residents, while the white population in Wilson County grew slightly less than 20 percent. And the proportion of detainees held pretrial in the county jail grew by 63 percent. The incarceration rate for Black residents grew more slowly than the overall Black population and remained extremely high—275 percent higher than the county average in 2018.¹²⁵ Clearly, jail incarceration rates do not simply follow population trends.

Growing wealth and income inequality, criminalization of more and more aspects of people's lives, and officials' heavy investment in policing and imprisonment are major contributing factors to rising jail incarceration in Wilson County. The last time the county commissioners, mayor, and sheriff's department joined forces to expand the county jail, in 2007, the incarceration rate increased significantly in the aftermath. There is no reason to expect this round of construction will yield a different outcome. Wilson County's jail incarceration rate increased every year between 1983 and 2016.¹²⁶ But the years following new jail construction saw the biggest increase in the number of people locked in the jail by the sheriff's department. The current jail was opened in 2007, more than doubling the county jail's capacity. Between 2007 and 2017 the incarceration rate grew 48 percent, significantly faster than over the previous 10 years, when the number of people in jail increased relative to population size by 18 percent.

Without affordable housing or adequate emergency shelters, many homeless people in Lebanon end up in the Wilson County Jail, Gaines told us. She had often heard of business owners calling the police on unhoused people for trespassing.



Wilson County's jail incarceration rate increased every year between 1983 and 2016. But the years following new jail construction saw the biggest increase in the number of people locked in the jail by the sheriff's department.

Wilson County Jail in Lebanon, TN. (Photo by Stephen Jones.)

In 2002, when Wilson County's commissioners, sheriff, and mayor were debating whether or not to expand the county jail in order to relieve crowding, Andy Humbles of *The Tennessean*, a Nashville newspaper, reported on the conditions in Wilson County Jail. "I sleep on the floor," Paul Searcy, who was imprisoned at the jail, told Humbles. "Sometimes you have no sheets or pillows," Searcy continued. "Everyone's on top of each other." Humbles asked Wilson County Sheriff Terry Ashe about these unsanitary, dehumanizing conditions. "Most people say that's what they deserve," Ashe explained, "and sometimes I may say that." The sheriff noted, however, that the crowded jail presented a problem to the county, because it left his department and the county liable to expensive lawsuits. "We have a world of frivolous lawsuits pending here," Ashe complained, "which keeps the sheriff busy in a lawyer's office, and it costs the taxpayers."¹²⁷ One of the lawsuits brought against the Wilson County Sheriff's Department that year was lodged by Vincent Gooch, who stated he had been brutally beaten by Wilson County guards while he was restrained in handcuffs. State and federal investigators soon learned that guards had beaten at least 11 other people who were imprisoned in the jail between 2001 and 2003, and that they had repeatedly lied in official documentation of these incidents in order to cover them up.¹²⁸ In 2003, guards murdered a man named Walter Kuntz inside the jail and several Wilson County guards were sentenced to prison, including jail supervisor Patrick Marlowe who was sentenced by a federal judge to spend the rest of his life in prison.

In 2005, the year before Marlowe was tried in federal court, Wilson County government officials and the sheriff's department announced they would invest tens of millions of additional dollars to hire 59 new jail employees and expand the county jail, nearly tripling its capacity. Sheriff Ashe—who was Wilson County's sheriff from 1982 to 2012 and oversaw the construction of the current jail as well as its 2007 expansion—transformed the scandal into a windfall for his department. "To hear Ashe tell it," explained journalist P.J. Tobia, who interviewed Sheriff Ashe in 2008, "his guards savagely beat [incarcerated people] because of a county commission that under-funded his department."¹²⁹ In 2020, Ashe was a member of the Wilson County Commission and vice chair of the Law Enforcement Committee, responsible for overseeing the jail expansion plan.

Wilson County commissioners repeatedly invoked crowding at the jail to justify the planned expansion project. But during the COVID-19 pandemic in 2020, the number of people in

the Wilson County Jail decreased to lower than the jail's designed capacity for the first time since March 2018. In April 2020, there were more than 175 fewer people in jail than in January and the number of people incarcerated in the county declined by more than one third.¹³⁰ Wilson County Criminal Court Judge Brody Kane told reporters in April that judges had decided to release many people charged with so-called nonviolent crimes, and law enforcement officers decided to issue citations instead of arresting people.¹³¹ Judges and law enforcement officers have discretion not to arrest people and to allow people to await trial without being incarcerated. These were not special powers granted only during a pandemic.

According to Commissioner Diane Weathers, the policy changes adopted by judges and law enforcement to keep people out of jail had allowed the commission to delay the jail expansion project. "We got a break with turning them loose this summer," she told Vera researchers. She did not expect the reprieve to last long, however. "They'll be back," she explained, referring to the people whom judges had released from the county jail: "They'll be back in jail." Indeed, by the end of July, when COVID-19 cases reached their summer peak in Tennessee, more than 80 additional people were locked in the jail than in April, an increase of about 25 percent.¹³² About half of the people incarcerated in July were pretrial detainees, and most probably could not afford to pay their bail.

Although the sheriff's department took measures to prevent the spread of COVID-19 inside the county jail, dozens of incarcerated people and staff were infected with the virus by the summer. The department decided to isolate people in solitary confinement when they were first booked into the jail to minimize their contact with other incarcerated people and staff.¹³³ In May 2020, Nathan Stephens died after he hanged himself in the isolation cell inside Wilson County Jail. Jail guards reportedly knew that Stephens, who was imprisoned due to a parole violation, had diagnosed mental illnesses and had previously attempted suicide in November 2019.¹³⁴

Wilson County appropriated more than \$30 million (45.8 percent of the county's general fund) for law enforcement, courts, and jail facilities for the 2020–2021 fiscal year. Wilson County's working-class and poor residents lack well-paying jobs, affordable housing, public transportation, and other resources that county commissioners and the county mayor could provide, for example, by directly employing people to build and operate housing and transportation infrastructure. These officials presently appropriate tax revenues to pay the wages, salaries, and benefits of employees who administer and staff the county's various courts, sheriff's department, jail, and so on, and they authorize the issuing of bonds to finance capital projects like building new jail facilities, buying new police cars, and other long-term carceral investments. As noted previously, county commissioners (who are responsible for approving the design and financing for capital projects) know that jail expansion could be avoided by adopting policies to shrink the jail population.

Sheriffs, courts, and jails cannot meet the needs of Wilson County's poorer residents. These institutions have often caused harm to the thousands of people who each year are handcuffed by county sheriffs, detained in the Wilson County Jail, or sentenced by county judges to serve probation, pay fines and fees, and/or serve time in the jail or state prison system. The \$40 million in bond debt earmarked for the bigger jail, the tax revenues that finance this debt, and much of the \$30 million of general fund appropriations dedicated to law enforcement could instead be used to address the social problems—housing insecurity, substance use issues, and poverty—stemming from rising income inequality in the county.

Although the sheriff's department took measures to prevent the spread of COVID-19 inside the county jail, dozens of incarcerated people and staff were infected with the virus by the summer. The department decided to isolate people in solitary confinement when they were first booked into the jail to minimize their contact with other incarcerated people and staff.

PRIORITIZING PUNISHMENT OVER HEALTH AND HOUSING IN SULLIVAN COUNTY

Sullivan County is in the Appalachian Mountains, in the far northeastern corner of Tennessee. Overwhelmingly white, the county has a population of approximately 158,300 people, of whom roughly 2 percent are Black and 2 percent Latinx.¹³⁵ Kingsport is the largest city in Sullivan County. It is part of the Tri-Cities region, which includes Kingsport, Johnson City, and the twin cities of Bristol, TN and Bristol, VA. Sullivan is a poor, mostly rural county in a poor, mostly rural state.

After going through a divorce, Snow, as he likes to be called, traveled to Kingsport. “Within probably three days,” he told Vera researchers, “there were two police [officers who] walked up on me, and they arrested me.” Before this encounter, Snow explained, he had not had any legal troubles. “Literally,” he said, “I had a parking ticket.” So he was surprised by the way Kingsport police officers treated him that day. “These guys, they were really pushy,” Snow remembered. “I felt I’d done something seriously wrong the way they approached me.” According to Snow, he hadn’t done anything seriously wrong—except for the fact that he was unhoused. The officers let him go without incident that time, but this aggressive greeting was a sign of what was to come.

During his first six months in Kingsport, Snow told us, police often harassed him. He moved to an encampment for unhoused people, which was in a wooded area on someone’s property, hoping to avoid contact with the police. But the police came to them. They raided the camp, evicted the residents, and destroyed their tents. “It’s something that’s impacted [my future spouse]. . . . And it’s upsetting to me,” Snow recounted, tearfully, “because [the police] are people we’re supposed to be looking to for support, helping us in a time of need.” But they didn’t help Snow while he was unhoused in Kingsport. Instead, they harassed, searched, ticketed, fined, and jailed him. “It was just anything and everything they could throw at us to get us in jail,” Snow told us, frustrated. “They were hiding us away in the county jail.”

Snow’s story is not an isolated incident. In fact, in recent years the Kingsport Board of Mayor and Aldermen and Kingsport Police Department have responded to housing insecurity—along with a number of social and political crises in the city—with criminalization. In 2018, for example, Dani Cook and a small group of local activists staged a protest to stop the closure of Holston Valley Medical Center’s neonatal intensive care unit (NICU).¹³⁶ They set up camp in front of the hospital for more than 250 days and rallied public opposition to the closure, gathering over 30,000 signatures for their petition. “I’m a grandmother,” Cook said in an interview with Vera researchers, explaining why she felt compelled to try to stop the hospital closure. “My granddaughter Bella was born at the NICU.” Bella was born prematurely, weighing scarcely more than a pound, and Holston Valley’s NICU nurses saved her life. Cook placed a large sign in front of their encampment that announced, in big block letters, that the NICU closure would be “BAD FOR BABIES [AND] FOR NURSES.” In response, the Board of Mayor and Aldermen, at the urging of hospital investors and executives, passed a city ordinance in order to evict the protest camp. “[They] tried to make me a felon,” Cook said.¹³⁷

Thirty percent of residents in Sullivan County were either uninsured or enrolled in the state’s Medicaid program in 2019.¹³⁸ In 2018, Ballad Health, a large, newly formed hospital firm, purchased all of the hospitals and clinics in the 29-county region surrounding Sullivan. Overnight, Ballad became the largest employer in the region.¹³⁹ Ballad executives quickly moved to shutter hospital facilities and downsize their workforce. This included the closure of the NICU and downgrading of the trauma center at Holston Valley Medical Center in Kingsport. City residents now have to travel to Johnson City, about 20 miles southeast, to access emergency care.¹⁴⁰



Hospital closures in Tennessee

Tennessee has the highest number of hospital closures per capita in the United States.¹⁴¹ Sixteen rural hospitals have closed in Tennessee since 2010. The state legislature, which since 2014 has blocked over \$5.5 billion in federal health care funding available through the Affordable Care Act, is directly responsible for these closures.¹⁴² Poor and working-class people in the state's urban and rural areas are most affected by this. Hospitals in areas with higher proportions of people with public medical insurance or without insurance are most likely to become indebted and forced to close their doors.¹⁴³ Indebted community hospitals are often acquired and merged by large hospital corporations because large firms have greater leverage to negotiate higher rates of insurance reimbursement from private medical insurers and more resources to pursue collection lawsuits against patients with outstanding medical debt. When local hospitals are merged into large hospital organizations, executives often downsize that hospital's workforce and eliminate departments that are duplicated across their balance sheet.

Sign posted on the main entrance of the abandoned hospital in McKenzie, Weakley County, TN.

In 2015 almost every county in northeast Tennessee had a higher jail incarceration than the statewide average, and for two decades the Sullivan County Sheriff's Department has imprisoned more people in the county jail than it was designed to hold.¹⁴⁴ On January 31, 2019, for example, 931 people were locked in Sullivan County Jail, occupying cells designed for 619 people.¹⁴⁵

In September 2020, Sullivan County commissioners approved \$80 million in municipal bond debt to expand the county jail, making space available to imprison even more people.¹⁴⁶ To back this debt, commissioners approved a property tax increase that took effect in July 2021. Sullivan County Mayor Richard Venable and Sheriff Jeff Cassidy have for several years insisted that a bigger jail and larger staff are the best measures to address what they have characterized as the jail's overcrowded and violent conditions.¹⁴⁷ Sheriff Cassidy has also insisted that jail construction and the expansion of the sheriff's department would save the county money in the long run. In May 2019, he told reporters from WJHL—a local CBS News affiliate—that “[I]f we don't do [this], you're talking a federal lawsuit that's gonna cost a whole lot more money than you would ever believe.”¹⁴⁸

In the fall of 2019, reporters from WJHL showed viewers scenes from inside the jail, where more than 300 people were sleeping on the floor.¹⁴⁹ Since 2014, the county has faced potential sanction by the Tennessee Corrections Institute (TCI)—the state agency responsible for inspecting local jails—if the sheriff's department does not remedy the harmful conditions in its jail. Although TCI does not have the power to close a jail, the agency can revoke its certification, which would pose serious financial consequences for sheriffs and county governments.

Without certification, Sullivan County would receive less money from TDOC, which pays a daily rate to counties for incarcerating people serving state prison sentences in local jails. In the 2018–2019 fiscal year, Sullivan County collected about \$2 million from TDOC, and that revenue covered close to 20 percent of the jail's expenses.¹⁵⁰ If TCI were to decertify the Sullivan County Jail, the county government would also likely pay more for its liability insurance which covers, among other things, some of the costs of lawsuits brought by people imprisoned in the county jail who are harmed by guards. Sullivan County paid more than \$560,000 in liability insurance in fiscal year 2019. Robert Kane, a TCI representative who addressed Sullivan County commissioners in September 2020, explained, “If, in a year, the facility becomes decertified, your liability insurance providers could double, triple, quadruple [your rates]. They could cancel you, because now you're a much higher risk.”¹⁵¹ Kane noted that more than two dozen other counties were in a similar position, and many planned to renovate or build new jail facilities to maintain TCI certification.

The larger jail might temporarily relieve some of the effects of the crowded jail, but it will almost certainly reproduce the conditions—on both sides of the jail's walls—that caused the present crisis. Sullivan County's high incarceration rate and crowded jail resulted in part from county government officials' substantial investments in carceral capacity, law enforcement and local judges' decisions to detain people and set unaffordable bail, and the criminalization of more and more aspects of people's lives.

The last time Sullivan County's commissioners, sheriff's department, and mayor joined forces to build a new jail, the county's incarceration rate increased drastically in the aftermath. Between 1987 (when the jail opened) and 2018, the county's incarceration rate more than quadrupled.¹⁵² The incarceration rate for women during that period shot up more than 7,000 percent. In 1987, there were, on any given day, three women sitting in the county jail; in 2018 there were, on average, 230. In 1987, an average of 17 percent of the people in jail were held on a pretrial basis, meaning they were awaiting trial, typically because they could not afford bail. In 2018, more than 80 percent of people in the Sullivan County Jail on any given day had not been convicted for the crime for which they were arrested.

There is no reason to expect jail construction will create different results this time around and there are alternative ways to remedy the crisis in the Sullivan County Jail. For example, local judges and the sheriff's department could let people out of confinement by reducing arrest, pretrial detention, and jail sentences. In the fall of 2019, Sheriff Cassidy implicitly acknowledged this option when he proposed a pretrial release program to the county commission. Although judges, rather than sheriffs, have the authority to release people pending trial, sheriffs can recommend people for pretrial release. In his proposal, Sheriff Cassidy stated that he had identified 91 incarcerated people whom he would release, but suggested that the commission would have to appropriate upwards of \$500,000 to hire additional law enforcement officers to supervise these people.¹⁵³

Judge James Goodwin voiced his support of Cassidy's proposal to the commission, but he noted that closer to 300 people could be released from the jail.¹⁵⁴ A few days prior to Sheriff Cassidy's meeting with Sullivan County commissioners, there were 689 people awaiting trial in the county jail—people who accounted for 65 percent of the total jail population at the time.¹⁵⁵ Of these, 182 people were awaiting trial for misdemeanors (so-called nonserious offenses) and 507 had been charged with felonies. Setting aside the question of whether incarceration is an effective or humane form of redress for harmful behavior of any kind, it is important to stress that many activities considered to be felonies (so-called serious crimes) do not involve physical violence. For example, passing bad checks, interfering with debt collectors, failing to appear in court, and possessing certain types of illegal drugs are all felonies in Tennessee.¹⁵⁶

Much of the \$80 million that county commissioners agreed to spend over the next 20 years could be used to bolster health care, public transportation, affordable housing, and other resources that many residents desperately lack. The same is true of the half-million dollars Sheriff Cassidy proposed to spend on his pretrial release program and the more than \$27 million the Sullivan County Jail, sheriff's department, courts, and other law enforcement entities claim each year. The county could directly employ people (as they currently do through the county jail and sheriff's department) to expand these underdeveloped capacities. Doing so would directly and effectively improve the lives of Sullivan County's working poor and unemployed residents.

The area's economic metrics (below average incomes, above average poverty rate, and a declining labor force participation rate) suggest that underemployment is a growing problem and that many Sullivan County residents are struggling to make ends meet.¹⁵⁷ Among other things, declining labor force participation signals growing informal employment.¹⁵⁸ Many construction, restaurant, and domestic workers are employed on an unofficial basis, and major industries often rest on the informal sectors through subcontracting and outsourcing networks.¹⁵⁹ Informal work is usually low wage, and growing informal employment usually correlates with growing inequality. People seek employment in the informal sectors when job options are limited—whether because the economy is bad, because they are not documented to work, or because they are barred from certain types of employment due to criminal conviction; as geographer Ruth Wilson Gilmore explains, these individuals are “documented *not* to work.”¹⁶⁰ Sullivan County's overdeveloped law enforcement and carceral capacities are implicated in these trends, and high arrest and incarceration rates translate to job insecurity, housing instability, and poor health outcomes. In addition, public funds directed to jail expansion are funds that could be better used to address these social problems directly, in ways that do not exacerbate these issues by criminalizing poverty.

Sullivan County sheriffs, city police, courts, and jails have also contributed to housing instability. Across Tennessee, the cost of housing has increased over the last decade and poor people are being priced out.¹⁶¹ In Sullivan County, median rental costs increased by 20 percent between 2010 and 2018. During that period, homeownership declined and the stock of affordable housing (homes valued at less than \$200,000) shrank, both across Tennessee

→ Downtown Kingsport, TN, in Sullivan County. (Photo by Jack Norton.)



harvest community church

and in Sullivan County. In Kingsport, where one in five residents lived under the poverty line in 2019, homelessness has increasingly become the focus of local nonprofits, the Kingsport Board of Mayor and Aldermen, and the Kingsport Police Department.

In the fall of 2019, Kingsport and the regional branch of nonprofit organization United Way appointed a homeless services liaison, and the Kingsport Police Department hired a social worker and appointed a police officer to lead the department's outreach efforts to unhoused people. These individuals were tasked with connecting unhoused people with services, shelters, and/or permanent housing. The Kingsport city manager declared to reporters at the beginning of 2020, "I dare anyone to find a city more kind and compassionate towards people than Kingsport, Tennessee."¹⁶² In press releases and interviews the city manager, mayor, police chief, and United Way representatives touted their outreach efforts to unhoused people and the new hires as investments that would improve the lives of unhoused people in the city. The police chief complained, however, that Kingsport's unhoused population was "service-resistant."¹⁶³

Yet local advocates for unhoused people noted that they did not have access to temporary shelter even if they wanted it. "There are no shelters," said Pastor Will Shewey of Shades of Grace, a church in Kingsport that provides daily meals to unhoused people.¹⁶⁴ Instead, the city had recently spent money to install wooden blocks on benches in parks and other public spaces to deter unhoused people from sleeping there. The blocks, Shewey argued, "[send] a very clear message to the homeless, 'You are not wanted here.' There is really nowhere for them to go," Shewey continued. "They are being pushed out of sight, out of mind."

Although Snow no longer lives on the streets, he hears stories about police harassment from his unhoused friends. Many received tickets in 2020 from Kingsport police, including for minor violations like jaywalking. "They're really, really handing it out to people," he told Vera researchers. As one volunteer at a local meal program in the city told reporters in August 2020: "Never in my past have I seen so many jaywalking tickets ever."¹⁶⁵ Reporters interviewed one unhoused man who said he was avoiding downtown Kingsport for fear of being ticketed. "I didn't want to come up here and end up having to pay another fine I can't afford," he explained.¹⁶⁶ A jaywalking ticket in Kingsport carries a \$110 fine, an impossible prospect for many unhoused people. "Since I've been homeless," Snow told Vera researchers, "I haven't seen a hundred-dollar bill."

Meanwhile, the people who worked in or were incarcerated in the Sullivan County Jail, as well as their loved ones, faced serious health risks during the COVID-19 pandemic. In September 2020, the county health department reported more than 250 incarcerated people and staff had tested positive for COVID-19.¹⁶⁷ That month, the jail accounted for close to half of the total confirmed COVID cases in the county.¹⁶⁸ In July 2020, Tennessee's branch of the American Civil Liberties Union (ACLU) published a report that illustrated how outbreaks of COVID-19 in local jails contributed to virus transmission in surrounding communities.¹⁶⁹ The ACLU chapter urged TDOC and local sheriff's and health departments to issue citations to people instead of incarcerating them (including people who violated their parole or probation); release pretrial detainees from county jails; release elderly, chronically ill, and otherwise vulnerable people from jails and prisons; provide protective equipment and hygiene products to incarcerated people and staff; isolate sick imprisoned people and staff from others; and screen people coming into jails and prisons. The chapter also joined in a federal class action lawsuit against the Shelby County Sheriff's Office to force it to release incarcerated people from the county jail in Memphis. Shelby County has had the greatest number of COVID-19 deaths in Tennessee.¹⁷⁰

The Sullivan County Sheriff's Department adopted some of these preventative measures. It released hundreds of people from the county jail in the spring, at the beginning of the COVID-19 outbreak. In April, there were almost 300 fewer people in the jail than in February, a 33 percent reduction in the number of people incarcerated in the county. Even with these releases, the Sullivan County Sheriff's Department still incarcerated more people in the

county jail than it was designed to hold, meaning most likely that imprisoned people continued to be crowded together inside the jail.¹⁷¹ After April, the sheriff's department began filling the jail again. By the end of July, when COVID-19 cases reached the summer peak, there were 771 people in the county jail (almost 25 percent more people than the jail was designed to hold); 458 of those people (almost 60 percent) were people held pretrial.¹⁷²

In an August 2020 press release following the news of several positive COVID-19 cases in the Sullivan County Jail, the sheriff's department detailed some of the preventative measures it had adopted within the jail.¹⁷³ The department stated that it periodically tested staff and people incarcerated in the jail for COVID-19. Staff provided masks to people when they were booked into the jail, the department said. The press release did not mention if staff supplied replacement masks to people in the jail or, if they did, how often; nor did it state whether the department required jail staff to wear protective gear when they were at work. The department stated that employees were required to have their temperatures taken at the beginning of their shifts. When they entered the jail, people also had their temperatures taken by staff, the department said, and staff asked these people questions about their "health and travel." Because COVID-19 is often spread by people without symptoms (including high temperatures), however, the Centers for Disease Control and Prevention notes that masks, social distancing, and avoiding crowds are the most effective preventative measures.¹⁷⁴ And while the sheriff's department stated that it isolated people in prison who tested positive from other people in the jail, and required staff who tested positive to stay home, the crowded jail facilities make social distancing and isolation difficult or impossible.

Even before the COVID-19 pandemic, the Sullivan County Jail was a risk to the health and safety of everyone inside. Incarcerated people experience hepatitis C, HIV, mental illness, sexual assault, substance use issues, violence, medical neglect, and many other harmful conditions while they are imprisoned. Crowding often exacerbates these conditions.¹⁷⁵ The spread of COVID-19 in U.S. prisons and jails has brought the endemic public health risks of incarceration into public view. But for imprisoned people and activists, this basic fact of mass incarceration is nothing new. Currently and formerly incarcerated people and their loved ones have been asserting for many years that reducing the number of people who are incarcerated is by far the best way to promote the health and well-being of people who are criminalized and of the community at large.

Even before the COVID-19 pandemic, the Sullivan County Jail was a risk to the health and safety of everyone inside. Incarcerated people experience hepatitis C, HIV, mental illness, sexual assault, substance use issues, violence, medical neglect, and many other harmful conditions while they are imprisoned.

Conclusion: A Different Vision for Tennessee

People who have been directly impacted by criminalization have firsthand knowledge of both the harms of incarceration and the needs of the most vulnerable members of their communities. Black and brown people and poor people of all races and ethnicities also understand the ways in which lack of affordable housing, low wages, racism, gender discrimination, and incarceration are interconnected. By choosing criminalization and incarceration as the near-exclusive solution for social problems, local governments in Tennessee have enabled private bail and probation companies to extract revenue from the state’s poorest residents—especially among people of color—and precluded investment in the infrastructure and programs that poor and working-class Tennessee residents need in order to thrive.

When Free Hearts asked survey respondents what they would change in their communities and what they need to succeed, 21 percent answered that their priority would be to address homelessness, the lack of affordable housing and homeownership, and gentrification—by far the most popular response. Twelve percent of respondents identified the need for opportunities for decently paid employment as a top priority, while 8 percent said they would prioritize affordable health care, substance use treatment, and mental health treatment. Collectively, nearly 15 percent of respondents identified priorities relating to the criminal legal system—including the elimination of money bail, ending police harassment and discrimination, or the restoration of voting rights. More broadly, over two-thirds of respondents wanted to prioritize bringing more resources into their community, including housing, education, health care, access to affordable food, and job training.

Real decarceration in Tennessee will necessarily mean disinvestment from systems of incarceration and harm across the urban-to-rural spectrum, paired with investment in life-affirming systems of affordable housing, accessible health care, and opportunities for jobs at a living wage. For all communities in Tennessee to thrive, public safety will have to mean real safety for everyone, including safety from the violence of incarceration, policing, fines and fees, and predatory private bail and probation companies.

Figure 8

Tennesseans’ Priorities for Change

If you knew you would succeed, what is the one change you would make in your community?



Larger words represent words that came up more frequently in responses to this question. Source: Data represents responses to the Free Hearts Decriminalize Poverty survey.

POLICY RECOMMENDATIONS

Over the course of writing and discussing this report—based on hundreds of conversations with people directly impacted by the criminal legal system across Tennessee—Free Hearts and Vera identified policy priorities for all communities in Tennessee to thrive and for public safety to truly mean real safety for everyone. What follows is a list of policy recommendations, grouped according to the various elected officials and system actors whose decisions affect jail incarceration and criminalization in your backyard.

State and Local Policymakers

- The Pretrial Justice System
 - Eliminate the role of money in determining someone’s freedom, including money bail and the costs of pretrial release, such as pretrial diversion and any form of supervision. These should be eliminated or borne by the state or counties, and not passed along to people in the criminal legal system.
 - Until the full elimination of money bail, ensure that money bail is set only in an amount that a person can afford after the court makes findings on the record by clear and convincing evidence that money bail is necessary and no other conditions, supports, or services will ensure community safety and court appearance.
 - Ensure representation and due process. Give people access to lawyers and ensure that they are given constitutionally adequate hearings if money bail is imposed.
 - Limit the use of warrants for failure to appear in court when a person’s family, community, or lawyer can ensure future appearance.
 - Implement court reminders and referrals to community-based supportive services.
 - Fund community-based pretrial services and supports.
- Fines, Fees, Restitution
 - Eliminate all criminal legal “user fees” and costs, including jail booking fees, probation fees, public defender fees, drug testing fees, and fees for “alternative custody programs” such as electronic monitoring and work alternatives to incarceration.
 - Ensure that programs and services that address underlying needs are fully funded and do not rely on revenue generated via the imposition of fines and fees.
- Parole, Probation, and Electronic Monitoring
 - Eliminate pay-only probation; use referrals to supportive services in lieu of probation.
 - Eliminate drug testing as a condition of supervision and do not impose electronic monitoring as a blanket condition of supervision; limit the amount of time a person can be subject to onerous conditions of release or supervision that significantly restrain their freedom.
- Driving
 - Prohibit the suspension of driver’s licenses for unpaid fines and fees; implement ability to pay determinations for traffic fines and fees; waive outstanding traffic and legal debt; restore driver’s licenses that have been suspended for non-payment.

- Remove traffic enforcement from police duties; transfer functions to non-police agencies and remove all revenue incentives for agencies.
- Divest from Criminal Legal System and Invest in the Community
 - Decrease state and local budgets for policing and incarceration.
 - Reinvest cost savings from reduced incarceration in services, resources, and community priorities, as determined by equitable and participatory budgeting processes.
 - Impose a moratorium on all jail construction and invest first in services and resources outside of the traditional justice system, such as in housing, supportive services, community-based counseling, treatment, and jobs.
 - Build reliable and equitable public transit across the urban-to-rural continuum that connects people to jobs, services, and care.
 - Invest in a housing-first approach without creating additional conditions and barriers for unhoused populations; mandate diversion to services in lieu of arrest for trespassing and other charges that impact unhoused populations.
 - Expand affordable housing across the urban-to-rural divide and eliminate barriers to housing for people with criminal convictions.
 - Build childcare and non-carceral, non-regulatory parenting support and resources.
 - Invest in providing funding for cooperative businesses and housing for currently and formerly incarcerated people.

Prosecutors

- The Pretrial Justice System
 - Create a written policy specifying the cases your office will decline to prosecute because they are rooted in poverty and should not be addressed with the criminal legal system, with a consideration of both the specific charges and the context of those charges.
 - Create a written policy recommending pretrial release in most cases without money bail and/or with the least restrictive nonmonetary conditions necessary to protect community safety and support court appearance.
 - Divert people pre-charge to community-based alternatives that address root causes, including treatment, care, and educational and vocational training, without requiring a plea. In cases where another person has been harmed, explore survivor-centered diversion to restorative justice.
- Fines, Fees, Restitution
 - Eliminate fines and fees charged by the office and forgive outstanding debt; advocate for the office to be fully funded without relying on criminal legal debt.
 - Clear warrants for outstanding debt and crimes related to poverty.
 - When offering plea agreements, include alternatives to incarceration that are low cost or do not have a cost for the defendant.
 - Implement ability to pay hearings for all financial obligations, including fines, fees, and restitution. For indigent people, advocate for fee waivers, seek alternatives to fines, and advocate for payment plans for restitution or seek other ways to make harmed people and entities whole.

- Parole, Probation, and Electronic Monitoring
 - Both when advocating for conditions of pretrial release and when offering plea deals, restrict conditions of release to those that are necessary to uphold community safety; seek no-cost alternatives when possible.
 - Create a written policy capping the amount of time that people spend on supervision for different levels of offense or charges or be subject to onerous conditions of release or supervision that significantly restrain their freedom. Create an earned-time policy for compliance with conditions of supervision.
- Driving
 - Cease prosecution of people who drive on a suspended license because of unpaid fines and fees.
 - Work with community-based organizations and public defender’s offices to secure transportation for people’s court dates, supervision appointments, and other requirements.
- Divest from Cages and Invest in the Community
 - Reduce or eliminate units devoted to prosecuting crimes related to poverty; regrant funds to or otherwise partner with social service providers and community-based organizations providing supports to criminalized people.
 - Create an accountability structure or mechanism by which the office can be responsive to directly impacted people and commit to data transparency.

Judges and Courts

- Eliminate the role of money in determining someone’s freedom, including money bail and the costs of pretrial release—such as pretrial diversion and any form of supervision. These should be eliminated or borne by the state or counties and not passed along to people in the criminal legal system.
- Until the full elimination of money bail, ensure that money bail is set only in an amount that a person can afford after the court makes findings on the record by clear and convincing evidence that money bail is necessary and no other conditions, supports, or services will ensure community safety and court appearance.
- Ensure representation and due process. Ensure that people have access to lawyers and are given constitutionally adequate hearings if money bail is imposed.
- Limit the use of warrants for failure to appear in court when a person’s family, community, or lawyer can ensure future appearance.
- Implement court reminders and referrals to community-based supportive services to ensure appearance and safety.
- Ensure that people who are charged with driving on a suspended license because they cannot pay fines and fees are not subject to incarceration or costly forms of supervision.
- Work with community-based organizations and public defender’s offices to secure transportation for people’s court dates, supervision appointments, and other requirements.
- When people are convicted for crimes of poverty, pursue alternatives to incarceration that are low cost or do not have a cost for the defendant.

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On the cover: Community members at the Decriminalize Poverty Tour block party in Nashville, TN.

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Credits

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