

# Nashville's Criminal Justice System and COVID-19: Arrests and the jail population in a time of crisis



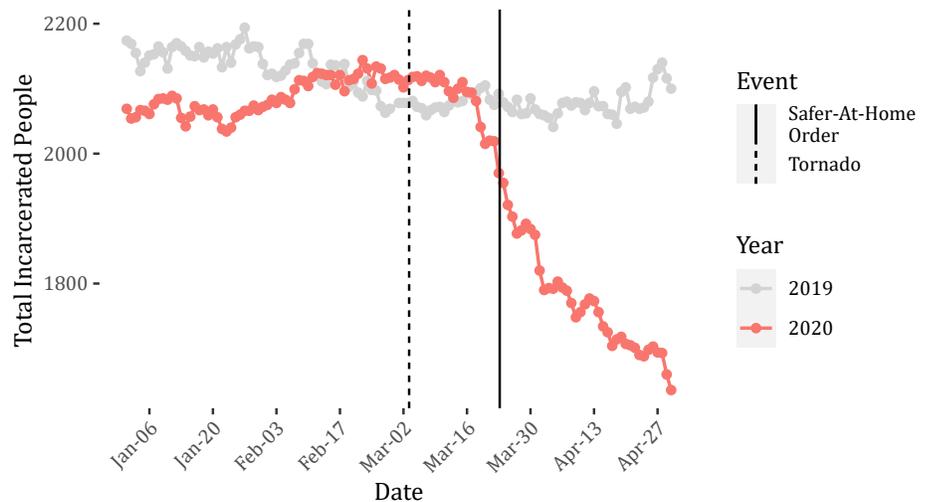
May 27, 2020

COVID-19 is a highly contagious virus that is causing a global pandemic. Detention facilities are an easy place for the virus to take hold because many people are housed in small, confined spaces. Additionally, many people in jails are at high risk of complications due to underlying health conditions. Jails across the nation have made efforts to decrease their population in response to the COVID-19 outbreak.<sup>1</sup> The jail population is influenced by the steps that precede incarceration in the criminal justice system.

In Davidson County, the jail population on March 15th was 2,110. By April 30th, the population had declined to 1,636, a **22% decrease in just over six weeks**.

This Metro Nashville Community Oversight Special Report details how changes in Nashville's criminal justice pipeline contribute to jail incarceration. It shows how Metro Nashville Police department (MNPd) arrests have changed during COVID-19 in conjunction with the jail population.

Figure 1: Davidson County Jail Population



Note: Jail Population figures provided by Criminal Justice Planning department. Daily numbers represent the 11pm population of all detention facilities housing individuals for the Davidson County Sheriff's Office.

## Some categories of incarcerated people have fallen more than others

### Pretrial Detention:

People arrested and charged with an alleged crime but have not been convicted. Upon arrest, a magistrate decides whether to release an individual with the assumption they will return for their court date, to set a bond which is an amount of money that would allow the individual's release from jail, or to be held without bond. If an individual has a bond set but they can not afford to pay, they are held in jail until their court date. At an initial court date, a judge can revise bond.

### Probation Violation:

An individual has been convicted of an offense and their sentence includes monitoring by a probation officer and other stipulations that, if broken, can lead to arrest and incarceration.

### Sentenced:

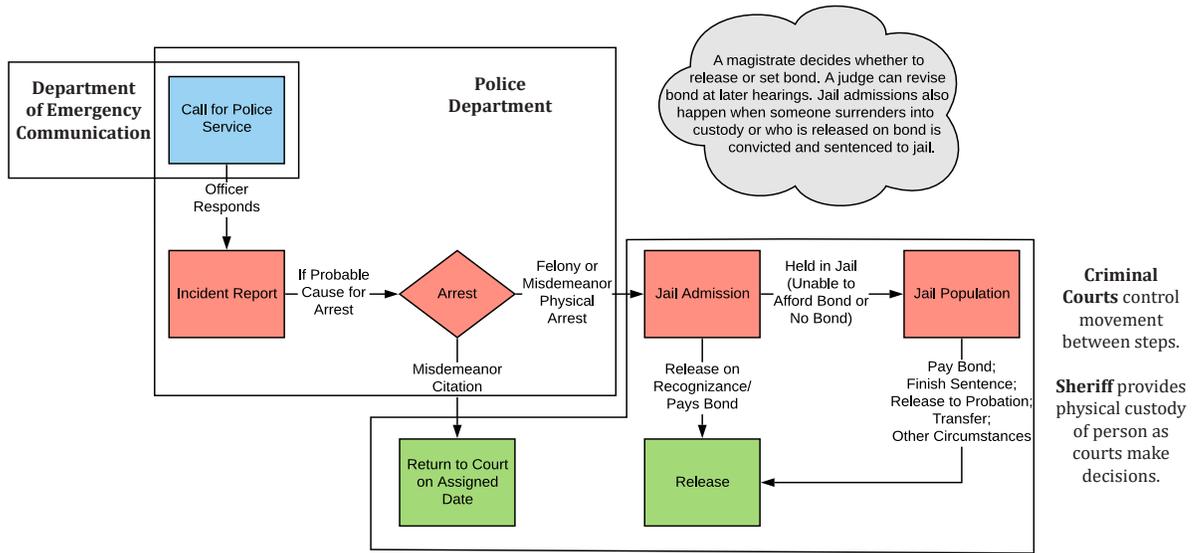
An individual has been convicted of a criminal offense and is serving the sentence in a Davidson County detention facility. Usually, jail sentences are less than one year but some sentenced to longer terms are held rather than being transferred to state prison.

Categories of incarcerated people in Davidson County custody on March 15th, 2020 compared to April 30, 2020

Jail Category	March 15, 2020	April 30, 2020	# Difference	% Difference
Pretrial Misdemeanant	90	40	-50	-55.6%
Pretrial Felon	861	762	-99	-11.5%
Probation Violation, Misd.	42	19	-23	-54.5%
Probation Violation, Felon	157	85	-72	-45.9%
Sentenced Misdemeanant	223	91	-132	-59.2%
Sentenced Misdemeanant-DUI	12	4	-8	-66.7%
Locally Sentenced Felon	514	442	-72	-14%
State Sentenced Felon - TDOC	139	129	-10	-7.2%
Other	72	64	-64	-11.1%
DHS/ICE	0	0	0	0%
<b>Total</b>	<b>2,110</b>	<b>1,636</b>	<b>-474</b>	<b>-22.5</b>

Note: Jail Population figures provided by Criminal Justice Planning department. Daily numbers represent the 11pm population of all detention facilities housing individuals for the Davidson County Sheriff's Office.

## What Steps Lead to the Jail Population?



## What changes has the police department made during COVID-19?

Guidance from national public health and law enforcement groups including the CDC and DOJ recommended in March that law enforcement agencies alter their standard operating procedures for protection of both officers and community members. Metro Nashville Police Department (MNPD) issued two roll call trainings aimed at reducing COVID-19 risk.

### Alternate Call Response (March 18th):

To assist officers with maintaining social distancing when possible, eligible calls for service and reports could be taken over the phone.

- Eligible calls include those where there are no injuries, no physical evidence to collect, and no known suspect. An officer and their supervisor can determine whether a call meets the criteria for alternate response.
- Physical response of an officer is **mandatory** when there is an immediate threat involving bodily injury, ongoing criminal activity, calls where evidence collection is required, personal crimes (e.g. assault, domestic violence, sexual assault), juvenile escapees or runaways, motor vehicle thefts, license or VIN plate thefts, and motor vehicle recoveries.

### Maximizing Alternatives to Arrest (March 19th):

When encountering a misdemeanor criminal offense, police officers have discretion whether to physically arrest the person or to issue a state citation in lieu of arrest. The roll call training did not change policy but encouraged officers to minimize misdemeanor arrest when possible.

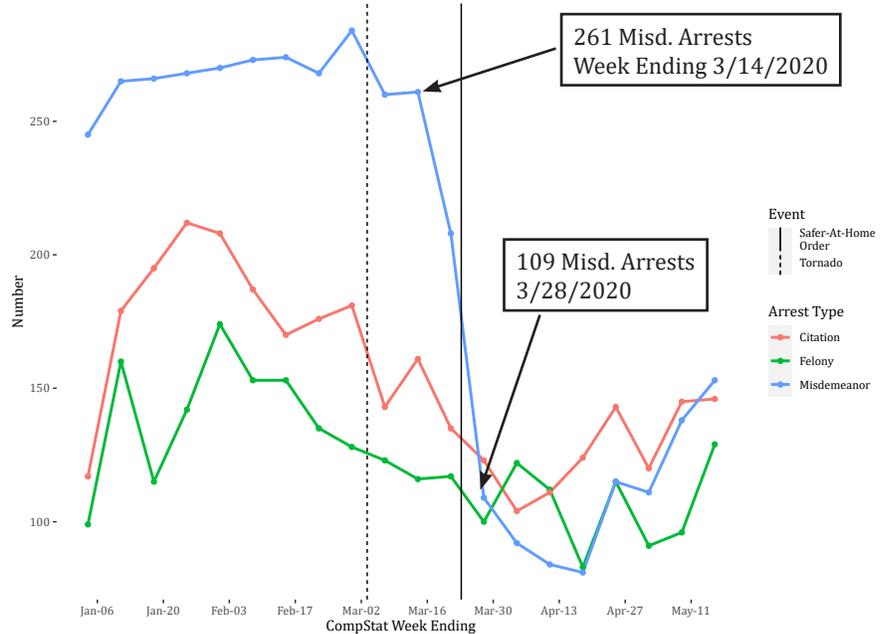
- The training states that “officers are strongly encouraged to maximize opportunities to exercise discretion and alternatives to arrest, especially in cases where broad community alternatives exist (e.g. public intoxication).”

### *Principles of Policing:*

**Democratic policing** advocates argue that police should be regulated with the input of the citizenry that are policed. Police policies and practices should be *accountable* and *transparent* to the people in the jurisdiction they serve. One role of community oversight boards is to enhance the public’s input in policing.<sup>2</sup>

# Misdemeanor arrests have declined in Nashville

Figure 2: MNPD County-Wide Misdemeanor Arrests Fell Sharply as Safer-At-Home Order Went Into Effect



From January 2020 through mid-March, MNPD averaged over 260 misdemeanor arrests per week. Mayor Cooper’s Safer-at-Home order went into effect on March 23, 2020. In the week after (3/22-3/28), 109 Misdemeanor arrests were made, a **58% decline in two weeks**.

In Mid-April, misdemeanor arrests began increasing.

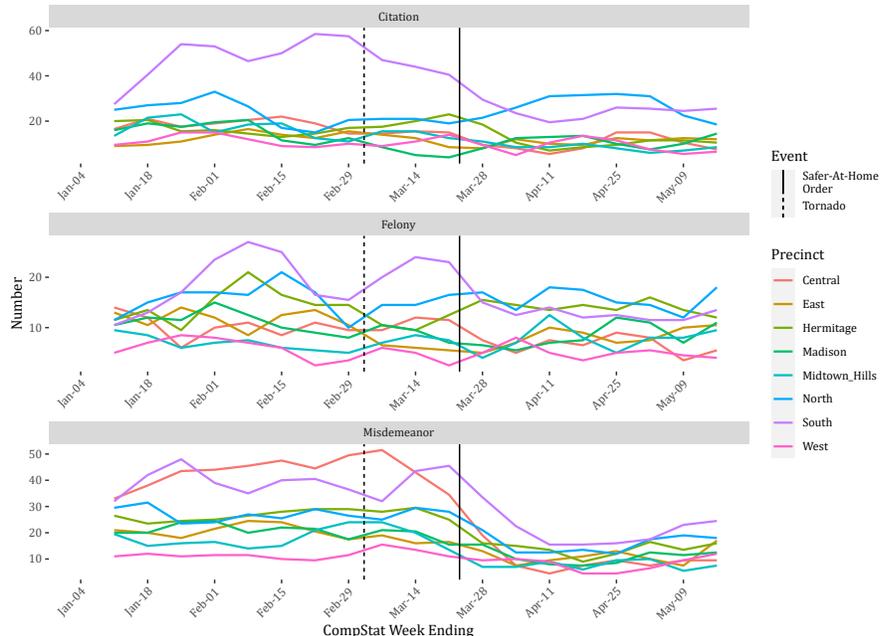
Note: Data come from MNPD CompStat reports available at: <https://www.nashville.gov/Police-Department/Executive-Services/Strategic-Development/Crime-Analysis/Reports/CompStat.aspx?year=2020>. Figures are not official counts of arrests and citations. Counts show the number of people arrested, not the number of charges. CompStat reports compare the last week to the week before. Since the most recent week often changes as paperwork is completed, when possible, the count of arrests from two weeks prior to the report is graphed.

## Declines in misdemeanor arrests have been most pronounced in Central and South precincts

Precincts serve specific sections of the city. Central precinct serves downtown Nashville’s entertainment areas. Fewer misdemeanor arrests in Central precinct is likely related to the closure of bars and restaurants where many disorderly conduct, public intoxication, and theft arrests are made.

Felony arrests have remained relatively consistent over time.

Figure 3: MNPD Precincts Varied in Reducing Misdemeanor Arrests and State Citations as Safer-At-Home Order Went Into Effect (Two-Week Moving Average)

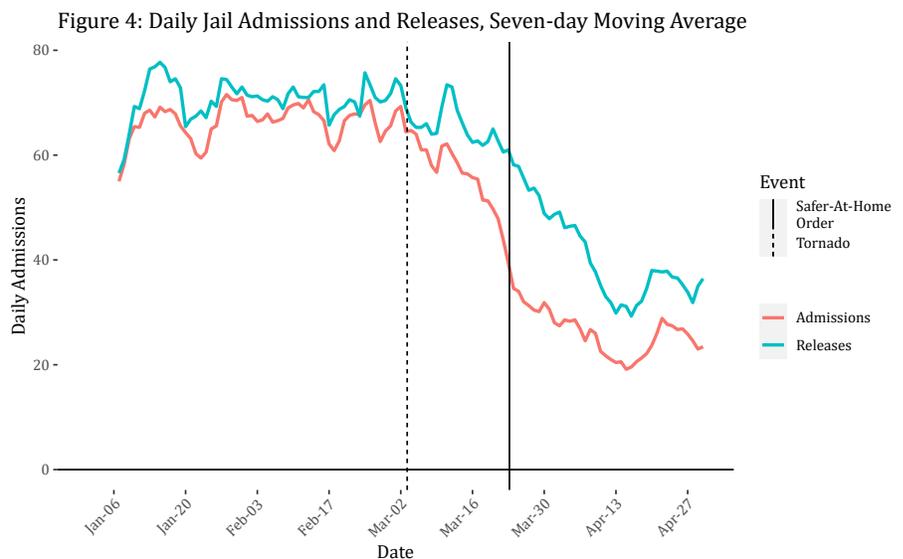


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# For the Jail Population to go Down, More People Need to be Released Than Admitted

The jail population is constantly revolving. Every day, people are admitted and released from custody. Most admissions are due to arrests by police. When there are more admissions than releases, the jail population increases. Conversely, if there are more releases than admissions, the jail population declines.

Figure 4 shows that both admissions and releases have slowed but there are more releases than admissions which decreases the jail population. The wider the gap between lines, the faster the jail population will decrease.



## What's Next for Nashville?

Reducing the jail population is necessary for managing the novel coronavirus pandemic. Nashville reduced its jail population by 22% in just over six weeks. Achieving this was due, in part, to making fewer custodial arrests than pre-pandemic levels while most residents of Nashville stayed home in accordance with the Safer-at-Home order.

Following the principles of democratic policing, what comes next for Nashville should be decided by the people of Nashville. When public health circumstances allow for more arrests and holding people in jail, will Nashville return to its previous levels?

Let MNCO know what you think:

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### Endnotes:

1 Mark Kreidler, "Jails And Prisons Spring Thousands To Prevent Coronavirus Outbreaks," Kaiser Health News, April 16, 2020, <https://khn.org/news/jails-and-prisons-spring-thousands-to-prevent-coronavirus-outbreaks/>.

2 Friedman, Barry, and Maria Ponomarenko. "Democratic Policing." New York University Law Review 90, no. 6 (December 2015).