

I combined two databases kept by jail officials in order to produce this story, which revealed results that were surprising even to Cincinnati officialdom:

- That non-violent offenders made up 42% of the jail population,
- That major underlying reasons for incarceration were substance abuse and domestic violence,
- That 64% of the jail population was black.

This story ran as the county was debating building a new, \$48-million jail addition to relieve overcrowding. Opponents carried this story to public hearings to debate the findings. The jail was defeated in a county-wide ballot, and new treatment programs were created instead.

Anne Michaud

# Non-violent offenders drive up jail numbers

BY ANNE MICHAUD  
The Cincinnati Enquirer

The proposed vote to build a new jail in Hamilton County raises a fundamental question: Is jail space being effectively used now?

The answer is elusive and may more closely reflect personal views on crime and punishment than objective measurement.

An *Enquirer* analysis of county-supplied data found that 42 percent of those locked up on a typical day were behind bars for what are classified as non-violent offenses: driving while under the influence of drugs or alcohol, driving without a license, petty theft or drug abuse.

In 84 percent of these cases, the inmates had prior offenses for other non-violent crimes.

If the jail became so overcrowded that some prisoners would have to be released early — as happened a few years ago and could begin again this autumn — Sheriff Simon Leis Jr. says these are the kinds of inmates likely to be released first to make room for violent offenders.

But as County Prosecutor Joseph Deters and some judges argue, even those considered non-violent are locked up for good reason. They say these are people who have committed serious crimes, have failed to take advantage of alternatives to jail and would, if not incarcerated, commit more crimes. Mr. Deters said the county needs new jail beds quickly.

County commissioners will

hold public hearings Aug. 12 and Aug. 19 on a proposal to raise the sales tax a half-cent on the Nov. 5 ballot. A portion of the \$52 million to be generated each year would be used to build and operate a 536-bed jail.

Most elected officials agree that current jail space is insufficient now and will only get worse. They point to a sentencing law enacted last month that could send as many as 1,000 new felons — many of them drug users and thieves — into the care of the county jail.

To begin to understand whether more jail space is needed, *The Enquirer* undertook an analysis of the jail population. *The Enquirer* looked at a typical day's statistics — July 11 — provided by Hamilton County Pre-

Trial Services and the Regional Computer Center.

The data show:

► People charged with non-violent crimes who had no recorded history of violence made up 42 percent, or 762 inmates. Of them, 646 (84 percent) had at least one prior conviction, and 116 are first-time offenders.

► Most of the non-violent inmates were there on charges of drunken driving (139 people), driving without a license (95), petty theft (66), drug abuse (60), drug trafficking (49) and writing bad checks (20).

► Another 476 people were charged with a violent crime,

(Please see JAIL, Page A5)

## Population facts

Some highlights of the Hamilton County jail population as of July 11.

**2,214**  
Hamilton County jail capacity

**2,036**  
Hamilton County jail population

**219**  
Population being held for other jurisdictions

**1,817**  
Population under control of Hamilton County courts

**899**  
Awaiting a hearing or trial

**918**  
Serving a sentence

## 'Our conclusions are that Hamilton County uses incarceration effectively to deal with the worst offender'

— County Prosecutor Joseph Deters



'I keep hearing people tell me drug abuse and drug trafficking are victimless crimes. You don't see the wreckage that trails these people into the courtroom. Drugs are a family-killer.'

— Judge Ralph Winkler

### CONTINUED FROM PAGE A1

including domestic violence (201), assault (115), robbery (51), menacing (45), rape or gross sexual imposition (26) and murder or manslaughter (24). Many of these were awaiting trial and could serve their time in state prison.

► Nearly half of the 1,817 people jailed under the county's jurisdiction, 899 people, were awaiting a hearing or trial. They had been incarcerated an average 38 days, and 18 percent were not allowed to make bond.

► Another 918 were serving sentences and had been incarcerated for an average 66 days.

► African-Americans, who make up 18 percent of Hamilton County, accounted for 64 percent of the jail population.

► Thirteen people were jailed for seemingly insignificant crimes such as jaywalking, making an improper turn, displaying a fictitious license plate and failing to register a dog.

Sheriff Leis, the county's law-and-order jailer, said, "There are people in here that shouldn't be in here." He blames hard-line judges for abusing their discretion.

Running a stop sign or jaywalking is enough to get a person three or four days in jail, Sheriff Leis said.

"Some guy fails to pay a traffic ticket, he gets stopped on another offense somewhere, and because the fine is tripled, he owes \$300 or \$400," he said. "He doesn't have the money to get out, so we've got him in here at \$65 a day. It's crazy to take bed space up for those type of people."

He recommends greater use of home incarceration, which is less than \$20 a day.

### Best use of jail space

But judges and Mr. Deters say the county is making the best possible use of its jail space. The capacity is 2,214.

Shown *The Enquirer's* figures, Mr. Deters assigned three of his appeals court lawyers and two support staffers to do their own research on the jail population.

He went beyond the figures supplied by the pre-trial services department and researched individual case files. Among his findings, he said, was inaccuracy in pre-trial services data: Nine people identified as having no prior record in fact had been convicted of a crime.

Also, no single source of records in the county tells the full story of who is in jail, Mr. Deters concluded. For example, one of the men in the group of 116 people with no prior history of violence had been picked up several times for domestic violence but had never been convicted.

Mr. Deters said his analysis of the jail population led him to conclude that Hamilton County uses incarceration effectively to deal with the worst offenders.

"The vast majority of people in our jails," Mr. Deters added, "are either currently charged with violence, are classified as a violent offender, are a repeat offender or are serving mandatory sentences in our jail."

As for the 116 people who are non-violent, first-time offenders, Mr. Deters argued that they are a very small portion of the entire population under court supervision. That includes 26,253 people on probation, 3,242 out on bond and 445 making restitution through the prosecutor's diversion program. The total was 31,974 on the day *The Enquirer* did its analysis, Mr. Deters said.

Looked at that way, 93.5 percent of criminals "never see the inside of a jail cell," Mr. Deters said, and the 116 offenders make up one-third of one percent.

Repeat offenders, even while they have no record of violence, can be a particular frustration for the court.

"I would be interested in knowing what measures have been taken to get them to stop doing what they're doing," Mr. Deters said of the 84 percent of non-violent offenders who repeated their crimes. "I would bet the judge has finally given up and said, 'You're going to jail.'"

Take the case of the man who was jailed for failing to register his dog. A police officer cited him in July 1995, after a complaint about the man's white German shepherd.

The man twice failed to show up for his court date. When he did come in, he pled guilty and was fined \$10 plus court costs of \$100. He failed to pay and skipped three more court dates, which were set to elicit the money from him.

Finally, in July 1996, Judge Elizabeth Mattingly had police bring him in, and he spent two days in jail.

### Which crimes are violent

National experts said Hamilton County's 42 percent non-violent population is high. "It's much higher than other parts of the country," said Jess Maghan, director of the Forum for Comparative Correction at the University of Illinois at Chicago.

But a local judge argues that who is violent is a matter of definition. *The Enquirer* based its definitions on standards of the Ohio Sentencing Commission.

"I don't agree with your classification of what's non-violent," said Judge Ralph Winkler, who presides over Hamilton County Common Pleas Court. He has a tough record of incarcerating non-violent criminals like drunken drivers and drug users.

"DUI is dangerous. A large number of my serious cases are committed by people on drugs," he said. "I keep hearing people tell me drug abuse and drug trafficking are victimless crimes. You don't see the wreckage that trails these people into the courtroom. Drugs are a family-killer."

Even people driving with a suspended license are dangerous, Judge Winkler said, because they try to outrace police cars and mow down bystanders.

Most people in jail for petty theft have had many chances to change their ways, another judge said. They are repeat offenders, budding career criminals, said Judge William Mallory Jr. of Hamilton County Municipal Court.

"If they do it time after time after time, what do you do with them?" asked Judge Mallory, who has a tough incarceration record. "Do you put people in jail for stealing? Do you put them in jail so the message gets through to them? Or do you slap them on the wrist and allow them to think it's OK to steal again?"

"Repeat offenders have got to know there's space in jail for them."

He's not as adamant about people who drive without a license after repeated

warnings. They're a hazard, he said, because they often have no insurance and no regard for the court's authority.

"Should they be in jail? Some of my colleagues think so," Judge Mallory said. "It's a tough call."

### Officials ill-informed

Lack of a clear picture of the jail population could be a problem for Hamilton County commissioners as they try to sell their sales tax to voters this fall. The tax would also raise money for police and fire communications equipment and property tax relief.

Commissioner John Dowlin formed a criminal justice coordinating committee four years ago to look at efficient manage-

ment of the jail population. He said the summary reports the committee has been getting from pre-trial services don't go nearly as far in explaining who's in jail.

"We've been looking at them (jail statistics) for four years, but we're not getting this kind of information," he said. "Your numbers are really looking at it in a different way."

## Non-violent inmates up

Asked if he believed the county is making the most efficient use of its jail space, he said, "No."

He and Hamilton County Commissioner Guy Guckenberger said the high number of non-violent inmates is surprising.

"I've been very concerned about properly managing what (jail space) we have," Mr. Guckenberger said. "I'd like to hear more about your statistics from the jailer."

Hamilton County Commission President Bob Bedinghaus, chief proponent of the November sales tax, said he was surprised non-violent offenders make up such a large percentage of those jailed. But he added that he is confident those people need to be locked up.

"We have elected in this community for the past 40 years a combination of prosecutors, sheriffs and judges who are very tough on people who commit crimes," Mr. Bedinghaus said. "It's because there's a willingness to be tough on crime that we have the safe community we have today."

Hamilton County has a reputation for tough sentencing. Its judges commit about 1,900 prisoners to the state penitentiary each year, No. 4 in per-capita commitments behind Cuyahoga, Lucas and Summit counties.

The community is getting safer from murder, rape, robbery and aggravated assault, according to Cincinnati Police Division reports. Violent crimes fell by 16 percent in the first half of 1996 compared with the year before.

On the other hand, crimes such as burglary and larceny continue to climb, by 6 percent and 10 percent, respectively.

## Releasing inmates early

While judges decide who goes to jail, the sheriff has a lot to say about how long they stay.

A federal court order allows Sheriff Leis to begin letting people go after they serve 80 percent of their time if the jail is overcrowded. He has discretion over who is set free.

"What we do is try to avoid releasing violent offenders," the sheriff said. "If we've got non-violent offenders in there, that's who we release."

He also attempts to reduce the population by allowing inmates to earn two days or three days' credit for each day spent doing kitchen duty or supervised community service.

But John Kramer, a sentencing expert at Pennsylvania State University, said it's smarter and more effective to refrain from locking people up in the first place.

"I do believe we should not be in a situation where overcrowding drives these decisions," he said. "I would first look at whether there are people going into jail who you'd be better served doing something different with."

"They're not any more likely to recidivate by not having gone to jail, and you might put them in a situation that is more effective for them," Mr. Kramer said.

These measures will be tested when the new sentencing law kicks in for people convicted of low-level theft and drug felonies. The first cases went before the grand jury for indictment late last month. Officials look to Labor Day weekend for jail crowding as a result.

Though the sheriff thinks some people could be let out of the justice center today without risk, he favors the jail addition, particularly in light of the new sentencing law.

The county actually plans two new jails.

The first facility likely to open is the River City Corrections Center, under construction in Camp Washington. The \$8.8 million, 200-bed jail is funded by the state. Local officials are seeking state permission to boost the count to 224 beds.

A 536-bed addition to the justice center, which the November sales tax would fund, would most likely not open before 1999.

County commissioners were originally planning on a 300-bed jail addition, but they decided to build the maximum possible on the site because the additional cost per bed is low. The total construction bill is \$47.5 million.

"Taxpayers have to recognize the fact that they've got to provide sufficient jail space, they've got to provide law enforcement with the tools to do the job," Sheriff Leis said.

*Mark Braykovich contributed*

# Treatment a cheaper option

BY ANNE MICHAUD

The Cincinnati Enquirer

The two most frequent reasons that people find themselves behind bars in Hamilton County are drunken driving and domestic violence. Together, those crimes account for nearly one in four inmates.

Both crimes have associated treatment programs that can work for people who are willing to change, most experts agree.

The treatment programs are potentially much less expensive than jail. They range from \$10 to \$20 a day in Hamilton County, as opposed to \$65 a day in jail.

Presented with the results of an *Enquirer* examination of the jail population, county commissioners said the two crimes are a good place to focus to resolve a looming crisis of jail overcrowding.

On a typical day, July 11, the jail held 139 people for driving under the influence (DUI) and 201 for domestic violence offenses.

"These results argue for more alternatives (treatment programs)," said County Commissioner John Dowlin. "We especially need to be considering more DUI beds, which are cheaper than full-service beds."

Commissioner Guy Guckenberger said there is probably a need to beef up treatment programs. "I would hope our jail management committee would take a look at this," he said.

In Ohio, drunken driving convictions require mandatory sentences in jail or a locked treatment program — three days for the first offense, 10 for the second, then 30 days and 60 days or more.

*'The judges really advocate treatment programs. These DUIs are pretty much low-risk, non-violent offenders. I don't know that it really accomplishes anything to lock them up.'*

— Jim Looker, attorney

"The judges really advocate treatment programs," said Jim Looker, a local attorney who defends people on DUI charges. "These DUIs are pretty much low-risk, non-violent offenders. I don't know that it really accomplishes anything to lock them up."

"Programs may not be 100 percent successful, but in jail, all they're doing is taking them off the street, and they go right back to doing the same thing."

Bud Meeks, executive director of the National Sheriffs Association, said, "It's ludicrous to put a person in jail for drunk dri-

ving."

Some people fail out of treatment programs. Others do not have the right attitude to start with, and they must do jail time instead.

Commissioner Dowlin said he believes the county's programs are filled to capacity and turning people away.

Talbert House, which runs more than 40 programs and half-way houses, treats DUI offenders from the first conviction through multiple offenses.

On the day of *The Enquirer's* study, Turning Point housed 33 people of a potential 52 in its third-offense program, according to pre-trial services; 105 of a possible 130 were in programs for 3-day, 10-day and 60-plus-day treatment.

Domestic violence programs are harder to find. It was just last year that a new law caused police to begin conducting more in-depth investigations and making arrests in nearly all domestic cases.

In June, the county expanded its so-called juris monitor program which requires the offender to wear an electronic device that alerts the victim when the offender is nearby. On July 11, eight of 20 juris monitors were being used.

County and court officials are also attempting to open a 30-bed treatment program for people convicted on this charge at a locked facility known as 1617 Reading Road.

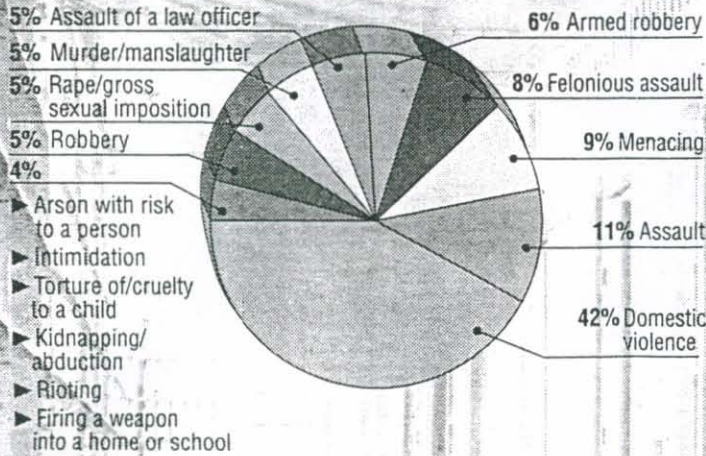
The November sales tax would dedicate \$3 million toward this program and other alternatives.

# Who's behind bars

The Enquirer analyzed the population of those behind bars in Hamilton County jails on July 11, a typical day.

## Violent offenders

Of the 476 inmates charged with a violent crime, roughly half were serving time and half were awaiting a hearing or trial.



## Non-violent offenders

This group of 762 inmates have non-violent histories and are not currently charged with violent crimes.

