

Awaiting trial behind bars

County leads state in inmates held in jail on misdemeanors

By Dave Flessner and Brian Lazenby Staff Writers

EDITOR'S NOTE: Audio and documents about Tennessee jails are available at www.timesfreepress.com.

Hamilton County has more people in jail waiting to go to trial on misdemeanor charges than any other county in Tennessee.

For its size, Hamilton County has more than four times as many inmates awaiting trial on misdemeanor charges behind bars as does Davidson or Shelby counties and far more than Knox County, according to a Chattanooga Times Free Press analysis of data compiled by the Tennessee Department of Correction.

Hamilton County Sessions Court Judge Ron Durby said releasing more people arrested for minor crimes has the potential to be successful.

"We have a lot of misdemeanants in jail that probably shouldn't be there," he said. "Maybe we're setting bonds too high. I don't know."

Inmates, both felons and misdemeanants, awaiting trial in Hamilton County's jails have helped swell the population of the county's downtown jail beyond its 490-bed rated capacity. County officials are preparing to expand the Silverdale Detention Center for the fifth time in the past decade to provide almost three times as many jail beds by 2009 compared to 1994.

Officials hope the Silverdale expansion will help alleviate crowding at the county jail.

"I'd much rather build schools than jails, but we clearly need to have more jail space," said Hamilton County Commissioner Larry Henry, chairman of the County Commission's Security and Corrections Committee. "For the most part, people want to see those who have committed crimes behind bars."

But Hamilton County's jail building boom is outpacing the rise in crime. Since 1994, the number of FBI-reported crimes in Hamilton County is up less than 30 percent while the number of jail beds in Hamilton County has more than doubled. Within the next two years, the county could expand its total jail capacity by another 29 percent, adding up to 408 jail beds at Silverdale.

More than two-thirds of the inmates at the downtown jail and up to a third of those staying at Silverdale are waiting to go on trial, county officials said. They have not had their cases resolved. Most of those inmates can't raise the money for bond, often because of prior convictions or because they were on probation or parole when they were arrested.

While most of the pretrial detainees face felony charges, Hamilton County's jails also held an average of 369 people waiting for trial on more minor misdemeanor charges, according to monthly jail reports for the 12-month period ended Sept. 30.

To limit jail overcrowding, major urban counties in Tennessee release most of those arrested on minor nonviolent charges and monitor their whereabouts before their court date or plea agreement.

But Hamilton County abandoned its pretrial release program last December because the staff costs required to screen, interview and monitor those released proved to be more than the savings. Fewer than 17 people a month were put on the program.

"I can understand why the County Commission is too reluctant to invest money in it," Judge Durby said. "It really depends on how much you are willing to risk and how much you are willing to invest."

JAIL ALTERNATIVES

At the urging of Hamilton County Mayor Claude Ramsey, county commissioners voted in December 2005 to launch a pretrial release program patterned after a decades-old system in Davidson County. Hamilton County spent \$212,000 during 2006 employing screeners to interview and check the backgrounds of those arrested and to monitor those released and awaiting trial on nonviolent misdemeanor charges.

By the end of 2006, county commissioners scrapped the program after two of the five Sessions Court judges — Bob Moon and David Bales — declined to approve most of those recommended for release from jail.

Judge Moon said he was reluctant to participate in the alternative bond program when it was initiated because the majority of those released under the program committed another violation days later.

"The recidivism rate from the Hamilton County alternative bond program was enormous," he said.

Sessions Court Judge Christie Mahn Sell said judges can't worry about the jail population when deciding how to sentence a defendant or how to set a defendant's bond.

"I don't believe it is appropriate for me to change my ruling because there might be a bed problem at the jail," she said. "The jail is a function of the sheriff's office. It is not a function of the judiciary."

Other General Sessions Court judges were more favorable toward releasing those accused of minor crimes. But the number of inmates put on the pretrial release program during 2006 failed to be enough to pay for the extra help needed to interview and screen such people.

"It never really got off the ground, and there wasn't much of a plug to pull (when the program was ultimately scrapped)," Hamilton County Chief Sheriff Deputy Allen Branum said. "The implementation from each court was a lot different."

Hamilton County estimates it costs \$59.24 a day to house each inmate in its downtown jail. In the current fiscal year, Hamilton County plans to spend more than \$22.5 million to operate both its downtown jail and Silverdale. The amount does not include many of the health care costs to treat sick or injured prisoners.

"It's definitely cheaper to release people on these type of programs than it is to house them at Silverdale or the county jail," said Shawn Johnson, Hamilton County's criminal justice public safety coordinator. "That's why we started the program, but it just didn't work out."

COMPARING COUNTIES

Despite the reservations here on releasing pretrial detainees, officials in Tennessee's other major counties insist their programs are working well.

Davidson County General Sessions Court Judge Michael Mondelli said the pretrial release program in Nashville since the 1970s has worked effectively.

"There are so many of these petty offenses committed by people that don't need to be in jail while they are waiting for a court hearing," he said. "We can't use precious jail space for these type of crimes."

Bill Powell, criminal justice coordinator in Shelby County, said individuals released from jail in Memphis' pretrial release program show up for their court dates more frequently than those released on bond.

"The pretrial release program tends to make it fairer for everyone because it takes a lot of the money out of the system and allows more people who don't need to be in jail to get out without having to pay a bond," he said.

"You don't have an infinite amount of space in jail so you need to decide who should be there and who shouldn't. These programs help bring a more systematic, rational approach to deciding who should be in jail," he said.

In a 2003 study, Mr. Powell estimates Shelby County's pretrial release and other community corrections programs saved the county more than \$3.2 million.

In Davidson County, 556 people were kept out of jail under the pretrial release program last month. Earl "Jim" Sadler, supervisor of the program, estimates that saved the county at least \$139,000 in jail expenses during October.

Shelby, Davidson and Knox counties use a point system to prioritize releases. Sheriff's department employees or court screeners review each individual's charges and prior records to decide who should be released, according to program administrators in each county.

By contrast, the magistrates who set bonds for those brought to the Hamilton County Jail at night and on weekends don't have computer access to criminal records to evaluate the background of those who appear before them.

"We're working on that," said Yolanda Mitchell, who took over as Hamilton County's chief judicial commissioner this month.

LINGERING CONCERNS

Hamilton County Sessions Court Judge Clarence Shattuck said he believes house arrest programs for people awaiting trial can be effective. But county officials dropped it in 1997 after Evay Markel Kelley killed 19-year-old Todd Petersen while on the house arrest program.

Petersen's family sued the county for \$1.25 million in a wrongful death lawsuit, claiming the county failed to adequately monitor those on house arrest. The lawsuit ultimately was dismissed, but concerns remain about releasing individuals who might go out and commit other crimes.

Judge Shattuck said he would not hesitate to use the house arrest program again, despite being the judge who released Mr. Kelley into the program.

"We don't have a crystal ball to see what someone is going to do," he said. "That sort of thing could happen with an (own recognizance) bond or a pretrial release program."

Judge Shattuck said the alternative bond program could work, but there were a lot of reasons to make a defendant ineligible. The most common reason is if the defendant has failed to appear in court.

Most of those sentenced to Silverdale — even those awaiting trial on other charges — have been convicted of other crimes in the past, Judge Shattuck said.

"A guy really has to work to get to the (Silverdale) workhouse," Judge Shattuck said. "Those that are out at the workhouse, you can bet your bottom dollar that for 95 percent it's probably the third time they've been convicted. (The district attorney's) office recommends almost all first offenders get some kind of suspended sentence, and we generally approve those."

Criminal Court Judge Barry Steelman said he believes many of those classified as pretrial misdemeanants are parole or probation violators or have had their initial charges reduced from more serious crimes.

"I feel like a lot of the felony cases may be reduced down to misdemeanors, and those people are picked up and held without bond," he said. "Technically, they would be pretrial inmates, but their case has been touched at least once. Those people may be those who are pending a hearing with a probation officer."

Judge Durby said a high number of pretrial misdemeanants in jail could be the result of repeat offenders, but he acknowledged that the alternative bond program may be worth revisiting.

"It's an effective program, but you can't stop people from committing a crime," he said.

Judge Moon said he doesn't believe any program to ease jail overcrowding by releasing inmates is good for the community.

"Any program that releases criminals back on the street may be good for government, but it is bad for citizens," he said.

Mr. Henry said any attempt to bring back a pretrial release program will require changes from the original design to make it work better.

"There were just too many ways with these pretrial releases that people could skip out and you would never see them again," he said.

BUILDING MORE JAILS

To house the growing inmate population, Hamilton County commissioners have agreed to spend \$4 million in the next year to add 128 beds at Silverdale. But county officials say that won't be enough.

"If we had that open today, the jail would still be over capacity," county corrections superintendent Tommie Standifer told county commissioners during a recent tour of the county workhouse. "We're going to need more beds."

County officials are negotiating with Corrections Corporation of America, which operates the Silverdale Detention Center for Hamilton County, about plans to upgrade and expand the facility by up to 280 more beds beyond the already planned 128-bed addition.

"Everything's still in discussion," Mr. Ramsey said.

But additional beds may be needed to keep the downtown jail certified. In September, a crunch of arrests and trial delays swelled the county jail's census to 745 one day — or 255 inmates above the jail's rated capacity.

"Some days, we really have to stack people in here," Capt. John Swope said during a recent tour of holding cells in the downtown jail.

In October, the Tennessee Corrections Institute's Board of Control decided not to decertify Hamilton County's jail despite the overcrowding after officials pledged to do more to expand facilities and try to limit some jail stays.

In 2007, the average inmate has stayed in the downtown county jail for 36 days, according to Hamilton County Deputy Chief Jim Hart. Those charged with misdemeanors who did not make bond have spent an average of 13 days prior to their trial or sentencing. General Sessions Court judges said they conduct bond hearings on all misdemeanor cases within 10 days of when a person is arrested.

But 34 prisoners last year were in the jail for longer than a year just waiting for their case to come to trial, Mr. Hart said.

Mr. Henry said his committee is continuing to study options to cope with jail overcrowding without having to raise local taxes.

"This is a problem that has been going on for some time and unfortunately will probably be with us for some time in the future," he said.

Reporter Matt Wilson contributed to this report.

E-mail Dave Flessner at

dflessner@timesfreepress.com

E-mail Brian Lazenby at
blazenby@timesfreepress.com

TYPES OF CRIME

A misdemeanor is a crime punishable with a maximum jail sentence of 11 months and 29 days in the county jail. The most common misdemeanors are first-offense drunken driving, petty theft, disorderly conduct, trespass, simple assault and vandalism.

A felony is a more serious crime, usually punishable with incarceration in a state prison. The FBI list of felonies and serious crimes includes murder, rape, robbery, aggravated assault, burglary, larceny, auto theft and arson.



Staff Photo by Dan Henry

Inmates sleep shoulder to shoulder in a holding cell within the quarterdeck of the Hamilton County Jail while waiting to join the general population upstairs. The jail is in its 18th year of overcapacity, with inmates sleeping on temporary beds in regular holding cells as well as a converted recreation room.

| INMATES WAITING FOR TRIALS | HAMILTON County | KNOX County | SHELBY County | DAVIDSON County |
|-----------------------------------|--|------------------------|----------------------|------------------------|
| | 4,423 | 3,831 | 2,844 | 1,926 |
| | Rate per 100,000: 117.8 | Rate per 100,000: 77.5 | Rate per 100,000: 26 | Rate per 100,000: 27.7 |
| | Source: Tennessee Department of Correction | | | |



Staff Photos by Dan Henry Corrections officers prepare to distribute commissary items to inmates housed in the Silverdale Detention Center.





Inmates wait in a holding cell at the Silverdale Detention Center's intake/discharge area.



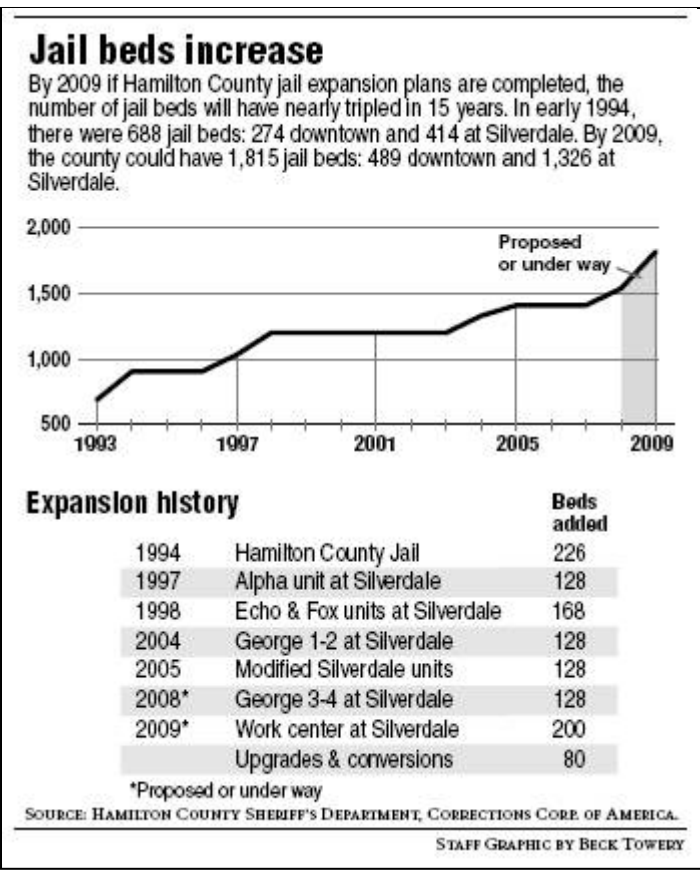
Ron Durby



Christie Mahn Sell



Bob Moon



ARREST/RELEASE

1,866 Number of people arrested last month in Hamilton County

1,127 Number of people arrested who were released on bonds

1,035 Number of people who made bond with a private bond company

92 Released on own-recognizance bonds

Source: October report by Hamilton County office of criminal justice public safety.

COUNTY JAIL COSTS

\$12.3 million — Amount to be paid this year to Corrections Corporation of America to operate Silverdale Workhouse

\$10.3 million — Sheriff's department budget to operate the downtown jail

\$4 million — Budget for 128-bed expansion under way at Silverdale

\$59.24 — Daily cost to house an inmate

Sources: Hamilton County budget documents, Hamilton County Sheriff's Department