



Washington State Joint Legislative Task Force on Jail Standards

MEETING MINUTES

September 15, 2022 2:30 – 5:00 p.m.

1.	<p>Welcome</p> <ul style="list-style-type: none">• Staff welcomed Task Force members to the second meeting of the Joint Legislative Task Force on Jail Standards.• Staff reviewed the meeting agenda. The Task Force adopted the agenda for the September 15th meeting.• Establishment of quorum. See list below.
2.	<p>Overview of Washington Jails</p> <p>An introduction to Washington jails, Jamie Tugenberg</p> <p>Staff member, Jamie Tugenberg, presented on Washington jails, including population statistics and trends, common issues and challenges in jail operations, and some ongoing reform efforts in the state. Refer to the presentation materials on page 4 for more details.</p>
3.	<p>Overview of Jail Conditions, Standards, and Oversight</p> <p>Introduction to jail standards and oversight, Jamie Tugenberg</p> <ul style="list-style-type: none">• Staff member, Jamie Tugenberg, presented an overview of jail standards and oversight in the United States and a history of standards in Washington. Refer to the presentation materials on page 24 for more details. <p>Follow-up items:</p> <ul style="list-style-type: none">• Task Force members expressed interested in learning more about why the Legislative Audit Review Committee recommended eliminating the Corrections Standards Board in 1987. Staff will seek the 1987 report.• Members inquired whether or not jail outcomes differed in states with mandatory standards compared to states lacking standards or those with voluntary measures. Specifically, members asked if there is additional information about impacts on jail suicide rates and the availability of space in jails. <p>Defining jail conditions, introduction to the WASPC accreditation standards – John McGrath & Ric Bishop</p> <p>John McGrath and Ric Bishop of the Washington Association of Sheriffs and Police Chiefs (WASPC) provided an overview of how conditions of confinement are defined and introduced the association’s accreditation standards. WASPC used Washington’s old standards as a basis for developing</p>

	the accreditation standards. Refer to the presentation materials on page 45 for more details.
4.	<p>Task Force Administration</p> <p>Meeting Minutes</p> <ul style="list-style-type: none"> Staff reviewed the previous meeting minutes. Task force members approved the August 17th meeting minutes. <p>Chair</p> <ul style="list-style-type: none"> Staff solicited volunteers or nominations for a legislative member to serve as Chair as required by the Task Force’s authorizing legislation. Representative Jesse Young nominated Senator Rebecca Saldaña to serve as chair. Senator Saldaña accepted the nomination. Task force members voted and approved Senator Saldaña as chair. Staff solicited volunteers or nominations for two to three task force members to serve as Co-Chair as suggested by Senator Saldaña. Dr. Marc Stern nominated Ethan Frenchman to serve as co-chair. Ethan Frenchman accepted the nomination. Task force members voted and approved Ethan Frenchman as chair. Hailey Ockinga volunteered to serve as a second co-chair. Task force members voted and approved Hailey Ockinga to serve as co-chair. <p>Mandatory Open Public Meetings and Public Records Training</p> <ul style="list-style-type: none"> Assistant Attorneys General, Jennifer Steele & Morgan Damerow provided the group with a presentation covering the Public Records Act and the Open Public Meetings Act. Refer to the presentation materials on page 52 for more details.
5.	<p>Next Steps and Closing</p> <ul style="list-style-type: none"> Next meeting Wednesday, October 19 and tour of South Correctional Entity (SCORE jail). Staff thanked everyone for their time and engagement.

Name	Task Force Affiliation	Organization	Present
Rep. Jesse Young	House of Representatives	Washington State Legislature	Yes
Rep. Kirsten Harris-Talley	House of Representatives	Washington State Legislature	Represented by Mckaylia Marshall
Sen. Perry Dozier	Senate	Washington State Legislature	Yes
Sen. Rebecca Saldaña	Senate	Washington State Legislature	Yes
Chanel Rhymes	Entities involved with or interested in the operation of local jails	Northwest Community Bail Fund	Yes
Christopher Swaby	Defense attorneys	The Swaby Law Firm	Yes

Draft pending approval of task force

Devon Schrum	Jail administrators	Washington Association of Sheriffs and Police Chiefs	No
Eliana Macias	Cities	Yakima City Councilmember	No
Ethan Frenchman	State designated protection and advocacy agency	Disability Rights Washington	Yes
Hailey Ockinga	Persons with lived experience	Beyond These Walls	Yes
Judge Jeffrey Smith	District and municipal courts	Spokane County District Court	Yes
Jordan Landry	Persons with lived experience	Community Representative	No
Laurel Jones	Statewide civil legal aid organization	Columbia Legal Services	Yes
Lisa Janicki	Counties	Skagit County Commissioner	Yes
Dr. Marc Stern	Medical and mental health providers	University of Washington, School of Public Health	Yes
Norma Tillotson	Prosecutors	Washington Association of Prosecuting Attorneys	Yes
Judge Sharonda Amamilo	Superior courts	Thurston County Superior Court	Yes

INTRODUCTION TO
WASHINGTON
JAILS

AGENDA

- Background on Washington Jails
- Washington Jail Population Statistics and Trends
- Common Issues and Challenges in Washington Jail's operations and conditions
- Reform efforts in Washington

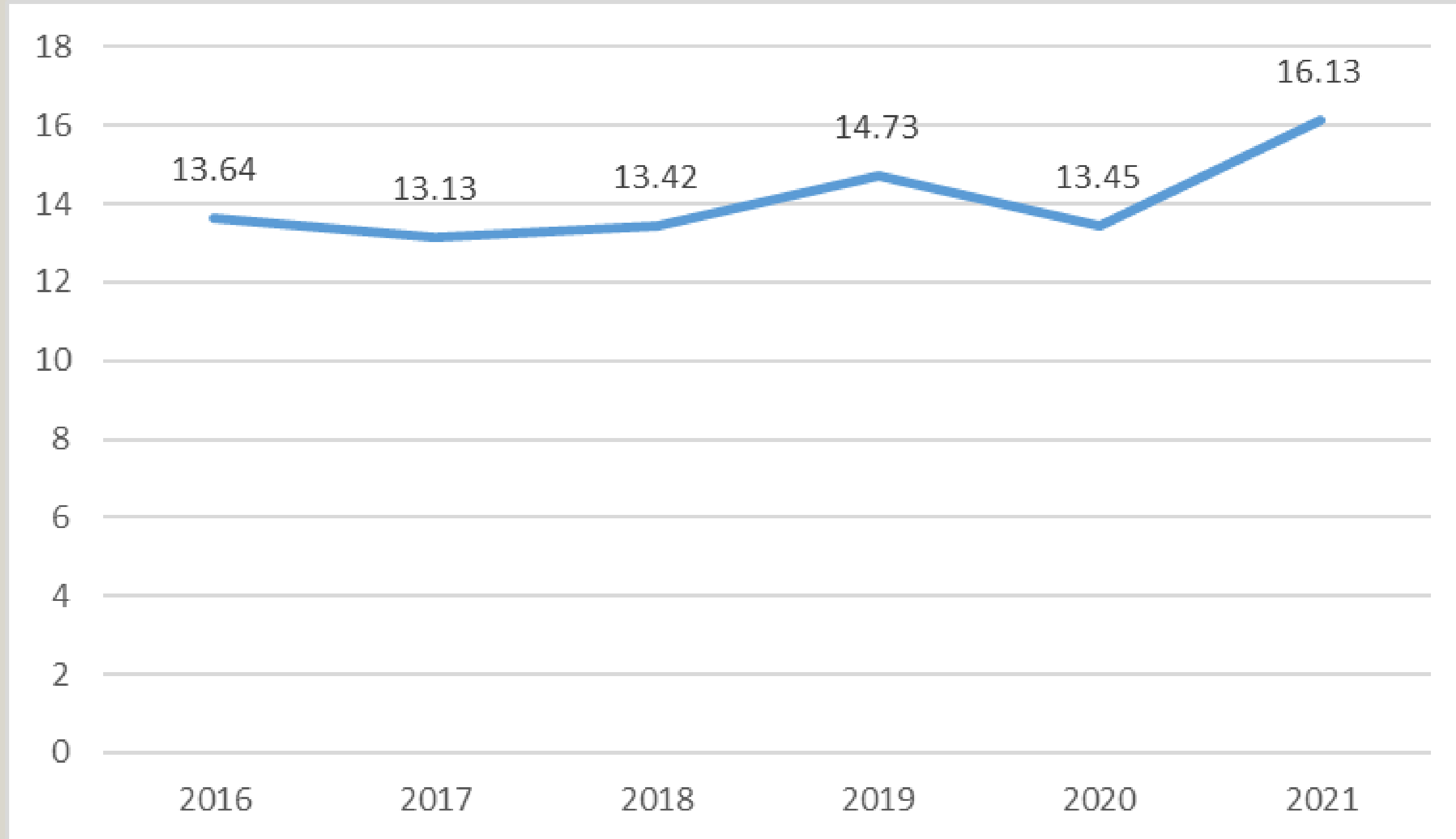
WASHINGTON JAIL POPULATION STATISTICS

In 2021, approximately **124,247 people** were admitted into a Washington jail.

On any given day, **7,547 people** were detained in a Washington jail.

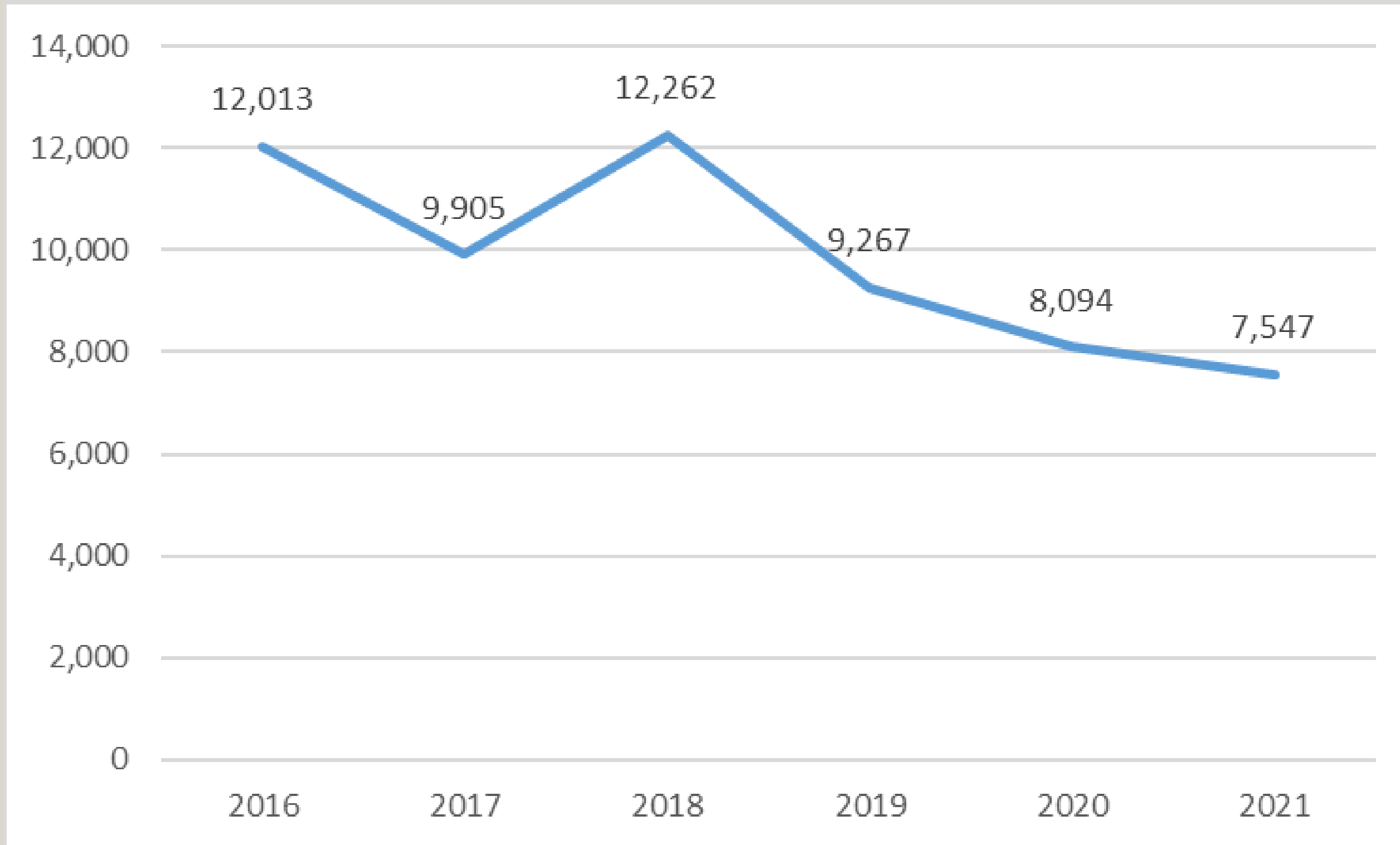
On average people stayed **16 days** in a Washington jail.

STATEWIDE JAILS- AVERAGE LENGTH OF STAY, 2016-2021



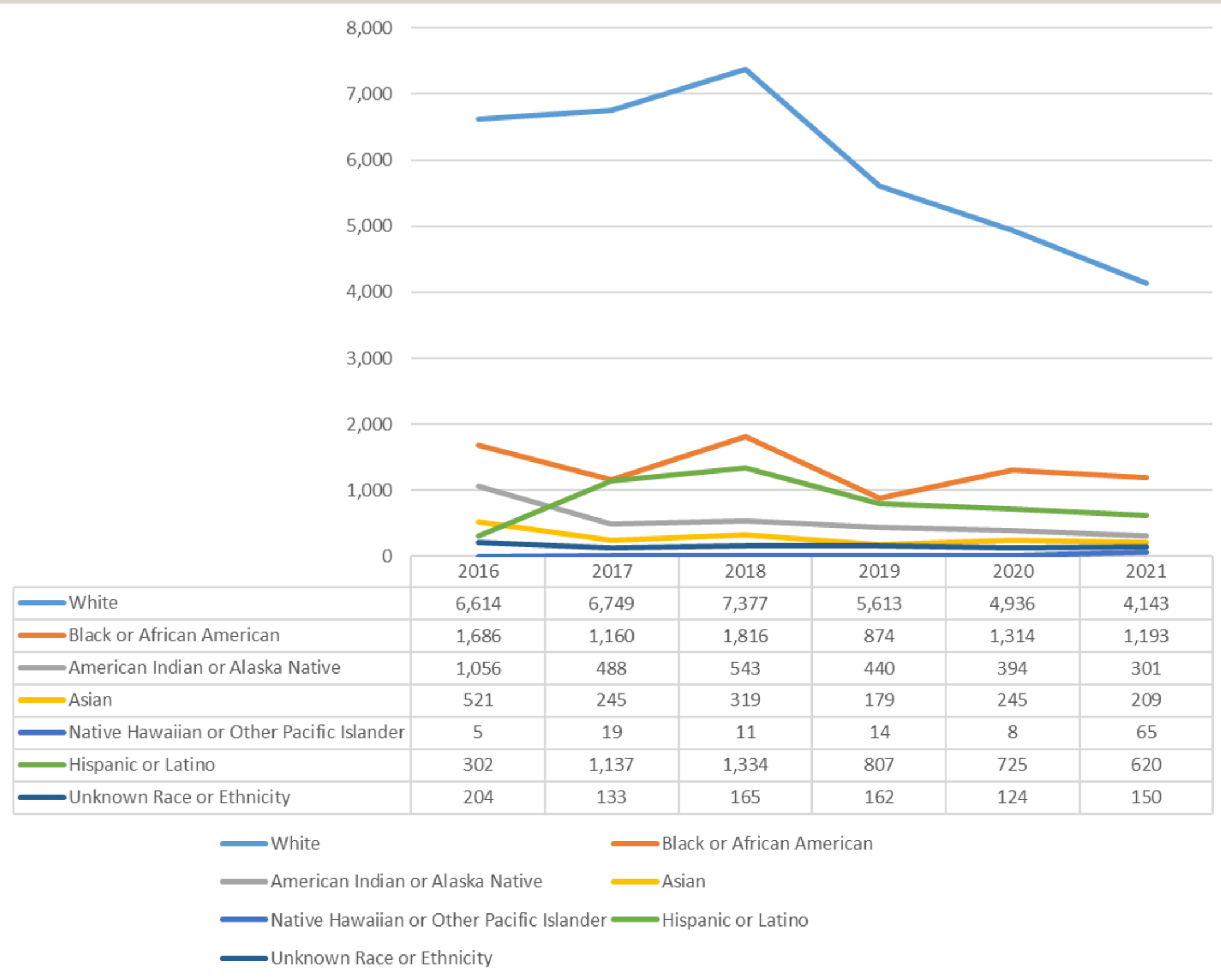
Source: AGO analysis of WASPC's Annual Jail Statistics

STATEWIDE JAILS- AVERAGE DAILY POPULATION, 2016-2021



Source: AGO analysis of WASPC's Annual Jail Statistics

STATEWIDE JAILS- AVERAGE DAILY POPULATION, BY RACE, 2016-2021

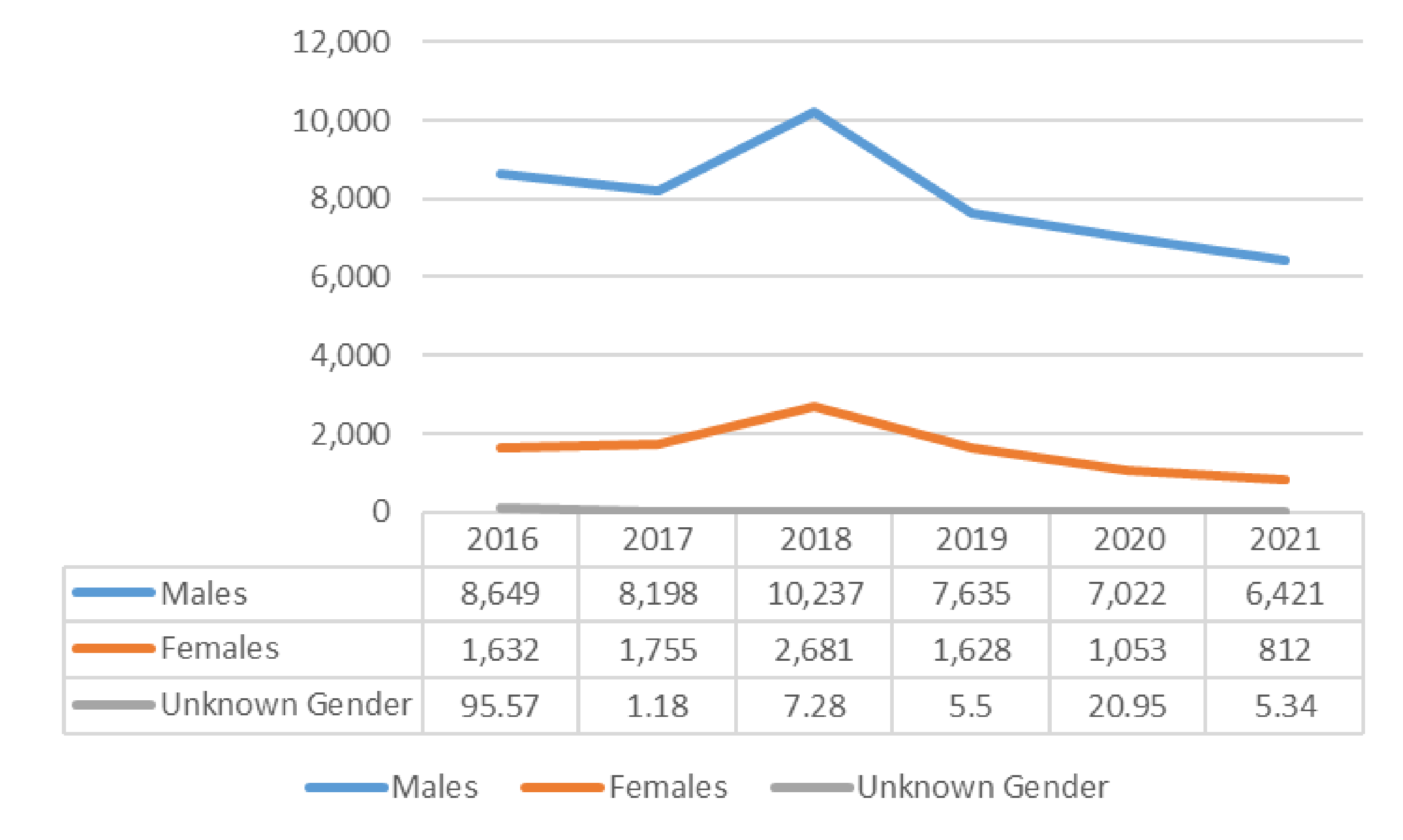


Source: AGO analysis of WASPC's Annual Jail Statistics

STATEWIDE JAILS- PERCENTAGE OF AVERAGE DAILY POPULATION, BY RACE, 2021

Statewide Jails, Percetage of Average Daily Population, By Race						
White	Black or African American	American Indian or Alaska Native	Asian	Native Hawaiian or Other Pacific Islander	Hispanic or Latino	Unknown Race or Ethnicity
56%	16%	4%	3%	1%	8%	2%
2020 Census Population Statistics, Washington State, By Race						
White	Black or African American	American Indian or Alaska Native	Asian	Native Hawaiian or Other Pacific Islander	Hispanic or Latino	Unknown Race or Ethnicity
61.6%	12.4%	1.1%	6%	0.2%	18%	NA

STATEWIDE JAILS- AVERAGE DAILY POPULATION, BY GENDER, 2016-2021



Source: AGO analysis of WASPC's Annual Jail Statistics

COMMON ISSUES AND CHALLENGES IN WASHINGTON JAIL'S OPERATIONS AND CONDITIONS

- Comprehensive health care services
- In-custody suicides rates
- Data collection and reporting
- Disporportionate impacts to individuals with disabilities and on the basis of race, ethnicity, and gender

WASHINGTON JAIL OPERATIONS AND CONDITIONS - HEALTH CARE

Washington jails struggle to provide comprehensive health care services that meet the needs of their population including:

- Having staffing to provide 24/7 medical, dental, and mental health care;
- Having proper screenings to identify disabilities, mental illness, and traumatic brain injuries;
- Providing access to prescription medication; and
- Providing medications for opioid use disorder (MOUD) treatment to every individual.

WASHINGTON JAIL OPERATIONS AND CONDITIONS - IN-CUSTODY SUICIDES

Suicide is the leading cause of death both in Washington jails and nationally.

Between 2000 and 2019, the average rate of suicide in jails in Washington was 57 per 100,000.

In contrast, the national average was 43 per 100,000.

WASHINGTON JAIL OPERATIONS AND CONDITIONS - DATA COLLECTION

There are some concerns with datasets from Washington jails:

- Consistency and detail of reporting
- Reporting on race, ethnicity, and gender
- Lack of reporting on adverse events including use of force and use of solitary confinement

Data collection on in-custody deaths in jails is limited.

- The Bureau of Justice Statistics does not collect data that allows for analysis at the facility level.
- Jails interpret the bounds of state disclosure laws differently.
- Newly passed legislation seeks to add transparency to jail deaths in Washington through fatality reviews.

WASHINGTON JAIL OPERATIONS AND CONDITIONS - DISPARITIES

Conditions and operations in Washington jails have disproportionate impacts on individuals with disabilities and on the basis of race, ethnicity, and gender.

- Disability Rights Washington has documented concerns surrounding the treatment of individuals with disabilities, including inaccessible facilities, prolonged use of solitary confinement, and inadequate programming.
- A 2021 King County audit on the Department of Adult and Juvenile detention found significant racial disparities in housing and discipline practices.
- Between 2005 and 2015, women represented 15% of the jail population but 22% of the deaths that occurred in custody.

REFORM EFFORTS

- Funding from the state to improve mental health services and MOUD
- Disability Rights Washington - Amplifying Voices of Incarcerated Individuals with Disabilities Project
- Rural Jail Network
- Re-Entry Advisory Workgroup

QUESTIONS?

SOURCES

- Slide 1:
 - 2021 AGO Survey of Washington Jails;
 - AGO analysis of WASPC 2021 Voluntary Data Collection
- Slides 5 - 9: AGO analysis of WASPC 2021 Voluntary Data Collection
- Slide 11:
 - "County Jails, Statewide Problems," Disability Rights Washington, 2016.
<https://www.disabilityrightswa.org/reports/county-jails-statewide-problems/>;
 - Medication for opioid use disorder (MOUD) in jails program fact sheet, Washington State Health Care Authority, 2022.
- Slide 12: Carson, E. Ann. "Suicide in Local Jails and State and Federal Prisons, 2000-2019." Bureau of Justice Statistics- Statistics Tables , 2021.
<https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/sljsfp0019st.pdf>.

SOURCES CONT.

- Slide 13: AGO analysis of WASPC voluntary data collection;
 - WASHINGTON STATE SUPREME COURT GENDER AND JUSTICE COMMISSION, 2021 GENDER JUSTICE STUDY: EXECUTIVE SUMMARY AND RECOMMENDATIONS (2021).
<https://www.courts.wa.gov/?fa=home.sub&org=gjc&page=studyReport&layout=2&parent=study>.
- Slide 14:
 - Mortality in Local Jails, 2000-2019, Statistical Table. E. Ann Carson. Bureau of Justice Statistics, 2021.;
 - “Gone but Not Forgotten - The Untold Stories of Jail Deaths in Washington.” Columbia Legal Services, 2019. <https://columbialegal.org/wp-content/uploads/2019/05/Gone-But-Not-Forgotten-May2019.pdf>.
- Slide 15:
 - “County Jails, Statewide Problems,” Disability Rights Washington, 2016.
<https://www.disabilityrightswa.org/reports/county-jails-statewide-problems/>;
 - King County Auditor's Office, Grant Daley, Peter Heineccius, Megan Ko, and Brooke Leary, “Adult Jails Need Risk-Based Approach to Improve Safety, Equity § (2021).”
[https://kingcounty.gov/~media/depts/auditor/new-web-docs/2021/jail-safety-2021/jail-safety-2021.ashx?la=en](https://kingcounty.gov/~media/depts/auditor/new-web-docs/2021/jail-safety-2021/jail-safety-2021.ashx?la=en;);
 - “Gone but Not Forgotten - The Untold Stories of Jail Deaths in Washington.” Columbia Legal Services, 2019. <https://columbialegal.org/wp-content/uploads/2019/05/Gone-But-Not-Forgotten-May2019.pdf>.

SOURCES CONT.

- Slide 16:
 - Washington Office of Financial Management, 2021 - 23 enacted budgets
 - Disability Rights Washington AVID Project: <https://www.disabilityrightswa.org/programs/avid/>
 - Washington Rural Jail Network: <https://labs.wsu.edu/wrjn/>
 - Re-Entry Advisory Workgroup: https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=HCA%20Report%20-%20Re-Entry%20Community%20Services%20Workgroup%20Progress_1f8a695a-540f-4925-a6c2-6728a3c1616c.pdf

INTRODUCTION TO
JAIL STANDARDS
AND OVERSIGHT

AGENDA

- Independent Correctional Oversight in the United States
- Jail Standards in the United States
- History of Jail Standards and Oversight in Washington State
- Policy actions to improve jail conditions across the United States

INDEPENDENT CORRECTIONAL OVERSIGHT
IN THE UNITED STATES

INDEPENDENT CORRECTIONAL OVERSIGHT IN THE UNITED STATES

Department of Corrections	Independent Commission	Sheriffs Association	State Department of Health
<ul style="list-style-type: none"> • Illinois • Indiana • Iowa • Kentucky • Maine • Massachusetts • Michigan • Minnesota • New Jersey • North Dakota • Ohio • Pennsylvania • South Carolina • Virginia • Wisconsin 	<ul style="list-style-type: none"> • Arkansas • California • Maryland • Nebraska • New York • Tennessee • Texas 	<p>Mandatory Standards Established through Legislation</p> <ul style="list-style-type: none"> • Florida <p>Voluntary Standards Developed by Association</p> <ul style="list-style-type: none"> • Idaho • Oregon • Utah • Washington 	<ul style="list-style-type: none"> • North Carolina • Oklahoma

INDEPENDENT CORRECTIONAL OVERSIGHT

Many of these independent correctional oversight entities engage in a number of functions:

- Regulation
- Audit
- Accreditation
- Investigation
- Monitoring
- Reporting
- Legal
- Legislative advocacy

INDEPENDENT CORRECTIONAL OVERSIGHT

Additionally, many oversight entities help jails with:

- Technical assistance
- Facility analysis
- Staffing analysis
- Data collection
- Policy analysis
- Securing funding

MINIMUM JAIL STANDARDS

MINIMUM JAIL STANDARDS

Minimum jail standards typically set a floor, reflecting minimum legal requirements and competent correctional practices.

Thirty-seven states have mandatory standards established through legislation.

Local Sheriff Associations have developed voluntary standards.

National organizations have also developed standards for corrections.

MINIMUM JAIL STANDARDS

General Principles	Intake and Classification	Conditions of Confinement	Rules of Conduct and Discipline	Personal Security	Health Care
<ul style="list-style-type: none"> • Definitions 	<ul style="list-style-type: none"> • Admission Procedures • Orientation • Release Procedures • Classification Plan 	<ul style="list-style-type: none"> • Physical plant • Housing • Maximum facility capacity • Food Services • Safety & Emergency procedures • Sanitation • Commissary 	<ul style="list-style-type: none"> • Discipline • Administrative Segregation 	<ul style="list-style-type: none"> • Supervision • Security • Use of force • Use of restraints • Suicide prevention • Prison Rape Elimination Act 	<ul style="list-style-type: none"> • Medical • Dental • Mental Health Care • Substance Abuse Treatment
Personal Dignity	Minors in Jail	Rehabilitation and Reintegration	Rights	Administration and Staffing	Accountability and Oversight
<ul style="list-style-type: none"> • Clothing • Personal hygiene • Bedding and linen 	<ul style="list-style-type: none"> • Intake • Classification • Release procedures • Education • Recreation • Pregnant minors 	<ul style="list-style-type: none"> • Employment • Mail Procedures • Telephone • Visitation • Social Service Programs, Education, Library, Religious Services • Recreation and leisure time 	<ul style="list-style-type: none"> • Grievance procedures • Voting • Access to the courts and counsel 	<ul style="list-style-type: none"> • Administration • Personnel • Records • Reporting 	<ul style="list-style-type: none"> • Internal accountability • Construction plans • Inspections • Compliance & Variances

OTHER ESTABLISHED CORRECTIONAL
STANDARDS

American Correctional Association

- Publishes 22 operational standards for correctional practice.
- Offers accreditation program for jails and prisons.

American Bar Association

- Published standards to promote the safety, humaneness, and effectiveness of correctional facilities.

National Commission on Correctional Health Care

- Publishes standards for health services in correctional settings.
- Offers accreditation program for jails and prisons.

U.S. Marshals

- Developed performance-based standards to review non federal facilities that house federal detainees.

JAIL STANDARDS AND OVERSIGHT IN WASHINGTON

The Washington Corrections Standards Board, 1981 to 1987

The Board was led by a local Sheriff, and members included the Attorney General, state legislators, local elected officials, prosecutors, state department heads, and the director of corrections as a ad hoc member.

The Washington State Jail Commission gathered monthly population data and held 28 public meetings to draft the initial set of standards over the course of five years.

JAIL STANDARDS AND OVERSIGHT IN WASHINGTON

The Washington Corrections Standards Board, 1981 to 1987

These standards formed the basis for the Board to inspect jails on at least an annual basis.

The Board had authority to enforce jail standards, close jails for deficiencies, distribute construction funds, and gather jail population data.

The Board consulted with local jails to bring them back to compliance.

JAIL STANDARDS AND OVERSIGHT IN WASHINGTON

The Washington Corrections Standards Board, 1981 to 1987

In 1987, the Legislature eliminated the Board based upon the recommendation from the Legislative Audit Review Committee.

This decision was despite opposition from the Washington Association of Sheriffs and Police Chiefs, Jail administrators, the American Civil Liberties Union, and the Department of Corrections.

When the board was eliminated, the Legislature passed the City and County Jails Act which directed all units of government that own or operate adult correctional facilities to develop standards for jail operations.

JAIL STANDARDS AND OVERSIGHT IN WASHINGTON

The Current State of Standards

In June 2022, the AG's Office requested information on jail standards from 53 jails across the state. Twenty-three, or 43% responded.

Standards	Custody Manual	Unable to Locate/No Formal Standards Established	Other
<ul style="list-style-type: none">• Cowlitz County• Ferry County• Franklin County• Issaquah• Jefferson County• Mason County• Okanogan County• Snohomish County• Thurston County• Whatcom County	<ul style="list-style-type: none">• Benton County• Garfield County• Issaquah• Lewis County• Skagit County• Snohomish County	<ul style="list-style-type: none">• King County• Kirkland• Chelan Regional• Stevens County	<ul style="list-style-type: none">• Enumclaw• Kitsap County• Kent• Marysville• Puyallup

JAIL STANDARDS AND OVERSIGHT IN WASHINGTON

The Current State of Standards

The Washington Association of Sheriffs and Police Chiefs has an established set of standards and runs an accreditation program.

County	Regional	City
Clallam, Franklin, Okanogan, Snohomish, Spokane	South Correctional Entity Jail (SCORE)	Kent

POLICY ACTIONS TO IMPROVE JAIL CONDITIONS

California

2019 - passed legislation prohibiting jails from charging a fee for durable medical equipment and fees for medical and dental visits initiated by incarcerated individuals in a city or county jail.

Connecticut

2020 - passed legislation eliminated charges for prison and jail phones calls for all incarcerated individuals and their friends and families.

Ohio

2021 - allocated \$50 million to support local jail renovations.

Colorado & New York

2021 - passed legislation limiting the use of restrictive housing for incarcerated individuals in county jails.

QUESTIONS?

SOURCES

- Slides 4-6, 8: Michele Y Deitch, But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States, 47 American Journal of Criminal Law 207 (Summer 2020).
- Slide 9: AGO analysis of the following established standards: California, Illinois, Indiana, Massachusetts, Pennsylvania, Ohio, Wisconsin, Minnesota, Virginia, WASPC, Texas
- Slide 11:
 - American Correctional Association
 - American Bar Association
 - National Commission on Correctional Health Care
 - U.S. Marshals
- Slides 12-14:
 - AGO bill analysis
 - Demos, Nicholas. "Future Jail - Professionally Managed Corrections Center That Controls Its Population." Future Jail - Professionally Managed Corrections Center That Controls Its Population | Office of Justice Programs, 1984. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/future-jail-professionally-managed-corrections-center-controls-its>.

SOURCES

- Slides 15-16: AGO analysis of March and June 2022 survey responses.
- Slide 18:
 - ACLU of Northern California, October 8, 2019. <https://www.aclunc.org/news/california-become-first-state-stop-charging-copays-jails-and-prisons-after-governor-signs-new#:~:text=AB%2045%2C%20state%20legislation%20introduced,charging%20copays%20in%20county%20jails>.
 - Connecticut SB 1202, §§52-53 Free Phone Calls For Inmates, <https://www.cga.ct.gov/2021/BA/PDF/2021SB-01202-R02SS1-BA.PDF>
 - “Governor DeWine Announces \$50 Million in Funding to Rebuild or Expand Six Local Jails.” Mike DeWine - Governor of Ohio, October 29, 2021. <https://governor.ohio.gov/media/news-and-media/Governor-DeWine-Announces-50-Million-in-Funding-to-Rebuild-or-Expand-Six-Local-Jails-10292021#:~:text=A%20total%20of%20%2450%20million,Governor%20DeWine%20in%20December%202020>.
 - Colorado General Assembly, HB21-1211 Regulation of Restrictive Housing in Jails, 2021 Regular session, <https://leg.colorado.gov/bills/hb21-1211>.
 - New York State SB S2836, Restricts the use of segregated confinement and creates alternative therapeutic and rehabilitative confinement options, 2021-2022 Legislative Session, <https://www.nysenate.gov/legislation/bills/2021/s2836>.

Title 289 WAC
CORRECTIONS STANDARDS BOARD
(Formerly: Jail Commission)

Chapters

289-02	Introduction and definitions.
289-04	Organization and methods of operation.
289-06	Access to public records.
289-10	Physical plant standards for special detention and work release facilities.
289-12	Physical plant standards.
289-13	Jail construction funding procedures.
289-14	Custodial care standards—Administration.
289-15	Custodial care standards—Safety.
289-16	Custodial care standards—Operations.
289-18	Custodial care standards—Security.
289-19	Custodial care standards—Prisoner conduct.
289-20	Custodial care standards—Health and welfare.
289-22	Custodial care standards—Services and programs.
289-24	Custodial care standards—Communications.
289-26	Custodial care standards for special detention facilities.
289-28	Custodial care standards for work release facilities.
289-30	Custodial care standards—Enforcement procedures.

Chapter 289-02 WAC

INTRODUCTION AND DEFINITIONS

WAC

(4) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed and used for housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(5) "Day room" means an area to which prisoners have unrestricted access during all or part of a day for leisure, dining, hygiene, or similar activities. This definition does not include areas specifically designed for physical exercise.

(6) "Detention facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(7) "Dormitory" means a secured sleeping and day room area occupied by more than one prisoner, provided, that the term "dormitory" shall not include a single cell presently operated as a cell and originally designed for single occupancy.

(8) "Governing unit" means the city and/or county or any combination of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(9) "Holding facility" means a facility operated by a governing unit primarily designed, staffed and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentenc-

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CONDITIONS OF CONFINEMENT

The Court must examine the effect upon inmates of the conditions of the physical plant (lighting, heat, plumbing, ventilation, living space, noise levels, recreation space); sanitation (control of vermin and insects food preparation, medical facilities, lavatories and showers, clean places for eating, sleeping, and working); safety (protection from violent, deranged, or diseased inmates, fire protection, emergency evacuation); inmate needs and services (clothing, nutrition, bedding, medical, dental, and mental health care, visitation time, exercise and recreation, education and rehabilitative programming); and staffing (trained and adequate guards and other staff, avoidance of placing inmates in positions of authority over other inmates)...**when the cumulative effect of the conditions of incarceration threatens the physical, mental, and emotional health** and well-being of the inmates and/or creates a probability of recidivism and future incarceration, **court must conclude that the conditions of confinement violate the constitution.**

Rhodes v. Chapman - 452 U.S. 337 (1981)

Chapman - 452 U.S. 337 (1981)



Legislature Home

Representatives

District

Agency Rules

Legislation

Schedules, and

Committees

of the Legislature

Information

Agencies

Information Center

Services (GovDelivery)

Links

RCWs > Title 70 > Chapter 70.48

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Complete Chapter [HTML](#) [PDF](#) | [RCW Dispositions](#)

Chapter 70.48 RCW

CITY AND COUNTY JAILS ACT

Sections

- [HTML](#) [PDF](#) **70.48.020** Definitions.
- [HTML](#) [PDF](#) **70.48.071** Standards for operation—Adoption by units of local government.
- [HTML](#) [PDF](#) **70.48.090** Interlocal contracts for jail services—Neighboring states—Responsibility for operation of jail—City or county departments of corrections authorized.
- [HTML](#) [PDF](#) **70.48.095** Regional jails.
- [HTML](#) [PDF](#) **70.48.100** Jail register, open to the public—Records confidential—Exception.
- [HTML](#) [PDF](#) **70.48.130** Emergency or necessary medical and health care for confined persons—Reimbursement procedures—Conditions—Limitations.
- [HTML](#) [PDF](#) **70.48.135** Pregnant inmates—Midwifery or doula services—Reasonable accommodations.
- [HTML](#) [PDF](#) **70.48.140** Confinement pursuant to authority of the United States.
- [HTML](#) [PDF](#) **70.48.160** Post-approval limitation on funding.
- [HTML](#) [PDF](#) **70.48.170** Short title.
- [HTML](#) [PDF](#) **70.48.180** Authority to locate and operate jail facilities—Counties.
- [HTML](#) [PDF](#) **70.48.190** Authority to locate and operate jail facilities—Cities and towns.
- [HTML](#) [PDF](#) **70.48.210** Farms, camps, work release programs, and special detention facilities.
- [HTML](#) [PDF](#) **70.48.215** Reimbursement of state hospital



Legislature Home

Representatives

District

Agency Rules

Commission

Schedules, and

Committees

of the Legislature

Information

Agencies

Information Center

Services (GovDelivery)

Statistics

RCWs > Title 70 > Chapter 70.48 > Section 70.48.071

Print

[70.48.020](#) << [70.48.071](#) >> [70.48.090](#)

PDF [RCW 70.48.071](#)

Standards for operation—Adoption by units of local government.

All units of local government that own or operate adult correctional facilities shall, individually or collectively, adopt standards for the operation of those facilities no later than January 1, 1988. Cities and towns shall adopt the standards after considering guidelines established collectively by the cities and towns of the state; counties shall adopt the standards after considering guidelines established collectively by the counties of the state. These standards shall be the minimums necessary to meet federal and state constitutional requirements relating to health, safety, and welfare of inmates and staff, and specific state and federal statutory requirements, and to provide for the public's health, safety, and welfare. Local correctional facilities shall be operated in accordance with these standards.

[[1987 c 462 § 17.](#)]

NOTES:

Effective dates—1987 c 462: See note following RCW [13.04.116](#).

Reply due: _____

During our inspection, the following standards were found in noncompliance.

CHAPTER 1 NEW FACILITIES

ALL STANDARDS IN THIS CHAPTER ARE ADVISORY

NEW FACILITIES Standard Ref. E 1.01

Specific physical plant standards. (Detention and correctional facilities except as otherwise noted.)

(a) Functional areas.

(i) Sleeping and living areas shall be designed to provide adequate confinement, reasonable prisoner to prisoner privacy, sight and sound surveillance and protection for prisoners and staff. For such purposes, the following are the design criteria of new construction or renovation of detention and correctional facilities.

COMMENTS:

NEW FACILITIES Standard Ref. E 1.02

Single occupancy cells: Seventy-two square feet or larger with not less than eight foot ceilings. A single occupancy cell should contain not less than fifty square feet of clear floor space.

COMMENTS:

NEW FACILITIES Standard Ref. E 1.03

Day room areas: A minimum of thirty-five square feet per prisoner, but not less than a total of one hundred forty-four square feet.

COMMENTS:

Part #1

Public Records Act

Chapter 42.56 RCW

Public Records Act (RCW 42.56)

Consistent with the PRA's 'strongly worded mandate for broad disclosure of public records,' we construe the statute's disclosure requirements liberally and its exemptions narrowly.

Washington Supreme Court

- ▶ The records government agencies prepare, own, use, or retain are public records
- ▶ Public records are **presumed to be open to disclosure**
- ▶ Public records are state property
- ▶ Records or information in records can be withheld only by exemption
- ▶ Public records must be retained pursuant to records retention laws
- ▶ Transparency allows us to show the public the good work we do

Public Records defined

- ▶ Definitions of “public records” and “writing” are broad
- ▶ A public record is

writing + related to the conduct of government or proprietary function + prepared, owned, used, or retained

Regardless of physical form or characteristics

- ▶ Location does not matter

But is my record a public record?

- ▶ Did you prepare or use the writing for the task force?
 - ▶ If yes, the record is a public record
- ▶ Does the record have a nexus to the task force decision-making process?
 - ▶ If yes, the record is a public record
- ▶ Examples:
 - ▶ Email within your organization/agency seeking input on task force work
 - ▶ Notes of task force meetings

What do I need to do with public records?

- ▶ **Manage, maintain, organize** your records
- ▶ Review public records requests
- ▶ Search for records
- ▶ Review records for exemptions to disclosure
- ▶ *Timely* provide your records

How do I manage, maintain, and organize public records?

- ▶ You do not need to keep public records forever!
- ▶ Forward/copy task force emails/letters to Jamie Tugenberg
- ▶ Follow record retention schedules
 - ▶ Retain records with retention value
 - ▶ Destroy records with no retention value
- ▶ Set up folders / files / specific accounts for task force work
 - ▶ Keep it separate

Search for Records

– *follow the glitter trail*

The adequacy of the search is judged by a standard of reasonableness, that is, the search must be reasonably calculated to uncover all relevant records.

Duty: To search for records in locations where it is reasonably anticipated there may be records

Plan searches:

- ▶ What records will be searched centrally?
- ▶ Where do I need to search?
 - ▶ All devices, platforms, areas, applications where there might be records
- ▶ Follow the glitter trail

Personal Devices – Personal Accounts

- ▶ If you use or have used a personal device or personal account for task force work, you may have public records on your device or in your account
- ▶ Task force communications/records on your personal device or in your personal account are **public records**
- ▶ You may be required to:
 - ▶ Search personal devices and personal accounts
 - ▶ transfer records to the AGO
 - ▶ sign an affidavit, or
 - ▶ take other required steps to produce and preserve the public records
- ▶ **CAUTION IS ADVISED: know your duties and responsibilities**

Exemptions

- ▶ To withhold a record, or part of a record, an agency must cite to an exemption and give a brief explanation
- ▶ Exemptions must be authorized in law --- in PRA or other laws
- ▶ Exemptions are *narrowly* construed
- ▶ An agency withholds only the exempt information and releases the rest
- ▶ No silent withholding
- ▶ An agency bears the burden of proving the exemption applies

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Privacy

- *for the love of Pete, pick up the phone!*

- ▶ **There is no general “privacy” exemption in the PRA**
- ▶ If privacy is an express element of another exemption, privacy is invaded only if disclosure about the person would be:
 - ▶ “Highly offensive to the reasonable person”
and
 - ▶ “Not of legitimate concern to the public”

Failure to follow PRA

- ▶ \$\$\$
- ▶ A court can impose civil penalties
- ▶ No proof of “damages” required
- ▶ A court is to consider factors in requiring an agency to pay a penalty
- ▶ A court will award the prevailing requester’s attorneys fees and costs
- ▶ Special penalty provisions and court procedures apply to lawsuits involving inmate requests

Records Retention

- ▶ RCW 40.14
- ▶ Records retention schedules – Secretary of State – Washington State Archives.
- ▶ **Records Retention Schedules** determine how long a record must be retained and when the record can be destroyed
- ▶ Once a record has met retention it may be deleted/destroyed



Remember

- ▶ Public records of government agencies are presumed open
- ▶ Records or information in records can only be withheld by exemption
- ▶ Exemptions must be *narrowly construed*
- ▶ Non-exempt public records must be disclosed
- ▶ Location does not matter
- ▶ Public records must be retained pursuant to records retention laws
- ▶ If you have questions please ask!

Part #2

**Open Public Meetings Act
Primer**

Chapter 42.30 RCW

OPMA Policy

It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people insist on remaining informed and informing the people's public servants of their views so that they may retain control over the instruments they have created.

Public agencies are encouraged to provide for the increased ability of the public to observe and participate in the meetings of governing bodies through real-time telephonic, electronic, internet, or other readily available means of remote access that do not require an additional cost to access the meeting.

All meetings of the **GOVERNING BODY** of a **PUBLIC AGENCY** shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in RCW 42.30. (Executive Session)

RCW 42.30.030 & 110

Governing Body

The multimember board or other policy or rule-making body of a public agency. May include committees that:

- acts on behalf of the governing body,
- conducts hearings, or
- takes testimony or public comment.

Public Agency

- Any state board, commission, committee...created by or pursuant to statute.
- Any sub-agency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act. RCW 42.30.020

Meeting

- Meetings at which the public agency takes “action.” Title does not matter.
- Requires a majority of its members (quorum), physical presence not required.

Action

- The transaction of the official business of the public agency and includes but is not limited to:
 - Public testimony
 - All deliberations
 - Discussions
 - Considerations
 - Reviews
 - Evaluations
 - Final actions*

Public Attendance

- A public agency can't place restrictions on public to attend meetings subject to OPMA.
- Reasonable rules of conduct necessary to protect the public health or safety, or to protect against interruption of the meeting are allowed.
 - Cameras and tape recorders are permitted unless disruptive.

Public Comment

Public comment required by OPMA.

May be oral or written.

OPMA MEETING TYPES



Regular

Special

Emergency

Notice and agenda requirements vary based on the type of meeting.

OPMA Penalties

- A court can impose a \$500 civil penalty against each member (personal liability) who knowingly attends a meeting in violation of OPMA; and \$1000 for a subsequent knowing violation.
- Court will award costs and attorneys fees to a successful party seeking the remedy.
- Action taken at meeting can be declared null and void.



Other OPMA Provisions

- Minutes
- Meetings During a Declared Emergency
- Executive Sessions
- Notice and Agenda Items for Regular and Special Meetings

Where to Complete OPMA Training

<https://www.atg.wa.gov/lesson-3-open-public-meetings-act-rcw-4230>