

An ACLU-WV Analysis

OVERCROWDED AND **DEADLY**

West Virginia's
Jails are in Crisis

Based on Data Collected by the Reuters News Agency



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INTRODUCTION

An October 2020 report by the Reuters news agency found the death rate of people incarcerated in West Virginia's regional jails from 2009 to 2019 was the highest of the 45 jurisdictions it surveyed. Shockingly, the death rate in West Virginia was more than 50 percent higher than the U.S. average. West Virginia is undoubtedly failing in its constitutional and moral obligation to protect people in its custody.

The deadly jail conditions in West Virginia have continued beyond the years studied by Reuters. In December 2020, state authorities began an investigation into the deaths of two incarcerated individuals from a suspected overdose at North Central Regional Jail in Doddridge County¹. The state has also faced recent challenges amid the COVID-19 pandemic, confirming more than 400 active cases among jail detainees in early January 2021².

This report analyzes why West Virginia has such a high jail mortality rate and examines what factors contribute to this appalling reality. Specifically, it uses quantitative data to explore differences in 1) death rate and death rate by cause between West Virginia and the United States and 2) death rate, causes of jail death, and time of jail death among the state's ten regional jails. This report also includes an analysis of pretrial detention, jail deaths, and jail overcrowding in West Virginia.

There is no comprehensive report of jail deaths in West Virginia, and the United States government

does not release jail-by-jail mortality data. Reuters compiled the largest database on jail deaths outside the federal government and released it to the public.

While there are limited data sets, this report aims to provide policymakers and the public with further data and research on deaths in West Virginia's regional jails from 2008 to 2019. It seeks to understand what accounts for jail deaths in West Virginia, providing both analysis and opportunities for additional study. It calls on state agencies and authorities to reduce jail overcrowding, improve conditions of employment and training for jail staff, strengthen

jail oversight, implement policies and practices that improve health outcomes for incarcerated individuals, and reform their tracking and reporting of deaths in the ten regional jails. Overall, this report brings the underreported

impact of mass incarceration and jail conditions to the forefront in West Virginia and strives to build public awareness about these problems.

Finally, as jails largely detain people awaiting trial, this report discusses how deaths in West Virginia regional jails undermine a fundamental principle of the criminal legal system: innocent until proven guilty. This report also emphasizes that, in West Virginia, a state plagued with deep poverty and healthcare disparities, incarcerated individuals not only face pre-trial detention for long periods due to bail requirements, but they can also grow sicker and more damaged by illness, suicide, drug or alcohol overdose, and more in overcrowded jail environments.

In 1965, West Virginia eliminated the death penalty as a punishment for people convicted of crimes. It's beyond time West Virginia eliminated the death penalty for people awaiting trial who have not been convicted of any crime.

1. Overdose Suspected in Deaths of 2 Inmates at WVa Jail. (n.d.). <https://www.usnews.com/news/best-states/west-virginia/articles/2020-12-06/overdose-suspected-in-deaths-of-2-inmates-at-wva-jail>

2. Correctional Facilities - report archive. (n.d.). <https://dohr.wv.gov/COVID-19/Pages/Correctional-Facilities-report-archive.aspx>

METHODOLOGY

The data in this report was mostly gathered from Reuters, an international news organization. Reuters journalists filed public records requests to collect data on jail deaths and jail population from 2008 to 2019 in the nation's biggest jails. They included every jail in the country with an average daily population of 750 or more incarcerated individuals, as well as the 10 largest jails or jail systems in each state. In total, the data covers 523 American jails or jail systems across 44 states plus the District of Columbia. The Reuters investigation did not include data from jails in Connecticut, Delaware, Hawaii, Rhode Island, Vermont or Alaska. The full investigation, titled *Dying Inside: The Hidden Crisis in America's Jails*, and the data for West Virginia, is linked here: <https://www.reuters.com/investigates/special-report/usa-jails-graphic/>.

Reuters excluded 2008 when calculating state and national jail death rates, because data from that year was incomplete. However, this report uses West Virginia's 2008 data at times since it was sufficient to make comparisons. It also includes the country's 2008 data when examining jail deaths by cause, because these numbers were publicly accessible and substantive enough for analysis.

Other data in this report was compiled from the West Virginia Division of Corrections and Rehabilitation's jail population reports.

Quantitative data from these sources was used to create different pie charts, bar graphs, and line graphs. Certain ratios and calculations were determined by studying the available raw data in CSV, PDF, and other online files. The data from Reuters allowed for comparisons between West Virginia and the United States and among the state's ten regional jails. Data gathered from the West Virginia Division of Corrections and Rehabilitation's jail population reports contributed to the analysis of pretrial detention, jail deaths, and jail overcrowding in the state.

DATA & ANALYSIS

Part 1: How West Virginia Compares to the United States

West Virginia Jails are Extremely Deadly

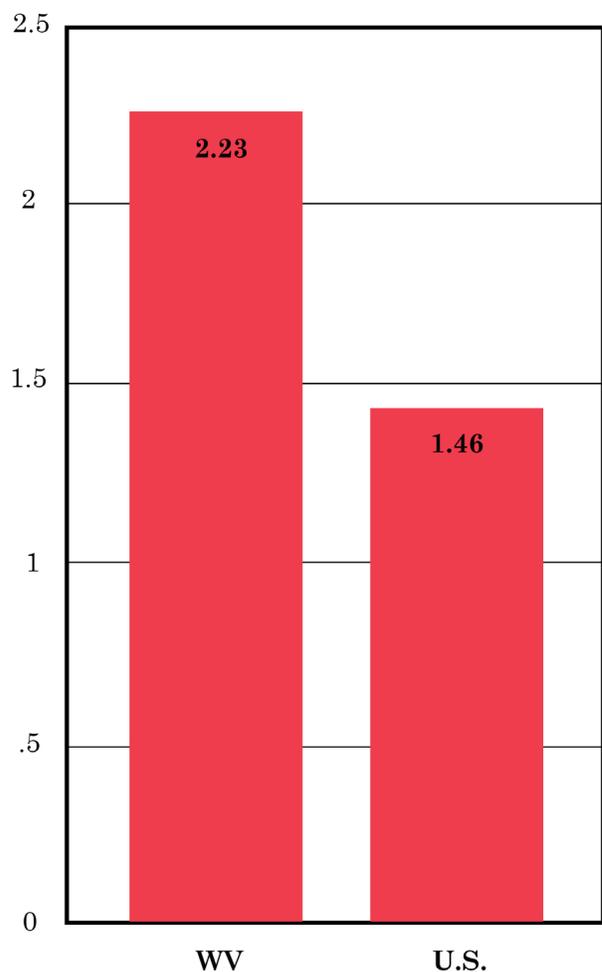


FIGURE 1: Death Rate per 1,000 Incarcerated People, 2009-2019
SOURCE: Reuters | *Dying Inside: The Hidden Crisis in America's Jails*

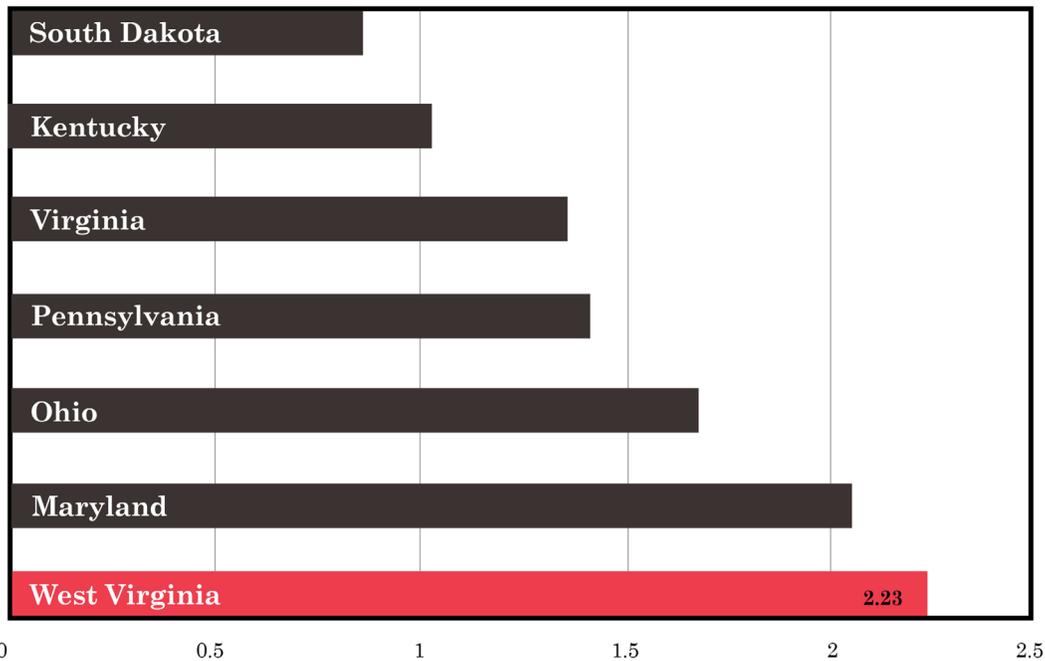


Figure 2: Jail Death Rate per 1,000 Incarcerated People, West Virginia Versus Other U.S. States, 2009-2019
 SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

The 2009-2019 mortality rate in West Virginia's jails was the highest of any state surveyed by Reuters, and nearly 53 percent more than the national average.

As shown in Figure 1, people incarcerated in West Virginia's jails from 2009 to 2019 died at a rate of 2.23 per 1,000 incarcerated individuals. This death rate is about 1.53 times the U.S. jail mortality rate (1.46 per 1,000 incarcerated individuals).

Figure 2 highlights differences in jail death rate between West Virginia and other U.S. states. The states presented in the graph were selectively chosen from the larger Reuters sample to both illustrate the range of jail mortality rates across the country and compare West Virginia with its border states. South Dakota had the lowest jail death rate of the states surveyed (0.82 per 1,000 incarcerated individuals), whereas West Virginia had the highest (2.23 per 1,000 incarcerated individuals). A person incarcerated in a West Virginia jail was 2.71 times more likely to die while in custody than a person in a jail in

South Dakota.

Additionally, West Virginia's jail death rate was significantly higher than all of its border states.

“A person incarcerated in a West Virginia jail was twice as likely to die in custody as a person in a jail in Kentucky.”

Jail Death Rates From Suicide, Homicide, Drug or Alcohol Overdose, and Illness in West Virginia All Exceed U.S. Averages

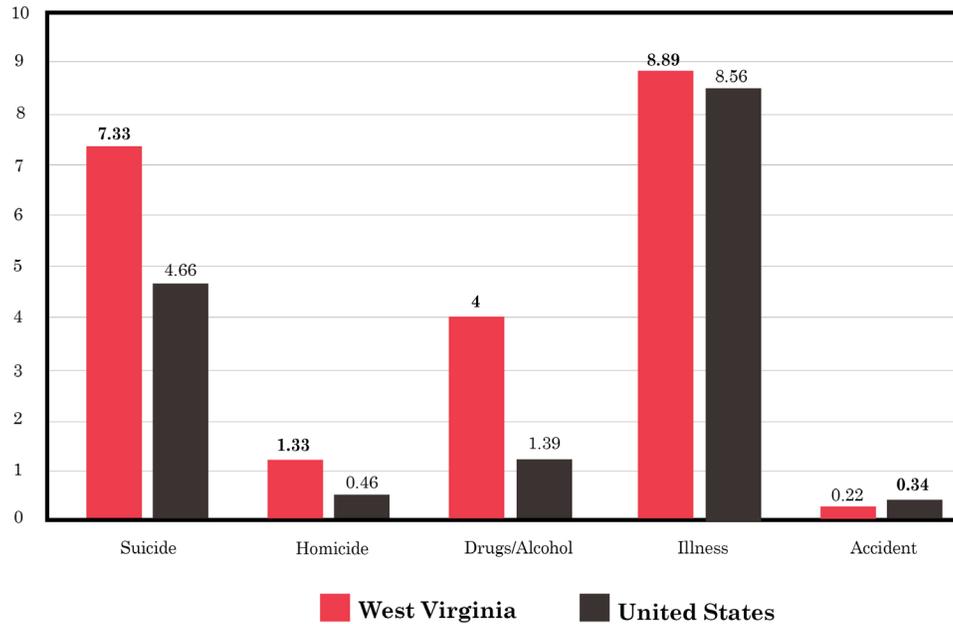


FIGURE 3: Jail Death Rate by Cause per 1,000 Incarcerated People 2008-2019. SOURCE: Reuters | Dying Inside: the Hidden Crisis in America's Jails

From 2008 to 2019, deaths in U.S. jails were largely caused by illnesses, suicides, drug or alcohol overdoses, and homicides. Such deaths in West Virginia jails all surpassed national averages. Indeed, the state's jail mortality rates from suicide, homicide,

and drug or alcohol overdose all exceeded U.S. numbers by staggering amounts: 1.57 times for suicide, 2.89 times for homicide, and 2.87 times for overdoses.

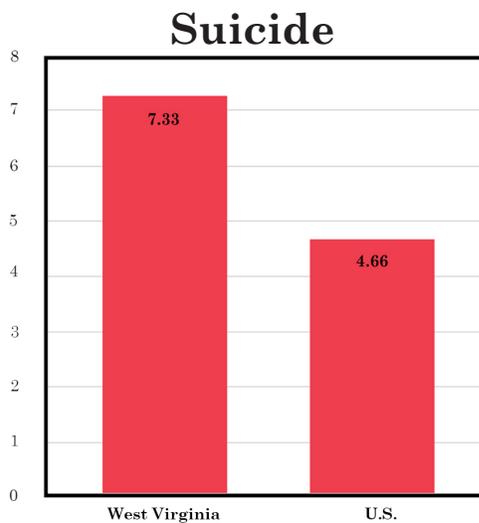


FIGURE 4: Jail Death Rate from Suicide per 1,000 Incarcerated People 2008-2019. SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

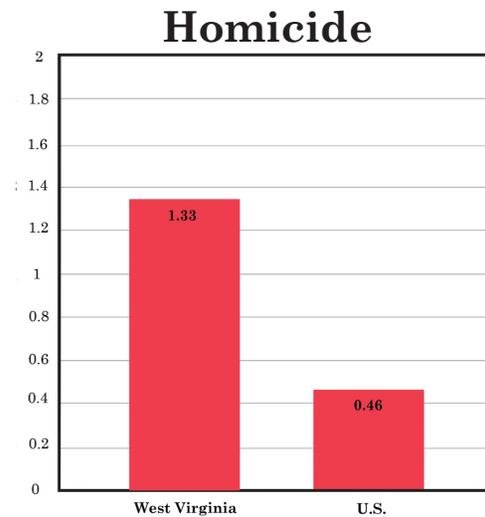
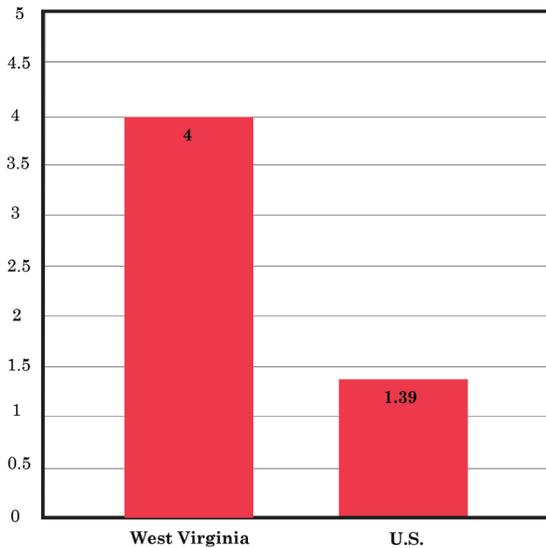


FIGURE 5: Jail Death Rate from Homicide per 1,000 Incarcerated People 2008-2019. SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

Overdose



Those incarcerated in West Virginia state jails died from drug or alcohol overdoses at a rate of four per 1,000, an appalling 2.87 times the U.S. average.

FIGURE 6: Jail Death Rate from Drugs/Alcohol per 1,000 Incarcerated People 2008-2019.

SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

Part 2: Data Behind Deaths in West Virginia's Regional Jails

Most WV Jails Have Death Rates Significantly Higher than the 2009-2019 National Average

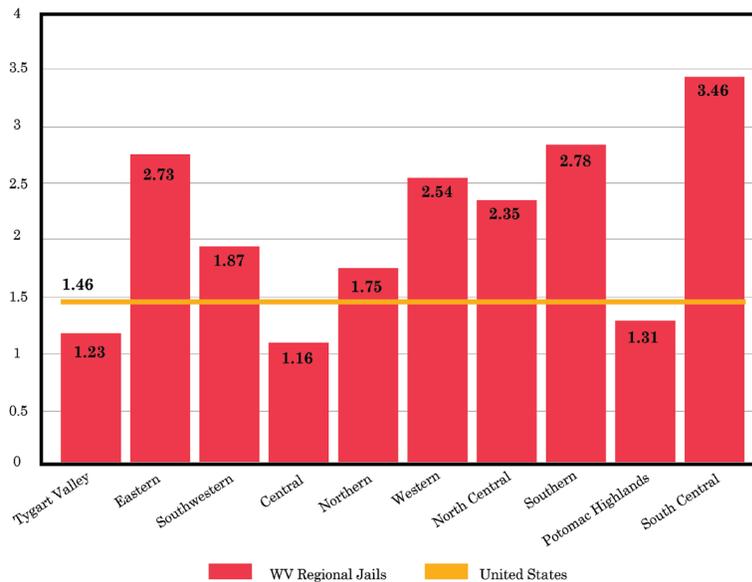


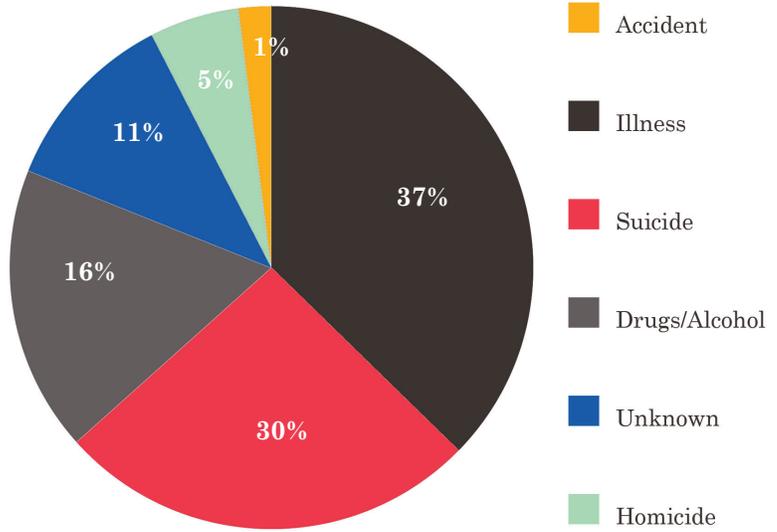
FIGURE 7: Death Rate By West Virginia Regional Jail Per 1,000 Incarcerated People, 2009-2019

SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

Causes of Death in West Virginia Jails

All of West Virginia’s regional jails, except Tygart Valley, Central, and Potomac Highlands, had death rates higher than the 2009-2019 national average (1.46 per 1,000 incarcerated individuals).

South Central Regional Jail had the highest death rate in the state (3.46 per 1,000 incarcerated individuals), having a mortality rate 2.37 times the 2009-2019 U.S. jail death rate. This finding was followed by, from highest to lowest mortality rates, Southern, Eastern, Western, North Central, Southwestern, and Northern Regional Jails.

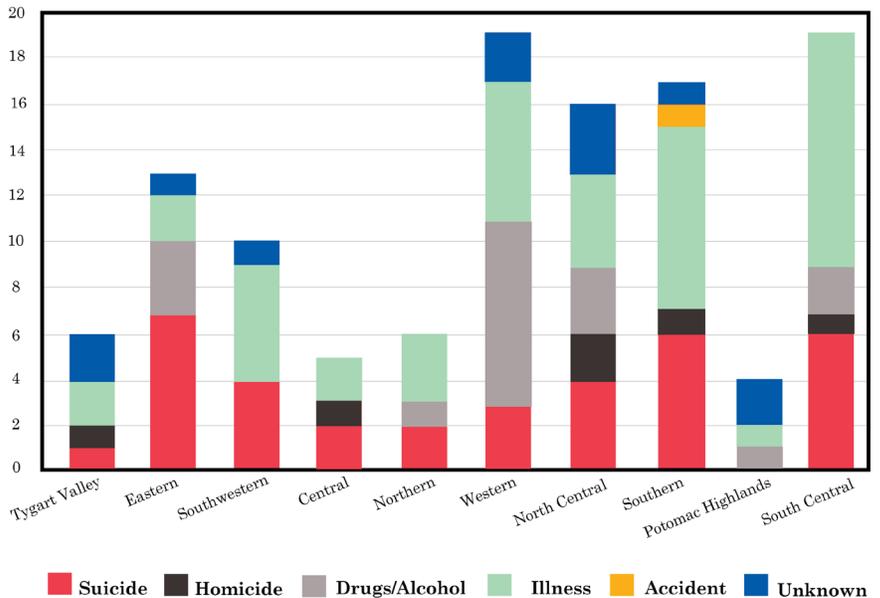


One hundred-fifteen people died in West Virginia’s 10 regional jails from 2008 to 2019. More than a third of those deaths were caused by illness and more than a quarter were caused by suicide. An incredible 16 percent were the result of overdoses. Cause was unknown in about 11 percent of cases, suggesting poor tracking and reporting, and a lack of transparency between authorities and the public.

Western and South Central regional jails had the highest number (19) of reported deaths. Potomac Highlands had the lowest (4). Additionally, suicides comprised about 54 percent of deaths at Eastern Regional Jail and at least 30 percent at Southern and South Central. North Central had two homicides. Southern was the only facility with accident-related deaths.

Furthermore, jail deaths from drug or alcohol overdose were most prevalent at Western Regional Jail, encompassing 42 percent of the facility’s total deaths from

FIGURE 8: Deaths by Cause in WV Regional Jails, 2008-2019
 FIGURE 9: Total Number and Causes of Death by WV Regional Jail, 2008-2019
 SOURCE: Reuters | Dying Inside: The Hidden Crisis in America’s Jails



2008 to 2019. The jail mortality rates from illness were high at South Central Regional Jail (about 53 percent), Southwestern Regional Jail (50 percent), and Southern Regional Jail (47 percent).

Part 3: Pretrial Detention, Jail Deaths, and Jail Overcrowding

At Least 66% of WV Jail Deaths Involved People Not Convicted of a Crime

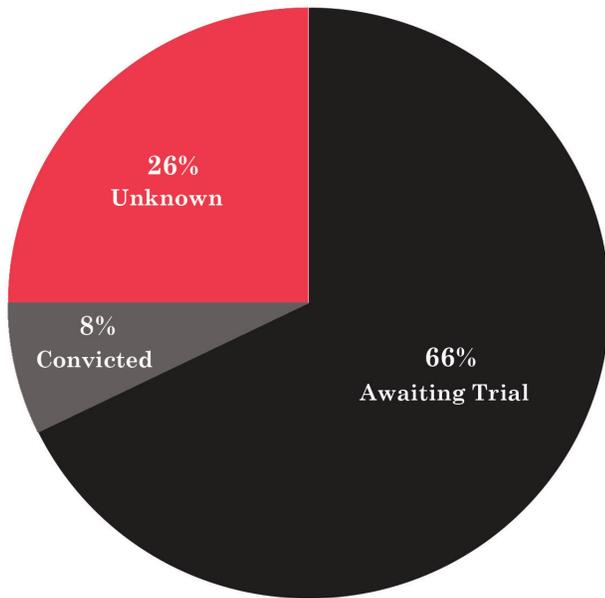


FIGURE 10: Custody Status at Time of Death 2008-2019.
SOURCE: Reuters | Dying Inside: The Hidden Crisis in America's Jails

In 2015, 53 percent of people in West Virginia's jails were pretrial detainees who had not been convicted of any crime³. In 2019, excluding federal jail detainees, nearly 54 percent of the state's regional jail population were being held pretrial⁴.

Yet, at least 66 percent of jail deaths in West Virginia from 2008 to 2019 were awaiting trial. Of those with a known custody status, 89 percent involved people not convicted of a crime. These people must be presumed innocent because the state never proved guilt prior to their deaths. While 8 percent of all 115 deaths in the state's jails comprised people convicted of a crime, 26 percent were reported with an unknown custody status.

At any given time, a majority of those detained in West Virginia's regional jails have not been found guilty of any crime.

Many simply cannot afford to purchase their freedom.

3. Vera Institute of Justice. (2019, December). Incarceration Trends in West Virginia. <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-west-virginia.pdf>

4. West Virginia Division of Corrections & Rehabilitation. (2020, January). FY 2019 Annual Report. Retrieved from <https://dcr.wv.gov/resources/Documents/FY2019%20ANNUAL%20REPORT%20WVDCR.pdf>

At Least 52% of the People Who Died in WV Jails Between 2008-2019 Had Been Locked Up Less Than 30 Days

As shown in Figure 11, more than half of jail detainees who died from 2008 to 2019 lost their lives less than a month from their date of incarceration.

West Virginia's jail population has more than quadrupled since 1970⁵. Even during the COVID-19 pandemic, after an initial drop, the state's overall jail population has steadily increased despite the threat to incarcerated individuals, jail staff, and the public⁶.

This is largely because of the consistently high number of incarcerated individuals being held pretrial. Additionally, as illustrated in Figure 12, deaths in West Virginia jails have increased as the average daily jail population has increased.

As more and more people in West Virginia are jailed pretrial, we see more and more incarcerated people dying. Presumption of innocence is meaningless if merely being charged with a crime results in death before trial. Indeed, it is purposeless when people die soon after they are jailed.

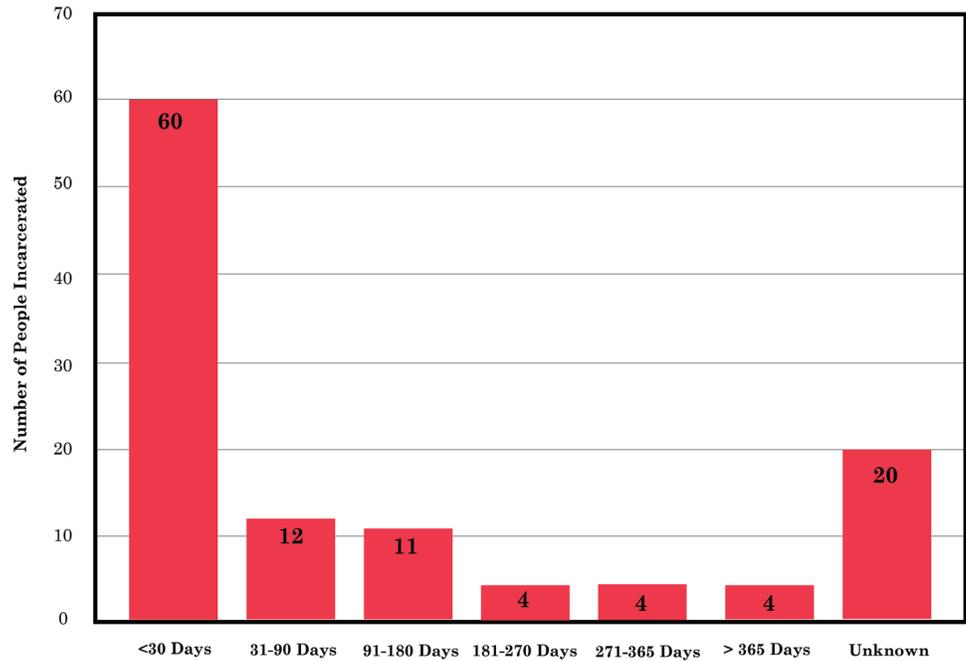
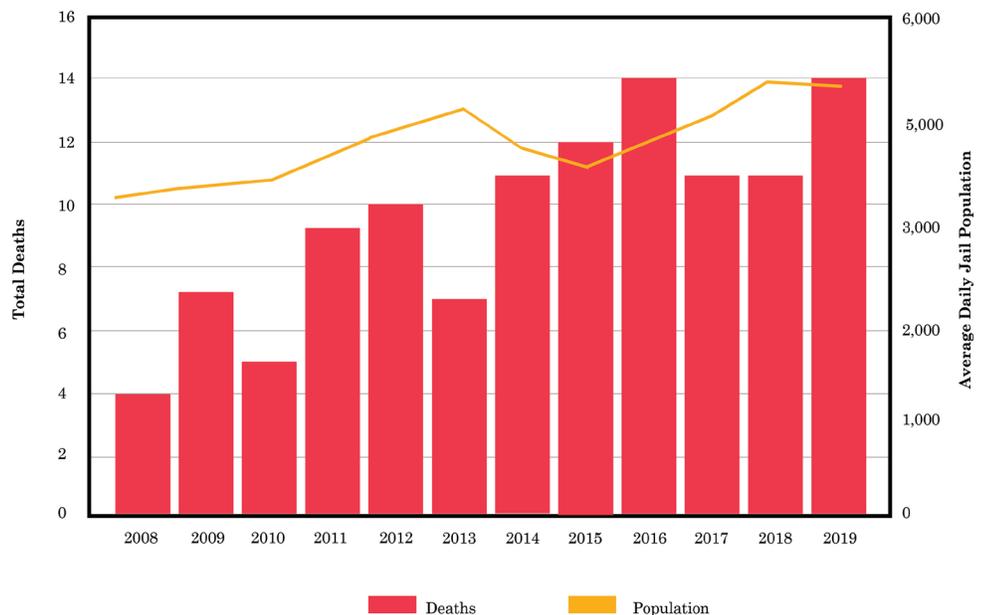


FIGURE 11: Days Incarcerated in a WV Regional Jail Versus Days Until Death, 2008-2019

FIGURE 12: Total Jail Deaths Versus Total Daily WV Regional Jail Population, 2008-2019

SOURCE: Reuters | Dying on the Inside: The Hidden Crisis in America's jails



5. Vera Institute of Justice. (2019, December). Incarceration Trends in West Virginia. <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-west-virginia.pdf>

6. New West Virginia Criminal Law Coalition Website Tracks Jail Populations and Cost for Counties. (2020, November 20). <https://wvpolicy.org/new-west-virginia-criminal-law-coalition-website-tracks-jail-populations-and-cost-for-counties-2/>

People are Dying in Overcrowded WV Jails

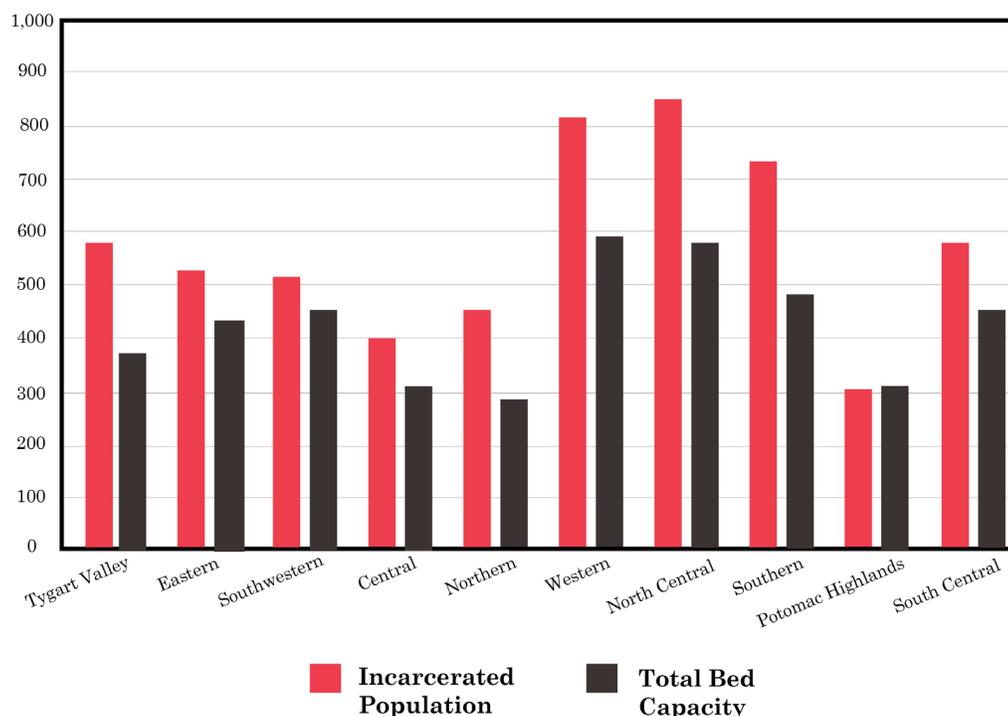


FIGURE 13: Incarcerated Population Versus Total Bed Capacity by WV Regional Jail.

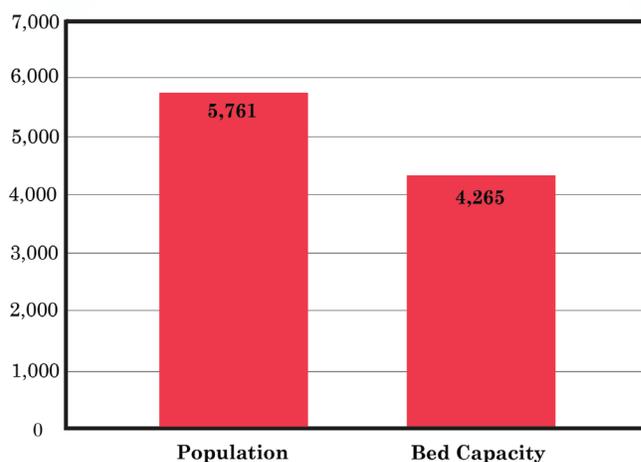
FIGURE 14: Incarcerated Population Versus Total Bed Capacity in WV Jail System, February 2021

SOURCE: West Virginia Division of Corrections and Rehabilitation | Jail Population Count February 2021

West Virginia has exceeded its total regional jail capacity for eight of the last 11 years, with 2019 being the highest year yet, as the average daily occupancy reached more than 20 percent overcapacity⁷. Figures 13 and 14 compare February 2021 regional jail population data, which includes federal jail detainees, with total capacity numbers.

These graphs confirm overcrowded jail environments continue to plague West Virginia’s corrections system. Moreover, amid rising deaths in the state’s ten regional jails, they suggest that these conditions put incarcerated individuals at greater risk for exposure to infectious diseases, violence, abuse, self-harm, and more.

WV Jail Population vs. Bed Capacity, February 2021



7. West Virginia Center on Budget & Policy. (2021, January). Overcrowded and Overburdened: West Virginia Counties Struggle to Pay Regional Jail Bills. <https://wvpolicy.org/wp-content/uploads/2021/01/WVCBP-Jail-Cost-Brief.pdf>

CONCLUSION

West Virginia has the constitutional and moral obligation to provide for and protect the health and safety of incarcerated people. However, findings in this report demonstrate that the state's corrections and healthcare systems have failed to improve health outcomes and avoid preventable deaths among the jail population.

According to the Reuters investigation, West Virginia has the highest jail death rate in the nation among facilities surveyed, more than 50 percent higher than the national average.

From 2008 to 2019, 115 people died in West Virginia's ten regional jails. Shockingly, more than half these deaths were due to suicide, homicide, and drug or alcohol overdoses, all of which were largely preventable. Jail mortality rates by suicide, homicide, drug or alcohol overdose, and illness were all higher than national averages. Furthermore, jail death rates by suicide, homicide, and drug or alcohol overdose each surpassed U.S. numbers by staggering amounts.

A majority of West Virginia's jails had mortality rates significantly higher than the national average. While South Central, Southern, Eastern, and Western regional jails had the highest death rates, deaths from suicide and illness plagued almost every state facility.

At least 66 percent of those who died in West Virginia regional jails from 2008 to 2019 were awaiting trial, and at least 52 percent died less than 30 days from arrival. Deaths in the state's overcrowded regional jails have generally increased as the population in these facilities has increased.

While data in this report was limited, it leads to stark conclusions. Long before the COVID-19 pandemic began, an epidemic of illness, homicide, suicide, and drug/alcohol overdose deaths plagued the state's jails. State policymakers must formulate

and implement policies and practices that protect lives and improve outcomes of people housed in West Virginia's jails.

RECOMMENDATIONS

- Increase alternatives to incarceration that will help reduce pretrial detention and prevent overcrowding.
- Ensure the pretrial release bill passed during the 2020 legislative session (HB 2419) is implemented more effectively.
- Reform oversight by increasing staffing and providing better training, pay, and conditions for staff.
- Ensure necessary and appropriate medical, mental health, and substance abuse care.
- Provide better oversight and coordination of health care services to assure the quality, continuity, and effectiveness of resources and care.
- Increase responsiveness to the mental and physical health care needs of jail detainees and provide particular attention to them in their first 30 days.
- Expand availability and accessibility of drug/alcohol treatment and suicide risk assessment, prevention, and education programs.
- Improve compliance with standards established to maintain healthy living conditions for jail detainees.
- Employ an independent outside investigator to explore every jail death in West Virginia.
- Collect and disseminate more complete and comprehensive data to better analyze jail deaths. Regional jails must improve tracking and reporting of jail deaths to develop targeted reform and interventions.

Acknowledgments: This report would not have been possible without Nikki Zinzuwadia. From Beckley, West Virginia, Nikki is an undergraduate student at the University of Pennsylvania and joined ACLU-WV as an intern in May 2020. She took the lead on analyzing the data and drafting this report. We'd also like to thank Rayna Momen, a PhD student at WVU, for providing helpful feedback on earlier drafts of this report and providing data analysis on dates of both incarceration and jail death in West Virginia's regional jails.