



# Michigan Joint Task Force on Jail and Pretrial Incarceration: Select Resulting Legislation

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# Task Force Partners



Joint TF was initiated by both state and county leaders:

Gretchen Whitmer  
Governor, State of Michigan

Bridget McCormack  
Chief Justice, Michigan Supreme Court

Mike Shirkey  
Majority Leader, Michigan Senate

Lee Chatfield  
Speaker, Michigan House

Stephan Currie  
Executive Director,  
Michigan Association of Counties

Blaine Koops  
Executive Director,  
Michigan Sheriffs Association



# Charge to Task Force



TF was asked to:

1. Expand alternatives to jail
2. Safely reduce jail admissions and length of stay
3. Improve the efficiency, safety, and effectiveness of Michigan's justice systems

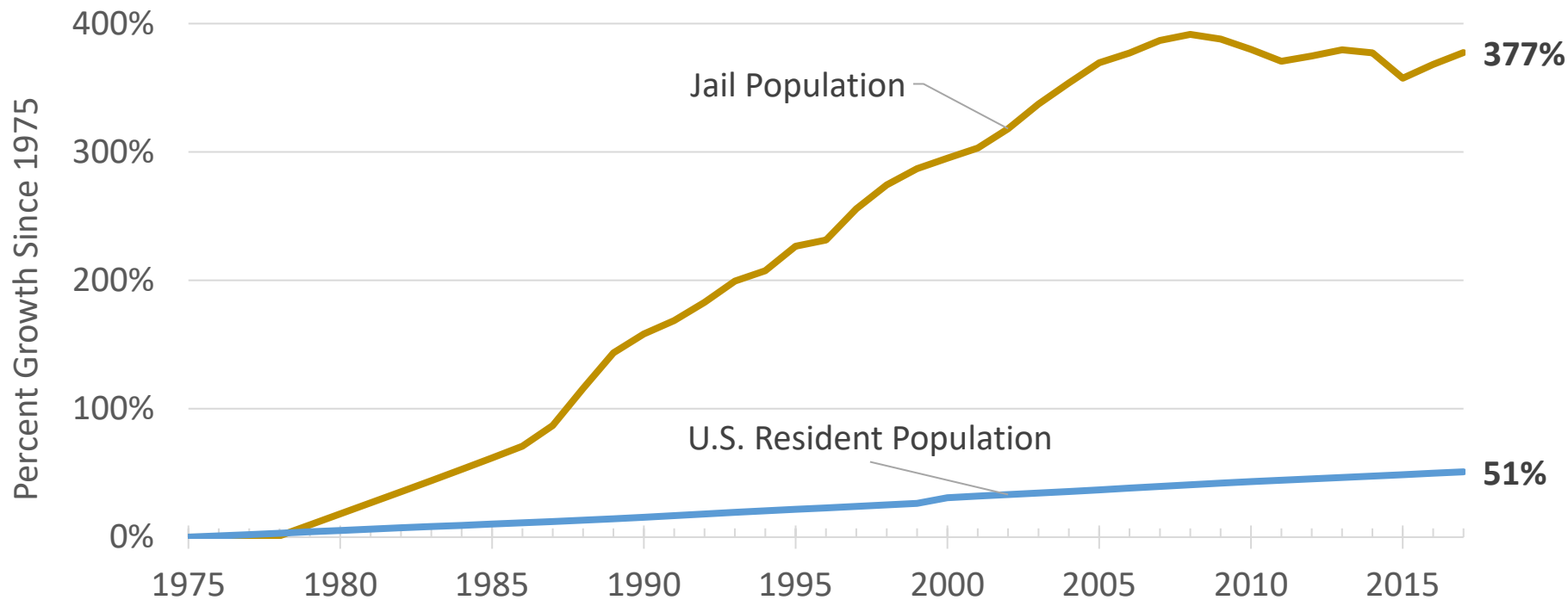
– *Executive Order No. 2019-10*



# National Data



Nationally, the number of people in county jails grew fourfold in 40 years.



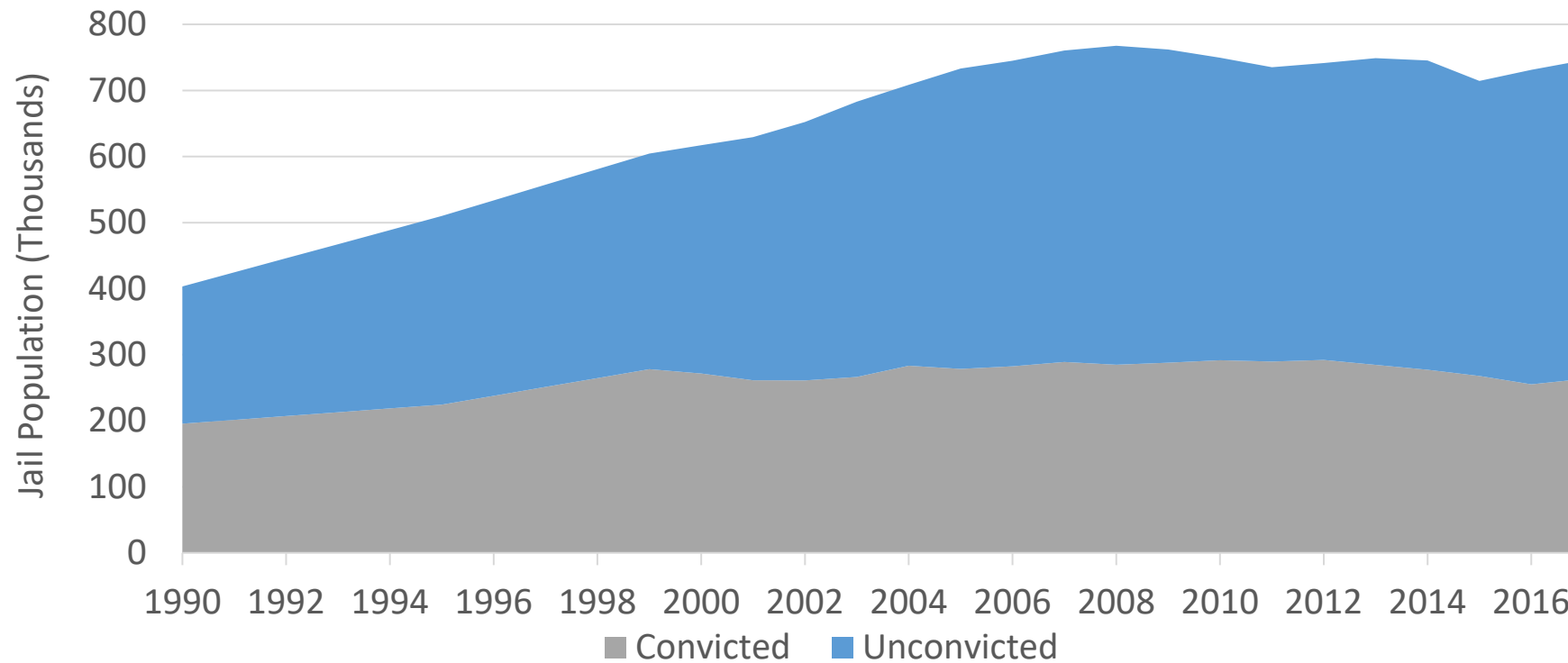
Percent Growth Since 1975 of United States Resident and Jail Populations, 1975 to 2017. Source: Bureau of Justice Statistics, Census of Jails and Annual Survey of Jails; U.S. Census Bureau, Population Division.



# National Data



Jail growth in the U.S. was driven by increased pretrial incarceration.



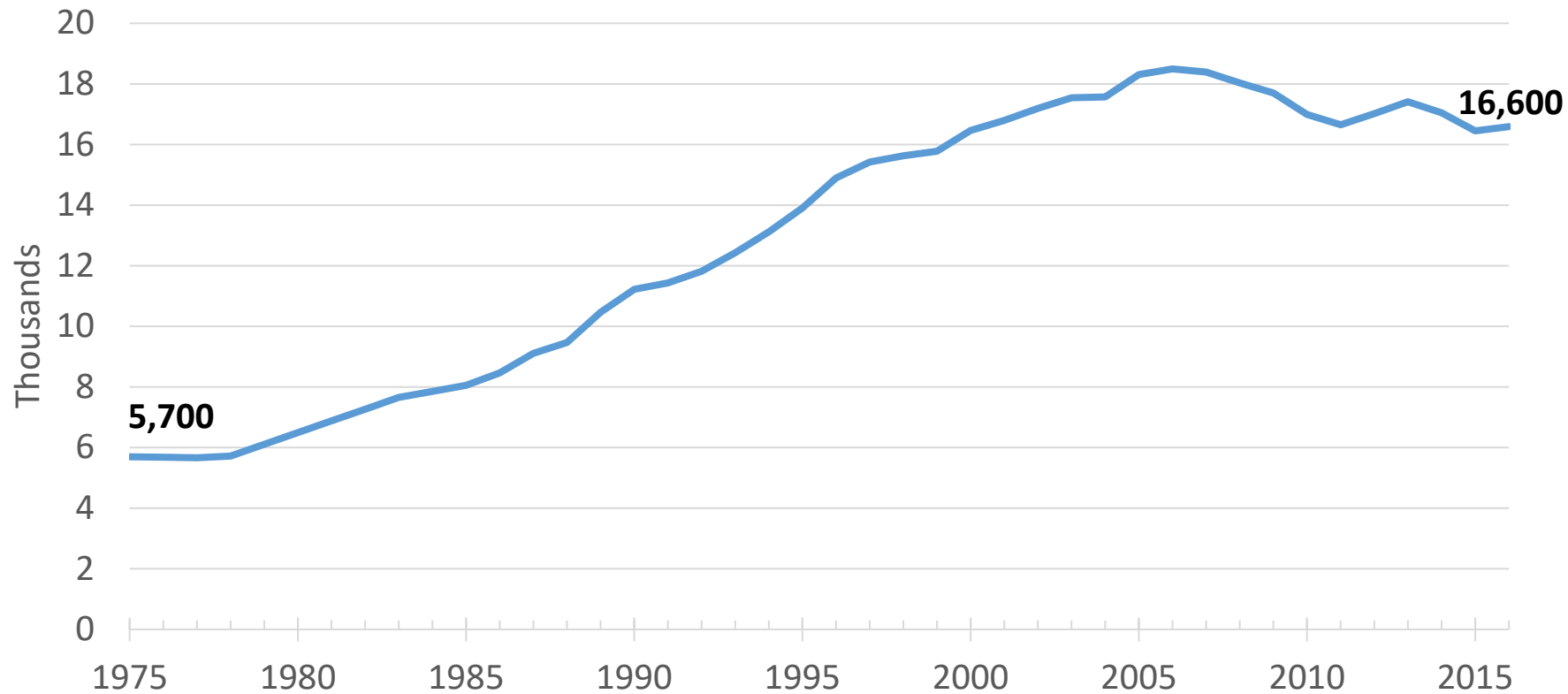
Percent Growth Since 1975 of United States Resident and Jail Populations, 1975 to 2017. Source: Bureau of Justice Statistics, Census of Jails and Annual Survey of Jails; U.S. Census Bureau, Population Division.



# Michigan Data



The number of people in Michigan jails nearly tripled since the 1970s.



Michigan Average Daily Jail Population, 1975 to 2016. Source: Bureau of Justice Statistics, Census of Jails and Annual Survey of Jails.



# Michigan Data



Arrest events were dominated by misdemeanors and court order violations.

Top 10 Offenses for which Arrest Events Occurred, 2018	Count
Failure to Appear	29,295
Assault & Battery/Simple Assault	28,264
Operating Under the Influence of Alcohol*	21,410
Marijuana – Possess	14,419
Retail Fraud Theft 3rd Degree	9,096
Probation Violation	8,472
Contempt of Court	6,803
Obstructing Justice	5,443
Disorderly Conduct	4,036
Retail Fraud Theft 2nd Degree	3,706

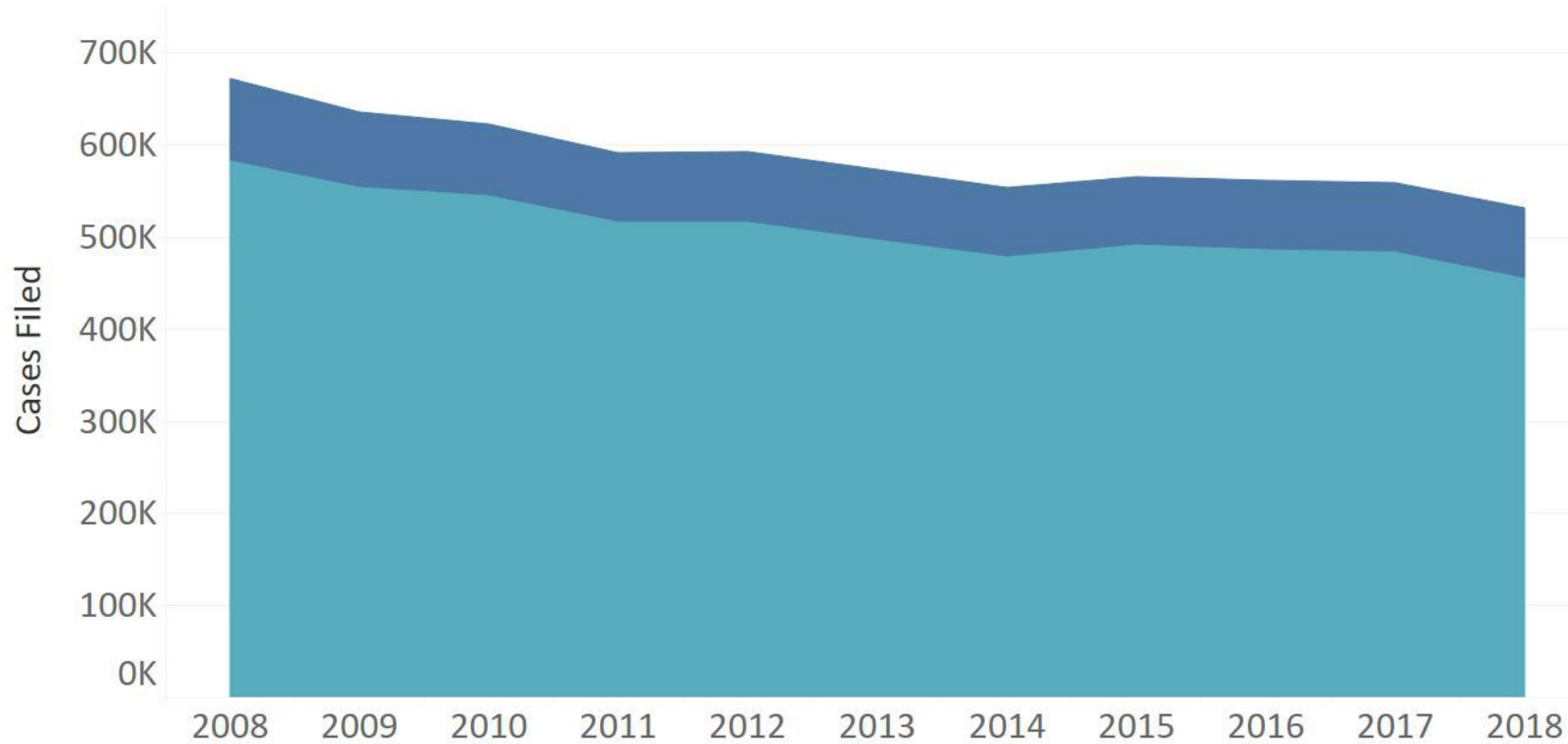
Top 10 offenses for which arrest events occurred, 2018. \*Note: OUI category includes Driving with BAC > 0.08 and “Super Drunk Driving” (BAC > 0.17), the latter of which was added as an offense between 2008 and 2018. Source: Statewide arrest data, 2008 to 2018, Michigan State Police.



# Michigan Data



Nearly 9 in 10 cases filed in district court in 2018 were misdemeanors.



Change in number of felony and misdemeanor cases filed in district court, 2008-2018.  
Source: Statewide court data, Michigan State Court Administrative Office.

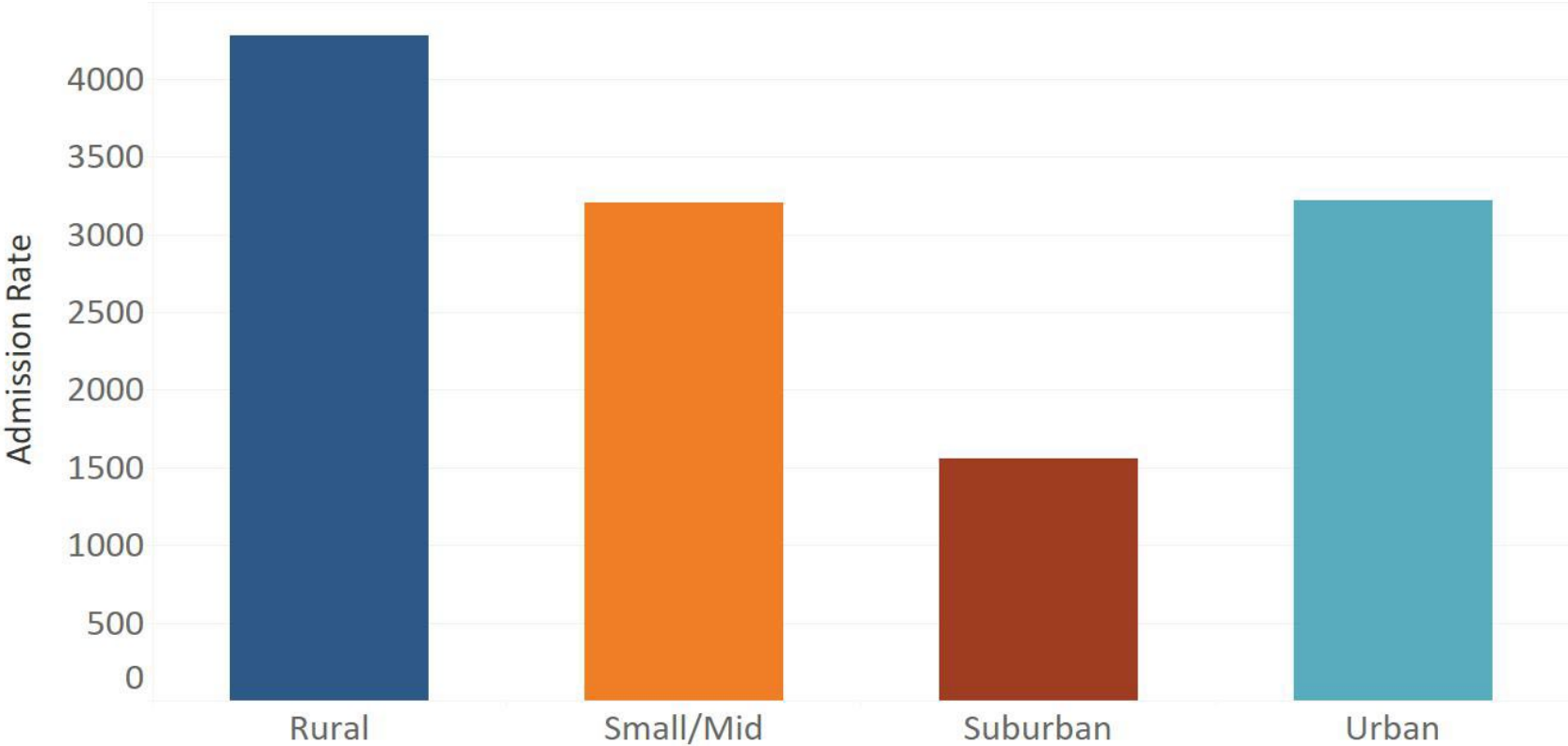




# Michigan Data



Jail admission rates were highest in rural and lowest in suburban counties.



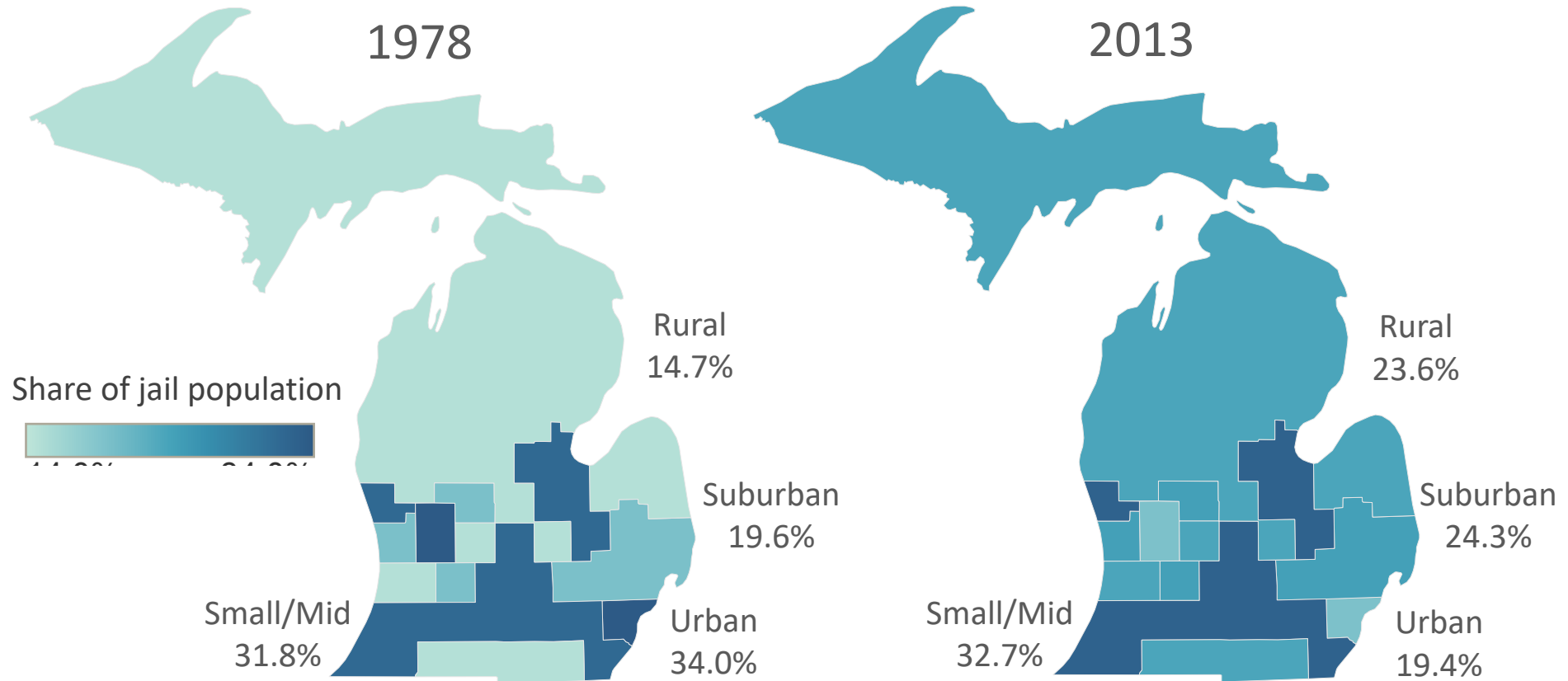
Admission rate (per 100,000 people) by urbanicity, 2016-2018. Source: Sample of jail data, 2016 to 2018, various Michigan jails.



# Michigan Data



Rural MI counties now hold a larger share of people in jail than urban counties.



Michigan Share of Jail Population by Urbanicity, 1978 and 2013. Source: Bureau of Justice Statistics, Census of Jails.





## Top Ten Offenses at Jail Admission, 2016 - 2018

Top 10 Offenses, Most Serious Charge at Jail Admission	Percent of Admissions
Operating Under the Influence (OUI)	14%
Assault	11%
Driving Without Valid License	9%
Probation/Parole Violation	8%
Theft	8%
Possession or Use of Controlled Substance	8%
Obstruction of Justice	7%
Other Person Offense	6%
Domestic Violence	5%
Delivery or Manufacture of Controlled Substance	4%

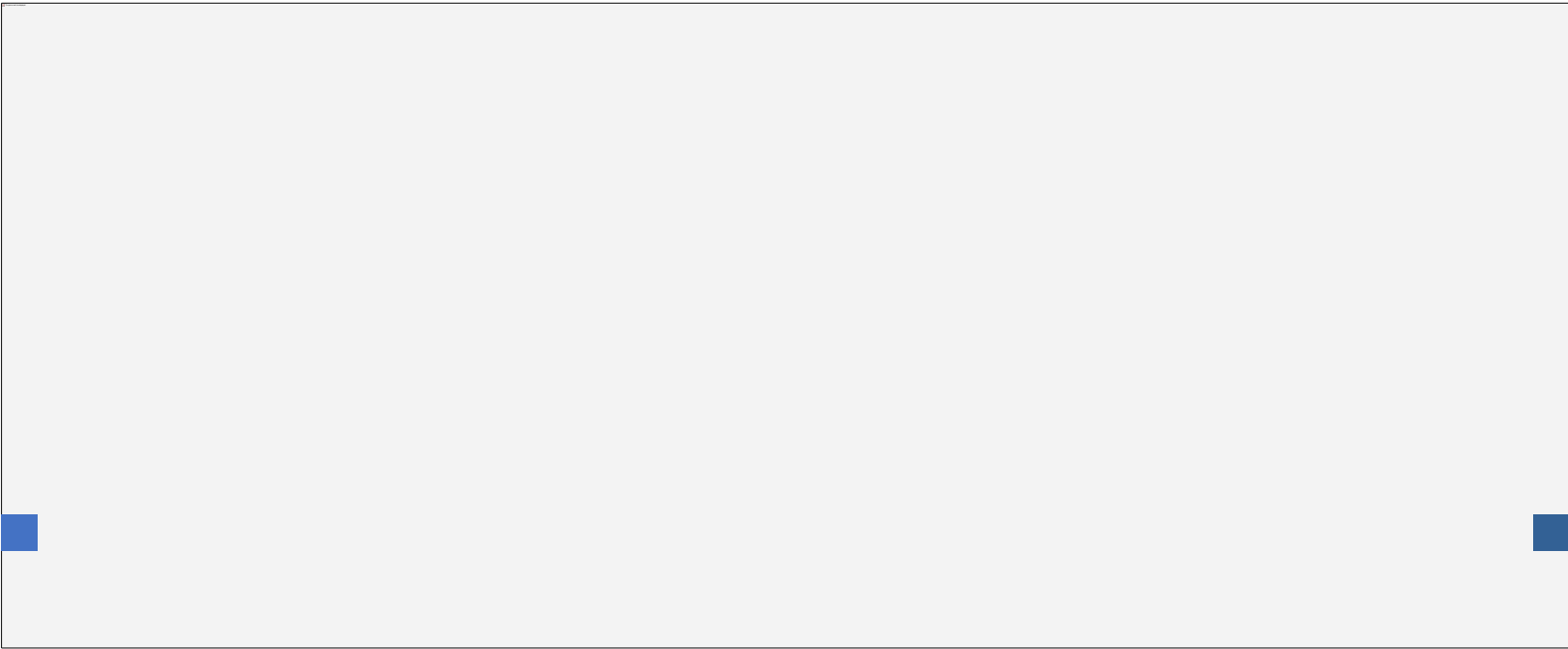
Percent of jail admissions by offense type, most serious charge per booking, 2016-2018. Most serious charge was determined by ranking multiple charges by crime type and offense category. Note: Offense information was available for all charges in 87% of admissions. Source: Sample of jail data, 2016 to 2018, various Michigan jails.



# Michigan Data



Less than one fifth of admissions contributed over 80 percent of jail bed days.



Distributions of jail admissions and jail bed utilization by length of stay, 2016-2018. Source: Sample of jail data, 2016 to 2018, various Michigan jails.



# Policy: Arrest & Citation



1. **Expanded Authority:** Expands previous 93 day limitation to 1 year misdemeanors.
2. **Ineligible Offenses:** DV, PPO, period of confinement, serious misdemeanors, assaultive crimes.
3. **Required Use:** Must be used for eligible misdemeanors punishable by up to 1 year, excluding OWI, *unless:*

## Officer Ability To ARREST rather than CITE

1. Reasonable Instructions
2. Identification
3. Community Safety
4. Wellbeing
5. Defendant Requests
6. **Other:** Any other reason the officer may deem reasonable to arrest.



MCL 764.9c, MCL 764.9f



# Policy: Warrants & Summons



## Criminal Summons



A magistrate must issue a summons, rather than an arrest warrant, *unless*:

### Ability to Issue WARRANT rather than SUMMONS

- 1. Assaultive Crime:** The offense charged is an assaultive crime.
- 2. Failure to Appear:** There is reason to believe from the complaint that the person will not appear upon a summons.
- 3. Public Safety:** Issuing a summons poses a risk to public safety.
- 4. Prosecutor Request:** The prosecutor has requested a warrant.

### SCAO Forms

- **DC 225s:** Complaint and Summons, Misdemeanor
- **MC 200s:** Felony Set, Summons

A “Notice to Appear” is not a Summons.

MCL 764.1a



# Policy: Warrants & Summons



## Voluntary Presentment



### Arraignment

Judicial officer is available to arraign the defendant within 2 hours.

**\*Presumed a person is not a flight risk.**

### Voluntary Presentment

Defendant wanted on warrant voluntarily presents himself/herself to the court that issued the warrant.

- Not assaultive crime or domestic violence.
- Warrant issued within 1 year.
- Defendant hasn't previously benefited from the procedure on any pending criminal charges.

### Reschedule

Judicial officer is NOT available to arraign the defendant within 2 hours.

Recall warrant and schedule case for a future arraignment.

MCL 762.10d



# Policy: Failure to Appear



## In the event of FTA:

- If it is the first FTA in the case; and
- The offense is non-assaultive and non-DV; then
- Presumption for the court to **wait 48 hours before issuing bench warrant**, unless:
  - Defendant has committed a new crime.
  - A person or property will be endangered if a warrant is not issued.
  - Prosecution witnesses have been summoned and are present.
  - Proceeding is to impose a sentence.
  - Other compelling circumstances.

MCL 764.9e, MCL 764.3





# Policy: Jail Holds



- People held on out-of-county warrants must be released from custody unless:
  - pickup arrangements are made within 48hrs, and
  - actual pickup is made within 72hrs
  - (assaultive & DV exceptions)
- District courts and counties must:
  - develop communications protocols for processing and resolving out-of-county warrants
  - including a requirement of remote hearing capabilities where appropriate.



# Question & Answer

