



U.S. Department of Justice
National Institute of Corrections
Jails Division

**Proceedings
of the
Second Meeting
of the
Large Jail Network**

Proceedings of the Second Meeting of the Large Jail Network

**January 20-21, 1991
Denver, Colorado**

Sponsored by the National Institute of Corrections, Jails Division,
Michael O'Toole, Chief

Carolyn MacPhail, Editor

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CONTENTS

Legal Issues.....	3
Conditions of Confinement Cases.....	3
Panel and Group Discussions	9
Topic Session 1: Crowding Strategies-External.....	9
Topic Session 2: Crowding Strategies-Internal.....	13
Topic Session 3: Consent Decrees.....	18
Topic Session 4: New Technologies.....	21
Closing Session	23

AGENDA

Large Jail Network Meeting, January 20-22, 1991
Stapleton Plaza Hotel
Denver, Colorado

Sunday, January 20

6:00 PM - 8:00 PM Informal Dinner
 *Welcome, Introductions, and
 Program Overview Michael O'Toole*

Monday, January 21

7:30 AM - 8:30 AM Breakfast
8:30 AM - 10:15 AM Legal Issues
 *Focus on the Impact of Current Court
 Decisions and the Management of
 Crowded Jail Systems Bill Collins
 Presentation and Q & A Session.*

10:15 AM - 10:30 AM Break
10:30 AM - 12:00 Noon Crowding Strategies-External
 o *New Initiatives. Joe Payne*
 o *External Strategies Ronald Bishop*
 o *Alternative Punishments. Richard Pierce*

12:00 Noon - 1:30 PM Lunch
1:30 PM - 3:00 PM Crowding Strategies-Internal
 o *Removing Classes of Inmates
 From the Jail System. John Simonet*
 o *Resource Management. Charles Felton*
 o *Working with the Judiciary. Sam Saxton*

3:00 PM - 3:15 PM Break
3:15 PM - 5:00 PM Consent Decrees
 o *Long Term Impact of Consent Decrees. Mark Kellar*
 o *Strategies for Getting Out of Court
 Consent Decrees. Frank Hall*

6:00 PM - 7:00 PM Dinner

Tuesday, January 22

7:30 AM - 8:30 AM Breakfast
8:30 Am - 10:30 AM New Technologies
 o *User Evaluations of New
 Design Concepts. Larry Ard*

10:30 AM - 10:45 AM Break
10:45AM-11:45AM Recap and Close-Out

INTRODUCTION

The Large Jail Network was initiated to provide a forum for the exchange of ideas and information that is relevant to the operation of large jails. There are nearly seventy large jail systems in the United States, and they house approximately half of the country's jail inmates.

The *Large Jail Network Bulletin* is a vehicle for sharing information about the activities, programs, successes, and concerns of Large Jail Network members. Any feedback on the *Bulletin* would be appreciated, as would input on possible topics for future meetings.

This conference began with a presentation of legal issues to set the context. Next followed panel presentations which were designed to stimulate discussion.

Michael O'Toole
Chief, National Institute of Corrections, Jails Division

LEGAL ISSUES

CONDITIONS OF CONFINEMENT CASES

Presented by William C. Collins, J. D.

Overview

Conditions of confinement cases do not specifically focus on jail overcrowding; rather, they pertain to the conditions experienced by inmates. Most large operating jails have been, are, or will be involved in conditions of confinement cases. These cases deal with inmate safety, medical care, shelter, sanitation, food, and clothing.

Conditions of confinement cases are time consuming, large, and expensive. They comprise two phases: (1) the trial phase, from when the complaint is filed to the court decision, and (2) the relief phase, when the court-dictated order is implemented. The trial phase is often marked by potential confusion on the part of defense attorneys (who may have never been involved in corrections litigation) and an increase in staff workload (due to documentation requests by both plaintiff and defense attorneys) and expense in hiring experts to prepare the defense.

Of the two phases, the relief phase is more expensive. It entails expense in implementing the court orders, some loss of administrative control, a difficult adaptation period, and potential unrest between inmates and staff due to unrealistic expectations. The plaintiff's expectations are typically high (they might anticipate some form of relief soon), while the staff's expectations are frequently low (they might interpret the court order as an indication that they will lose most of their control). The true outcome of the relief phase often lies somewhere between the two extremes.

A condition of confinement case is potentially the biggest lawsuit a county can face. The county as a whole, not the jail alone, is likely to be affected by the case. After all, it is the county that must pay for the court-ordered changes. The budgets of other county departments may dwindle as funds are reallocated to the jail. The police, prosecutors, and court will feel the effects of justice system policies formulated in response to the court orders. The elected officials, boards of commissioners or supervisors, must comply with the court orders or face possible fines or jail sentences.

The Discovery Process

During the discovery process, jail staff will be inundated with requests for documentation, some of which may exist and some of which will need to be developed. Often, defense and plaintiff attorneys will disagree about the discovery process proce-

dures.. Defense attorneys are at a disadvantage during the discovery process. County attorneys may have limited experience in complex litigation, federal civil rights trials, and corrections law, and they will have insufficient time to educate themselves. Plaintiff lawyers will likely be experienced in this type of litigation and be able to direct this phase of the case. To avoid this, evaluate the case early on, settle what can be settled, and develop an aggressive defense on the issues that remain.

Plaintiff attorneys will take a close look at the jail's classification system, both how it is designed on paper as well as how it is implemented. They will look at the number of grievances and whether they were all resolved in favor of staff. They will look at the level of violence and how it is dealt with. They will interview inmates and review data on violence. They might conclude that the data grossly underreports the incidence of aggression. Plaintiff attorneys will conduct a "sniff" test to determine levels of tension and attitudes between inmates and staff. Plaintiff attorneys are likely to perceive danger where defense attorneys do not. They will scrutinize staff satisfaction levels and, if possible, will attempt to extract damaging information from disgruntled employees. Defense attorneys and corrections administrators should ideally be conducting their own investigations into the conditions at the jail. By gathering information from as many sources as possible, they can develop a viable defense based on fact.

The Court's View

In evaluating conditions of confinement cases, the court will frequently examine six criteria that deal with the jail's adequacy in meeting the basic human needs of the inmates. Listed below is a condition of confinement: issues checklist developed by William C. Collins. This is not intended to be a complete list.

1. Levels of **Violence**, personal safety of inmates. Levels of violence, along with medical care, are perhaps the two most significant areas of concern in the typical conditions case.
 - Classification. Is there is a classification system? Does it work as it was designed?
 - Numbers of stabbings, assaults, and other examples of serious violence. Are these numbers rising or falling?
 - Requests for protective custody.
 - Numbers of weapons found during shakedowns.
 - Overall relationship between staff and inmates.

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- Levels and types of supervision (how often inmates are seen by staff, to what extent are video or audio surveillance used in lieu of direct human contact?)
 - Levels of idleness and amounts of activity for inmates. This may include programs, organized activities, visiting, out-of-cell time, etc.
2. **Medical Care** .(Test:Does the medical system show “deliberate indifference to the serious medical needs of the inmates”?)
- Availability of qualified medical staff at sick call.
 - Frequency of sick call.
 - Qualifications of medical staff.
 - Medical records.
 - Emergency response plans and capabilities.
 - Level of medical care provided.
 - Handling of medications.
 - Mental health care.

In general, is any inmate who feels he or she has a medical problem able, in a timely way, to get access to someone qualified to diagnose and treat that problem (at least if serious) and then able to obtain generally appropriate treatment in a timely fashion at least for serious medical problems?

3. Shelter. The overall physical environment and its effects
- on the inmates.
 - Fire safety issues.
 - Temperature, ventilation.
 - Lighting.
 - Noise levels.
 - Exercise areas and exercise time.
 - Out-of-cell time.

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- Plumbing.
 - Cell size and extent of crowding.
4. **Sanitation.** This area is closely related to shelter.
- Is the facility clean?
 - If inmates are expected to keep their living areas clean, do they have adequate access to cleaning supplies and equipment?
 - Amount of vermin found in facility; vermin control measures taken by administration.
5. **Food.**
- Do inmates receive a nutritionally adequate diet, served in a sanitary way?
 - Are records kept of the menus used?
 - Are menus reviewed by a qualified person to determine nutritional adequacy?
 - Is the food served in a palatable way (hot foods hot, cold foods cold, etc.)?
6. **Clothing.**
- Is the amount of clothing adequate given the temperatures in the facility; does it provide sufficient privacy for the inmates?
 - Are there ample opportunities to obtain clean clothing?

These standards do not mark the requirements of the Constitution, and there is an increasing gap between modern standards and Constitutional requirements. The Supreme Court has pushed down the Constitutional floor while Corrections has raised its own expectations.

The six criteria listed above are likely be investigated to determine whether they reflect cruel and unusual punishment. "Cruel and unusual punishment" is a nebulous concept. While one of its definition's is the 'wanton and unnecessary infliction of pain without penological purpose,' the judgment is a subjective one. The court is supposed to judge the effects of jail conditions on the inmate. A good defense will push for an examination of the effects of conditions rather than a black-and-white look at the standards.

A current Supreme Court issue is *Wilson vs. Seiter*, in which the Court will decide on the 6th Court of Appeals ruling that the intent of the defendants is a critical factor along with the adequacy of conditions in the six areas listed above. A decision is due in July 1991.

Guidelines for Defense of Condition of Confinement Cases:

The following are guidelines that may be helpful in the defense of conditions of confinement cases. In general, the best defense is a well-managed facility, adequate documentation in all areas, and comprehensive policies and procedures that are implemented rather than existing only on paper. Good management can lessen the negative impact of overcrowding and is invaluable in a viable defense in these cases.

- **Cape** Diem (seize the day). To avoid being thrust into a defensive posture by the plaintiff attorneys, approach the case and settlement aggressively. Analyze the case early on, promptly settle what can be settled, and defend aggressively. This will prevent the plaintiff attorneys from directing the case.
- County attorneys may be representing people or agencies with conflicting interests. Sometimes having a county attorney as well as an additional attorney can result in internal struggles. It is critical that defense attorneys work together cooperatively; otherwise, the plaintiff attorneys' task will be considerably easier.
- Evaluate the qualifications of the defense attorney (often the county attorney). Does he or she have corrections expertise as well as negotiation and trial experience? The attorney needs to be able to define the jail's liabilities, locate appropriate experts, and structure the case. If the attorney is not experienced in these areas, consider outside assistance.
- Direct the defense attorney to the proper information resources. Assign a staff liaison to the attorney throughout the trial phase. While this might seem expensive in terms of staff time, a great deal of time and money will be saved by providing the attorney with immediate access to the necessary records and information.
- Maintain ongoing communication with the attorney to keep informed of what is likely to happen in the case, what is needed, and to ensure he or she is being provided the necessary information.
- Collect objective, reliable information from as many sources as possible—mates, staff, walk-throughs, and documentation. Evaluate what the information reveals about the jail, and compare it with other jails.

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- Consider hiring a corrections expert to conduct a thorough review of the jail. This expert should read the complaint, interview staff and inmates; inspect the facility, and develop a complete analysis of the status of the jail.
 - Push the court for an evaluation of effects, not standards. Examine documentation to determine results over time. For example, look at whether the level of violence has remained constant while the population level has dramatically increased.
 - Maintain accurate documentation to demonstrate low levels of violence. Be prepared to counter the accusation by plaintiff attorneys that the data grossly underreports reality. In a direct supervision jail, it will be difficult for the plaintiff attorneys to undercut the data.
 - Educate the judge on the reality of the jail so that he or she is not influenced by preconceived ideas or television's stereotypical portrayal of jails. Educating the judge will increase the likelihood that his or her subjective judgment of conditions of confinement is based on reality.
 - Develop a media relations strategy. Invite the media into the jail. Share favorable information regarding the jail with the media. The more honest, up front, and open the information the media is provided, the better off the jail will be. This can counter any attempt by the plaintiff attorneys to use the media to their advantage.

Relief Order

The relief phase entails compliance with the court order, close monitoring by the courts, and, ideally, by the jail as well. It is financially advantageous to argue that the jail can adequately monitor its own progress and compliance-court monitoring is expensive. Above all, documentation is critical. Hard data allows the jail to dispute claims of noncompliance.

There is a trend toward defendants being given the opportunity to develop their own relief plans and to operate under a general agreement rather than a specific court order. If the defendants can demonstrate administrative skill in meeting the demands of the court, the court is less likely to enter a more detailed and demanding order.

Consent Decrees

Consent decrees allow settlement of a lawsuit without the defendants having to admit liability. The defendant agrees to alter specific practices or conditions to satisfy the plaintiff and the court. The duties of the defendant may endure over a long period of time and may be substantial. During the period of the decree, the court retains jurisdiction over the defendant to enforce the decree's provisions.

To avoid distress and problems, it is vital that the consent decree be well thought out and the near-term and long-term implications be thoroughly analyzed. Once set, consent decrees are not easily changed. Consent decrees should be designed to be time limited and amendments should be reasonably possible.

PANEL AND GROUP DISCUSSIONS

Topic Session 1: Crowding Strategies—External
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New Initiatives

Joe Payne, Jefferson County Corrections, Louisville, Kentucky

Three external strategies to deal with jail overcrowding have been implemented for misdemeanants and pretrial detainees in Jefferson County, Louisville, Kentucky: intensive probation, privatization, and home incarceration. Politics have played a part in each strategy.

Intensive probation is operated by State Probation and Parole. It employs ten officers, one support staff, and two secretaries. Under this arrangement, parolees report once weekly with an alcohol test.

Privatization was implemented with two private businesses: Dismas Corporation and U.S. Corrections. Budgetary constraints limited the Dismas Corporation cap to 175 men and the U.S. Corrections cap to 250 men and women. Both houses averaged maximum capacity and housed sentenced misdemeanors and/or work release inmates.

An advantage of privatization is that it expands detention capacity and prevents the release of prisoners onto the streets. Disadvantages include the loss of control over inmates, the inability of corrections to collect room and board, the high return rate for problem inmates or inmates experiencing medical difficulties, and inmate transportation to and from the private facilities.

Privatization in Jefferson County met with some resistance. The teamsters union opposed it because of the potential loss of jobs among county employees and threatened to remove political support for privatization. Judges believed that the private companies were suppressing the number of noncompliances for financial reasons—the companies received money per day per person. This lack of trust and support resulted in a reduction in the number of people housed in the private facilities.

Home incarceration is provided through electronic surveillance and home checks. It has been used in Jefferson County for the past two years and is a cost-saving method of monitoring inmates. It was operated by a private company the first year and one-half. The noncompliance rate for home surveillance is high-18%-as compared to the noncompliance rate for other programs.

There has been a recent attempt by Jefferson County to take over intensive probation from State Probation and Parole and thereby to earn a profit. The comparative costs and revenues of the three methods of external strategies for addressing jail overcrowding are as follows.

	Cost	Est. Rec.	Cost Per Day
Dismas (private)	\$1,756,000	\$122,000	\$27.50
U.S. Corrections (private)	\$2,510,000	\$150,000	\$27.50
Intensive Probation	\$ 385,000	None	\$ 3.44
Home Incarceration	\$ 403,560	\$300,000	\$ 4.76*

***Cost is higher because intensive probation costs fluctuate according to the number of people paying. The cost could be zero or there could be a profit.**

External Strategies

Ronald Bishop, Shelby County Corrections, Memphis, Tennessee

Shelby County, Tennessee was motivated to develop strategies for remedying overcrowding by two pending conditions of confinement lawsuits: one involving the Jail and one involving the Division of Corrections. The County looked for ways to address the overcrowding problem internally prior to court intervention.

In response, a group was formed of individuals representing all aspects of the criminal justice community. The group, which met once weekly for two years and currently meets every other week, includes the Mayor and a member of his staff, Director of Corrections, District Attorney General, Director of Police, Chief Administrative Judge for the Criminal Court, Chief Administrative Judge for the Sessions Court, Sheriff, and Public Defender. The group members made a commitment not to involve their egos in the discussions, not to use the group as a forum for finger pointing, and to collaborate together as a working group. A support position was created to provide the necessary staff support and to expedite the flow of information.

The group collectively addressed the following problems: communication flow, length of time a person was in jail from arrest to posting bond and release, the flow

of individuals through the Sheriff's Department and court system into the Division of Corrections, paperwork flow, operating costs, and the bed space shortage due to the large numbers of inmates netted by aggressive law enforcement and drug sting operations.

Specific questions addressed included:

- What is the role of each of the entities in the group?
- How can areas of responsibility overlap be handled?
- How can the entities work together cooperatively to regulate the jail population?
- How can the back of jail bed space be remedied?

There have been excellent results from the group's efforts. These include a reduction in the time from arrest to release on bond to four hours. Relationships between the various entities in the criminal justice community have improved and each group member has a better understanding of individual responsibilities and concerns. The Tennessee legislature is looking at implementing a configuration of this type across the state to reduce overcrowding at the local level.

The success of the group can be attributed to the participants' abilities to set major issues on the table and take a proactive, collective approach to their resolution.

Highlights of the Discussion

Following the panel presentation, the participants discussed and commented on the issues presented. Highlights of the feedback follow:

- The key issues involve politics, economics, ethics, and business decisions. When developing management solutions, these solutions need to fit the local context.
- In evaluating electronic detention devices, it is important to separate the glitz from the facts.
- It can be difficult to elicit the involvement of judges on criminal justice system committees. Suggestions for doing so include: working to address the judges' problems and meet their needs (such as increased security in the court room), illustrating where they have reacted incorrectly, publishing a comparison of judges' cases and depositions to increase peer pressure for appropriate practices, insulating judges from public judgment, giving the judges "ownership" of the group by placing them in a key role in the decision-making process (such as the committee chair), and educating

judges that crowding is not a jail problem but a criminal justice system problem.

- Often each player in the criminal justice community has his or her own agenda, and not all of them are complementary. Some people want more people in jail, some want fewer people in jail. While jails know some information about their inmates (types of crimes, next of kin, etc.), they typically lack the kind of information necessary to make decisions on whether the inmates should be in or out of jail. A determination needs to be made on whether programs such as addiction recovery and literacy programs decrease the likelihood of repeat offenses. Jail space is a scarce resource. The system needs to determine criteria for evaluating whether programs are preventing recidivism. To do so, better studies need to be conducted to develop a profile of who should and shouldn't be in jail. These can be conducted by outside, independent researchers such as university staff with better studies, corrections can provide politicians, the justice system, and the public with information on what can be done to reduce incarceration while protecting society.
- Orange County, Florida, was able to demonstrate a significant reduction in recidivism rate by enrolling inmates in a rehabilitation program entitled the Genesis Program. Of the general population, 17% were repeat offenders; while only 6% of the Genesis group and 5% of the work study release group were repeat offenders.
- Georgia implemented a reserve system which postponed inmate incarceration until times when the jail's population was lower, such as in the middle of the week.
- Florida mandated a County Corrections Planning Committee comprised of members of the criminal justice community. However, a mandate doesn't guarantee the kind and level of participation necessary. It is advisable to cultivate a relationship with the judge, preferably the chief judge, by implementing a public relations plan over a period of time.
- Criminal justice system committees need to make members with opposing agendas team members rather than adversaries.
- Initiatives to decrease jail population include 10% bonding, credit card bonds, and ATM in the lobby, alternative community services, and giving the inmates the choice of improving their lives or receiving a fixed sentence.

Topic Session 2: Crowding Strategies-Internal
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Removing Classes of Inmates from the Jail System

John Simonet, Denver Sheriff's Department, Denver, Colorado

In 1990, Denver booked 50,000 people and diverted between 8,000 and 9,000. The diversion was accomplished by evaluating and eliminating or reducing certain classes of inmates.

The first class examined was the chronically mentally ill. Some of these people were serving virtual life sentences, twenty days at a time. Police officers were typically putting them in jail because the seventy-two hour mental health hold was a nuisance to implement. This was resolved by employing a psychiatric nurse at the intake center to assess the potentially mentally ill. The nurse arranges to have the charges dropped at the arraignment court and either returns the people to the care of their case workers or assigns case workers to them. Today, there are only between one and three chronically mentally ill inmates in the Denver jails, and these have serious charges against them that were not able to be dropped.

Another class Denver evaluated was DUI offenders. The arrangement was made to have offenders put in jail after they are adjudicated, not after arrest. The booking system is streamlined. The offenders' pertinent information is recorded and they are released to the Denver Cares Detox Program.

Traffic offenses were decriminalized recently in Denver, so that now no one goes to jail on a traffic offense. Prior to this change, there were 30,000 outstanding traffic warrants.

PTAs (failure to appear) and misdemeanors are not put in jail currently but must pay a fine. Police officers take them to the Denver County Court, which is open twenty-four hours a day; they pay the fines and are released. The courts have permitted a stay of execution on municipal ordinances and misdemeanor fines. These individuals are assigned a court day to return. This system has eliminated between seven and eight people per weekday and up to twenty on weekends, and has quadrupled the revenues from fines.

Parole officers were previously bringing in parolees on technical violations. They were told that this was no longer permissible, and they must now receive permission to take a technical offender to jail. Other options include issuing summons or taking them elsewhere.

One of the classes of people in jail that Denver is currently unable to do anything about is poor people who cannot afford to pay bonds. Lobbyists have prevented a 10% bonding law from passing.

By looking closely at the classes of inmates in jail, Denver has been successful in reducing the number of inmates being committed who are not a threat to society.

Resource Management

Charles Felton, Pinellas County Corrections Bureau, Clearwater, Florida

External resources designed to reduce the number of prisoners in jail systems are not 100% successful. Therefore, jail administrators must rely on internal resources for the effective management of an overcrowded jail.

There are a number of negative effects of jail overcrowding:

- Additional workloads are placed on staff, which minimizes security and causes delays in overall operations.
- Internal security is compromised, which could result in violent confrontations and the probability of more escapes. If an escape risk prisoner is placed in an overcrowded area, within two weeks there will likely be between five and eight sympathizers.
- There are excesses of special needs inmates over the number of housing areas where special management inmates are housed. Regular housing areas are eliminated to accommodate special management problems, such as an excess of one or two juveniles or persons with severe mental handicaps. As a result, beds go vacant while regular inmates are placed in overcrowded situations.

To deal successfully with overcrowding, attention should be focused on the following areas:

- An effective and centralized classification system with twenty-four hour movement capability. This requires the ability to be creative and resourceful in the placement of inmates. Classification can reduce the potential of violence by ensuring that prisoners grouped together have some degree of compatibility.
- Prisoners who are escape risks or escape risk potentials should be properly identified and appropriately classified. A reclassification committee in Pinellas County provides an ongoing evaluation of special management problems and also a vehicle to evaluate their capability for living among the regular population.

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- Increased patrols are essential to maintain institutional integrity. For example, fifteen-minute well-being checks, instead of thirty-minute checks, were implemented in Pinellas County Jail to reduce the potential of sexual assaults, violence, and escapes.
 - Inmate advisory councils can prove successful in monitoring inmate discontent and facilitating the dialogue necessary to address inmate grievances. Inmate advisory councils were implemented and have been in place in Pinellas County for a number of years. They have been helpful in identifying troublemakers and in reclassifying prisoners not practicing good hygiene. Also, the installation of additional inmate telephones has reduced fights over phone use.
 - Because overcrowded living areas do contribute to riot and/or hostage type situations, it is important that hostage and riot plans be reemphasized to staff for immediate response capability.
 - Program Services are a useful management tool. Areas such as recreation, counseling, religious programming, leisure time activities, library services, and visitation should receive increased attention.
 - Jail staff should not be ignored during periods of overcrowding, as there is a tendency to concentrate on inmates to the exclusion of staff. This can result in increased utilization of sick time. Staff frustration can also be evidenced by an assembly line approach to classification in which inmates are placed anywhere beds are available. To avoid this, a reemphasis of staff professionalism is especially important. It is also critical that floor supervisors not make inmate housing decisions without following the classification guidelines. Effectively managing internal resources and maintaining jail operations as routinely as possible are critical in reducing staff stress and frustration.

Working with the Judiciary

Sam Saxton, Prince George's County Department of Corrections, Upper Marlboro, Maryland

Prince George's County Department of Corrections was at one time notorious for its lack of communication between offices, management, staff, judges, programs, police, probation, and parole. Its evolution into a sophisticated criminal justice system with community-wide support was brought about, first and foremost, through working with the judges.

When discussing the causes of overcrowding, the role of the judge somehow always becomes a part of the discussion. Many administrators sit back helplessly and blame the judge for the jail's increased population. Few administrators make a concerted effort to analyze the judges' position in light of the job required of them.

Judges are asked to be many things to many people. They are urged to consider the needs of the victim, the defendant, and society. In many cases they determine guilt and in all cases pass sentence. They do this under the watchful eye of the public, the press, colleagues, defendants, victims, attorneys, and themselves.

To develop a good working relationship with the judiciary, the following recommendations might be helpful:

- Carefully study the personalities and operating methods of each judge. Determine which judges are the “movers and shakers” and develop a relationship with them.
- Consult the judiciary to determine their sentencing needs and develop appropriate programming options, including intermediate sanctions, to meet those needs.
- Identify programs of interest to the judges. Help them to meet their needs, and they will help you to meet yours.
- Communicate regularly with members of the bench. Educate judges-share with them new developments within the criminal justice arena.
- Invite judges to visit the correctional facility from time to time.
- Develop and maintain a working relationship and hold periodic meetings with all those working with the court, including administrators, court commissioners, law clerks, and senior aides. Develop a rapport so that the judge or clerk is comfortable in calling the facility to discuss sentencing options.
- The media is not opposed to trying to play the correctional facility against the bench, especially when dealing with a controversial release. Taking a neutral position on the matter will be rewarded with loyalty over time.

It is important to remember that judges are human beings simply trying to do an unpopular job with minimal resources and an entourage of “second guessers.” Those who manage correctional facilities must be attuned to the needs of the judiciary and attempt to guide them in the right direction. It’s in the jail administrator’s best interest to do so.

Highlights of the Discussion

Following the panel presentation, the participants discussed and commented on the issues presented. Highlights of the feedback follow:

- Even internal strategies require external cooperation with other elements of the criminal justice system.

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- To eliminate the impact of the number of people in jails, collaborate with judges and parole officers on decisions about what types of individuals are eligible for release on their own recognizance.
 - Set up a system for parole violators to go directly to the state and not the county. Charging the state a per diem rate for state parolees might be helpful. Develop a relationship with the state to get a one-day service and pick-up for state parole violators.
 - increase the number of phones in the booking area; it is possible that this will decrease the length of stay and increase the percentage of people being discharged.
 - Use short-term furlough for sentenced misdemeanors. They can be released on a preset date, which frees up jail beds.
 - Video arraignments can reduce transportation time and costs. Los Angeles has been transporting between 2000 and 3000 inmates per day; video arraignment will save L.A. inmate transportation. Some public defenders are opposed to video arraignment because of client confidentiality issues.
 - The lunar phone system, which provides on-screen viewing of the person on the line, allows attorneys to talk with their clients quickly.
 - Closed-circuit televisions in jails can provide a way to accomplish plea bargaining.
 - Politics affect the jail crowding issues. Criteria for population caps change overtime. In the 1950s, 250 square feet per inmate overall was the standard; today, it is 450 square feet per inmate.
 - In El Paso, Texas, 92% of the arrests are attributable to public intoxication. While a detox program exists, it's easier for the officers to get the person into jail than into the detox program. Also, when officers make an arrest, they automatically receive three hours of overtime pay, which provides incentive for business as usual.
 - Meet with inmates to discuss problems they perceive. Use their input to improve the jail.
 - Fairfax County, Virginia, combined forces with other large jurisdictions in the Washington, DC, area to create the Corrections Chiefs Committee and several subgroups which address a variety of common problems.

Topic Session 3: Consent Decrees

Long-Term impact of Consent Decrees

Mark Kellar, Harris County Sheriff's Department, Houston, Texas

In 1972, two important conditions lawsuits originated in Texas: *Alberti vs. Sheriff of Harris County, et. al*, filed by an inmate in the Harris County Jail, and *Ruiz vs. Estelle*, filed by an inmate in the Texas Department of Corrections. The histories of both cases represent two divergent approaches to final settlement but demonstrate how the local and state systems can mutually affect one another. Years later, both of the cases served as catalysts for massive reform in the state and local criminal justice systems.

The early 1970s was an era of prison litigation lawsuits in the federal courts. Consent decrees were commonly proposed as resolutions. In 1976, Harris County signed a consent decree, thereby waiving subsequent opportunity to challenge the court order through the appeal process: Approximately fifteen years later, defendants in the case found themselves locked into broad compliance issues which were never intended by the original language of the decree, such as an updated definition of "adequate health care" with an annual price tag of more than \$10 million.

The *Ruiz* consent decree was a rigid set of conditions that governed detailed administrative items such as the number of socks to be issued to each inmate. It also stipulated that the population was not to exceed 95% of capacity. Having no alternative but to comply, the state legislature enacted the Prison Management Act, which authorized the governor to accelerate releases through pardons and paroles by granting additional good time to potential parolees when the population exceeded its cap. The result was that convicted inmates served less and less of their sentence time. The governor soon became known as the one responsible for releasing dangerous felons.

In 1987, the Texas Department of Corrections board adopted the Controlled Admissions Policy, a quota system which gives counties a weekly allotment of inmates to transfer to the state prison, regardless of the number of those sentenced to serve time for felony convictions. The impact of prisoner backlogs in the county jails was not felt immediately, but by 1989 became a very serious problem.

To work toward resolving the *Alberti* case, Harris County in 1984 formed a Criminal Justice Advisory Committee to monitor and implement various efficiencies and other measures to control jail population. By 1986, the county sought proposals for a much-needed 4,000-bed jail facility. Other changes were also made, including a more reasonable bonding policy for misdemeanors and authorization for speedy hearings for all inmates. By 1987, the court-appointed Master in the *Alberti* case

issued a glowing report of the Harris County system outlining a phase-out to terminate *Alberti* by 1989. However, the Master failed to anticipate the adverse impact of the Texas Department of Corrections Controlled Admissions Policy. By the summer of 1989, more than 8,400 prisoners were held in a jail system designed for 4,200.

Defendants in *Alberti* filed a petition with the court to join the State of Texas as a codefendant because jail overcrowding was directly proportionate to the number of inmates backlogged in the county jail system. Under the advice of the *Alberti* Master, the court issued an order which specified time frames for population reduction and required the release of prisoners by September 1990 if the caps were violated. In August, misdemeanor inmates were released in an attempt to meet the cap. These releases, accompanied by unprecedented media coverage as well as several heinous incidents committed by early-release prisoners, triggered a massive public outcry. As a result, the Federal 5th Circuit Court of Appeals stayed the provision of the order which would have released convicted felons from jail in September.

Although 10,000 beds were opened in 1990 in state prisons to reduce the backlog in county jails, they were insufficient to cope with the number of inmates.

A number of important policy decisions must be examined if the criminal justice system in Texas is to remain viable. The state must plan to provide prison space for convicted felons. Alternatives to prison incarceration must be explored for nonviolent first offenders. In addition, the citizens must be informed of the options available.

There are three important lessons in the Texas experience:

1. Rigid, long-term consent decrees designed to solve immediate problems may produce disastrous long-term effects. Consent decrees should be structured to meet minimal constitutional standards and flexible enough to permit adjustments through time and circumstance.
2. State and local jurisdictions must work together. Litigation aimed only at inmate custodians cannot address those factors which cause the problem.
3. Governmental agencies need to consider long-term effects of their decisions. For example, time-lags for facility construction are critical. Planning for today's needs on a five-year completion schedule will inevitably fail to meet long-term needs.

Additional Information on Consent Decrees

William C. Collins, J. D.

A consent decree is a contract between two parties in a suit and it is also a court order. It is a binding master plan; failure to comply can result in huge fines. Problems can occur with consent decrees for two reasons: bad lawyers and bad clients. A lawyer may not take the time to analyze the decree properly. Clients may agree to the decree without examining its short- and long-term ramifications. The result of this scenario is a decree people can't live with. Once set, a decree is difficult to change unless flexibility has been negotiated into the agreement. A decree should also be time limited to allow for gradual court withdrawal. If, for example, defendants can show substantial compliance, the court should let go of that portion or of the entire decree. Without flexibility and time limitations in a decree, the jail has to do forever whatever the decree stipulates.

Highlights of the Discussion

Following the panel presentation, the participants discussed and commented on the issues presented. Highlights of the feedback follow:

- Overtime, the role of the monitor in consent decrees should decrease consistently. Preferably, court involvement in prisons and jails should be low.
- Consent decrees do not prevent all lawsuits but can be useful in many situations.
- The desire to expedite closure of a case by hurrying into a consent decree will come back to haunt. Parties may agree to stipulations they have neither the power nor the resources to accomplish.

Private jails can be sued, The county retains ultimate responsibility for a private facility's being constitutional. In some instances, both the county and the private facility can take the blame. When contracting out to a private facility, it is important to monitor contract compliance. In northern California, several counties are being sued with a blanket lawsuit. Some of the counties have agreed to changes over and above the minimum jail standards set in that state. Once locked in, a new standard will be created, which is cause for concern.

Topic Session 4: New Technologies

User Evaluations of New Design Concepts

Larry Ard, Contra Costa County Sheriff's Department

Typically, jails plan, build, and operate a facility and then plan the next facility. They do not take the time to evaluate what they did. They do not use university or internal staff to identify the strengths and deficiencies of the facility and learn from past mistakes.

The report entitled "A User-Based Evaluation of the Chicago Metropolitan Correctional Center, Final Report,"* by Richard Wener and Richard Olsen, is a comprehensive evaluation that is invaluable for other facilities. Among other things, it provides a checklist of potential areas of concern. For Contra Costa County, the report justified major design changes far along in the design process (this, of course, is not the optimal timing). The report guided them to make different decisions than they might have otherwise, including increasing visiting space, moving the processing stations, installing more televisions and telephones, and not having a central courtyard.

Once the Contra Costa County Jail was constructed and operating, an evaluation of the facility was conducted by a doctoral student. The result was a 600-page document entitled *A Post-Occupancy Evaluation of Contra Costa County's Main Detention Facility: An Analysis of the First New Generation, Podular/Direct* by Frederick W. Frazier, 1985. The evaluation was developed by interviewing inmates and all levels of staff. It provided historical information and also revealed several deficiencies in the building, such as computer terminals being placed too close together, too much noise from the printer, inadequate booking counter space, the lack of staff areas, and insufficient support services.

The benefits of this user evaluation included:

- identification and correction of problems
- an understanding of how the building operated

* "A User-Based Evaluation of the Chicago Metropolitan Correctional Center, Final Report," to the U. S. Department of Justice Bureau of Prisons, 1977. Richard Wener and Richard Olsen, *User-Based Assessment of the Federal Metropolitan Correctional Centers: Final Report* (Polytechnic Institute of New York, 1978).

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- attention to inmate needs
 - attention to staff needs
 - better management tools, such as an increase in the number of televisions

User-based evaluations are important in advancing professional knowledge and in remedying problems. It is worthwhile to allocate funds so that the facility, once constructed, can be properly studied. It will prove useful to the jail as well as to other facilities.

Highlights of the Discussion

Following the panel presentation, the participants discussed and commented on the issues presented. Highlights of the feedback follow:

- Once a facility has been built, the energy is then directed toward operating it. Not a lot of time is spent evaluating a facility. But evaluations are crucial-millions of dollars are spent on new facilities. User evaluations can determine how well theories work in practice.
- Post-occupancy evaluations have been around a long time-they have been conducted by architects. However, architects view the building from a physical structural perspective only. More comprehensive evaluations are needed. These include: How is the design working? Is the jail's philosophy being implemented?
- While biographical and historical data is collected, jails lack the kind of data they need to develop effective programs and design facilities to meet their needs.
- Approximately half of the Large Jail Network meeting's participants have opened new facilities; the remaining half will be opening new facilities. User-based evaluations can help jail administrators benefit from the collective experience.
- Demographics of a community can change over time, as is the case with Prince George's County, Maryland, which was previously predominantly low income. It is important to evaluate a jail in terms of who is going to be using it. If the jail population increases, determine what group is responsible for that increase.
- User evaluations do not tell people how to build their jail; rather, they provide them with the data to make informed decisions that will be appropriate to their local areas.

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- Do not depend totally on the architects or consultants to meet the facility's needs. Involve the staff in contributing ideas. Maintain control of the project, particularly in the initial phases. Develop a good rapport and ongoing dialogue with the architects. Once the ideas are in construction document form, the ability to change plans diminishes and the cost rises sharply.
 - Financial considerations govern what can and can't be done. Be innovative and nontraditional in addressing problems. For example, value engineering can allow cutbacks in some areas and allocation of funds in others.
 - Jails will be required to do more with less. Alternatives need to be valid and supported by the public. Program evaluations can garner public support.

Closing Session:

Michael O'Toole, Chief, NIC Jails Division

The National Institute of Corrections is committed to its role as a facilitator of information and technology transfer. The Large Jail Network is designed to provide a context that helps jail administrators and sheriffs to exchange ideas on what works and what their needs are likely to be in the future. Participants agreed that the peer panel format should be retained in future meetings.

Participants mentioned several issues for consideration in the *Large Jail Network Bulletin*:

- Describe how to put together a technological system that includes finger prints so that jails can track who is in their custody and more positive verifications on all releases.
- Provide an overview of the pending federal legislation and its impact on jails.
- Outline how to conduct demographic and population studies.
- Examine reintegration strategies. If jails were automobile companies, their number of rejects would put them out of business.
- Explore prevention strategies.
- Identify what standards should be set for jail administrators and jail officers--there are none currently.

It was reiterated that the *Bulletin* relays what the jail administrators are doing. It is the intention of the NIC to collect and share information on successful programs. NIC provides the vehicle that allows administrators to help each other.

Suggestions by participants for future meetings of the Large Jail Network include the following:

- Criminal justice systems planning
- Jail alternatives
- Programs relating to internal jail management
- Classification
- Suicide prevention planning
- AIDS
- Managing jail litigation
- Well thought out consent decrees
- Preventative maintenance programs
- Automated finger printers, digital mug shots, video arraignment

Appendix 1

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