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# Large Jail Network Proceedings



Meeting Proceedings

September 2009

U.S. Department of Justice  
National Institute of Corrections

# **Proceedings of the Large Jail Network Meeting: September 2009**

Red Lion Hotel, Denver Southeast

Aurora, Colorado

**PREA Overview**

**Successful Pre-Trial Release and Criminal  
Justice System Collaborations**

**Legislative Updates**

**ADA, CRIPA, and LEP**

**Middle Management Training Programs**

**Open Forum**

**National Institute of Corrections**

Morris Thigpen  
Director

Thomas Beauclair  
Deputy Director

Virginia Hutchinson  
Chief, Jails Division

Michael P. Jackson  
Correctional Program Specialist

U.S. Department of Justice  
National Institute of Corrections  
Jails Division  
320 First Street, N.E.  
Washington, DC 20534  
(800) 995-6423

**Proceedings of the Large Jail Network Meeting  
Aurora, Colorado  
September 21–23, 2009**

U.S. Department of Justice  
National Institute of Corrections

Mike Jackson  
Correctional Program Specialist  
Large Jail Network Program Coordinator

October 7, 2009

Constance Clem  
Meeting Recorder  
Clem Information Strategies  
Longmont, Colorado



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## INTRODUCTION

### ABOUT THE LARGE JAIL NETWORK

The National Institute of Corrections (NIC) established the Large Jail Network (LJN) in 1989 as a connection point for administrators of jails and jail systems housing 1,000 or more inmates. The network was launched with 67 member agencies and convened at its first meeting in 1990. NIC publishes the *LJN Exchange* journal and hosts a private online presence for the network.

The contact for further information about the Large Jail Network is Mike Jackson, Correctional Program Specialist, NIC Jails Division, Washington, D.C., (800) 995-6423, ext. 69565, or [mpjackson@bop.gov](mailto:mpjackson@bop.gov).

### PURPOSE

The NIC Jails Division networks' mission is to promote and provide a vehicle for the free and open exchange of ideas and information and innovation among network members. In addition, NIC networks reinforce the assumption that knowledge can be transferred from one jurisdiction or agency to another, and this knowledge can serve as a stimulus for the development of effective approaches to address similar problems or opportunities.

Our belief is that, collectively, network members are likely to have developed successful strategies for meeting challenges that arise. As a group, network members are an available resource to each other. The network provides a systematic way for information to be shared, which not only benefits the network member, but also those they serve and represent – the local government, state, community, staff, and inmate.

LJN goals are:

- To explore issues facing jail systems from the perspective of network members with administrative responsibility.
- To discuss strategies and resources for dealing successfully with these issues.
- To discuss potential methods by which NIC can facilitate the development of programs or the transfer of existing knowledge or technology.
- To develop and improve communication among network members.
- To seek new and creative ways to identify and meet the needs of network members.

## ABOUT THIS MEETING

The September 2009 meeting had 40 LJN member agency staff in attendance.

The meeting began with an informal dinner on Monday, September 21, with participant and guest introductions. Two days of presentations and discussion followed.

Guests and speakers at the meeting included:

- PREA Commissioners Brenda Smith, American University, and Jamie Fellner, Human Rights Watch
- U.S. Department of Justice, Civil Rights Division staff Toni Pochucha, Yolanda Hillyard, Patrick Chang, and Dan Weiss.
- Gwyn Smith-Ingley, Executive Director, American Jail Association, Hagerstown, Maryland.
- James Gondles, Executive Director, American Correctional Association, Alexandria, Virginia.
- Mark Flowers, Director, Standards and Accreditation, American Correctional Association.
- Eric Schultz, Director, Government and Public Affairs, American Correctional Association.
- Bob Brown, Chief, NIC Academy Division, Aurora, Colorado.
- Fran Zandi, Correctional Program Specialist, NIC Jails Division, Washington, D.C.
- Chris Ennis, Chief, Research and Evaluation Division, National Institute of Corrections, Washington, D.C.
- Connie Clem, meeting recorder, Clem Information Strategies, Longmont, Colorado.

The agenda for the meeting is provided in Appendix A.

A list of LJN members in attendance and meeting guests appears in Appendix B.

An index of past topics covered at LJN meetings is provided in Appendix C.

## LJN ONLINE

NIC provides a private web site for the LJN, where members can access presentation files from this and earlier LJN meetings as well as share other materials throughout the year. A member forum facilitates a day-to-day dialogue on issues facing large jails and strategies for responding to them. Current and prospective members can access the site at <http://community.nicic.org/forums>.

## PROGRAM SESSION: PREA OVERVIEW

### The National Prison Rape Elimination Act

*Presenters: Professor Brenda V. Smith, American University, Washington, D.C., and Jamie Fellner, Senior Counsel, U.S. Program, Human Rights Watch, New York, New York*

In this session, Jamie Fellner and Brenda Smith discussed their satisfaction with the integrity and quality of the work performed by the National Prison Rape Elimination Commission (NPREC), of which they were members. The Commission was statutorily disbanded in June 2009 following submission of recommendations to the U.S. Attorney General. The speakers invited an open discussion of the proposed standards.

#### Major points:

- When the Prison Rape Elimination Act (PREA) was first before the U.S. Congress, the focus was inmate-on-inmate victimization. As time passed and new data were collected and analyzed, the focus shifted significantly to greater concern about staff-inmate victimization.
- Accountability is the essence of PREA work. The data collection process meant that as events and incidents have begun to be counted, behavior is more likely to change.
- Federal grant funding from the U.S. Bureau of Justice Assistance went primarily to state prison systems. Juvenile justice, jails, and community corrections were left out of the funding stream. This continues to be a concern.
- Sexual violence in jails remains a problem. Stories about sexual victimization in jails emerge daily. Cases more often are being prosecuted, reflecting an increased willingness of prosecutors to address the issue. *United States v. Robert White* is a D.C. case involving a transgendered inmate that resulted in an officer serving a seven-year prison sentence. *Heckenlaibel v. Virginia Peninsula Regional Jail Authority* is a civil case in which the jail authority was found liable for an assault involving cross-gender supervision of a mentally ill inmate.
- BJS data for 2006 showed that publicly operated jails had, on average, lower rates of sexual abuse allegations than did publicly operated prisons. Data released in 2008 showed that 3.2% of jail inmates experienced sexual violence, including both staff-to-inmate and inmate-to-inmate abuse.
- Any sexual relations between staff and inmates are illegal, whether they occur through coercion, romantic developments, or mutual physical attraction.

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- Inmates and administrators report staff-to-inmate victimization as a greater problem than inmate-to-inmate victimization. Women staff are more likely to enter into inappropriate relationships with inmates.
- Homosexual and bisexual inmates have much higher rates of victimization. Higher reported incidence rates in juvenile justice may be because reporting is more strongly normalized in that setting as well as because these populations also have greater vulnerability. Community-based and ICE detainee populations are also at risk.
- The glossary provided in the standards documentation is important, because definitions vary from location to location.
- Leadership matters. Few agencies have sufficient internal monitoring and external oversight to keep inmates safe. It is essential that agency leaders understand why abuse occurs and how to prevent it.

Brenda Smith said that PREA brought positive outcomes for correctional agencies by mandating technical assistance and training from NIC and by providing grant funding, though little of that funding made its way to jails. Some meeting participants noted that county prosecutors or other personnel received BJA-funded training or assistance with data systems. The U.S. Attorney General has supported the concept of additional grants, which should be more available beyond the state corrections level. States typically used their PREA grant money to improve data collection, install cameras, conduct training, provide victim services, and conduct facility audits to identify areas of vulnerability.

Chris Ennis (National Institute of Corrections) mentioned a new NIJ-funded study by Barbara Owen and James Webb on sexual victimization. NIC is exploring ways to apply the results of this work in correctional settings.

Jamie Fellner reviewed the process of forming the PREA commission, which was bipartisan and professionally diverse. The commission included a former prison commissioner, a federal judge, a prosecutor, representatives from private corrections and the faith community, academics, and a businessperson. The commission tapped into additional expertise through hearings, panels, and development of an extensive literature review. The commission released its draft standards in May 2008 and received comments from 225 individuals and organizations. The resulting final standards, released in June 2009, address most concerns to a level acceptable to most people.

**The Standards**

The commission's recommended standards are presented in 11 areas, such as leadership and accountability, prevention, detection and response, and monitoring. Each standard includes the standard itself, an assessment checklist, and a discussion. The standards lay out what is mandatory, but the language has to be interpreted. Qualifiers such as "reasonable", "easily", and "securely" can be understood at a gut level, but are agencies prepared to address the spirit as well as the letter of the law? Agencies will approach this with concern for implementation costs and awareness of the potential for litigation.

The assessment checklist provided with each standard assists agencies in framing their response. The checklist may suggest different approaches an agency can take that will satisfy the standard.

### Discussion

Joe Schmitz (Hamilton County, Ohio) questioned whether the 3.2% incidence BJS reported for jails is based on total admissions or average daily population. This is critical because jails have very high numbers of intakes and an average length of stay of less than 19 days. The commissioners acknowledged that the derivation of the percentage figure could be an issue but said that Allen Beck, Director of the U.S. Bureau of Justice Statistics, was comfortable with the 3.2% figure and that it should be accepted.

A participant asked if the research had uncovered any differences in incidence between direct supervision jails and other jail types. Commissioners said that it could be possible to analyze the data in the report's appendices by facility to examine differences by facility type. Brenda Smith said that the commissioners know the data are imperfect for prediction and management, but agencies can continue to examine medical and self-report data to discern patterns that are consistent with medical indicators of abuse and assault.

Participants asked if the items raised on the assessment checklist are mandatory. The response was that no, the checklists are not intended to go beyond the standard and do not impose additional obligations; they are provided only to help agencies understand the standard.

### Controversial Standards

The commissioners invited discussion on some standards that have been the focus of concern by jail officials.

**Standard PP-4, Limits to Cross-Gender Viewing and Searches.** This standard restricts non-medical staff from viewing inmates in states of undress. The commissioners said that testimony from witnesses made it clear that any situations involving nudity presented problems and created an environment that made it easier for sexual victimization to occur. Therefore, a same-sex staff member should always be present when inmates are in a state of undress, except in extraordinary situations.

- Jim Gondles (ACA) said that how state and federal courts interpret this standard will be important. Brenda Smith agreed, noting that the issue involves balancing the rights of inmates and the rights of staff.
- Jeff Newton (Douglas County, Nebraska) observed that because 45% of the jail's staff are women, this standard suggests they cannot work in male housing units where they have visual access to showers and toilets. Some of the county's housing units are open bay, direct supervision pods. Jamie Fellner suggested that some response can be identified, though it may not be possible to apply a single solution throughout an agency.
- Cost concerns were also raised in connection with a prohibition on cross-gender pat-down searches. Participants asked how their facilities could implement this without putting both male and female staff on every post. At a time when jails are already laying off staff for budget reasons, this is not likely to be feasible. The commissioners said that other agencies

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are managing this issue, including agencies all over Europe. Legislatures can be approached for more funding.

- Joe Schmitz asked what data support the standard prohibiting cross-gender pat searches. The commissioners responded that the data are certainly supportive in regard to female inmates, but there are no data linking female staff pat-downs of males with victimization. However, they noted, intimate interactions create a space in which sexual relationships can occur. Meeting participants said that pat searches are not intimate, taking place with dozens or hundreds of witnesses.
- Jamie Fellner said that the data show a high incidence of situations involving female staff and male inmates. Agencies need to set a clear line that this matters.
- Susan Jeter (Brevard County, Florida) said that though the survey questions may have resulted in inaccurately high incidence findings, jails are not opposed to keeping people safe. Finding workable preventive measures is difficult. Her county put up visual barriers in the shower and had more suicide attempts as a result.
- Agency culture is key. The highest cost-benefit outcome is in training. Hiring good people is important, but long-term it's the culture that matters. The commissioners observed that they had to write standards for those agencies that aren't as concerned with inmate safety, those that aren't trying their best, as well as for those agencies that are already taking these issues seriously.
- Jamie Fellner said that when jails are presented with lawsuits, they will need to answer to why they are not meeting the standards. She expects the courts to move this direction.
- Susan Jeter pointed out that jails investigate allegations of sexual victimization then turn cases over to the state, but can't make the state prosecute. The commissioners said they had hoped to include a memorandum of understanding to cover prosecution of cases, but it was outside the scope of their work. Prosecutors told the commission they have a limited budget, and inmate sexual victimization may not be their priority. Prosecution is extremely important to show there are consequences to victimization, and it is a weak link.

**AU-1. Audits of Standards.** The commissioners suggested that the transparency of the audit process will provide a vehicle for oversight and public understanding, which can be leveraged to obtain the resources needed to improve inmate safety. The audit standard raised objections on grounds of the expense of measurement, the nature of the standards themselves, what type of professionals will be engaged to conduct audits in a nationally consistent manner, and who will employ these auditors. The federal government may have a role in training auditors to ensure commonality of expertise and skill.

Brenda Smith said that the commission struggled with questions of cost and ultimately took the position that implementing the PREA standards should not cost significantly against the entire cost of corrections. Costs in a given location will vary depending on what agencies are already doing, on their physical plant issues, and other factors. Agencies may be able to minimize costs. For example, training could be delivered by video instead of in face-to-face sessions. Video and web-based training is available.

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The U.S. Attorney General is concerned about costs and may make funds available to help agencies move into compliance. BJS is launching a nine-month study to estimate the actual cost of implementing the PREA standards, which will inform the Attorney General's June 2010 response. It is understood that agencies that most need to comply with PREA standards are the agencies with inadequate resources.

**Discussion**

Participants noted that the original premise of PREA was that sexual assault was out of control in corrections. The research investment has so far found that victimization in corrections is not a lot different from among the public in general. Nevertheless, said Brenda Smith, the numbers show it's a serious problem and the incidence is unacceptable for persons in government custody. Jamie Fellner added that the numbers if you're in a high-incidence group, matter. The impact is not felt just by victims and their families—sexual victimization affects the entire facility and is an indicator that other issues probably need attention as well. Sexual victimization by a family member or a stranger is not comparable to assault by an officer of the state.

Discussion continued on the validity of the research data. Comments were that self-report data are questionable for comparative analysis with community-wide data. Issues were acknowledged with the audio data gathering. Jamie Fellner noted that the risk of stigma reduces false reporting by inmates. Michael Gauger (Palm Beach County, Florida) had representatives of the National Organization for Women come in to his jail to meet with inmates, and the allegations they came up with were completely false.

Glenn Kurtz (Sedgwick County, Kansas) commented that he has been unable to learn anything about the results of research in his jail. The commissioners said this concern should be raised with Allen Beck at BJS.

**Next Steps**

Brenda Smith suggested that agencies use a triage approach with the standards. Reading them, using the checklists, and determining to what extent you're already meeting the standards is a first step. Agencies can then identify barriers and seek assistance if needed. NIC and BJA may receive funding to help. Agencies can also look for likely partners and review the work other jurisdictions have already done. Brenda Smith and Jamie Fellner also will be available as a resource.

*Contact information: Brenda V. Smith, Ph.D., is the Director of the NIC/Washington College of Law Project on Addressing Prison Rape and a professor at the Community and Economic Development Law Clinic, Washington College of Law, American University, 4801 Massachusetts Avenue, NW, Room 442, Washington, D.C She can be reached at (202) 274-4261 or [bvsmith@wcl.american.edu](mailto:bvsmith@wcl.american.edu). Jamie Fellner is Senior Counsel with Human Rights Watch, U.S. Program, 350 Fifth Avenue, 34th Floor, New York, N.Y. She can be reached at (212) 216-1212 or [jamie.fellner@hrw.org](mailto:jamie.fellner@hrw.org).*

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## **PROGRAM SESSION: SUCCESSFUL PRE-TRIAL RELEASE AND CRIMINAL JUSTICE SYSTEM COLLABORATIONS**

### **Criminal Justice Collaboration: Community Corrections and Pretrial Services**

*Kristina Gulick, Director—Community Control, Broward Sheriff's Office, Fort Lauderdale, Florida*

Kristina Gulick wants people to think differently about jails. “Tough on crime” is out, and “smart on crime” is in. In the 1980s, the U.S. began incarcerating more drug offenders, incarceration rates rose disproportionately to population growth, and now 1 in 31 people in the U.S. are under some type of correctional supervision. Meanwhile, 91% of federal inmates and 47% of state inmates are incarcerated for non-violent offenses. Costs for incarceration have reached \$68 billion per year, far more than is spent on education. Most inmates (97%) return to the community—this includes 10 million persons released from jails annually. In Broward County alone, 210 inmates are released from state prisons each month.

The challenge is changing the perspective: moving beyond the walls to rehabilitation. The research is available to tell us what jails can do with inmates while they're in custody. Data show that states that reduce their incarceration rates see reductions in violent crime.

Gulick runs the Sheriff's Department of Community Control. The agency provides active supervision to ensure public safety and delivers programming for rehabilitation. Its \$20 million budget includes operations at 11 sites. A drug court treatment division serves 850 clients, and pretrial services is working with 3,000 detainees. Felony probationers are under state supervision. Misdemeanor probation dispositions include day reporting and electronic home monitoring. A jail reentry program was launched in 2004.

A snapshot of population data in October 2008 showed that 38% of the jail population were people being held without bond. County-sentenced inmates totaled about 20%. Another 14% were holds, and 3% were headed for state prison. The remaining 24% were in jail because they couldn't afford to post bond. Gulick believes that shouldn't happen in America today. The question became, should the county build a new jail to house these 1,100 inmates or expand the pretrial services program to handle the same population at a fraction of the cost?

#### **Pretrial Management**

Objective risk assessment is at the core of the system. Per the Florida Rules of Criminal Procedure, all detainees are eligible for pretrial release unless held on the most serious offenses, e.g., those punishable by life imprisonment. The system provides for six dispositions, and the judge must apply the least restrictive choice. Choices are: Release on Own Recognizance (ROR); Cash Bond – unsecured; Placement of restrictions (travel, associations, residence, curfew); Placement in the custody of person or organization for supervision (Pretrial Services Agency); Surety Bond with bail agent; and



Any other condition or combination deemed reasonable. Currently, the agency does 2,000 inmate risk assessments per month and presents recommendations to the judge at the first appearance hearing. If the detainee is considered an acceptable risk, the agency recommends an appropriate type of community supervision.

The agency found that there were not a lot of computer automated tools for this purpose, so they chose to do their risk determination using the COMPAS system. It analyzes relevant data on four risk factors: future violence, recidivism, flight/failure to appear, and noncompliance with supervision requirements (technical violation). All available information on criminal history, past compliance history, living situation, employment, associates, personality, criminal opportunities, and protective factors is distilled into a 1 page report that is presented to the judge. Risk scores are shown in a 1 to 10 matrix. Data are obtained from 5- to 20-minute interviews and access to criminal history data systems, and reported information is verified to the extent possible.

The agency analyzed the first appearance hearing process and found that most people who eventually were placed into pretrial services were staying in the jail for unnecessarily long periods beforehand. This pointed to the need for a meaningful first appearance hearing. It was noted that people coming into the jail in late afternoon were being held until the next day. This added impetus to creation of a first appearance court with a dedicated judge. The court conducts two hearings per day. As a result of these changes, most detainees are released after their first few days in jail instead of 6 to 8 weeks later.

Supervision technology is constantly changing, suggesting that renting equipment may be a better choice than purchasing. Active monitoring technologies are preferred, especially for notification if exclusion zones are violated. Cost-effective monitoring technologies include Blueguard monitoring of mentally ill supervisees and another system that allows up to 20 group home residents to be monitored using one telephone line. The Sobrietor is a voice-activated breathalyzer that allows reporting from home by telephone. The data is transmitted to the judge to support rapid response.

The agency provides local law enforcement a dossier on serious offenders. Law enforcement is then better able to provide assistance if there is some type of trouble. Supervising staff are not expected to enter spaces if they don't feel safe. They use radio communication for backup, or BSO or other law enforcement comes with them on visits when requested.

Her team can let people off a sanction if performance is good, but if a violation occurs, the judge decides whether the inmate will be returned to jail.

### **Supervision for Court**

Pretrial supervision can last for up to a year but sometimes lasts just 30 to 60 days. The drug court requires 12 months of treatment; the agency conducts 60,000 drug tests per year through an out-of-state provider.

Bail bond companies simply make sure people show up for court, and there has been significant resistance from the bondsman community to expansions in the use of pretrial services. Nevertheless, the point is being made on the value of pretrial. Pretrial services provides much better services to benefit the community.

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Most pretrial participants (32%) are eventually sentenced to diversion programs such as drug court or placed on probation (35%); about 25% have their cases dismissed; and about 3% are sentenced to jail. The average length of stay for those sentenced to jail is about 9 months.

The whole system is geared to let the judge know how well the supervisee is likely to comply. It supports a decision to put people in a community placement if they complied on pretrial, thereby keeping jail populations down. The program has a 1% absconder rate and 4% rate for failure-to-appear.

The pretrial supervision system has been an asset in some extraordinary cases. Once, a judge sent a court reporter to jail, and the pretrial program got her on GPS instead. GPS monitoring was also used for a hemophiliac inmate whose medical care would otherwise have had a very high price tag. In another case, a prison inmate who had served 26 years was placed on GPS during appeal while DNA evidence was being reviewed.

Budget issues have led BSO to cut \$50 million from its budget, which it did by closing the stockade. Overall, more use of pretrial has aimed at keeping the jail population static after a period of 8% annual growth. The average daily population is now dropping, which is not related to pretrial services alone but to a combination of efforts that are working together. The pretrial program has also underspent its allocation, having used \$1.8 million of the \$2.7 million that was designated for the program.

The philosophy comes down to this: "Smart public policy = Incarceration for the few. "Community Corrections for the many." Over the past 7 years, the jail population in Broward County has grown by just 4%, while the total number of persons under correctional control has increased 48%. This has been possible because of an expansion of the pretrial services program of 79% over the same period.

*Presenter information: Kristina Gulick is Director, Community Control, with the Broward Sheriff's Office, Fort Lauderdale, Florida. She can be reached at (954) 535-2373 or [kristina\\_gulick@sheriff.org](mailto:kristina_gulick@sheriff.org).*

**Successful Criminal Justice System Collaborations—Hillsborough County's Experience**

*David Parrish, Colonel (retired), Hillsborough County Sheriff's Office, Florida*

David Parrish recently retired after many years leading Hillsborough County detention services. His keyword for jail services is that they be practical as well as cost-effective. He encouraged participants to "market your jail," because county residents don't know what the jail does. The focus is out on the street unless something goes wrong in the jail. Jail crowding is an ongoing concern, but the real issue in jail management is hiring qualified staff. Parrish quoted Austin McCormick's comment that, "If I had the right staff, I could run a good prison [jail] in an old red barn."

Parrish shared the history of area jail facilities from the 1960s to the present. The legislature consolidated detention facilities many years ago under a board of criminal justice, which evolved into a county correctional planning committee and then into the public safety coordinating council. These councils are now legislatively required in all Florida counties. The councils are premised on the idea that the jail is the responsibility of, and a resource to, many justice and community entities. The job duties of a jail administrator are actually those of a criminal justice system facilitator. When the system

is clogged, everyone has more bureaucratic burdens, but it's the jail that must deal with the hands-on management and costs associated with high jail populations.

The Hillsborough County CJCC has more than 20 voting members. At first this seemed like a liability. Parrish found, however, that once he got the council's approval on a plan, there was no other entity left to study it, so it was likely to be approved.

Despite ongoing construction, the jail system never had enough beds, because older facilities needed to be taken offline. This meant asking the county commissioners for money again and again. Construction is now stable, with space available at the Falkenburg location to add more units when and if needed.

It's clear that jails can't solve the crowding problem through construction alone. Reducing the number of police on the street is unacceptable—there is an unlimited amount of crime out there for them to address. Tough-on-crime positioning is likely to continue generating new arrests. Instead of building beds, the better strategy is to process inmates more quickly through the criminal justice system. To bring avg length of stay down, do what?

Comment [mpj1]: average

#### How and why it worked

Hillsborough County has achieved a 25% drop in average daily jail populations since 2005. Parrish attributes this success to the combined effect of 12 initiatives.

1. The county established a dedicated court for probation violations. Judges had insisted cases must to come back to themselves, but a persuasive argument was made with the chief judge. One judge now hears around 7,000 violation cases annually, which has cut jail lengths of stay on violations from 39 days down to around 15 days.

2. The county designed a method to expedite prison processing. This created a drop from 200 people to less than 100, and at one point the number reached 50 inmates. The jail leadership brought in a free chicken dinner for staff to celebrate.

3. The county terminated an agreement to hold federal prisoners. The jail had been holding between 100 or 150 federal inmates. Though the agreement had been beneficial initially, ending the contract later became the better choice.

4. The county instituted new policies requiring pick-up of out-of-county inmates within 72 hours. The chief judge agreed that these detainees would be picked up or released on their own recognizance.

5. The county relocated a self-arrest program separate from booking. People who have warrants are notified so they can come in and take care of it by reporting to the criminal registration unit. The jail gets the money, photographs, and fingerprints it needs without processing people through booking just to let them go again.

6. The county developed a GPS monitoring program for people who can't afford to pay their bond. A prominent bail bondsman said he'd pay the bond of anyone who was in the jail only because they couldn't make bond and got a bit of a surprise. The chief judge supported development of an administrative order for people who met certain criteria. In addition to reducing

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bed use, the GPS system also allows the jail to know where these people are pending trial. This has reduced bed use by about 150 beds.

7. The county imposed a 30-day limit on writ hearings. When the allotted time expires, the inmates are returned. This change reduced bed usage to around 80 inmates.

8. The county created a new court to hear matters of post-conviction relief. An informed judge with expertise in this area is good and effective, with no dithering.

9. The county reduced the number of felons inappropriately sentenced to jail. Truth-in-sentencing requirements to serve 85% of a prison sentence were being subverted and laws changed to send more people to jail. More felons were receiving probation sentences and then being sent to jail instead for 364 days. The issue was successfully raised with judges, especially in the circuit courts.

10. The county increased its issuance of notices to appear. By sending these notices, the county incurs much lower costs than the burden of booking 95,000 residents for failure to appear.

11. The county ceased waiting for transport orders on violations of probation. Wait times for retrieving inmates held for a neighboring county had sometimes reached 2 weeks.

12. The county asked the courts to make more use of the sheriff's jail work crew sentence instead of weekender programs. No jail really needs an extra 50 people reporting on Friday night, with the complications of managing inmate property, some reportees showing up intoxicated, etc. The sheriff's work crew operates 7 days per week.

An editorial on "slamming the door on jail crowding" gave the agency high marks for its creative and persistent work. The agency's experience makes clear that a multi-faceted, systemic approach to population management works. The jail has been able to close 1,000 beds and greatly reduced overtime costs as staff positions were reallocated.

There have been unintended consequences. Having fewer inmates has meant reduced canteen sales and telephone revenues, which help fund treatment and programs. Some functions are in danger of being cut.

As a net result, however, it has been well worth spending the time and working with other players in the justice system to achieve reductions in the jail population.

*Presenter information: David Parrish is a former Jail Commander with the Hillsborough County Sheriff's Office in Tampa, Florida. He can be reached at (813) 784-6375 or DMP203@verizon.net.*

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## PROGRAM SESSION: NATIONAL LEGISLATION AND POLICY UPDATE

### Legislative Update

*Presenters: Gwyn Smith-Ingley, American Jail Association, and Eric Schultz, American Correctional Association*

This session highlighted several key bills under consideration at the national level that may significantly affect jail operations. It also announced the release of ACA's newly released Core Jail Standards and covered discussions at a meeting of agencies potentially affected by the PREA standards that are under U.S. Attorney General review until June 2010. (A separate program session on PREA is summarized on pages [X-X].)

Comment [mpj2]: pages?

Presenters Gwyn Smith-Ingley and Eric Schultz encouraged meeting participants to see that their state sheriffs' and jails' associations share their views with the national associations. Every time agencies and organizations share their views, it helps with grass-roots efforts to increase understanding of corrections and influence national decision-makers.

Any of these web sites can be accessed for updates on the status of bills mentioned here:

<a href="http://www.senate.gov">http://www.senate.gov</a>	(U.S. Senate web site)
<a href="http://www.house.gov">http://www.house.gov</a>	(U.S. House of Representatives web site)
<a href="http://www.thomas.gov">http://www.thomas.gov</a>	(Library of Congress web site)

### **S. 714, National Criminal Justice Commission Act of 2009**

This bill has been introduced by Jim Webb (D-VA) and is being considered in the Senate Judiciary Subcommittee on Crime and Drugs. A version has not been introduced in the House at this time. A possible House sponsor is Representative Delahunt (D-MA), and a Republican co-sponsor would be helpful.

The bill is intended to launch a comprehensive examination of criminal justice issues in the U.S. AJA supports this legislation in concept. A dialogue at the national level would be valuable, and America's use of incarceration needs study. One problem with the legislation is that it doesn't take into account local perspectives or Indian Country jails. Many associations have submitted information to Webb to reshape the legislation with more representation from states and localities, and also to provide more focus on treatment and reentry issues. Pat Nolan of Prison Fellowship and others are providing testimony. Nolan's views are considered to be balanced in terms of the correctional administrator's perspective. The bill may go into mark-up by the end of the year.

ACA has written a letter to Webb in support of the concept but refrained from directly endorsing or supporting the bill as written. No study of this scope has been undertaken since the Johnson administration in the 1960s. The bill has been perceived to have a negative tone toward correctional administration, which ACA does not consider fair. ACA has met with Webb's staff and raised

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awareness on issues such as competencies for prison administrators, which have no counterpart for sheriffs or chiefs of police. If the right changes are made, ACA will probably sign on in support of the bill. It defines an 18-month timeline for the commission, which may be a little too aggressive considering the scope of the project.

Jeff Newton (Douglas County, Nebraska) asked whether the bill specifies criteria for membership on the commission. ACA is encouraging inclusion of people with practitioner experience among the proposed 11 member commission.

**S. 251 / H.R. 560, Safe Prisons Communications Act**

This bill, to allow agencies to petition the Federal Communications Commission to permit the use of cell phone jamming equipment, has been introduced by Sen. Kay Bailey Hutchison (R-TX) with Jim DeMint (R-SC) and Barbara Mikulski (D-MD). Rep. Brady (R-TX-8) has 45 cosponsors for the House version and was waiting for the Senate version to pass taking further action. (The legislation was passed by the Senate in October 2009.) Because Brady is on neither committee of jurisdiction (Judiciary or Energy and Commerce), House sponsorship is up in the air.

Testimony has been presented for and against the measure. One concern is the potential for jamming to interfere with public safety communications. The technology has not been tested because it's illegal. The bill is headed for the Senate floor soon. The bill's sponsors accommodated a lot of requests for changes, involving aspects such as remote shut-off in case jamming units were stolen and control over who could service the Chinese-built units. Many of these changes were later tossed out and the sponsors went back to the original bill.

The bill does specifically include and define jails. A requirement was dropped to run all FCC petitions through the state governor or director of corrections, but some people supported the centralization this would have ensured. Costs of the measure are estimated at \$18 million, so it is not considered an unfunded mandate. Gary Maynard presented a live demonstration of cell phone message interception technology, conducted at a former Maryland facility. Equipment would capture the message so it appears to have been delivered without any interception flag for the sender. Dogs are also being used for cell phone detection. An AJA press release expressed the association's continued support for cell phone jamming as another tool in the box, for use according to what works in a specific agency's own environment. Some voices are suggesting that the problem would go away if agencies provided legitimate cell phone distribution in jails. This perspective does not take into account the security risks this raises in jails and in the community, but it is nevertheless being heard.

**H.R. 1133, Family Telephone Connection Protection Act of 2009**

Rep. Rush, D-IL, introduces this bill every few years. It addresses inmate telecommunications issues by calling for an end to telephone service commissions, allowance for use of debit cards, availability of more than one service provider in a facility, etc. There is no senate version of the bill, and it is not expected to progress. Congressional committees know where corrections and law enforcement stand on this issue. Inmate advocacy groups such as CURE like it.

**H.R. 2209, Restoring the Partnership for County Health Care Costs Act**

This bill was introduced by Rep. Hastings (D-FL), with support from the National Association of Counties. It is not moving and has not had a hearing. The bill would allow anyone awaiting trial to keep their federal health care benefits (Medicare or Medicaid), which would then be terminated only if the defendant were found guilty. The bill is intended to reduce the difficulty of restoring services following release. It is possible this bill will surface as an attachment to the health care bill making its way through the Congress.

**H.R. 2829, Recidivism Reduction Act of 2009**

Introduced by Rep. Carson (D-IN), this bill would allow former inmates to receive provisional benefits on release. This is a good idea for supporting successful reentry, but the bill is not going anywhere and it has no Senate equivalent. The bill increases federal matching funds from 90 to 95 percent for states that upgrade their data systems, easing eligibility verification. Federal law currently allows for suspension instead of termination of benefits.

**S. 1299, Worker Infection Protection Act**

This bill, introduced by Senators Menendez (D-NJ) and Kennedy (D-MA, now deceased), would require agencies to have a protection plan in place against risks such as drug-resistant disease. Though the bill does not refer specifically to corrections workers, there is a tie-in through jails' role in providing public delivery of health care services.

**Fiscal Year 2010: Federal Appropriations**

- State and local correctional programs will continue to benefit from Byrne grant funding, which is likely to be a bit less than in FY 2009.
- State Criminal Alien Assistance Program (SCAAP) funding is expected to continue at about the same levels. There is an oddity in how this program is viewed: the Congress considers it a reimbursement for expenses incurred by state and local to do the otherwise federal job of housing criminal aliens, and the White House has considered it more of a subsidy and has zeroed it out. Feinstein and allies are expected to find a way to return these funds, totally around \$300 million.
- Funding is expected to be made available for prosecutions related to inmate sexual victimization.
- The Mentally Ill Offender Treatment and Crime Reduction Act (MIOTRCA) program is expected to be authorized at \$50 million, with an amount in the range of \$10 million likely to be actually appropriated.
- The Second Chance Act is expected to show a significant funding gain from about \$25 million in FY 2009 to somewhere between \$50 million (House version) and \$100 million (Senate version).
- State grants under the Safe and Drug Free Schools Act have been zeroed.

## Core Jail Standards

Mark Flowers described the adoption of ACA's core jail standards this summer as the culmination of long and hard work by many dedicated professionals, including the LJN's Dave Parrish (Hillsborough County) and others. The next project for Mark will be developing a jail certification program based on the standards.

One reason the core jail standards are important is that 17 states have no state-level jail standards. Local practices can be alarming. In some small jails, for example, inmates are locked in for the night and the key is dropped off at the police station.

The new core jail standards include 138 individual standards, which are dissected into mandatory and non-mandatory components. The impetus behind the standards is not a wish to get more sites accredited. Instead, they are simply intended to provide basic guidance to jails on safe and secure practices. The standards were field-tested in Mackinaw County, Michigan, which has a 28-bed jail run by 11 staff. To meet the standards, the jail needed to spend \$2,000 to reverse the hinges on a control door, which typically had been left open; inmates routinely walked through the space. Another security flaw was that the trusty inmates who worked in the kitchen had access to keys for the paper towel dispenser and the knife drawer.

The core standards contrast with the full Adult Local Detention Facility Standards (with about 384 individual standards) and the small jail manual (with about 200 standards) for jails having 50 beds or fewer. The core jail standards are relevant for any size jail—9,000 beds or 7. The philosophy is that if a jail adopts just five of the standards, that still represents an improvement. Helping jails stay out of litigation is not guaranteed, but it is guaranteed that they'll improve their operations. Ideally, many jails who achieve the core standards will decide they want to pursue full ACA accreditation later on.

Meeting participants were encouraged to help spread the word on the new standards with area sheriffs and jail professionals. Agencies also are welcome to provide input and comments on the standards. A public comment period will be announced before future conferences.

The new standards are not available for download. Print copies will be available for purchase or possibly free of charge if ACA can secure grant funding to pay for printing. A compliance checklist will be available on request from Mark.

## PREA Stakeholder Meeting

Gwyn Smith-Ingley (AJA) reviewed a recent meeting formed to frame the research on costs of implementing the proposed PREA standards. After the National Prison Rape Elimination Commission (NPREC) submitted its recommended standards to the U.S. Attorney General, the Attorney General was faced with a 12-month window for understanding the fiscal impact and reaching conclusions on adoption of all or part of the recommendation.

The U.S. Office of Justice Programs asked AJA to convene a stakeholder meeting to focus on the standards' potential fiscal impact. Prominent players in the corrections field and its professional associations and research and policy groups were present. The group was tasked with discussing questions such as, what constitutes a "substantial" cost, and what are actual costs likely to be? The Attorney General views the role of DOJ is to set the bar for compliance at a height that is realistic, so corrections agencies can make progress and do not give up on compliance efforts.



A project team is planning to review cost estimates from nine jurisdictions within 3 months and then expand to a larger number of agencies, not to exceed 50 federal and state jails, prisons, lockups, and juvenile facilities. Agencies are invited to provide input on a list of cost variations that will affect implementation. Agencies that have a well developed capacity to examine costs are invited to share their expertise. Suggestions for "representative" facilities that could be included in the study are also welcome.

Mark Flowers (ACA) said that local agencies vary in their awareness and concern about the potential impact of PREA. Accurate information may not be making its way to all jails.

The current research is aimed at making it clear, on an operational level, what a warden or other correctional leader may need to do to bring an agency into compliance. Would prohibiting cross-gender supervision mean seven additional officers? If so, what's the cost difference?

Other concerns will continue to be discussed. For instance:

- NPREC's definitions include sexual harassment as a form of sexual assault. Will that definition be retained?
- Selection, training, and certification of PREA auditors is without precedent.
- A process for future amendments to the standards will be needed; what entity will be qualified to do so?
- Access to outside resources may be needed to aid agencies in implementation.
- Conflicts between the PREA standards and the Prison Litigation Reform Act may pose additional concerns.

Don Leach and Bill Collins are compiling a matrix of PREA standards and questions they raise, plus global issues and their policy implications.

*Contact information: Gwyn Smith-Ingley is Executive Director of the American Jail Association. She can be reached at (301) 790-3930, ext: 24, or gwyns@aja.org. Mark Flowers is [Title] at the American Correctional Association in Alexandria, Virginia. Contact Mark at (703) 224-0000 or markf@aca.org.*

## PROGRAM SESSION: CRIPA, ADA, AND LEP

### Part 1. Americans with Disabilities Act: Accommodations in Jails

*Toni Pochucha and Regina Morgan, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, Washington, D.C.*

Toni Pochucha introduced the Disability Rights Section as a source for technical assistance on access issues. The office provides training and produces guides that can assist agencies in design and post-construction accommodations. The staff also answers questions daily from across the country. They do this on the basis of first-hand knowledge of the custody environment. A sample question is, does a jail need to permit a visitor with diabetes to enter the jail's visitation area with medications and a needle? Answers were discussed at the end of the session.

Regina Morgan said that their work focuses on recognizing issues and designing solutions. Inmates can be manipulative, but sometimes they do have valid issues. The Americans with Disabilities Act is a benefit law. It is clear that the ADA applies to corrections, as confirmed by caselaw (e.g., the *Yeskey* case and *U.S. v. Georgia*).

Federal regulations (28 CFR Part 35) specify that disability should not be allowed to prevent participation in "programs," a broad term that includes just about everything jails do or provide for inmates, major or obscure. Equal access to programs must be provided. A jail cannot legally exclude someone from a program or assume they're inappropriate for a program based on the disability.

There can be some controversy over the definition of "disability," and issues can rise to the level of a disability. If the family of an AIDS-infected person is discriminated against, that is a disability. Addictions can be a disability, though the ADA protects only persons in recovery, not current users. Persons who are in recovery may not be denied employment.

The ADA Amendments Act passed January 2009, broadening the scope of the law to cover major bodily functions including but not limited to immune function, normal cell growth, and internal organ systems.

A show of hands indicated that half or more of the jails represented at the meeting have a dedicated ADA coordinator. The role of the coordinator is to help balance custody and safety issues with medical necessity. An ADA coordinator from the county or local government may be assigned to handle jail issues, but it is generally more effective to have an in-house designee with a background in corrections. The person in this role does not necessarily need to be dedicated to working solely on ADA issues.

#### ADA Complaints

ADA is a voluntary compliance law. There is no enforcement of the law unless a lawsuit brings attention to an organization. Agencies over a defined size threshold need to have an ADA coordinator,

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defined grievance procedures, and a self-evaluation plan. Often this element is overlooked, but agencies are strongly advised to do a self-evaluation and review it yearly.

Complaints mainly occur in relation to physical access, program access, and medical care accommodations. There may be valid complaints if an inmate is being carried up the stairs, not receiving special shoes, or not getting the correct medications. An inmate who uses a wheelchair may not have easy access to any of the standard bunk heights and need a special accommodation.

Another pattern to watch out for is if housing people with special needs in an infirmary restricts their participation in other programs. As a general rule, it is not wise to automatically segregate disabled persons. Separate or special housing of disabled persons should be used only when necessary. However, some facilities find it workable to operate dedicated units for disabled persons.

Agencies also should be aware that neither ACA nor NCCHC accreditation automatically conveys adequate ADA compliance. Compliance with local and state disability codes also does not provide protection from an ADA claim, unless that local or state code is DOJ-certified.

The presentation included photographs of accommodations for disabled inmates. Examples include:

- Knobs on wheelchair rims so the chair can be more easily wheeled.
- Magnifiers, shake alarms, specialized metal detectors, TTY devices with volume control, and other devices can be provided when needed for reading, security, safety communications, family interaction, etc.

**Discussion**

- Jeff Newton (Douglas County, Nebraska) said his agency has been providing TTY access, but they had an inmate whose family didn't know how to use it and wanted to have texting access to the inmate using a cell phone. If the jail needs to allow cell phones for texting, will video access be required next? What is a sufficient accommodation in this circumstance? The response was that accommodations are evaluated on a case-by-case basis, though regulations do require access to one TTY unit. The solution could be TTY, telephone, video, or a relay service. Technology is changing rapidly in this area, and related standards may be updated soon. The point is finding a common-sense way to ensure effective communication.
- Patrick Tighe (St. Lucie County, Florida) said that allowing an inmate to text may not meet DOJ approval. It is important to document the reasons for whatever decision the agency makes.
- A participant said his medical staff wants to assign anyone who has ever had a seizure to a low bunk. This can be evaluated on the basis of the time passed since the seizure history.
- Tim Ryan (Miami-Dade County, Florida) asked about obesity as a disability. Some courts have allowed disability claims on the basis of obesity, and others have not. Morbid obesity would clearly qualify.

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- Participants raised the instance of a diabetic inmate who was non-compliant with medical direction and was hoarding candy bars. If the medical department restricts the diet, are there grounds for an ADA complaint? The speakers recommending looking at the canteen list and making sure healthy choices are available. The medical decision should be documented.
- Marilyn Chandler Ford asked whether a jail could be obliged to provide a GED education program for a disabled inmate on a one-to-one basis. Again, the appropriate accommodation would be determined on a case-by-case basis. Does the inmate have a history of violence?
- The question was raised, what if a deaf inmate has been going to the medical department daily for his diabetes medications, and suddenly one day he wants an interpreter to accompany him? The speakers said this would not be supported by ADA.

**Facility Designs and Modifications**

Facilities built in 1992 or later must be accessible. Alterations done since 1992 also must be accessible. The presentation included a series of photographs of physical accommodations and configurations that are workable for disabled persons in jail.

Construction plans should follow Uniform Federal Accessibility Standards (UFAS) or ADA standards. UFAS sets minimum requirements (see UFAS standards at <http://www.access-board.gov/ufas/ufas-html/ufas.htm>).

- In a jail, 5% of housing units must be accessible.
- Other specifications address accessible parking for automobiles and vans.
- Sidewalks and curb cuts must meet accessibility standards. For example, an accessible curb cut cannot be part of an accessible wheelchair route; wheelchairs are top-heavy and could tip sideways.
- Door weight standards call for a maximum of 5 lbs. of pressure to operate interior doors. Exterior doors that require more pressure should be automatic.
- Counter heights and fountains should accommodate wheelchair-bound users.
- Toilet rooms have a variety of specifications for grab bars, insulation of water pipes, placement of paper dispensers, etc. If a bathroom has six or fewer toilet stalls, one stall must be accessible.
- Doors should have lever handles and at least 32" of clear width.
- Accessibility requirements apply to all inmate and visitor spaces, including the sally port, fingerprinting, interview rooms, and transportation vehicles.
- Cell doors cannot block wheelchair maneuverability. Mirror height, desk height, and other elements in the cell have defined accessibility ranges. Toilets must have rear and side grab

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bars. They should not be placed in a diagonal alignment. Bars sized 24" to 36" are usable by most, but 36" is the standard for full compliance. If cells in a facility don't meet the 36" standard, agencies don't need to swap them all out, but they should consider what else they can do to avoid problems in the future.

- Both cells and bathrooms need wheelchair turning space. The shower area should have seats or a shower chair.
- Disabled inmates need accessible dining tables, dayroom configurations, medical and physical therapy recreation space, work programs, and library access.

Any of us could become disabled and enter this minority group. The presenters encouraged participants to call them with any questions about accommodations. It's better to get advice from experts before there is a claim or an escalating situation. They understand the correctional environment.

Some options for solving the question of the diabetic visitor solution include having the control room hold the medications; leaving the medications and kit in the visitor's car; or asking to see the visitor's prescription, especially if this will be a repeat visitor.

*Toni Pochucha is an Investigator with the U.S. Department of Justice, Civil Rights Division, Disability Rights Section, in Washington, D.C. She can be reached at (202) 514-1618 or Toni.Pochucha@usdoj.gov. Regina Morgan is also with the Disability Rights Section and can be contacted at (800) 514-0307, (800) 514-0383 for TTY access.*

**Part 2. The Civil Rights of Institutionalized Persons Act, or How to Not Get Involved in a CRIPA Investigation**

*Dan Weiss, Investigator, U.S. Department of Justice, Civil Rights Division, Special Investigations Unit, Washington, D.C.*

The U.S. Department of Justice, Special Litigation Section, has a staff of 40 to 50 attorneys and the authority to investigate conditions of confinement in certain publicly operated facilities in U.S. states and territories under the Civil Rights of Institutionalized Persons Act (CRIPA). The office also investigates issues of staff misconduct, access to clinics, and claims related to the Religious Land Use and Institutionalized Persons Act (RLUIPA).

Prior to CRIPA, the federal government had no legal standing to do investigations. The purpose of these investigations is solely to identify and correct problems. Lawsuits usually are the course taken only when everything else has failed. Most investigations are resolved without litigation. Remedies are strictly injunctive relief. Money damages are not an issue. Nevertheless, the possibility of an investigation can provide strong motivation for agencies to work on any pending issues.

Referrals for possible investigation come from inmates, their families, legislators, and agency staff. Medical neglect, suicide prevention, and sanitation are common subjects of investigation. The investigation process is as transparent as possible.

### **Evaluating the Need for an Investigation**

In evaluating a situation for possible investigation, the Section is not interested simply in identifying deficiencies, but in detecting patterns of serious harm where they should focus their time and resources. Investigations don't happen because of an isolated incident.

The Section first conducts a preliminary inquiry to determine whether a full investigation may be warranted.

- The preliminary inquiry is a careful filtering process to decide what to investigate. Lawyers look at the alleged situation from multiple perspectives, assemble all available information, corroborate evidence, and prepare a formal Justification Memorandum if warranted. This phase may also involve obtaining information from advocacy organizations. For an investigation to proceed to this step, the allegations must be serious, recent, credible, and substantiated by multiple sources. The violation must occur on Constitutional grounds. Agencies can violate a professional standard without violating the Constitution.
- A deputy official reviews the Justification Memorandum. If the deputy finds that the allegations are serious and a significant violation is involved, a Recommendation Memorandum is prepared. The matter then may rise in successive reviews to the level of the Assistant Attorney General for Civil Rights, who has the authority to approve a full investigation.
- The length of time required for the preliminary inquiry process depends on factors such as workload, priorities, urgency, and the nature of the information that is uncovered. A case that lacks substantiating information may be closed within 3 to 6 months. A preliminary investigation may take 6 to 8 months if substantial evidence is found that supports the argument for a full investigation.

### **Conducting an Investigation**

Up to this point, the agency that will be investigated is unaware of the Section's interest, unless some type of leak has occurred. If the Section is asked if they're investigating a particular agency, and a full investigation has not been authorized yet, they cannot answer.

The Section sends a formal notice when it is launching an investigation. In a situation involving a county jail, a letter would typically be sent to the county attorney with notice that an investigation has been authorized, a description of the issues that are the subject of the investigation, and what the county and subject agency can expect from the process. A 7-day waiting period is then imposed after local officials have been notified.

The next phase of the investigation is a conversation. Section attorneys travel to the jurisdiction and meet with facility and agency people and their attorneys to review the investigation process. The intent is to conduct the investigation in a cooperative fashion that is not overly burdensome and allows sufficient time for response.

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- In the investigation itself, the Section will typically send a request for documents to support the investigation.
- A suitable time will be arranged for one or more on-site tours involving subject matter experts who have been brought in on a given investigation. These experts are professionals with a national reputation who have specialized knowledge of correctional facilities, medical care, or other matters as appropriate to the case. The agency being investigated is notified in advance when the tours are being scheduled and how long the team is expected to be on-site.

The experts offer their perspectives to the agency under investigation. The Section wants them to offer the agencies everything they can to assist in addressing the issues. This can include what practices are Constitutional, what actions are considered best practices, and what policies and practices are considered standard. There is not always a precise answer. The idea is not to look for “Top of the Line” ideas, but to find a constitutionally correct solution.

**Concluding the Investigation**

At the end of the investigation process, the Section sends a findings letter that outlines recommendations, the facts underlying the situation, remedial measures, and the duration of the automatically imposed waiting period. The agency under investigation then has 7 weeks to respond to the findings.

The Section will usually hear back from the jurisdiction with a response to the findings. A cooperative response is normal, which sets the stage for dialogue. The Section gauges the agency's response in terms of their readiness to work with the Section toward a solution and their ability to make lasting corrections. If the outlook is good, then the investigation can be wrapped up.

The final phase is discussing the specific resolution of the investigation. The final resolution may be done through a Memorandum of Agreement that specifies what the agency has already done to address the issue, what else the agency agrees to do, and how the remediation process is going to work.

On the other hand, if the agency's response to the findings letter is not cooperative, the situation can become more confrontational. The Section can file a formal complaint against the agency after 49 days have elapsed since the delivery of the letter with recommendations. The outcome could be handled through a consent decree, which is a more hard-line solution through the federal courts.

The goal of the Section is to be confident the facility will be run capably going forward.

**Discussion**

Participants were concerned that there is no transparency during the preliminary inquiry phase. From a professional standpoint, it would be useful to know that you're being looked at so the agency can direct attention to that area. The Section is unable to reveal a complaint to the agency, pending a decision on whether to investigate, because of privacy concerns and policy. Full transparency is provided in the investigation phase.

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When agencies receive an investigation letter, they check to see whether the inmate or other entity has raised the issue within the facility. Nine times out of ten, the complainant is already on the “radar” of the jail leadership.

Participants asked whether PREA is a potential topic for CRIPA investigations. The response was that any investigation would not be based merely on an agency’s not adhering to standards or on the behavior of a “rogue” correctional officer. Evidence needs to point to a pattern of systemic culpability in the form of access, inadequate supervision, or inadequate investigations.

Marilyn Chandler Ford (Volusia County, Florida) asked whether the Section reviews its own process. She suggested that it could be more efficient to interact with the agency before launching a formal investigation—doing so could reform the Section’s use of its resources.

Participants asked whether, once an investigation is launched, there is pressure to find something during the investigation to justify the resources expended. The answer was that, no, Section staff don’t operate on a commission basis. They close a lot of cases when they find no Constitutional violation, but this doesn’t get much attention.

The Erie County jail was mentioned as an example of a location where the jurisdiction decided not to cooperate with a CRIPA investigation. Fran Zandi (NIC) observed that the agency took the position that the facility’s excessive crowding made it too dangerous to admit a DOJ team, but the jail did let in representatives of the media. Jurisdictions are obliged to continue with the investigation even if this does not occur on a cooperative basis.

John Zenone (Lake County, Illinois) asked about the basis for investigations—what standards apply, and what’s the goal of the assessment? Without an understanding of the basis for the investigation’s findings, the investigative team can’t be held to any standard, either. The response was that the subject matter experts brought in on an investigation have years of experience and a strong foundation in generally accepted professional standards. Zenone pointed out that this is still essentially a personal opinion; another expert may have a different opinion. Perhaps acceptable experience and practice is different in different parts of the country. This is entirely different from a linkage of findings to, say, NCCHC standards of care. And what if the investigating team says that NCCHC standards are not adequate? The agency could find it difficult to recognize an appropriate action to take or an appropriate standard to apply. The response was, if you have standards we are not aware of, let us know.

The Section usually finds that investigated agencies are not unaware of existing standards. Section staff are often impressed by the professionalism of the people who run detention facilities, many of which are ACA or NCCHC accredited. However, the breakdown generally happens somewhere in implementation. Agencies need to be sure their operational systems are consistent. Agencies may have everything correct on paper, but they may not have done the harder work of making sure the operational practices are implemented as written. It may be helpful to review the training on a particular standard and to audit actual daily operations.

Participants observed that agencies are often investigated on issues that relate to crowding, such as square footage and sanitation. The presenter agreed that this happens when the crowding causes Constitutional-level problems. There may be too many inmates to supervise safely or too many people using one toilet.



Susan Jeter (Brevard County, Florida) observed that agencies receive no notification if a complaint has been filed, and it would be useful to have that information. The presenter said that an agency can file a Freedom of Information Act (FOIA) request. However, if there's an open or ongoing investigation, the information will not be released. Once the case has been closed, there may be information that could be disclosed. Privacy issues also may be involved.

John Zenone (Lake County, Illinois) asked how the Section responds when a preliminary inquiry finds a problem that does not rise to a Constitutional issue. In this case, the Section will contact the agency and say, "We didn't find Constitutional violations, but here's what we did find that you might find useful to know about." This may include observations and recommendations. The Section's reports also state what concerns were or were not issues focused on in the investigation.

Tim Ryan (Miami-Dade County, Florida) mentioned a CRIPA investigation under way in his jail. He suggested that sometimes a jail can't meet CRIPA expectations, for monetary or other reasons. Ryan suggested that the investigators need to understand jails, not just prisons. Investigators at his site were monitoring the temperature of a refrigerated head of lettuce—not a constitutionally significant matter. Ryan said if a jail comes under CRIPA inquiry, the jail leadership should go to Washington to talk about it and hand them the keys. Jail leaders should also review the findings and settlement agreements available online and consider how their own agencies would look if challenged on the same issues. Perhaps the agency will choose to look at areas such as use of force and how they train, supervise, and report on it. Doing the best, most professional work possible is the aim of everyone at LJN.

*Contact information: Dan Weiss is an Investigator with the U.S. Department of Justice, Civil Rights Division, Special Investigations Section, in Washington, D.C. Contact him at (202) 532-5520. See also information available online at <http://www.usdoj.gov/crt/split/cripa.php>. Reports of investigative findings are posted at <http://www.usdoj.gov/crt/split/findsettle.php>.*

### Part 3. Title VI and LEP

*Patrick Chang, U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, Washington, D.C.*

Patrick Chang presented materials and a discussion on the implications for jails of Title VI of the Civil Rights Act of 1964. In brief, the law specifies that agencies receiving federal funding must avoid discrimination against limited-English-speaking (LEP) persons by taking reasonable steps to ensure that they have meaningful access to the programs, services, activities, and information. His office conducts investigations on receipt of complaints or through spontaneous review.

A U.S. Supreme Court decision in 1974 directly linked the discrimination issue to language ability (*Lau v. Nichols*). The Civil Rights Restoration Act of 1987 further clarified the law as applying to any state and local agencies when any part is extended federal financial assistance. Pass-through grants to localities would be one example.

Title VI does not distinguish between intentional and unintentional discrimination. What matters is the occurrence of disparate impact. Usually, agencies are not aware that they are limiting access to programs and services on the basis of limited English proficiency.

There are 23 million LEP persons living in the U.S., or about 7% of the population. Some parts of the country have vastly higher densities of LEP residents. In one sense, jails have an easier time with LEP issues than other public agencies. Jails have a “captive audience,” unlike a courthouse or a library or transportation department that can never be sure who will come through their doors or use their services on a given day.

### LEP Readiness

Chang encouraged meeting participants to address the easier language issues first and then focus on more challenging aspects that may require a longer-term approach.

- First, jails should look at the proportion of the inmate population who are LEP and what languages are represented. It's also wise to look more broadly at other interactions with the public, such as jail visitation. It can be useful to review data from census research, school systems, other agencies with extensive public contact, and community groups. The greater the number or proportion of persons fluent in other languages, the more likely it is that the jail will benefit by being proactive.
- Next, jails should consider where there is the greatest potential for bad consequences from failing to communicate effectively. Serious and life-saving interactions have the highest priority. It is not good to have to find an interpreter at the moment you need one. Language issues need to be addressed well in an agency's emergency plans.
- The more important the encounter, the greater likelihood that highly qualified interpreters will be needed. Agencies will need to balance the resources they have available and the costs of providing different types of language services.

### Interpretation and Translation

Agencies need to provide two types of language assistance for LEP inmates: interpretation (live oral/conversational assistance) and translation (preparation of written material).

Oral interpretation presents a wide spectrum of quality and competency issues. The interpreter must have proficiency in both languages; a bilingual person cannot be assumed to have adequate language proficiency to meet the jail's specific needs. Interpretation for the courts requires having special certifications. Other issues include confidentiality, conflict of interest, and neutrality (no editorializing).

- For many purposes, it is sometimes sufficient to have bilingual staff. This presents minimal additional cost to agency.
- Contract-based interpreters can be helpful, even for quick sessions using the telephone, though there are some situational limits to what will work well.

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- Formal agreements with community volunteers can be good, though this can raise privacy issues, especially if the inmate is part of a tight-knit local ethnic community. Inmates may be reluctant to disclose information on, for example, a medical condition.
- Family members, friends, and inmates could be a resource, but this is usually best only for minor situations or emergencies. Confidentiality and conflict of interest issues are likely to occur. If a translating family member volunteers additional information about an offense under investigation, it could invalidate the proceedings.
- Pooling interpreter/translator resources could be a good idea for agencies in a local area.

Providing written materials in a variety of languages for LEP inmates is a more easily managed process. Agencies should inventory the written communications that are provided to inmates and provide these items in the languages that are likely to be needed by the local population.

Essential documents to have on hand include:

- Notices advising LEP persons of the availability of free language assistance;
- Forms for applications, complaints, and consent to medical and legal services; and
- Any other letters or notices that require the LEP person to respond.

**A Model LEP Policy and Implementation Plan**

Five tasks comprise a model LEP response plan for agencies:

- Identify individuals needing language assistance. (Anticipating the language needs that may arise in the jail's population.)
- Select language assistance measures. (Determining what oral interpretation and written translation activities and services will be needed.)
- Train staff. (Familiarizing staff with legal requirements, appropriate responses for recognizing and working with LEP inmates, and resources available for use when a LEP detainee is brought to the jail.)
- Provide notice to LEP persons. (Making sure that LEP detainees/inmates understand that interpretation services and alternative language materials are available.)
- Monitor and update the LEP plan. (Reviewing performance of the agency on LEP matters and ensuring the agency is ready to accommodate changes in area demographics.)

**Discussion**

- Mitch Lucas (Charleston County, South Carolina) asked what is the burden on jail for making sure LEP inmates understand court processes, such as specific charges and their legal status? Chang replied that if the jail has that role with English-speaking inmates, they have that role for LEP inmates as well.

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- Tim Ryan (Miami-Dade County, Florida) said that instead of sending a foreign-language-speaking officer escort with the inmate for the first appearance hearing, the jail uses video monitors to deliver instructions for the court appearance in multiple languages. The agency's inmate orientation video also is provided in several languages. Every form, every poster, and every handout is available in three languages. A retainer contract can work for as-needed interpretation in other languages; as long as staff are aware the service is available and are using it. A "point book" can also be useful—it allows the inmate to point to a picture of what they need or want. Maintaining a list of staff with specific language skills is good for operations and is also good documentation to have it on file in case there is an investigation or other review. Jails should also document the foreign language books they have in the library and all other language accommodations.
- One jail places sticky notes on all the computer monitors to remind staff of what's available and how to access resources.

**Resources**

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons— <http://www.usdoj.gov/crt/cor/lep/dojrecipguid.php>

Extensive policy guidance and resource links—<http://www.usdoj.gov/crt/cor/13166.php>

July 2008 letter for corrections— [http://www.lep.gov/whats\\_new/corrections\\_7\\_15\\_08.pdf](http://www.lep.gov/whats_new/corrections_7_15_08.pdf). Includes resources list for departments of corrections:

- The LEP website: <http://www.lep.gov> - Contains planning tools, letters, and policy statements from the Civil Rights Division, and guidance documents from other agencies regarding LEP, as well as other helpful links and resources. (Example: LEP web page on translation resources for legal, medical, and other governmental purposes: [http://www.usdoj.gov/crt/lep/interp\\_translation/trans\\_interpret.html](http://www.usdoj.gov/crt/lep/interp_translation/trans_interpret.html).)
- The COR website: <http://www.usdoj.gov/crt/cor> - Contains information on Title VI of the Civil Rights Act of 1964 and implementing regulations.
- The Corrections Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in Corrections. [http://www.lep.gov/LEP\\_Corrections\\_Planning\\_Tool.doc](http://www.lep.gov/LEP_Corrections_Planning_Tool.doc).
- Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency - Is available at <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.
- The Department of Justice LEP Recipient Guidance Document: Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Provides information specific to departments of corrections on pages 41469-41470, and is available at <http://www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.htm>.

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- General Tips and Tools Resource Document: Executive Order 13166 Limited English Proficiency Resource Document: Tips and Tools from the Field - Chapter 1 focuses on promising practices in serving the needs of LEP persons generally, and is available at [http://www.lep.gov/tips\\_tools\\_92104.htm](http://www.lep.gov/tips_tools_92104.htm).
- Video/DVD: Breaking Down the Language Barrier: Translating LEP Policy into Practice— Provides illustrations for officers of encounters with LEP persons by law enforcement and guidance for departments on handling these situations. Copies can be ordered by calling COR at (202) 307-2222.
- Brochure for Federal Agencies and Recipients: Limited English Proficiency: What Federal Agencies and Federally Assisted Programs Should Know About Providing Services to LEP Individuals. [http://www.lep.gov/lep\\_aug2005.pdf](http://www.lep.gov/lep_aug2005.pdf).
- Language Identification Tool: “I Speak” Language Identification Flashcard – Created by the Ohio Office of Criminal Justice Services and used to identify the language spoken by an individual who is a non-English speaker or LEP; is available at [http://www.lep.gov/ocjs\\_languagecard.pdf](http://www.lep.gov/ocjs_languagecard.pdf).

*Contact information: Patrick Chang is Deputy Section Chief with the Coordination and Review Section of the Civil Rights Division, U.S. Department of Justice. He can be reached at (202) 307-2222 or [Patrick.Chang@usdoj.gov](mailto:Patrick.Chang@usdoj.gov).*

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## **PROGRAM SESSION: MIDDLE MANAGEMENT TRAINING PROGRAMS FOR JAIL PROFESSIONALS**

### **Part 1. Middle Management Training Programs for Jail Professionals**

*Presenter: Gwyn Smith-Ingley*

#### **National Jail Leadership Command Academy**

The first section of this presentation highlighted the National Jail Leadership Command Academy, a partnership between AJA, the Correctional Management Institute of Texas, and Sam Houston State University. Information is available at [www.nationaljailacademy.org](http://www.nationaljailacademy.org). The group viewed a video on the new program.

The mission of the Academy is succession preparation. Curriculum customized to jail. Some executive leadership skill development, but tied to jails. List of curriculum topics: slide. Some of the topics are generic, but here it's presented in jail context and participants interact with peers in field. Week-long on campus.

Classes are filling rapidly. Tuition costs \$1,360 for a double occupancy room and \$1,560 for single occupancy. About one-third of the first graduating class were women.

Comments from meeting participants who have sent staff to the Command Academy are uniformly positive. The program content and professional relationship development have been excellent. One comment was, "People are engaged from the time they get off the plane. This is not a vacation."

Graduating classes have been very cohesive. Some are creating scholarships to fund future students and are establishing their own Facebook pages.

#### **Leadership Development for Jail Administrators: Succession Planning**

AJA is also part of a team that has received a BJA grant of \$225,000 to develop strategies for jail leadership succession planning. Partners include the Correctional Management Institute of Texas and the Center for Innovative Public Policies.

The project includes four key elements:

- Determining the core competencies required for successful jail leadership in the future. This work will be based on NIC's core competencies plus input from various organizations.
- Establishing a hands-on process that enables jails to walk thru the steps of succession planning. This will include distance learning components, such as a separate site for distance learning off of a checklist. The tool will flag where an agency has gaps and identify where an agency and/or its staff lack core competencies.

- Developing a toolkit that jails can use to design and implement their own mentoring/coaching program with a distance learning component. This will be a self-paced resource, but it is also very clear that personal mentoring/coaching is essential. Frank Hecht is a facilitator mentor; want to rotate this role thru lots of different jail professionals. Person the students can ask instead of inside their own agency hierarchy. Learning how to be a mentor and coach. Evaluation piece for toolkit written into grant.
- Pilot testing the mentoring/coaching toolkit through the National Jail Leadership Command Academy.

*Contact information: Gwyn Smith-Ingley is Executive Director of the American Jail Association. She can be reached at (301) 790-3930, ext: 24, or gwyns@aja.org.*

## **Part 2. Leadership and Management: The Evolution of the Correctional Managers Focus on Leadership and Management**

*Bob Brown, Chief, National Institute of Corrections, Academy Division, Aurora, Colorado.*

Identifying competencies is the key to having effective training. NIC has been working with a competency model for management for a number of years. It has published two volumes on competencies: executives and senior leaders, plus manager and supervisor. These documents are now a few years old. The AJA project Gwyn described may reinforce the message of the NIC materials or show how to improve NIC's work in this area.

Sponsors, mentors, and coaches are vital elements in leadership training. In some forms of training, the participant gets a certificate and returns home, and that's the end of the story. For effective leadership training, participants need someone to call on for advice and reinforcement as they apply what they learned on a leadership level and in operations.

It used to be that educators talked about management. In the 1980s we began talking about leadership. Leadership is about creating a vision. A leader needs to have an agenda to influence the organization to get things done. Training, by definition, is about learning how to do things differently.

A warden from a past NIC training program put it this way. "I know what to do to run a jail or prison. Technically speaking, I'm fine. But they want so much more from me. They want me to know budgeting, how to respond to stakeholders, to understand politics, economics, the environment, and how to mentor and develop my staff. I think I will retire."

Rapid and unexpected change is the new reality for corrections. Changing technologies, agency roles, client populations, workforce demographics, and societal and employee values are just a few things leaders must adapt to. Leaders need to be poised to handle recruitment and retention, labor issues, cultural and cross-cultural issues, legal issues, and much more. There is no magic answer or silver bullet for preparing for the future.

The NIC Academy is also changing, expanding the capacity of individuals, staff/participants, and organizations. Training is being delivered in new patterns with synchronous and asynchronous

elements. This is allowing NIC programs to move to shorter day lengths and fewer residential training days, though residential programs are still going to be part of the model.

Going forward, NIC seeks to develop more inclusiveness in its programs, to reach more people with less money. Repeated training content can be delivered on DVD. NIC also is focusing on a broad-based curriculum, blended approaches to training, and technologically assisted training. Leadership program participants may do personality type testing at home, discuss the results in an online group, then come together for a 3-day high-power onsite session.

Competencies offer one way to be ready for the future. NIC has articulated the competencies required to function as a correctional executive, senior level leader, manager, and supervisor.

NIC's training program, Management Development for the Future (MDF), builds on these principles. It is designed to develop change oriented leadership by providing intellectual stimulation, inspirational motivation, individualized consideration, and confidence in the leader's own sense of vision. The program includes individual and team elements, including exposure to various models of leadership.

Agencies can request that the MDF program be delivered for groups of 30 to 35 participants. The program takes place in a three-phase model at the agency's location. A series of readiness exercises opens the program sequence. One is the NKQ5X, which assesses the agency's openness to change and motivation to make change happen. The program then proceeds through inter-session homework, building toward a philosophy of individual and team improvement.

As a result of the program, the participants learn to formulate strategic plans for prioritizing the issues that need to be addressed in the agency. They also learn to plan for their own future and understand what strengths they need to develop to get where they want to go.

In sum, the MDF program helps an agency build the bench from within to create superior managers. A state corrections agency that went through the MDF process said it made the agency's top leadership much better able to judge who were the future leaders of the agency. In some cases the insights into leadership ability came as a surprise. NIC also has received rave reviews of the program from sheriffs and counties.

*Contact information: Bob Brown is the Chief of the NIC Academy Division in Aurora, Colorado. He can be reached at (800) 995-6429 or rbrown@bop.gov.*



## PROGRAM SESSION: SOCIAL NETWORKING IN CORRECTIONS

### “Do You Tweet?” Social Media and Jails

*Presenter: Connie Clem, Clem Information Strategies, Longmont, Colorado. This session was scheduled as a short “hot topic” session but was expanded when a different session was canceled as a result of travel complications.*

The term “social media” refers to online tools people use to share their ideas and other content with their friends, their colleagues, or the world at large. They are doing so via blogging, commenting on online content such as newspaper articles, by posting photos, articles, videos, and podcasts, and by using any of several well-known web sites created for this purpose. Facebook, LinkedIn, Twitter are a few popular examples. The Large Jail Network itself has used social networking for years, currently through its NIC-managed online community.

Social networking is creating a tidal change in the way people find and share information. The rapid decline in print newspaper readership is one indicator. As more people interact with the world online, business and government are moving online, too. This session was intended to raise awareness of the potentials and provide some starting points.

#### Why Be Online?

Clem encouraged meeting participants to think about these potentials on two levels: the personal, and the organizational. Different online tools may be most useful for either or both of these purposes.

- Professionals are increasingly using social networks to share news and information, to collaborate, and to share expertise. LinkedIn, the LJN and broader NIC Corrections Community, Twitter, and GovLoop are some available sites.
- Community outreach can be pursued through the social media, to share agency achievements and safety alerts, to request input, to respond to concerns, to correcting misperceptions or errors, and to recruit staff. Agencies may want to develop a blog, a Twitter account, a Facebook page, a YouTube page with video content, or a Wikipedia profile.
- Staff-to-staff and leadership-to-staff communications can also be enriched with interactive social tools. This can help a jail connect staff across sites and schedules to share intelligence, security alerts, training content, policy, social content (events, etc.), and good news. Services can be hosted on an agency server or in the “cloud,” depending on needs. Some tools could include Yammer, Twitter, and Ning.
- Vetting of potential new hires and volunteers increasingly includes a check of the social networks. Online information can help verify career and work history, educational

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background, and affiliations and achievements. Information on associates and activities may turn up something potentially relevant to facility security. Some tools for checking up on potential hires include Pipl.com, search.twitter.com, Spokeo.com, and FriendFeed, or agencies can do simple searches of Facebook, MySpace, LinkedIn, etc.

- Online information from and about detainees and offenders may also be useful for identifying them, locating their family connections, collecting intelligence, and monitoring compliance with supervision. People sometimes post information and photos of their friends, activities, and travel without thinking of the consequences. As the new adage has it, "What happens in Vegas stays . . . on YouTube, Flickr, Twitter, and Facebook." (Erik Qualman)

**Some Online Tools in a Nutshell**

- Facebook is usually person-based, but it also supports creation of group or organizational "fan" pages. Facebook pages support a variety of text and multi-media sharing and dialogue. The American Correctional Association is a familiar association that has launched a Facebook page. Some sheriffs are also getting into this space.
- LinkedIn can be thought of a place to post an online resume, but the networking functionality makes it a useful tool in many other ways. Colleagues can connect online and join "groups" that reflect their professional interests, affiliations, education, and current and past employment. Agencies can create LinkedIn pages that establish a professional presence online. One justice example is the Bexar County District Attorney's office. LinkedIn groups include news and discussion spaces.
- Twitter gives people or organizations a way to share short updates, in 140 characters or less. It represents an instant dip into the collective consciousness and the news stream, all at once. The value comes when you "follow" people who share good information, which you can pass along to your own followers by "re-tweeting" things you find valuable. The National Association of Counties is one example of a government-oriented voice on Twitter.
- GovLoop is a social networking tool created specifically for government. It reached 10,000 members this summer. Participants join interest groups where they discuss issues and share ideas.

**How To Start?**

An agency that is considering moving into the world of social networking will want to involve all of the right people. This means bringing administrators on board as well as public information staff, IT staff, human resources, and legal counsel. Involvement may depend on what purposes the agency has for moving online.

Engagement with the social media needs to be fit into the agency's mission. Agencies can then review the various tools that are available. Security options can be used wisely in most free online tools, and agencies can also invest in services over which they can have even more control. Firewall issues may also need attention.

For creating a public presence for the agency on social networks, the plan needs to clear on who is responsible for content and how content will be authorized. Other specialized policy and planning issues may apply.

When an agency is ready to embrace social media tools, it makes sense to start with one tool and then expand to others. The “voice” presented by the agency is important. Whether that voice is connected with an actual person or with the agency as a whole, it should be interesting, casual yet professional, and responsive. In the online world, a quick and accurate response can be more important than ever.

Once an agency broadens its online presence, it can learn how to strategically use and re-use its news and updates content in Tweets, blog posts, a Facebook page, etc. The point is to use these media to get your message to the communities and audiences you want to target, wherever they are connecting online.

Clem invited meeting participants to return a short survey on their agencies’ use of social media, results of which will be shared with LJN members.

#### **Some Justice-Related Social Media Sites**

- <http://correctionalofficersafety.blogspot.com>
- <http://wijisgateway.org/>
- <http://cops2point0.com>
- <http://www.realcostofprisons.org/blog/>
- LinkedIn groups, including NIEM and Corrections–Evidence-Based Practices,
- Examples of agencies’ use of social media are collected at <http://delicious.com/ConnieInfo/SocialMediaJustice>.
- Article on social media for collecting crime tips in D.C. – “Can government be cool?” [http://blogs.govexec.com/fedblog/2009/08/can\\_government\\_be\\_cool.php](http://blogs.govexec.com/fedblog/2009/08/can_government_be_cool.php)
- Video on the expanding impact of social media by Erik Qualman. <http://socialnomics.net/2009/08/11/statistics-show-social-media-is-bigger-thanyou-think/>

*Presenter information: Connie Clem is the Principal of Clem Information Strategies in Longmont, Colorado. She can be reached at (303) 242-6278 or [connie@cleminfostrategies.com](mailto:connie@cleminfostrategies.com). Connie is also online at <http://www.Linkedin/In/ConnieClem> and <http://Twitter.com/ConnieInfo>. Her web site is <http://cleminfostrategies.com>*

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## OPEN FORUM

“Hot topic” sessions for the meeting are an opportunity for participants to discuss emerging issues. These sessions were coordinated and presented by Mitch Lucas (Charleston County, South Carolina).

### TOPIC 1 — COST SAVINGS IN JAILS

Marilyn Chandler Ford (Volusia County, Florida) sought ideas on “green”/energy efficient equipment for use in the jail, such as laundry systems and environmental controls. Several concepts were discussed.

- Some agencies that have installed new lighting have not saved money. Joe Schmitz (Hamilton County, Ohio) said the local utility encouraged updating the lighting, but other things were easier and cheaper to do. Ford said the local electric company amortized the costs of an upgrade in Volusia County, and after 4 or 5 years, they are seeing the benefit.
- One agency has begun using electric mini-cars for inmate transport between two facilities. The cars' top speed is 45 mph.
- Low-flow showers were mentioned as a way to save on water and energy costs.
- One jail is rewarding staff with \$75 for cost-saving ideas that are implemented.
- Jails in Denver and Arapahoe Counties in Colorado are using or adopting ozone-based laundry systems, as is the jail in Charleston County, South Carolina. The systems are producing remarkable savings by reducing water heating costs.
- Another jail is using a pulper to process outgoing wastes for landscaping/composting use. Kitchen wastes are being mixed with cardboard and other organics, and dishwasher outflow is incorporated into the pulp. The result is a lower volume of trash leaving the facility.
- Mitch Lucas described a technology that treats sewage effluent with UV light for disinfection. When inmates flush trash that includes metal (foil, packaging, etc.), it blocks the UV radiation so the effluent is not being treated as intended.
- Some participants commented that solar energy systems are too expensive to install. Other jails are having success harnessing wind energy. Jails' grant staff should be looking at opportunities for funding support for renewable energies.

A participant asked if agencies are using part-time correctional officers as a cost-saving strategy.

- The Denver jail is using part-time officers, who must meet the same hiring criteria as full-time staff. Volusia County has five part-time officers; county regulations say part-time staff cannot work an established work schedule but can be used only on an on-call basis. The officers are typically used for what would otherwise be overtime on hospital watch. They receive the same training and are fully certified. All were previously full-time officers.
- Susan Jeter (Brevard County, Florida) said her jail uses part-time officers to fill empty slots. Some part-timers are recently retired and want to stay active in the profession.
- Tom Merkel (Hennepin County, Minnesota) suggested that using part-time staff is problematic because of the money needed to keep people trained and current with facility operations. The jail also had to buy licenses for all staff who access the inmate MIS, even for part-time staff, at roughly \$2,000 per seat, which offset the overtime savings.
- Some agencies use part-time officers only for court transport. The jail in Douglas County, Colorado, is using part-time officers to reduce the jail's overtime expenses and will ensure training is equal. The officers may receive benefits depending on the number of hours they work. Roberta Gaither-Gayle (Milwaukee Secure Detention Facility) says her nursing staff do not support the idea of part-time staff being part of the team.
- Tim Ryan (Miami-Dade County, Florida) raised the question of whether jails are placing limited duty staff in assignments outside the jail. Participants mentioned animal control and parks and recreation assignments.

A few agencies represented at the meeting mentioned using telemedicine to cut down on medical care costs.

## TOPIC 2 — MISTAKEN IDENTITY ARRESTS

Bill Lovingier (Denver, Colorado) said that the Denver area has had a spate of mistaken identity arrests recently and asked whether this is an emerging trend in other locales. What are other jails' policies for response when a detainee says he or she is not the person identified in the warrant? Do any jails segregate the detainee if there is an identity question? Lovingier distributed a survey to examine policies on mistaken identity claims. In Denver, the police department does all the identification work prior to acting on a warrant. The department is instituting a new process to check the identity of arrestees and processes a high volume of warrants from other jurisdictions.

To establish identity, participants suggested running the detainee's fingerprints through the Automated Fingerprint Identification System (AFIS) database system right away. If the detainee already has been processed into the system, the jail can have an answer in 5 seconds. Identix, LiveScan, and Morpho biometric identity systems were also mentioned for their speed. With enough money invested, agencies can provide field access for officers via cell phone.

However, the root trouble is matching a fingerprint to a warrant. Joe Schmitz said the jail in Hamilton County, Ohio, has inmates fill out a special form for mistaken identity arrests. Schmitz sees two recurrent identity problems:

- People are detained and fingerprinted when using a relative's identification card (e.g., a sibling or cousin). If the sibling or cousin is later detained, the correct identity needs to be ascertained and the biometric record needs to be updated.
- Illegal aliens who are juveniles very often have someone else's identification on their person when detained.

Regarding housing persons who claim mistaken identity, Scott Bodiford (Greenville County, South Carolina) said his jail houses people separately until their identity is verified. Mitch Lucas (Charleston County, South Carolina) said that separating detainees in this circumstance could be a good precaution.

Michael see from Las Vegas stated that a woman was booked who said she was the wrong Jane Doe. She was released quickly on bail, was later shown to have been detained under a case of mistaken identity, and sued to get the bail money returned. The court ruled on summary judgment that the jail had a right to take the time needed to verify the detainee's identity and denied the refund.

Lovingier called attention to a handful of related cases brought by the American Civil Liberties Union. One court witness cited best practices supposedly from Miami-Dade County that were later found to be not, in fact, that county's policies. The question becomes, what identity verification steps are required for patrol officers? In a jail, the supervisor is called in if there's a question about identity. It was suggested that jail leaders should address this issue with their local law enforcement or criminal justice commission and discuss procedures to uncover the source of identity problems.

### TOPIC 3 — STAFF AND CONTRABAND AT ENTRY

Osceola County, Florida, raised the question of policies and practices for searches of staff entering and exiting the facility. In a recent incident, a woman who was a 9-year veteran employee brought a loaded 9 mm handgun into a facility for an inmate with a life sentence who was in jail for proceedings on an armed robbery charge. The officer worked in transportation and arrived at the jail in uniform on a non-work day, saying she was working overtime. Supervisors on duty were aware of her but no one questioned her story. A hostage situation resulted. It was later learned that she previously had brought two cell phones to the same inmate.

Meeting participants offered several observations and suggestions.

- Magnetometers have no value in searching for contraband.
- Many jails are no longer allowing backpacks, hard briefcases, or satchel bags into the facility.
- In one facility, staff lunches must be brought in a limited size container which is subject to search.

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- X-ray machines are being used in a few jails represented at the meeting. Attorneys do not appreciate this because it limits what they can bring to their interviews.
- Many jails are requiring all staff to use a single entrance. Often the designated entry is located near the time clock. In the recent hostage case, the officer entered through the work release area, which is part of the jail and also used for visitation entry.
- Few jails represented at the meeting search all staff on entry. Several conduct random searches of staff. In one jail, the emergency response team performs random searches of whoever they encounter in the hallways as a training exercise.
- Some jail leaders regard staff searches as undermining trust, but others said that since they began conducting staff searches, they've stopped finding inmates with cell phones. When staff have been found with cell phone contraband, unions are not raising problems.
- Cell phone-sniffing dogs are proving effective in several jurisdictions. In one facility, 600 cell phones were found, so the agency began searching all staff. Emerging technologies allow for cell phone spoofing, signal detection when in use, and other alternatives to signal jamming. Currently the detection system can pinpoint a building location but it is not very precise. Taking a mobile unit through a facility could be a future deployment method. The system can be programmed to disregard authorized cell phone numbers and is capable of detecting the different types of signals used by phones sold by Nextel, AT&T, etc. (See discussion of related legislation on page 13.)
- Susan Jeter (Brevard County, Florida) mentioned an incident involving an attorney and privileged mail. A handgun came in through legal mail and was almost missed because of heavy padding. A keen-eyed staff member noticed that the zip code was not correct.

**TOPIC 4 — FOOD SERVICE CONTRACTS THAT INCLUDE CONSTRUCTION COSTS**

One jail entered into a contract with a food service vendor in which the vendor agreed to provide financing for construction and equipment costs. The company invested \$150,000 as part of a 5-year contract, but the facility was closed before the term ended. The vendor sought reimbursement for its costs, and the situation has not yet been resolved.

Glenn Kurtz (Sedgwick County, Kansas) said that a similar vendor agreement in his county covered dining area improvements. Once the improvements were paid off, the meal price per tray dropped \$0.20. Another participant said that the budgeted cost per meal is calculated at \$1.22 while the actual cost is closer to \$1.00, an arrangement that provides funding for equipment repairs, etc.

In another jail, the medical services contract includes a provision for \$50,000 to be held in an escrow account to provide funding for incidental expenditures.

## TOPIC 5 — H1N1 INFLUENZA

This discussion addressed how the H1N1 influenza virus is affecting LJN jails. According to the Centers for Disease Control, the virus has been documented in every state in the U.S.

- A significant number of jails represented at the meeting have had at least one confirmed case of the H1N1 influenza virus. In locations that have had a significant number of infections, the H1N1 flu seems to be rather mild.
- Testing practices vary. Some jails test inmates only if they are admitted to a hospital.
- In Brevard County, Florida, inmates are screened at intake and placed in isolation if they are symptomatic. So far, only one inmate and one officer have been diagnosed with H1N1. Another jail provides Tamiflu and isolation when people are admitted to the jail with a temperature over 100° F.
- Volusia County is waiving the sick call fee to encourage inmates with any signs of a cold or the flu to come in for care. If flu-like symptoms are verified, the inmate is issued a mask for precautionary purposes. Inmates are also being encouraged to wash their hands frequently and are tending to be very cooperative.
- Participants have heard different information on what type of mask is effective in preventing the spread of the flu virus. The more expensive N95 mask has been said to stop the virus, but another in another jail, less expensive units are thought to be adequate.
- There is not uniform agreement on the likelihood of a major epidemic with the H1N1 virus. Inmates and staff can be encouraged to cough into their elbows to reduce the exchange of viral spores. Other precautions include use of air purifiers in the facility ventilation system and disinfecting the entire facility.
- Some meeting participants noted that when infection rates go up, staff call in sick to avoid infection.

## TOPIC 6 — ANNUAL PHYSICALS AND/OR AGILITY TESTS

Jails were asked for updates about how they are managing their requirements for the physical condition of officers.

One participant said his jail tests agility only during the initial hiring process. Another noted that there is a new requirement for annual agility testing, but that staff who were hired before its implementation are grandfathered and do not need to be re-tested. There has been little push-back from correctional officers on the new requirement, but the staff sometimes are injured during testing. In another location, agility testing is required only every other year.



Mitch Lucas (Charleston County, South Carolina) said that budgets are sometimes leading to cuts in agency wellness programs, and this is having adverse affects. Some jails are considering rewarding staff who meet age and weight thresholds with extra paid leave.

Toxicology matters were also raised. Staff have had to be notified of new policy allowing for termination if they ingest coca leaf tea, which is available for purchase legally on the Internet. Regarding prescription medications, participants verified that staff need to notify their supervisor and/or provide a letter from their physician in advance if they are taking prescription medications that may affect balance or be detected in a random drug test.

## TOPIC 7 — CREATIVE DELIVERY OF ANNUAL IN-SERVICE TRAINING

Participants were asked to share new and successful ways to provide annual in-service training.

One jail covers a half-hour of in-service training at the beginning of some shifts, in sessions that take place at least monthly. Training bulletins are distributed at the beginning of the shift, and the staff have time to read and review the training content. They then take a test on the content and turn the test in to the sergeant.

Another jail provides a distance learning lab at the agency site where staff can complete required in-service training rather than completing the training while at home. The Las Vegas Metropolitan Police Department pays for staff to participate in online courses from the American Correctional Association.

The Denver jail shows training video vignettes every few weeks totaling about 50 sessions per year. Topics include first aid, medical care, changes in policy, and more.

A few jails represented at the meeting allow staff to participate in online training while they are on post. Another gives staff flex-time to take online training.

## TOPIC 8 — VIDEO VISITATION AS A REVENUE SOURCE

Vendors are positioning themselves to support video visitation as a revenue source for corrections. Many of the same issues apply to video visitation fees as apply to inmate telephone fees: fees are beneficial for the inmate welfare fund, but many jails do not want fees to get too high. What are jails' current practices and plans for video visitation?

Mitch Lucas said that the Charleston County jail in South Carolina is moving toward video-only visitation. Another county in the state is charging about \$11 per session to allow video visitation from home.

Most of the jails represented at the meeting are using video visitation. A few, such as the jail in Brevard County, Florida, allow system access from off-site locations. Jeffery Newton said that Douglas County, Nebraska, provides a jail visitation terminal in the public defender's office. Mitch Lucas described how one unit in the jail enabled 500 interactions with the public defender's office compared to 100+ on-site visits, saving significant staff hours and improving efficiency. A Florida participant agreed that investigations are easier to conduct by video and can be done at reduced expense. Video visitation

also reduces the need for inmate transport to court. Judges also appreciate it when uncooperative and disruptive inmates can be kept in the jail and out of the courtroom.

## TOPIC 9 — SOCIAL NETWORKING POLICIES

Web-based social media have potentially valuable applications in jails. Mitch Lucas (Charleston County, South Carolina) described an ACA conference session on virtual recruiting in corrections and asked for information on LJN agencies' current use of social media for recruiting or other purposes. The subject was also discussed in an unscheduled program session. (See summary on page 33).

Lucas identified the Geo Group and the Oklahoma Department of Corrections as organizations that are moving to online and virtual recruiting with a social media presence. Mitch also noted that the U.S. military is heavily involved in several of the major social media services for recruitment.

- At least one agency at the meeting is having success with recruiting via online social media.
- Several agencies, including Seminole County, Florida, said they are using social media for background checks on new hires.
- The Dane County Sheriff has established a Facebook page (viewable at <http://bit.ly/1uD2g3>), and the Palm Beach Sheriff's Office is in the process as part of a strategy for improving recruitment when the economy improves and turnover returns to previous levels.
- Jim Gondles said that ACA is actively using Facebook, Twitter, and LinkedIn. Jail leaders are beginning to use tools such as LinkedIn to make professional connections online.

Aspects of the discussion focused on control issues with staff and social media.

- Many counties restrict access to sites such as MySpace from a county computer.
- County staff in some locations have been disciplined for writing in to local media on work time.
- A few agencies have experienced some type of attack via the social media. The Charleston chief of police was the target of a story that "went viral" and had 83,000 hits (online views).
- Another public safety agency fired a group of deputies who were inappropriately using social media with agency laptop computers, prompting an internal affairs investigation. A sergeant with 11 years of service was reduced in rank.
- Regarding off-duty use of social networks, Marilyn Chandler Ford (Volusia County, Florida) cited policies that prohibit county employees from posting photographs with themselves in their official insignia. Staff may not post an agency logo or any references to where they work. Violations are treated as conduct unbecoming an officer.

## MISCELLANEOUS

### **Q. Have many LJN agencies been receiving Maoist International ULK subscription service publications?**

A. LJN jails have been receiving magazines by the box with a threat that if they aren't distributed, the publisher will file suit. For the most part, jails are ignoring the publications and the threat.

### **Q. Are inmates allowed to receive email?**

A. Inmates are given print copies of email messages, which are handled similarly to postal mail. The intelligence unit can review the content of the messages. One jail imposes a limit of 150 words per message. The inmates are not allowed to reply by email. At least one jail is considering imposing a fee for processing incoming email.

### **Q. Do any jails at the meeting have a recession plan in place?**

A. No.

### **Q. Are any jails housing, or refusing to house, terrorism suspects?**

A. A few jails represented at the meeting have held terrorism suspects. Jim Gondles (ACA) said that some Guantanamo detainees may be moved to the U.S. Army brig at Leavenworth. The federal government has no authority to hold people without charge. Custody via the U.S. Marshal's service is under consideration but it is not known how this would be conducted. Meeting participants observed that public backlash against housing Guantanamo detainees will be considerable.

### **Q. How many jails are using 12-hour shift schedules?**

A. About half of the agencies represented at the meeting use 12 hour shifts. Once the staff goes to 12-hour shifts, they typically don't want to swap back. The Denver jail piloted 12-hour shifts in a hospital unit. In some jails, shifts bid for vacation time by shift and by seniority within the shift. Use of 12-hour shifts makes it easy to see the high-performing units within the jail. There tends to be more cohesion among the staff. A new book titled Tired Cops says that 12-hour shifts also reduce officer fatigue, as long as there's enough relief time. The system yields 86 hours per pay period. The extra 6 hours is not considered overtime unless negotiated otherwise by the unions.

### **Q. What are agencies doing to provide barber services?**

A. Hair care appointments are available in one jail for \$15. A barber visits the facility once per week, and inmates sign up for appointments in advance. For women's hair care, jails can build relationships with area cosmetology schools. Costs may be payable from inmate welfare funds.

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## LARGE JAIL NETWORK BUSINESS

### Future Meeting Topics

Topics selected for the March 2010 meeting of the Large Jail Network include:

- Sound fiscal management in jails across a long-term period of tight or shrinking budgets.
- Technology advances, including technologies that create savings in staff hours.
- Creating a culture of leadership within the agency.
- Return-to-service protocols for staff who have been off duty for medical reasons.
- Inmate medical care (cost savings, epidemic control, and/or other aspects).
- Legal issues.

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**Appendix A**

**Large Jail Network  
September 2009 Final Meeting Agenda**

**U.S. Department of Justice**

National Institute of Corrections

09J2402

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**LARGE JAIL NETWORK MEETING**

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September 21-23, 2009

Red Lion Denver  
Southeast Hotel

Aurora, CO

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**Agenda**

**Monday, September 21**

6:00 p.m. Introduction and Overview ..... Mike Jackson

Correctional Program Specialist

6:30 p.m. INFORMAL DINNER

8:00 p.m. ADJOURN







**Appendix B**

**Large Jail Network  
September 2009 Participant List**

**Appendix C**

**Index of Past LJN Meeting Topics**

**LARGE JAIL NETWORK MEETING TOPICS  
JUNE 1990 - SEPTEMBER 2008**

<b>1990</b>	June	System Approaches to Jail Crowding and Population Management
<b>1991</b>	January	Crowding Strategies and the Impact of Court Decisions
	July	Managing Jail Litigation Linking Jail and Community Programs
<b>1992</b>	January	Fair Labor Standards Act Writing and Negotiating Contracts
	July	Americans With Disabilities Act
<b>1993</b>	January	Blood-Born and Airborne Pathogens Health Care Costs in Jails
	July	Privatization Programs for Women Offenders
<b>1994</b>	January	Public Policy and Intergovernmental Dimensions of the Role of Jails, Professional Associations in Corrections: Their Influence on National Perspectives of the Role of Jails
	July	Using Data and the Resources of the Bureau of Justice Statistics Developing Resources to Provide Inmate Programs
<b>1995</b>	January	Gangs, Jails and Criminal Justice
	July	Trends in Employee Relations; Sexual Harassment
<b>1996</b>	January	The Dilemma of In-Custody Deaths The Crime Bill and It's Impact on Jails
	July	Juveniles in Adult Jails
<b>1997</b>	January	Meeting the Competition of Privatization
	July	21st Century Technology and it's Application to Local Jail Information and Operational Needs.
<b>1998</b>	January	The Future of Our Workforce: Pre-employment Testing, Recruiting, Hiring, Training and Evaluating 'New Age' Employees {Generation X} Legal Issues Update - Update of PLRA {Prison Litigation Reform Act}
	July	Taking A Pro-active Approach to the Prevention of Employee Lawsuits.
<b>1999</b>	January	Post-Traumatic Stress Syndrome and Critical Incidents: Preparation, Response, and Review . Legal Issues Update.
	July	Improving Opportunities for Successful Recruitment, Selection, and Retention of Staff.

**LARGE JAIL NETWORK MEETING TOPICS**  
**JUNE 1990 - SEPTEMBER 2008**  
(continued)

<b>2000</b>	January	Criminal Justice System Coordination and Cooperation: How the Jail Benefits and the System is Improved. Legal Issues Update.
	July	Exploring Issues and Strategies for Marketing, Funding, and Auditing Large Jail Systems.
<b>2001</b>	January	The Use of Data for Planning, Decision Making, and Measuring Outcomes.
	July	Understanding and Using the Data & Resources of the Bureau of Justice Statistics Staff Issues in Large Jails: Staff Utilization, Relationships, Conduct & Misconduct
<b>2002</b>	January	The Future of Jails, Corrections and Criminal Justice Legal Issues Update
	July	Inmate Medical Care Cost Containment Succession Planning for Future Jail Leaders
<b>2003</b>	January	Addressing the Future of Jail Legislation, Resources and Improving Funding Legislation, Resources and Funding: A Perspective from our Professional Associations The Role and Use of Professional Standards and Internal Affairs Large Jail Network Listserv and Web Technology Legal Issues Update-Health Insurance Portability and Accountability Act of 1996 (HIPAA), Admission Screening
	July	Defining the Future & Exploring Organizational Strategies Impact of Jail Population Changes on Jail Management Jail Standards & Accreditation Use of Technology for Jail Administration & Operation
<b>2004</b>	February	Emergency Preparedness: Planning and Implementation Contagious Disease Identification and Prevention Legal Issues Update-Inmate Medical Confidentiality, Involuntary Mental Health Treatment, Contract Provider Litigation, Arrestee "Clothing Searches"
	July	Effectively Managing Inmate Gangs in Jails Identifying Problems/Managing Inmate Mental Health
<b>2005</b>	January	Preparing Leaders in Corrections for the Future-NIC's Core Competency Project Training as a Strategic Management Tool Inmate Mental Health: Legal Issues, Management, Diversion Justice and the Revolving Door and Corrections Into the Next Decade
	July	Examining Federal and Local Benefits for Jail Detainees Ethics in the Administration of the Jail Human Resource Issues: Employee Recognition, Attendance, Restricted Duty

<b>2006</b>	January	Implementing PREA: The BJS Report Statistical Analysis: Crowding, Life Safety, Managing Staff Succession Planning The Question of TASERS Legal Issues Update
	July	Diagnosing, Analyzing and Improving the Jails Organizational Culture Planning for Catastrophes and Other Crises Prison Rape Elimination Act (PREA) and Jails Criminal Registration Unit: Hillsborough County, FL
<b>2007</b>	January	15 <sup>th</sup> Anniversary Meeting Large Jail Systems Assessment Research Project Changing Organizational Culture Improving Collaboration Between Jails and Mental Health Systems Legal Issues Update
	September	Jail Inmate Re-Entry Programs: Public, Private, Non-Profit Involvement Jail Inmate Re-Entry Issues on a County Level Responding to Women Offenders in Large Jails Excited Delirium: A Problem to be Eliminated or Managed Recruiting, Hiring and Retention of Staff
<b>2008</b>	March	Immigration and Custom Enforcement 287 (g) Program Contract Services Media Relations Workforce Development Legal Issues Update
	September	Faith Based Programs Human Resource Management Emerging Technologies Proactive Discipline