



Winter 2007

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

**Reflections: 15 Years  
of the Large Jail Network**

**Legal Issues Update**

**Improving Collaboration  
between Corrections and  
Mental Health Systems**

**Diagnosing Organizational  
Culture: Case Studies**

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## MEETING HIGHLIGHTS

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This document summarizes a meeting of NIC's Large Jail Network (LJN) held in Longmont, Colorado, on January 28-30, 2007. Approximately 60 administrators of the nation's largest jails and jail systems attended the meeting.

Following is a summary of the major sessions of the meeting:

- **Reflections on 15 Years of the Large Jail Network.** David Parrish, Hillsborough County, Florida, and Art Wallenstein, Montgomery County, Maryland, offered their thoughts on the impact of the LJN since its inception 15 years ago.
- **Open Forum: Hot Topics for Discussion.** Led by Don Leach, Lexington/Fayette County, Kentucky, the group discussed the following topics: releasing inmates after court; inmate fees; medical confidentiality; MRSA management protocols; right to refuse medical treatment; resources for information on religious diets; food service contractors; Native American practices and staff.
- **Using the NIC Corrections Community LJN Forum.** Joshua Stengel, NIC Information Center, summarized the features of the web-based features of the forum. In response, meeting participants expressed their difficulty with the new Forum, with a number of participants indicating that they find the new system hard to use and that they greatly preferred the previous listserv. Josh agreed to provide more information on how to use the system as well as to find ways to make the system easier to use.
- **Large Jail Systems Assessment Project.** James Austin, President, The JFA Institute, summarized the Institute's work designed to help NIC determine how the agency can best provide assistance to large jails.
- **Legal Issues Update.** William Collins, expert on legal issues in corrections, summarized recent case law affecting jails. Topics covered included arrestee strip searches; tasers; staff-inmate interactions; mental health; access to the courts; court orders and consent decrees; and an ethics question with legal overtones.
- **Diagnosing Organizational Culture.** Carol Flaherty-Zonis, President, Carol Flaherty-Zonis Associates Consulting and Training, spoke on the importance of understanding the culture of a jail, defined as "the values, assumptions, and beliefs" that people hold. Organizational culture drives the way an organization functions. She summarized the Organizational Culture Inventory (OCI) and its role in understanding the culture of an organization.
- **Diagnosing Organization Culture: Case Studies.** Tom Campbell, Louisville, Kentucky, and Jim Coleman, Shelby County, Tennessee, summarized the

importance of understanding the role of organizational culture in improving their facilities' operations.

- **Improving Collaboration Between Corrections & Mental Health Systems.** Dr. Fred Osher, Director, and Seth Prins, Research Associate, Health Systems & Health Services Policy, CSG Justice Center, spoke about CSG's project, which is designed to improve the response to people with mental illness who become involved with—or are at risk of involvement with—the criminal justice system.
- **Topics for Next LJN Meeting.** Delores Messick, El Paso County, Texas, Steve Thompson, Snohomish County, Washington, and Richard Geather, NIC, led participants in a discussion of potential topics for the next Network meeting. The topics selected were: recruiting, hiring, and retention of staff; re-entry programs, combined with public/private partnerships; hot topics; report by the Centers for Disease Control; and excited delirium.

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## REFLECTING ON 15 YEARS OF THE LARGE JAIL NETWORK

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### **DAVID PARRISH, HILLSBOROUGH COUNTY, FL**

The Large Jail Network (LJN) was created under the auspices of the National Institute of Corrections (NIC) Jails Division in 1990. Membership was limited to the sheriff/chief executive or jail administrator from jurisdictions where the average daily census exceeds 1,000 inmates.

As the commander of the Hillsborough County (Florida) Jail System since 1981, I have been active in national correctional organizations. I previously held the position of president of the American Jail Association (AJA), treasurer of the American Correctional Association (ACA), and chairman of the Jail Manager Certification Commission. While I have benefited professionally from participation in AJA and ACA, the LJN has been of even greater value to me in the performance of my duties as a jail administrator.

In a single word, the LJN is “practical.” It serves as a forum for the exchange of useful information. The LJN is so important to me that, since 1990, I have missed only two meetings. The following statements reflect some of the factors that have made the LJN such a valuable resource to large jail administrators:

- Participation is limited to the commander of the jail system.
- There are two meetings per year—often enough to be current without being time-consuming, which minimizes the administrators' time out of the office.
- Topics are selected by the participants.
- The participants attend class together, eat meals together, and are housed together.
- The forum facilitates the exchange of ideas and practices.
- A nationally recognized expert on legal issues provides an annual update.

### **ART WALLENSTEIN, MONTGOMERY COUNTY, MD**

The Large Jail Network was a success largely from the day it started. There is a reason it works. It has spoken directly to the needs of the participants, improved with some “for our benefit” additions of NIC staff. When we added the network and the listserv, the work of the network escalated, and the value further improved.

I remember the early days when the ride to Longmont included a long wait at the Conoco Station in the small, sleepy village of Longmont. I well remember two meetings where we waited in the snow and the cold, fearful of entering the gas station lest we miss the connection. It was almost like a backcountry hiking trip, and arrival at the old Raintree Hotel was clearly a victory. I always hoped to run into a thoughtful elected sheriff at the airport waiting to hitch a ride to Longmont, but it only happened once in all those years.

As I was recently retained by a new county executive, the first issue I noted was the need to attend LJN. Serving at the “pleasure of” elected officials for the past 30 years as a jail

director has been a fascinating experience, and, at times, a real challenge. LJN was always the constant.

I have spoken with colleagues in other government public policy areas, and nothing approaches LJN. New folks that join the ranks and the networks immediately have a home base for professional collaboration. The value of this network makes it the finest in the corrections profession—nothing is even close. Onward, and long live the LJN!

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## OPEN FORUM: HOT TOPICS FOR DISCUSSION

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**DON LEACH, LEXINGTON/FAYETTE COUNTY, KY, MODERATOR**

### **HOW ARE INMATE RELEASES COORDINATED AFTER COURT APPEARANCES?**

Marilyn Chandler Ford, Volusia County, Florida, is interested in how inmates are released after court appearances and whether local courts have set time frames for release. There is no court-imposed time limit in Volusia County, but there is a flicker of concern from the county and the public over the time it takes to release inmates. Steve Thompson, Snohomish County, Washington, commented that time frames for release are a matter of the political will of the locality.

The approaches to inmate releases after court appearances vary among meeting participants, with some jurisdictions releasing inmates directly from the courtroom, sometimes in their jail jumpsuits, and others returning inmates to the jail prior to their release. This is an issue of growing importance, but there can be problems both when inmates are released directly from the court and when they are first returned to the jail. The discussion focused on the following points:

- ***Direct release from court:*** In Montgomery County, Maryland, the courts release inmates in jumpsuits directly to the street, which is a problem especially for those with mental illness and/or those needing medication. The jail system in Orange County, California, has been successful in pointing out to the courts the costs involved in releasing inmates immediately. In San Diego County, the judge recently made arrangements to do the paperwork to allow inmates to be released directly from court.
- ***Return to jail prior to release:*** Hillsborough County, Florida, has found it difficult to get the necessary paperwork done prior to court appearances. If inmates are released in court, they can ride in the front seat of the van on the return to the jail rather than in the back with inmates. In Multnomah County, Oregon, one judge insisted on an immediate release, but the jail crafted an expedited release plan that has resulted in release in an average of 48 minutes. In Broward County, Florida, some judges insist on releases in court, and some require a return to jail.
- ***Inmates' dress in court:*** Some jurisdictions, including Broward County, provide street clothes only for inmates who will appear in front of a jury. In others, including Rhode Island and Miami, inmates are dressed for every court appearance. Some jurisdictions have had problems in getting clothes returned to the jail; at least one deals with this problem by paying those who return the clothing.

### **RELIGIOUS DIETS**

Tom Campbell, Louisville Metro Corrections, Kentucky, asked whether there are resources for information regarding religious diets in order to know if a requested diet is a religious requirement or simply a preference. Some suggested resources for this information were:

- *LJN members.* Ask the question through the LJN network.

- *Military bases.* They have done the research on this issue.
- *Local clergy or valid practitioner of the faith.* Volunteer clergy will sometimes interview inmates to determine if they are truly converts.
- *Association of Correctional Chaplains. Website: [www.correctionalchaplains.org](http://www.correctionalchaplains.org)* This is part of their mission. The courts have not been helpful in this area. There are a number of decisions indicating that it is not the dictates of the faith but an individual's belief that determines the right to a special diet.

### **BOOKING FEES, CO-PAYS, SUBSISTENCE PAYMENTS**

Denis Dowd, Osceola County, Florida, asked about the values and drawbacks of instituting such inmate fees. He is interested in using them to fund programs and wanted to know how other jurisdictions are dealing with this issue.

Some participants pointed out that there is case law saying that if someone is released after paying a booking fee, you must reimburse the fee. In addition, there is a national group challenging the practice of collecting a booking fee.

A different approach is to charge a per diem fee. In Virginia, for example, there is a one dollar a day fee, and the Hampton Roads regional facility collects a large proportion of these fees. In some cases, jurisdictions actually use a collection agency to collect the fee after an inmate is released.

Orange County, California, is creating mobile re-entry centers and hopes to convince county commissioners to establish an inmate fee to fund these centers.

Art Wallenstein, Dave Parrish, Bill Collins, and a number of others pointed to the value question involved in collecting fees. They commented that inmates often already have a number of other debts, including child care, and that their money should go first to cover important family obligations. Collecting money after someone is released was especially called into question, as financial obligations to the jail can make re-entry even more difficult.

A number of jurisdictions represented at the meeting do collect fees for medical services.<sup>1</sup>

### **MEDICAL CONFIDENTIALITY**

Don Leach, Lexington/Fayette County, noted that there is general agreement that a jail cannot share medical information, but he asked if staff can know some important medical information such as whether someone is a diabetic.

Art Wallenstein, Montgomery County, Maryland, said that staff absolutely are not entitled to know any diagnosis. Staff are allowed to know that inmate has a medical condition but not what it is.

Rick Frey, Broward County, Florida, commented that this is also an issue involving arresting officers. An officer in that county contracted MRSA from an offender, and the jurisdiction has since developed a protocol to deal with circumstances in which an inmate is later found to have a malady that might have been passed to the arresting officer. They now

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<sup>1</sup> For additional information on current fee collection practices in local jails, see the NIC Information Center Publication, *Fees Paid by Jail Inmates: Fee Categories, Revenues, and Management Perspectives in a Sample of U.S. Jails, 2005*.



routinely provide information to local law enforcement when they discover that an inmate has some kinds of infectious conditions. The particular inmate is not identified in the notification, but the officer who might be involved is identified, as is the date of arrest.

Bill Collins, attorney, noted that federal court decisions are mixed with respect to privacy, although privacy can be breached for “legitimate penological interests,” which provides some flexibility. However, there is an absolute barrier with respect to medical staff providing such information.

Geraldine Cohen, Atlantic County, New Jersey, noted that as a result of a protest about risk by the officer's union, the jurisdiction has developed a stronger infectious disease policy, and all staff are being trained on precautions for airborne disease. Marilyn Chandler Ford pointed out that staff can figure out from the protocols what disease an inmate has.

#### **INMATE'S RIGHT TO REFUSE MEDICAL TREATMENT**

Don Leach asked about an inmate's right to refuse medical treatment, especially pregnant offenders and those with acute medical conditions. Participants were divided on this issue, some believing that the agency has no authority to force an inmate to take medication, and others maintaining that because a pregnancy involves an unborn child, the agency does have this authority. In the instance cited by Don Leach, the inmate was refusing to be treated by jail medical staff but would see an outside doctor.

Charles Walters, Orange County, California, suggested that private doctors and dentists could come into the jail and provide treatment. This approach saves money and might even result in a physician's volunteer program.

Bill Collins noted that case law says that the jail has the responsibility to provide care. She can refuse care in most instances; the problem in this case is the pregnancy. Can the jail say that its obligation is to treat the inmate only, or will someone file a case on behalf of the infant. An inmate with a terminal illness has the right to refuse care, but you need to be sure that the refusal is a voluntary decision.

#### **METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS (MRSA) PROTOCOLS**

Brian Edwards, Tulsa County, noted that his jurisdiction has found an effective way to prevent MRSA. Their approach, which has been successful, involves a regular protocol of spraying with Staph Attack, a product of Enviroguard Technologies of Tulsa.

#### **FOOD SERVICE CONTRACTORS WALKING AWAY FROM CONTRACT**

Marilyn Chandler Ford, Volusia County, Florida, reported that the food service contractor for that jurisdiction asked for an increase in the contract between budget cycles and then simply walked away from the contract. She asked other meeting participants how they enforce contracts without feeling that they have been held up.

Other jurisdictions have had the same experience, with Broward County's food vendor walking also walking out after one year of a 5-year contract. The county severed the contract and put it out to bid again. The problem is that vendors offer a low-ball bid in order to get the contract and then come back with a request for an increase between budget cycles.

One suggestion for preventing this situation is to ask for a performance bond in the contract. Art Wallenstein noted that Montgomery County responded to a similar situation

with the medical contractor by taking services back into the jail system rather than contracting. Bill Collins, attorney, commented that such instances point to the importance of an agency's doing its own due diligence on bids. A good indicator of a potential problem is a promise to provide services for 5 years with no increase.

#### **NATIVE AMERICAN INGESTING PEYOTE AT FUNERAL**

Mark Foxall, Douglas County, Nebraska, cited a case in which a Native American staff member's aunt died, and the funeral was to be held on a reservation where the employee would ingest peyote. Should the employee lose his job for doing so?

The general consensus among meeting participants was that the employee should not lose his job.

#### **ACA ACCREDITATION**

Dave Parrish, Hillsborough County, Florida, noted that only 120 of 3,300 jails nationwide are accredited. He was on the committee that recently helped revised ACA's jail standards. ACA is now developing "basic standards" that should be relevant to jails of all sizes. Meeting the basic standards would result in "certification" rather than "accreditation," which is conceived of as the next step. Parrish is chairing a committee to work on developing these basic standards and is seeking participation from people who run non-accredited jails, especially small jails. There will be a meeting in March in the DC area. Rod Miller will work with the committee, and NIC will fund travel, including room and board.

Tom Merkel, Hennepin County, Minnesota, commented that the 4<sup>th</sup> edition standards are too difficult, that the new standards are not working. Dave Parrish and Jim Gondles, ACA Executive Director, responded that the standards are a work in progress and that they were put together by jail people. Jim Gondles pointed out that the group does not yet know how it will break down the continuing effort in terms of small and medium jails that can't attain the standards met by large jails. Tom Rovelli, Hampden County Sheriff's Office, acknowledged the value of the new, performance-based standards. Although more challenging, they push jails in good directions.

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## USING THE NIC CORRECTIONS COMMUNITY LJN FORUM

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### JOSHUA STENGEL, WEB MANAGER, NIC INFORMATION CENTER

Joshua Stengel described the recently implemented web-based Community LjN Forum. He noted that the overall strategy of the system is to integrate users into the technology to create an online community system. The system includes the forum, a blogging system to deliver news and updates, and file sharing. One reason the Information Center switched from listserv was security. In addition, there were licensing and size issues and an inadequate infrastructure.

The blog and news sections are being used to highlight new resources and materials. Sandy Schilling's blog is called "Today's Jails," and it highlights, on a weekly basis, new resources, including documents and meetings.

The previous ljn listserv included the "LjN Vault." This still exists, but it has expanded. The Information Center website now has a community open to everyone and includes key areas for groups with a need for strict access. LjN members have access to all files, all forms, and all meeting announcements related to the network. Access to everything is via a single password. LjN members can contribute to this at any time; once something is uploaded, everyone in the network has access.

The process is a bit different from doing email, and there are instructions for using this system. The Information Center has a new technical writer who is creating directions and short videos with instructions to walk LjN members through how to use the system.

### DISCUSSION BY MEETING ATTENDEES

Most meeting attendees who commented find the new system dislike it and would prefer to return to an email listserv. A sample of comments follows:

- I'm too busy to sign on to this and use it. The listserv system was wonderful, and I want to go back to it. Keep this system for big documents, but I miss the interactions I had with everyone here. I don't have time to sit down and log on. (Dave Parrish)
- The cure was worse than the illness. I don't participate in the new system, either. It looks great, and the solution may be great, but it's hard to use. (Steve Thompson)
- You're in the middle of a cultural transformation with us. Obviously, there have been major improvements, but you need to hear that the new version is not being used. Members have the greatest interest in real-time sharing of information. Obviously, a web-based system is the future, but we had the ljn listserv for 10 years and never heard of it being violated. So please hear the need for immediate information sharing. (Art Wallenstein)
- I don't want to know what was said 3 years ago. I want the most immediate discussion, not what was said in the past.
- I don't want to have to search for things; I want it to appear automatically.
- You need to show the topic up front; don't require members to ask what is going on. (Bill Collins)

- I feel like I have to search for things on the new system. (Marilyn Chandler Ford)
- You have built an incredible web-based system. But you need to realize that the ljn listserv changed county corrections. When the NIC Advisory Board created it 10 years ago, messages were flying, and it had a positive impact on jails around the country. All you're hearing is a request to give us some of what we had. We miss the spontaneity. (Art Wallenstein)
- We have just heard that there may not be another LJN meeting. When you recognize what dinosaurs we are, this means that our ability to work with one another will be gone. Is a phased approach to the new system possible? Let the people who replace us when we retire deal with this. (Steve Thompson)
- Sometimes, you can't tell who is writing. You used to be able to see that immediately. (Tom Merkel)

### **JOSHUA STENGEL'S RESPONSE**

Joshua responded to LJN members' comments as follows:

- I understand it was simple to use the system. One reason it was so simple was that it required no authentication. That meant that anyone could impersonate a member.
- A web-based system has some lasting value. It takes a while to put on the web, but it stays there. This allows a new member to get caught up with topics.
- I understand that the instantaneous quality is missing, but we can do a lot of things with the new system that we couldn't do with a listserv. We need to figure out a good balance. We also need to set up tutorials and training. There's really only one extra click required to access the system. In addition, because it works outside an email address, you can access it while traveling.
- At some point we have to make a transition. We could investigate the ability to email back and forth on a listserv, but we need to recognize that there will be other functions you will want and need.
- There is a bit of a learning curve. When you get an email alert, you have to go to the thread or go to the site. I won't exclude the possibility of making this easier to use.
- The system does enable you to sign up for an email alert. When a message is sent, you will get an email alert. To sign up for email alerts, once you are in the LJN Forum, click on Forum Descriptions, put a check by all the forums you would like to get messages from, then click Save. This is a one-time action.
- We will send out information, via email, on how to join and access this information. I will also look for ways to make it faster to react to messages and faster for you to post your own messages. We'll work hard to do this, but you have to help us by reading the tutorials when we send them out. Take a look at how to make this work better for those used to the listserv.
- We are reacting to a broad audience. I suggest that you add a link in your Bookmarks. There are ways to make it fast and simple, but it is very different from the old system. Unfortunately, we can't just go back to the old system.
- I will be available at the Information Center today to anyone who would like a brief tutorial on how to use the new system.

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## LARGE JAIL SYSTEMS ASSESSMENT PROJECT

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JAMES AUSTIN, THE JFA INSTITUTE, WASHINGTON, DC

### THE PROJECT

The focus of our work is to help NIC ask the question, “What can NIC do for large jails”? The Large Jail Network is the vortex of the criminal justice system. You house about half of the prisoners in the nation's correctional system every day. More importantly, about 12 million people are admitted to jails every day. You are the big players in the corrections system.

Large jails are not equipped to handle technology. You're huge organizations, but you run like mom and pop organizations. Prisons usually have IT departments, but large jails often do not. This makes it extremely difficult, for example, to put in an automated classification system. Jails often have antiquated systems, and it's impossible for an administrator to handle technology. You have neither the time nor the interest in doing it yourself. The old way of administering a jail is changing for the large jail. It's important to find new ways of doing business. Perhaps NIC can help.

NIC currently provides seminars, on-site technical assistance (extremely limited), publications, and the web site. One problem is that NIC is not very big; it can't reach all jails. Therefore, the agency needs to figure out what it can and should do. To assist in this endeavor, JFA representatives will interview selected meeting participants over the next two days.

### HOW ARE LARGE JAILS DIFFERENT?

The first assumption is that large jails are different from small jails in ways besides their size. What is different? Is there a need for a separate track for large jails? What are special problems? What is it about the size that makes it harder to change? A complicated matrix is involved because jails are part of a number of systems. Even a simple policy change must go through attorneys, unions, etc. Is it your experience that large systems are hard to change because of the complexity?

Meeting participants pointed to some ways in which large jails are different from those of other sizes:

- There are clearly different issues involved, especially in large metro areas, including health, mental health, and immigrant issues.
- Large jails are different in terms of the anonymity of inmates; administrators don't know them or their problems.
- My problem is a large jail with a small jail mind, which is run by county commissioners.
- One reality of jails is that we don't have a political constituency. If a jail is run by a sheriff, the combined budget is usually stacked in favor of the street. If NIC wants to know how best to serve large jails, the answer is that these meetings are the best thing NIC can do. A week-long training session for how to be a large jail manager wouldn't be as valuable as the current two-day sessions.
- The spectrum of problems is greater in large jails.

- The best training for large jail administrators would be done by veterans of this group. NIC should look at 2-3 days for new administrators. The best training I have ever seen is at this meeting and one for state corrections administrators that NIC sponsors. (Jim Gondles)

#### **JIM AUSTIN'S COMMENTS ON LARGE JAILS**

- One problem we see is turnover at the administrative level.
- Another problem is administrators' inexperience in running jails.
- NIC itself is nearly invisible. The US Department of Justice attorneys know nothing about NIC; they have no idea of what NIC does. In addition, many jails, including some large jails, don't know about NIC.
- Your legal department should be well-versed in what the Department of Justice looks at. They want places to send people that are good models. Where is a model education, PREA program, or medical program? NIC could perhaps help identify these model jails.

#### **WHAT MAKES THE DIFFERENCE IN TERMS OF NIC TECHNICAL ASSISTANCE SUCCESS? SHOULD THERE BE SCREENING CRITERIA?**

- The real question is “what makes a jail amenable to change”? The answers have to do with leadership and political support. (Ashbel Wall)
- The lack of homogeneity in the inmate population is one way jails are different.
- Perhaps before NIC engages a jurisdiction, there should be a commitment from the board of supervisors or county commission to put in place whatever is needed. Such restrictions should perhaps be stipulated prior to agreeing to provide TA to a jurisdiction.
- Certain places seem to receive NIC TA all the time. The services are not being distributed as well as they might be. It may also be necessary to find a way to stay away from undeserving jurisdictions.

#### **TECHNOLOGY TRAINING**

Jim Austin indicated that his group will probably suggest that NIC provide training on using technology. Overcrowding is a basic problem, but the real issue is not knowing the actual numbers. Jails need information systems that automatically manage information.

Wendy Naro, JFA Institute, noted that jails' IT systems already have the necessary information, but it is not being used for research—for example, to get a picture of pretrial vs. sentenced inmates.

#### **NIC'S CURRENT EFFORTS**

Jim Austin pointed to NIC's work on the following:

- Inmate behavior management
- Direct supervision
- Jail system assessment
- Medical/mental health

In its work so far, the JFA Institute has consistently heard of the need for help on staffing analysis, information system technology, facility design, and strategic planning. The

reason NIC is not doing much in these areas is that they are expensive. Perhaps NIC can simply provide guidance in knowing what to look for in consultants in these areas.

There is clearly the need for more visibility for NIC. Finding model jails with excellence in specific areas would also be helpful. There is currently no research or testing being done on innovative strategies.

Keith Hardison, JFA Institute, commented that in interviews with meeting participants, they had picked long-term corrections professionals. The group will ask participants' opinion on a variety of matters, including staffing, population management, ongoing initiatives, what keeps change from occurring. They will also ask about jails' current use of external resources, including NIC consultants. Are consultants a threat or an encouragement for change? So far, most administrators are indicating that they have experienced good things as a result of NIC TA. However, it is also clear that many of your colleagues are not familiar with NIC resources.

The interviews last 15-20 minutes and are based on a 3-4 page questionnaire. The group is looking for advice to pass on to NIC. The JFA Institute will provide a briefing to NIC on the results.

Gwyn Smith-Ingley, American Jail Association, pointed out that the Bureau of Justice Statistics (BJS) is also currently looking at how to focus its resources on jails and suggested that the JFA Institute might to cross-check its results with BJS.

*For additional information, contact Mr. James Austin, President, The JFA Institute, 5 Walter Houp Court, NE, Washington, DC 2002; 310-867-0569.*





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## LEGAL ISSUES UPDATE

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**BILL COLLINS, ATTORNEY AT LAW, OLYMPIA, WASHINGTON**

### **THE DOCKET**

- A New Arrestee Strip Search Issue
- Less than Lethal: Tasers Revisited
- Staff-Inmate Interaction—sexual harassment by inmates; MRSA; sexual contact and PREA
- Mental Health
- Access to the Courts
- Court Orders and Consent Decrees
- An Ethics Question with Legal Overtones

### **ARRESTEE STRIP SEARCHES: NOTHING HAS CHANGED**

- The rule: “reasonable suspicion” that an arrestee is concealing contraband of some kind is required to strip search an arrestee coming into the jail. Every district court that has looked at the issue has adopted “reasonable suspicion” as the requirement.
  - Reasonable suspicion from the nature of the arrest: violent, drugs. Not “all felonies.”
  - Reasonable suspicion from the arrestee's behavior
  - Reasonable suspicion from prior record. Be careful with this; there is no case law on this.
  - General population placement is NOT an excuse to strip search. (This rule has been in effect since the early '80s, but litigation continues on the issue.)
- A strip search is:
  - A classic strip and probably...
  - Any time officers routinely see arrestees in a state of undress (clothing exchange, etc). Decisions are split about whether this includes a strip down to underwear.

### **ARRESTEE STRIP SEARCHES: THE NEW LAWYERS' RELIEF PROGRAM**

A number of counties, large and small, have been successfully sued in the last 3-5 years over blanket arrestee strip search policies. These are typically class action suits that involve, for example, all those booked over some period of time. All participants get only a small amount, but these cases can cost the county a very large amount. The lawyer's fee is based on what is possible, not on the actual settlement.

Risks to the county:

- Embarrassment to the county
- Paying large damages to lots of arrestees
- Paying huge fees to arrestees' lawyers

### **ARRESTEE STRIP SEARCHES (VERSION 5.1)**

Two groups of “arrestees,” both arrested for non-drug, nonviolent offenses and IN JAIL ALREADY (after booking)

- Those returning from court to be released
- Those being transferred from a short-term to a long-term facility, pre-arraignment
- Holdings: Blanket strip searches for either of these groups violate the Fourth Amendment. *Craft v. County of San Bernardino*. 2006 WL 378811 (C.D.Cal., 2006)

The San Bernardino case went back to the original Supreme Court case, *Bell v. Wolfish*, 441 U.S.520 (1979). The San Bernardino case found blanket strip searches in the above instances “frighteningly invasive and humiliating.” In the San Bernardino case, the judge was not convinced that “security” was a convincing reason for the routine searches. The jail could not show that they found contraband on members of the group, and administrators believed the jail could keep both groups separate from the general population, if they wanted to. In short, the courts don't like strip searches of arrestees.

The San Bernardino case is only from a district court and thus doesn't create a precedent. However, it may or may not be an aberration. The court took an extended view of what an “arrestee” is. The groups had been in jail for at least hours, if not for a day or two. Does this imply that an “arrestee” becomes an “inmate” after arraignment? I believe that an arrestee becomes an inmate when housed in general population.

#### **ARRESTEE STRIP SEARCHES: DO YOU KNOW...**

- What you find as a result of arrestee searches?
- Who you find it on? (Violent offenders? Drug-related offenses?)—Behavior-based reasonable suspicion? Others: nonviolent, non-drug, minor charges

You must know what you found and who you found it on.

#### **THE HUDSONFORCE TEST AND TEASERS**

Was the force used in a good faith effort to restore order, or maliciously and sadistically, to cause harm? The court will ask:

- Need for force?
- Amount of force used (force continuum)
- Extent of injuries
- Threat perceived (by a reasonable officer). This had better be serious.
- Efforts to temper (video your warnings; you need to show that lesser alternatives didn't/wouldn't work)

Can you show that the use of force was really necessary? Your policy and training need to cover this issue.

#### **TASERS: REQUIRED READING**

Amnesty International reports from 2004 and Nov, 2006. See [www.amnesty.org](http://www.amnesty.org)

You may or may not like the message or the messenger, but you need to read these. Take the recommendations into consideration and note the things that can go wrong.

#### **TASER DATA, STUDIES**

Taser-related deaths:

- 2001 3
- 2002 13
- 2003 17
- 2004 38

- 2005 61

These deaths were not all necessarily caused by the taser. Higher risk groups? Studies cited in Amnesty International 2006 report suggest some people may be more vulnerable, especially those exhibiting “excited delirium” and those with drug, alcohol, or pre-existing heart conditions. Although officers are often tased as part of their training, they are not under stress conditions at that time.

### TASERS AND ALTERNATIVES

**Efforts to temper:** Can you wait them out?

- Is this move really necessary? Will judges cooperate?
- Can risk factors be identified, considered in the decision to use the taser?

Growing evidence raises questions: does one size fit all? Should some kind of screening take place?

**Dilemma:** When a move is necessary and risk factors are present, what can you do?

### TASER CASE LAW: SO FAR, NO BAD DECISIONS

Recent cases have allowed tasers:

- Inmate arguing, nearing open control room door. Taser OK. No examination of alternatives. Videotaped. *Brown, 2006 WL 3759754 (W.D.La., 2006)*
- Inmate with cerebral palsy, cuffed. Ignored order to sit on bed. Taser OK where inmate had been in a fight with correctional officers minutes before, and officers thought the keys were in the cell. *Hunter, 2006 WL 2850278 (D. Kan., 2006)*.
- Series of violent struggles with police, then getting inmate to video appearance, and several hours later. The big inmate was then cuffed and shackled, but he lunged at officers. The stun gun was approved, despite inmate's death. *Burkett, 2006 WL 2128672 (N.D. Fl., 2006)*

### TASERS: HEADING FOR A COLLISION

On one side is a jail's argument that the taser reduces the number and seriousness of force situations because the inmate sees the taser and decides to cooperate. On the other side is a growing indications of risk associated with the taser, at least with some types of inmates. Do you want to be in the middle? These two perspectives are about to collide.

Sooner or later, the court will resolve these situations. It makes sense to strategize how to use this instrument wisely.

### TASERS: PROTECTING YOURSELF

- Strong policy defines when the taser may/may not be used. Identify the risk factors that might limit use of the taser.
- Control who has them. Don't give one to every officer.
- Train officers, especially on “when” and “not when.”
- Supervise, supervise, supervise the use of the taser.
- Carefully evaluate every incident. (The more staff uses an “exceptional” tool, the less exceptional it becomes.
- **Video** every incident. Show the court/jury why you had to use it.
- Be conservative in using it.
- Are you seeing a reduction in staff injuries? Keep track of its effectiveness.

## SEXUAL HARASSMENT BY INMATE S

- Pervasive problem of inmates masturbating in front of female correctional officers
- Institution's response: Ho-hum.
- Response to persistent complainer: suspect for psychiatric example
- Prison EEO officer: female officers are “just a bunch of lesbians.”

### Can we see something bad coming?

## YES. SOMETHING BAD CAME ALONG

**Holding:** “Where the employer either ratifies or acquiesces in the harassment [by non-employees], by not taking immediate and/or corrective actions when it knew or should have known of the conduct,” Title VII is violated. (This is not a new rule.)

**The expectation:** “The most we can expect and require prisons to do is to implement and enforce policies reasonably calculated to minimize such harassment and protect the safety of its employees.”

**Freitag**, 463 F.3d 838 (9<sup>th</sup> Cir., 2006)

The problem in *Freitag*: The prison did nothing! (except retaliate against the officer)

Keys:

- Strong policy of not tolerating sexually harassing behavior
- Enforcement through multiple means—discipline, classification, possible mental health consultation
- Don't tolerate, let culture grow—a possible wedge between male and female staff.

## MRSA: SOMETHING BAD FOR EVERYONE

- Threatens inmate and staff. Very easy to spread via contact or surfaces.
- A “serious medical need.” (Remember the Estelle standard: “deliberately indifferent” to a “serious medical need.”)
- Will you avoid “deliberate indifference”?
  - Diagnosis and treatment of individual cases
  - Education and prevention. See Federal Bureau of Prisons Clinical Practices Guidelines, August, 2005. [www.bop.gov](http://www.bop.gov) (search for MRSA)
  - Will co-pay policy bite you? (If an inmate doesn't do a medical call to save a fee, MRSA could spread.)
- A bridge to public health agencies? MRSA is their problem, too.

If you can show that you are following CDC guidelines, you can be shown not deliberately indifferent.

## STAFF-INMATE SEX

- Indefensible
- Is the problem getting worse? Or are we just more aware?
- How much is female officers: Alan Beck's (Chief, Bureau of Justice Statistics) study suggested that three-quarters of instances involved female officers. The stereotype is that with male officers, it's just about sex, and that with female officers, it's something else. Often, food service workers, chaplains, or others can also be involved. Policies should address the issue broadly.

## **PREA STANDARDS (DON'T HOLD YOUR BREATH)**

The National Prison Rape Reduction Commission was to recommend standards by early 2006, but they are still holding public hearings. Recommendations are unlikely until at least the second half of 2007. Then the Attorney General has 1 year to publish the final rule, which would be in the second half of 2008. However, they are unlikely to come out with standards in an election year, so they will probably not be published before 2009.

However, the Prison Rape Elimination Act (PREA) has heightened everyone's consciousness about the issue and has brought it to the surface. The standards are not supposed to impose costs on state or local governments. In any case, the value of PREA at this point is heightened awareness.

Jim Gondles, ACA, comment: The standards can be expected by early 2008.

## **MENTAL HEALTH: DELIBERATE INDIFFERENCE TO SERIOUS MENTAL HEALTH NEEDS**

**Risk. Use of the restraint chair:** When do you bring in mental health? In small jails, the issue is that there is no mental health staff. There is not a lot of case law. Involve medical staff from the beginning. A judgment call is involved about when to place inmates in a restraint chair and when to release them. Don't say in advance how long the inmate will be restrained, as use of restraint chair could seem punitive rather than an issue of restraint. Make a decision constantly about whether he needs to remain in the chair. Look at your rate of use of the chair compared to other jails of your size.

**Problem: Clogging the jail with mentally ill inmates waiting state hospital exams.**

- Is the state hospital stay necessary as a clinical matter? Is diagnosis always at the state hospital?
- Could you short-circuit the system, do exams in-house? (Some states say that the jail is not a suitable place for an evaluation.)
- Who else is concerned about the dead time? Sometimes defense counsel, prosecutors, or judges can have an interest in moving the process along.

**Problem: Release of mentally ill offender**

- Referral to community programs?
- Direct links?

**Problem:** Links with the community

Take the lead in sharing information. Find something to offer them. ("We have your client in jail...") If they won't meet you in the middle, can you get to their side? Can you make someone else push them from behind? While a mentally ill inmate is with you, you have an 8<sup>th</sup> Amendment obligation to figure out how to treat him. The underlying issue is that the jail cannot ignore the problem. It is in your hands no matter who is responsible for the snag in the system.

## **ACCESS TO THE COURTS: THE OLD WAY**

*Bounds v. Smith* 430 U.S. 817 (1977)

- Right of access included a duty to provide "meaningful access to the courts," which usually meant a *law library or persons trained in the law*.

- “Is your law library adequate”?
- Add books, space, allot more time, jump through hoops
- Most jails didn't have enough
- Lots of effort, little benefit

#### **ACCESS TO THE COURTS: THE NEW WAY**

*Lewis v. Casey* 116 S.Ct. 2174 (1996)

The case endorsed the same principles as *Bounds*, but it said that the duty to provide assistance involved only in challenging the conviction or filing Civil Rights actions. Thus, to ensure that the court has an opportunity to receive the prisoner's claim, prisoners must be assisted in filing actions involving:

- **Habeas Corpus Petitions**—requesting relief from unlawful incarceration; criminal appeals
- **Civil Rights Actions**—regarding issues surrounding the inmate's current conditions of confinement

**A law library is not required.** The prisoner must prove that he/she has **suffered actual injury or prejudice**

#### **LAW LIBRARIES AFTER LEWIS: DO YOU OR DON'T YOU?**

“Actual prejudice” for civil rights action or habeas may be a very hard burden for most jail inmates.

The areas of a jail's risk:

- Long stay
- In Segregation or Protective Custody
- Illiterate inmate
- Legitimate civil rights claim
- And the jail has no library, only forms.

In these instances, you are dodging bullets. Sooner or later you will get hit. You can choose to run the risk and not provide much more than habeas corpus forms.

Alternatively, you can provide a mini-library allowing an inmate to learn how to file a habeas case.

#### **FEDERAL MATERIALS**

The jail should provide:

- Court rules, pleading forms
- How to: file Habeas, 1983s, do legal research
- Texts on habeas, inmate rights
- Staying current
- Getting help
- Cyber library for Reporters, US Code?-Westlaw? Lexis? Others? (More than court websites)

#### **STATE MATERIALS**

Check with counsel about what to provide.

- What criminal materials do you need if inmates have counsel? Information on how the criminal justice system works.
- How to do post-conviction release
- Court forms, rules

- State statutes, annotations
- Sentencing manuals
- Digests (selected) of case law
- Extra materials, e.g., family law

#### ACCESS TO COURTS: OTHER ISSUES

- How can inmates access materials from segregation? You can implement a call system with delivery to the inmate. You must tell the inmate what is available.
- Legal mail—you should forward legal mail to the prison or return it to the lawyer, but don't sit on it.
- The pro-se criminal defendant dilemma
- Retaliation

#### ACCESS TO COURTS AND THE PRO PER (REPRESENTING SELF) DEFENDANT

**General rule:** “When a person is offered appointed counsel but chooses instead to represent himself, he does not have a right to access to a law library.” *U.S. v. Byrd*, 208 F.3d 592 (7<sup>th</sup> Cir.2000), *Chapman*, 954 F. 2d 1352 (7<sup>th</sup> Cir.1992)

**Suggestion:** The court usually appoints back-up counsel, and the court can tell the back-up counsel to deliver books to the inmate.

#### COURT ORDERS AND CONSENT DECREES

**Easier to terminate.** Prison Law Reform Act (PLRA) allows defendants to move to terminate, forces new showing of unconstitutional conditions/practices.

*New level of court power: The California DOC Receiver*

- Complete control over medical system, beyond a Special Master
- State did not object
- Does it break the ice for other never-ending cases?

#### AN ETHICAL DILEMMA WITH NEGATIVE LEGAL OVERTONES

Bill Collins presented the following scenario and asked meeting participants to react:

Dear Dr. Bill,

I am a non-uniformed staff member who supervises work crews doing repairs throughout the jail. I have been on the job for about a year.

A few days ago, an Officer Sharp passed my two-person crew, then turned around and asked one of my inmates “do you have a problem?” She said she didn't, and the officer asked her why she smirked at him. She said she didn't smirk at him and then asked him why he was harassing her. She then said she was going to report the officer to the Jail Commander. He said, “go ahead, tell anyone you think will listen.”

The whole thing happened so fast I could just watch. I was surprised at Officer Sharp's actions because he has an excellent reputation as being very level-headed, calm, and not easily excited. He is about 25 and has worked at the jail for three years.

The inmate is also very bright, a college graduate, I think. She is doing a year with us for some sort of white collar crime. She has never given me any problems, but I have seen her

toy with and challenge other staff members, conveying an air of superiority. I wouldn't be surprised if she did smirk at Officer Sharp. After the officer left, I told the inmate I thought the best way for any inmate to get along is to be invisible and avoid confrontation with staff, because almost any confrontation will result in segregation time for the inmate. There is nothing to be gained by confrontation and a lot to be lost.

Later in the day, I was in the Lieutenant's office on other business. He asked me to look at a write-up Officer Sharp had filed on the incident I described. I was surprised he had even taken the time to write an infraction but was more surprised when I read it. It charged the inmate with being disrespectful, threatening an officer, and other stuff that didn't happen, a complete exaggeration of the incident. Knowing I had witnessed the matter, the Lieutenant had me write a report. I wrote what I saw and heard, and when the Lieutenant read my report, he tossed Officer Sharp's write-up in the shredder. Now Officer Sharp thinks I am a bleeding heart "hug a thug" and shares that opinion with anyone who will listen.

A couple of days after all this, I found out that a lawyer really chewed on Officer Sharp a few hours before the incident, so maybe he was just having one of those days.

I try to treat inmates with respect and don't write up every petty "attitude" thing they do. If something is serious, I will file a write-up, but trivial stuff I just ignore or discuss informally with the inmate. I have a good relation with inmates. But now I have a popular, well-respected officer mad at me because I wouldn't lie to support him and he is undermining me with other staff.

Doctor Bill, what should I do? Should I confront the officer? Let sleeping dogs lie? Is there something else I could do?

(Signed)

Hug a Thug Bob

## **DISCUSSION**

Meeting participants proposed several alternative ways of responding. Comments included the following:

- Address with Officer Sharp the problems of writing a false report. Launch an investigation, and if the investigation concludes it was a fraudulent report, the Lieutenant should be subject to further discipline for shredding the report.
- Suspend the Lieutenant and take the case up the chain of command. By ignoring the fraudulent report, he was absolutely at fault.
- It is important to support Bob, who has told the truth. Some kind of action is needed to make it clear that retaliation against Bob is inappropriate, that the fault lies elsewhere.
- Whatever alternative is pursued, it is important to talk to the inmate as part of the investigation.

*For additional information, contact Bill Collins, Attorney at Law, 4716 D'Millubr Dr., NE, Olympia, WA 98516; 360-754-9205.*



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## IMPROVING COLLABORATION BETWEEN CORRECTIONS & MENTAL HEALTH SYSTEMS

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**DR. FRED OSHER, DIRECTOR, HEALTH SYSTEMS & HEALTH SERVICES  
POLICY, AND SETH PRINS, RESEARCH ASSOCIATE, CSJ JUSTICE CENTER**

Dr. Osher and Seth Prins provided information on the Council of State Governments (CSG)' Criminal Justice/Mental Health Consensus Project, with a focus on the initiative, *Increasing Collaboration between Corrections and Mental Health Organizations*.

The Criminal Justice/Mental Health Consensus Project is a national effort coordinated by CSG to help local, state, and federal policymakers; criminal justice professionals; and mental health service, providers, consumers, and advocates to improve the response to people with mental illness who become involved with—or are at risk of involvement with—the criminal justice system.

### **INCREASING COLLABORATION BETWEEN CORRECTIONS AND MENTAL HEALTH ORGANIZATIONS**

NIC and CSG are working together to foster partnerships between corrections and mental health agencies. NIC and CSG believe that such partnerships will improve the continuity of care for people with mental illnesses returning to the community after incarceration or under community supervision, and that these partnerships will ultimately reduce recidivism and make communities healthier. Teams of corrections administrators and mental health officials from 13 jurisdictions received initial technical assistance during the first year of this project. CSG and NIC are now working intensively with four municipal, county, and state sites: Philadelphia, PA; Orange County, FL; Kansas; and Rhode Island. Through the experiences gained from these learning sites, CSG is publishing case studies describing the successes realized and challenges confronted in each site. In addition, CSG has developed an online tool (available at [www.consensusproject.org/assessment/](http://www.consensusproject.org/assessment/)) that helps jurisdictions determine the level of collaboration between their corrections and mental health systems.

*For additional information, contact Dr. Fred Osher or Seth Prins, Council of State Governments, 100 Wall Street 20<sup>th</sup> Floor, New York, NY 10005. 646-383-5729*



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## DIAGNOSING ORGANIZATIONAL CULTURE

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**CAROL FLAHERTY-ZONIS, PRESIDENT, FLAHERTY-ZONIS & ASSOCIATES,  
SCOTTSDALE, AZ**

### ORGANIZATIONAL CULTURE

1. **Organizational culture** is the values, assumptions, and beliefs that people hold and that drive the way an organization functions and the way people think and behave.
2. **Organizational climate** is how the culture feels to the people who work in the organization; it is comprised of characteristics that people can observe and hear.

There are two cultures in a correctional facility: staff and inmates. This discussion relates to both. Examining culture is the most necessary and difficult work an organization can do.

### DEFAULT CULTURE

In most correctional institutions there are “default cultures” that fill the vacuum when leaders do not attend to shaping the formal culture. There are also often sub-cultures, and they can be very powerful. If there are unions, they can create a sub-culture, as can long-term inmates. There can be subcultures all over the jail that have developed because no one has done anything about the overall culture of the jail.

### THE RUBIK'S CUBE

You can think of your jail's culture in the context of a Rubik's Cube. The beauty of the cube is that it is interdependent; the relationship of every piece changes with only one turn. In a jail, things such as a new sheriff, a younger staff with a different work ethic, a new program can all have an effect on the jail. Programs that fail are planted in ground that hasn't been tilled, which means they can't be incorporated into the current culture. The culture isn't strong enough to hold the parts in place. Inside the jail are values, assumptions, and beliefs that drive how people behave. Unless these are well-defined and accepted by all, the jail doesn't work. The pieces begin to fall off.

### ROLE OF LEADERSHIP

Many at the top of an organization believe that culture change falls on the shoulders of administrators. However, change really comes from the bottom up. The leader's role is to be a cheerleader. The leader can't do it alone. Those who don't want the culture to change will simply wait you out.

### MANAGEMENT STYLES

It is possible to learn a lot about an organization just by looking at its performance review process. Is it a monolog or a dialog, do staff have the opportunity to evaluate their supervisors, is there any coaching, are any goals set for personal and professional growth? Usually the supervisor just checks off “satisfactory.” This tells one about the climate. To understand why it is happening, you need to understand the culture.

## SIX PARTS TO ORGANIZATIONAL CULTURE

- *History*: How did your culture develop? What stories are told and who tells them? The perceptions of storytellers are influential. You must value what has gone before. If you devalue it, those involved in the past will sabotage your work.
- *Leadership*: This includes both formal and informal leadership styles—not just what leaders do but why they do it. How do leaders lead? Do you have conversations about what values you hold, why you supervise the way you do?
- *Management styles*: How are people managing and why? Communications should go both ways. It is rare to find someone who is both an effective leader and an effective manager.
- *Interpersonal relationships*: This includes all kinds of things, including how policies and decisions are made, and how conflicts don't get resolved.
- *Perceptions of stakeholders*: Stakeholders include you, your staff, inmates, victims, families, taxpayers, and the larger community. Jails have many stakeholders.
- *Environment outside the culture*: How you interact with the political and legal system. What is your relation with judges, with the media? What do they report about you?

## THE TIPPING POINT

Malcolm Gladwell's *The Tipping Point* identifies the point at which enough people want to create change that change is possible. The scale only tips when enough people are with you. Gladwell says that in groups of more than 150 it is more difficult to create a tipping point, so what do you do if your organization is large? You must break the organization down into smaller groups. This is a slow, evolutionary process rather than a revolutionary one. But it is entirely possible to create change in large organizations.

## ORGANIZATIONAL CULTURE INVENTORY (OCI)<sup>2</sup>

- The OCI was developed in the mid-'80s by Human Synergetics.
- It is used by the FAA, Navy, international companies, and organizations, and in a number of departments of corrections.
- It examines how people are expected to behave in an organization.

## THE "CLOCK"

The clock, or circumplex, as Human Synergetics calls it, is divided into 3 main sections:

- Constructive Styles (11-2) –(on the clock)
- Passive/Defensive Styles (3-6); and
- Aggressive/Defensive Styles (7-10).

## IN PASSIVE-DEFENSIVE CULTURES:

People are expected to seek approval, act cautiously, not take risks, not rock the boat, and avoid situations that might result in or lead to conflict. The emphasis is on a concern for what other people are doing.

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<sup>2</sup> All information on the Organizational Culture Inventory® is from *Organizational Culture Inventory* by R.A. Cooke and J.C. Lafferty (Plymouth, MI: Human Synergetics, 1983, 1986, 1987, 1989). Copyright 1989 by Human Synergetics, Inc. Permission pending.

#### **IN AGGRESSIVE-DEFENSIVE CULTURES:**

People are expected to fight other people's ideas and change, exercise power and try to limit other people's power, be competitive, attempt never to make mistakes, and point out other's mistakes.

#### **IN CONSTRUCTIVE CULTURES:**

People are expected to achieve their potential, do their best work, be kind and encouraging of others, and operate in a team spirit, encouraging a sense of belonging. The emphasis is on creating satisfaction in the work environment.

#### **SENGE'S LEARNING ORGANIZATION**

Senge's learning organization is one in which:

- People continually expand their creativity to create the results they truly desire;
- New and expansive patterns of thinking are nurtured;
- Collective aspiration is set free; and
- People continually learn how to learn together.

In such an organization:

- Mental models are different for each of us, and we need to share these models.
- Personal mastery means be the best you can be.
- Team learning is emphasized.
- Shared vision. There is a shared view of what guides the work.
- Systems thinking. One segment affects others, just as in a rubik's cube.

#### **TWO CASE STUDIES**

Tom Campbell, Louisville, Kentucky, and Jim Coleman, Memphis, used the OCI with their staff. Their work offers two case studies.

*For additional information, contact Carol Flaberty-Zonis, President, Flaberty-Zonis & Associates, 1176 N. 108<sup>th</sup> St., Scottsdale, AZ 85255; 480-419-5776.*



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## **DIAGNOSING ORGANIZATIONAL CULTURE: CASE STUDIES**

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### **TOM CAMPBELL, LOUISVILLE METRO CORRECTIONS, KENTUCKY**

I retired from the Kentucky Department of Corrections, and I was doing consulting and real estate work. I was called in as part of a team to do an independent audit of the jail. We spent several days and weeks summarizing how we saw the jail, and the evaluation was not very favorable. The NIC consultants' report was also negative, especially in terms of sanitation. In an informal meeting with the mayor, the NIC consultants indicated that the jail leadership was weak. Shortly after that, the director was asked to step down, and a nationwide search for a director was begun. A deputy director acted as director for a year. They filled the position from someone out of state, but he was only there for 7 months. I was asked to fill in for a few months until they found a new director. I have now been there for 2 years. My interest was piqued, as I saw a lot of potential for the jail and wanted to be involved in the changes.

The jail has had five different directors in 10 years and has had many issues related to management, including different management styles. When I came on board the interim position, the staff believed I would be there only on a temporary basis. After I accepted the permanent position, the staff continued to expect that I would leave. Therefore, there have been few policy changes at this point.

### **THE FACILITY**

- The facility is located in downtown Louisville, with inmates housed in three buildings connected by pedways and one additional building located approximately one mile away at another downtown location. The total number of beds, including medical and segregation, is 1919.
- The jail has been extremely overpopulated, with an average population for the past year of 2000; the population has been as high as 2100. There has been tremendous growth from 1350 inmates in 2000.
- Three years ago, three majors essentially ran the jail. All of them retired when one previous administrator was hired. The jurisdiction has now eliminated the position of major and is trying to get the captains to function as captains.
- There is a significant feeling that sworn staff are more important than civilian staff. Previously, all positions were uniformed, whether in classification and records or sworn peace officers. Many opted to be non-sworn officers and part of the Teamsters Union. These people are now quite bitter because they are losing their retirement benefits in comparison to sworn people. There is a strong division between the two groups.
- Many believe that the jail is a short-term holding facility, and its focus should not be on programming. They see programs and even meeting basic needs as “coddling” rather than meeting the jail's responsibility. Staff who see their role differently are referred to as “inmate lovers.” They see me in this way, as well.
- Historically, staff have found it easier to ignore or complain about a problem than to take corrective action. There is very little personal ownership.
- The jail has recently implemented an Inmate Behavior Management Program to improve communications between staff and inmates and to set up expectations for

both groups. So far, 30 staff have been trained on inmate behavior management, and all staff are in the process of being trained.

- The first step is to improve communications with inmates, which in the past has been done only through food slots. No one went into the dorms. Now, the only thing we're doing is asking staff to go and talk directly to inmates. One officer was talking to inmates and responding to their complaints. The number of complaints went down, but other officers were picking on him and calling him an "inmate lover." We have a long row to hoe.

#### **FIRST STEPS IN GAINING ACCEPTANCE**

Initially, there was no parking for staff, which was a big morale issue. After several months, I acquired space in a garage three blocks away, for which we now pay \$80,000 a year for staff parking. This has been a big morale booster and a first step in having staff accept me.

We also got a group together to design a new badge and uniform. This effort also helped me achieve some acceptance among the group.

We have a hard-working staff, but I am dealing with a culture that would rather not do anything for the inmate and where physical force has been the first resort rather than the last.

#### **THE INVENTORY**

Tom did the Organizational Climate Inventory (OCI) himself, and he also administered it to 25 staff, including counselors, officers, and contract staff, a diverse group. All departments had the same view of the culture that he did.

Carol Flaherty-Zonis asked meeting participants to look at the results of the completed inventory and see what they could learn about the culture of the organization. Following are some responses by participants and Carol:

- Bifurcated unions will cause problems. In fact, it is one of the most serious problems faced by Tom. Try to integrate union members into a single group so that security people will be forced to engage other staff.
- There is no pride in the organization or in what they do. Knowing *why* you do things can help create this pride.
- This is a culture with no true support for each other; they are high in oppositional behavior.
- The culture is strong, cohesive, and there are norms, but they are not what these norms should be.
- The culture is not about the whole but about individual territories, needs, and expectations. Or it's about "us" as a subculture.

#### **CAROL FLAHERTY ZONIS' COMMENTS**

- There must be a long-term commitment from the leader. We owe employees continuity. Participants need to see change as beneficial to them. If they see themselves as adversaries, change will be more difficult.
- There should be some kind of reward system for supporting the values, the culture, of the organization. However, there should also be a specific approach for those who are intrinsically motivated.



- There is no way to know how long change might take. It depends on how many allies you have in wanting to make the culture better. If you engage in this work, it must be for the long haul.
- You can make small changes that are useful right now, while keeping culture change at the forefront of meetings.
- Critical issues needed to be dealt with because avoidance in the culture was so strong that past leaders did not want to take it on.

One meeting participant asked about the term “changing the culture,” suggesting that a better term might be “improving the culture.” Carol agreed, commenting that you must honor the culture by acknowledging what has been useful to this point. The idea is to move toward a better culture.

Does training support the vision? Tom noted that following basic officer training, his jurisdiction has a 3-week field officer training program. Recently, training on some culture issues has been included. Older officers are starting to retire, which is creating some positive shifts in attitudes.

Susan Scott's notion of “fierce conversations” is important. These are conversations filled with integrity, which are passionate, honest, direct, and held on a timely basis. Some of these conversations need to take place at the training academy. Are the behaviors we say we value really valued? If they are not obviously valued in real settings, people may not act in accordance with them. If you develop a set of values that must guide people's behavior, then you must hold supervisors responsible for behaving that way. If values don't come to life every day, they are just talk.

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## **JAMES COLEMAN, SHELBY COUNTY (TENNESSEE) SHERIFF'S OFFICE**

We cannot afford not to look at our culture. When I walked into the Shelby County Jail, I found a jail with a 20-year history of mismanagement, low hiring standards, lack of concern for inmates or staff, no accountability by the sheriff, and overcrowded conditions. The jail was filthy and in poor repair, and it was dangerous for both staff and inmates. Officers allowed gang members to set off fights in the pods. There was a well-established pattern of the use of force. Food services, medical services, and mental health services were deplorable. Programs were dysfunctional. The Sheriff's Office had essentially disinherited the jail and its staff. The jail had not been certified by the state jail agency for 14 years. Jeff Schwartz, consultant, had identified these problems in early 1990., and he became the main witness for those who were suing the jail.

### **PAST ASSISTANCE FOR THE JAIL**

Shelby County had received technical assistance from NIC, but didn't follow up on it. In 1995, an inmate was gang-raped in the jail, and the staff did not respond. A Civil Rights lawsuit was filed in 1996. In 2000, there was a lawsuit in federal court.

Cronyism and nepotism had been rampant for years. What is unique about the jail staff is that it is primarily female blacks. It was designed that way. Male whites went into law enforcement, and female blacks went to the jail. There was no adequate training, although 25 years ago staff were trained at the Tennessee Corrections Institute.

The judge in the 1996 lawsuit ordered the county to correct the problems. However, by 2000, the problems had still not been addressed, and the judge found the county in contempt, ordering fines of \$50,000 a day.

At that point, the county decided to bring in a new team to run the jail. I was doing a consulting job there on how to do direct supervision, and the director asked me to come home and join the team. I did so because I really wanted to see Shelby County with a whole new look. A lot of people laughed at Shelby County because it was a jail worse than theirs.

### **SUCCESS: RADICAL CHANGE IN THE JAIL'S CLIMATE**

We recently received a letter of commendation from the Department of Justice (DOJ), noting that the jail has achieved compliance with DOJ requirements "with regard to the areas of security and protection from harm, environmental health and safety, and access to exercise and the courts." We are still working on one area, which is medical care, but we have just trained medical providers.

All of the positive changes in Shelby County's jail have been achieved with the same staff who were previously identified as hopeless. This was possible because the jail's climate was radically improved.

Shepherds spend time with their sheep. Who are the shepherds in your jail? Who are the hurting people? Who has been run over by previous administrations? It is important to heal the people who are hurting. Once staff believe that you care about people, they will trust you.

It is important to spend time with your flock. I do what we call a "walk down Broadway." Three times a week I just go in and walk. All division chiefs, including medical,

food, chaplains, also have to walk around. We hold “town hall” meetings that include everyone, including those who have been saying that inmates are the problem. You need to talk to inmates. If they say the medical staff is the problem, I get the medical director to stand with me and answer inmates.

Did I do this? No. The staff did this. We told them, “it's okay to do it right. If you do it right, we'll support you.” It has been wonderful to watch what people can do, once you empower them and tell them it's okay to make a mistake. I did nothing special in preparation for the DOJ visit. If you are not doing it right every day, why pretend? When you change the culture, it smells different. Literally.

The DOJ letter commended the sheriff, the mayor, and the jail director, but they weren't responsible; the staff were. I walked around with the document in hand and made an announcement to everyone in the jail. Some of you may remember that 2 years ago, privatization was knocking on our door. At that time, we told the county commissioners that they would be foolish to privatize, as things were improving.

Following are some suggestions:

- Hold at least quarterly meetings with your staff, and be prepared to let them say anything they want to say. You may have to say “I don't know” occasionally. We managed to do this with privatization hanging over our heads.
- I wanted to see where we are at this point, which is why I agreed to do the OCI exercise with Carol.
- How do you look at seniority? As an example of cronyism and nepotism in Shelby County, time in rank meant nothing. Seniority was based on time from hiring, not time in rank. The ability to do the job had very little to do with promotion; they were simply protecting people by twisting things around. When they couldn't resolve who was the most senior, they drew straws to determine vacation times. That's the kind of thing that bad cultures keep in place. No one complained to me, though, so I didn't know.
- You were all talking earlier about how you can change the climate of big organizations. If you want to break a big jail down, break it into units, and put someone in charge of each unit. In effect, I run six small jails rather than one large one. Unit managers compete with one another for the cleanest unit, and so forth. Staff respond to this approach. Unit managers now approve time off.
- I wear a suit every day. I encourage staff to have their shoes shined.
- I never ask staff to do something that I won't do. If I see a line of inmates being searched, I pick up some gloves and search along with staff.
- There used to be trash all over the floor, and I watched staff walk past it. That has changed, in part because they see me picking up paper.
- I am hoping to make sure that the next director of the Shelby County Jail comes out of the jail. I want to grow people who can sit in this room.

## DISCUSSION

Meeting participants commented and asked questions of Jim Coleman. Some examples of comments and questions follow:

- Richard Geather's name is synonymous with good jail practices.

- I wonder about the walk-around when you bring other administrators with you. I don't want inmates to see me as the problem solver.
- *Jim:* In my daily walk-around, the pod officer, who runs the pod, must greet me. I go into the unit and pause and look around. Then I go back and sign the book, and then I start walking around in the pod. Inmates want to talk to me, and I ask the pod officer, “Is there any reason he shouldn't be able to talk to me?” If the pod officer says the inmate hasn't talked to him yet, he can't talk to me.
- I appreciated your comments about smell. A good jail is clean and doesn't smell.
- Does having a captain there inhibit the conversation?
- *Jim:* I don't bring in the command staff because captains and lieutenants were the driving force behind the problems. If there is any retaliation, I come down hard on it. I do hold meetings with supervisors and tell them what I have heard—but not who said it to me.
- *Jim:* I am proud of my jail. I say “my” because, for a long time, no one wanted it. I am working with a great group of human beings.
- *Carol:* The work in Shelby County isn't finished yet. If you look at their clock, you will notice there are still extensions between 4 and 9. This may indicate a culture of one pod against another. If the culture goes south, that will be negative. Even when there has been significant progress, there is always more to be done. Your culture can always get better.

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## **TOPICS FOR THE NEXT LARGE JAIL NETWORK MEETING**

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**DELORES MESSICK, EL PASO COUNTY, TX; STEVE THOMPSON, SNOHOMISH COUNTY, WA; AND RICHARD GEATHER, NIC JAILS DIVISION**

### **PROPOSED TOPICS**

The American Jail Association, American Correctional Association, and the National Sheriffs Association volunteered to provide staff support for the next meeting, if it is needed. This would enable NIC to hold the meeting despite the move of the Jails Division to Washington, DC in March.

Delores Messick, Steve Thompson, and Richard Geather led participants in a discussion of potential topics for the next Network meeting. The following topics were proposed:

1. Effective alternatives to incarceration
2. Staffing levels
3. Imposing booking limitations
4. Recruiting, hiring, retention of staff
5. Public/private partnerships
6. Jail reentry programs
7. Hot topics
8. Law enforcement technology
9. Centers for Disease Control
10. Excited delirium

The group selected the following topics for the meeting:

- Recruiting, hiring, and retention of staff
- Re-entry programs, combined with public/private partnerships
- Hot topics
- Report by the Centers for Disease Control
- Excited delirium

### **ANNOUNCEMENT: JAIL INMATES ELIGIBLE FOR MEDICAID COVERAGE**

On a final note, Mitch Lucas, Charleston County, South Carolina, reported to the group that, contrary to most administrators' understanding, jail inmates are eligible for coverage by Medicaid. The misinterpretation of a memo caused the misunderstanding. In South Carolina, at least, anyone qualified for Medicaid can be covered for inpatient care in hospitals. He suggested that meeting participants contact their state human services office for additional information.





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**APPENDIX I: MEETING AGENDA**

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- 9:30 a.m.     ***Using the NIC Corrections Community LJN Forum*** ..... **Joshua Stengel**  
NIC Information Center
- 10:00 a.m.     ***Large Jail Systems Assessment Project*** ..... **James Austin**  
The JFA Institute  
Washington, DC
- 12:00 p.m.     **LUNCH**
- 1:15 p.m.     ***Legal Issues Update*** ..... **Bill Collins, Attorney at Law**  
Olympia, WA
- 5:00 p.m.     **ADJOURN**

**Tuesday, January 30, 2007**

- 8:00 a.m.     ***Diagnosing Organizational Culture*** ..... **Carol Flaherty-Zonis, President**  
Carol Flaherty-Zonis Associates  
Consulting & Training  
Scottsdale, AZ
- Jim Coleman**  
Shelby County, TN
- Tom Campbell**  
Louisville Metro Corrections, KY
- 11:45 a.m.     Break
- 12:00 noon    LUNCHEON PRESENTATION
- Improving Collaboration Between Corrections  
& Mental Health Systems*** ..... **Dr. Fred Osher, Director**  
Health Systems & Health Services Policy  
CSG Justice Center
- Seth Prins, Research Associate**  
CSG Justice Center
- 1:30 p.m.     ***Continuation: Diagnosing Organizational Culture*** ... **Carol Flaherty-Zonis, President**  
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- Jim Coleman**  
Shelby County, TN

**Tom Campbell**  
Louisville Metro Corrections, KY

5:00 p.m.     *Presentation of Future Meeting Issues & Meeting Evaluation* . . . . . **Richard Geather**  
National Institute of Corrections

**Delores Messick**  
El Paso County, TX

**Steve Thompson**  
Snohomish County, WA

*Evaluation, Closeout, and Adjourn* . . . . . **Richard Geather**  
National Institute of Corrections

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**APPENDIX II: LIST OF ATTENDEES**

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**Large Jail Network Meeting - 07J2401**

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Sunday, January 28, 2007 - Tuesday, January 30, 2007

Longmont, CO

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**Large Jail Network Meeting - 07J2401**

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Sunday, January 28, 2007 - Tuesday, January 30, 2007

Longmont, CO

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