



A Second Look at
**ALLEVIATING JAIL
CROWDING**

**A SYSTEMS
PERSPECTIVE**

U.S. Department of Justice
Office of Justice Programs
810 Seventh Street NW.
Washington, DC 20531

Janet Reno
Attorney General

Daniel Marcus
Acting Associate Attorney General

Mary Lou Leary
Acting Assistant Attorney General

Nancy E. Gist
Director, Bureau of Justice Assistance

Office of Justice Programs
World Wide Web Home Page
www.ojp.usdoj.gov

Bureau of Justice Assistance
World Wide Web Home Page
www.ojp.usdoj.gov/BJA

For grant and funding information contact
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1-800-421-6770

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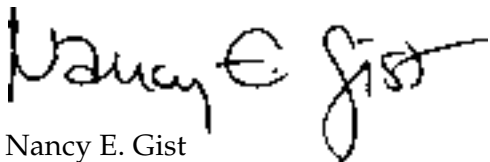
**A Second Look at
Alleviating Jail Crowding
A Systems Perspective**

Foreword

The 1985 monograph *Alleviating Jail Crowding: A Systems Perspective* highlighted the range of options, innovative at that time, that key system actors were successfully using to reduce jail populations. Despite the many successes that have been achieved in a decade and a half, many jurisdictions around the country are still confronted with crowded jails. Although many of the approaches outlined in that first monograph are still useful, criminal justice officials today are facing different challenges than those that existed 15 years ago—challenges that require new approaches. Greater numbers of mentally ill persons, drug users, drunk drivers, and persons charged with or convicted of domestic violence are now held in local jails. Addressing the needs of these populations has required creativity and collaboration with other system and extra-system actors. Other developments such as mandatory sentencing laws, victims' rights, the prosecution of juveniles as adults, and the emphasis on community safety have forced officials to make the most efficient use of limited jail space.

This document describes how system officials have responded to the challenges of the past 15 years to minimize jail crowding. As in the first edition, this monograph discusses each individual actor—including law enforcement, jail administration, prosecution, pretrial services, judiciary, defense, probation and parole, and extra-system actors—and the role each has been playing in alleviating crowding. The final chapter of the document describes how these actors should work together to develop a systemwide plan for alleviating jail crowding.

The first edition of this document has been used extensively by system officials over the past 15 years as they have grappled with the difficult problems associated with jail crowding. This new, updated version is intended to provide those same system officials with more current examples of practices and programs that their peers have found to be successful in reducing unnecessary and expensive jail usage, while rigidly maintaining community safety and the integrity of the justice process.



Nancy E. Gist
Director
Bureau of Justice Assistance

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Finally, we thank the team at the Pretrial Services Resource Center who surveyed systems, interviewed practitioners, documented their findings, and did all the work necessary to produce this reference piece for the field. Particular recognition is due to Deputy Directors Jolanta Juskiewicz and John Clark, who oversaw the project, and to former Center staff Robert Gibson, Theresa Lewis, and Dani Jahn for their valuable contributions during the process.

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Introduction

Headlines Then (1985)

"County jail turned away 400 prisoners"

"27 inmates die in jail fire"

"17-year-old youth beaten to death in local jail"

"State hospital releasee sets jail fire"

"Trial of jailing drunks opens"

"Youth kills self in jail"

"Jail inmates awarded \$2 million settlement"

Headlines Now (1999)

"Overcrowding in county's jail still a dilemma"

"County seeks way to keep mental patients out of jail"

"Jail crowding expensive to county"

"Residents protest jail expansion"

"Mentally disabled languish behind bars"

"No equality in numbers behind bars"

"New jail; same old problem"

Then and Now

The 1999 headlines in our nation's newspapers mirrored those in 1985, when the first edition of this monograph was published¹—jail crowding continues to be a nationwide problem. This is somewhat surprising because in the intervening years there was a boom in the construction of correctional facilities in many parts of the country and a decline in crime throughout the entire United States. In the 1-year period ending June 30, 1998, the nation's jails operated at 97-percent capacity, despite the addition of 26,216 beds during the preceding 12-month period and some 250,000 beds during the preceding 10 years.² Jails with the largest average daily populations—1,000 or more inmates—reported operating at 103 percent of rated capacity.³ In 1983, the condition of jail crowding was described as "the most pressing problem" facing criminal justice systems across the nation.⁴ Today local government and criminal justice officials face no less of a struggle dealing with crowded jails than they did in 1985.

Jail crowding may become a community issue as the result of events such as litigation initiated on behalf of jail inmates, a citizens campaign, a state agency citation for violation of capacity standards, or a sheriff's plea for jail expansion due to an increasing inmate population. The extent of jail crowding may be measured in different ways, by square footage or inmates per cell. State regulations may measure crowding by staff efficiency criteria. A judge may define it based on the pronouncement of other courts or professional organizations. A county may measure crowding by the number of inmates forced to sleep on the floor or in areas intended for programs or recreation. Whatever the context or standard, the combination of sharp population increases and the tightening of local purse strings is bringing hundreds of communities face-to-face with an unwelcome problem.

As in 1985, cities and counties still often respond to jail crowding and resultant litigation precipitously, without careful study or planning and without the participation of all justice system agencies. Such approaches generally produce only costly symptomatic relief, such as building more

jail beds, and leave unaddressed the underlying causes of crowding. Responsible local officials who are considering community safety and the possibility of litigation, as well as the interests of those living and working within the jail, are under growing pressure to respond to crowded jail conditions. In a crisis atmosphere, these concerns are often simply translated into a need for building larger jails. Construction and operation of local jails are extremely expensive propositions. Over the years, the view that a jurisdiction can solve its jail crowding problem through building has proved to be wrong.

Even if a jurisdiction can afford the cost of new construction, the operating costs may present a formidable obstacle for local governments. One of the largest jails in the nation—the 4,100-bed, \$373 million Twin Towers in Los Angeles County, California—was left vacant for 16 months due to a lack of operating funds.⁵ Some jurisdictions build jails larger than their current or even future projections demand in the belief that rental of extra beds can generate revenues. This strategy rarely meets with success.⁶ Local jail expenditures in the United States in mid-1993 amounted to \$9.6 billion, compared with the \$2.7 billion spent in 1983.⁷ An official estimate of the expenditures on jail construction over the next 10 years for California alone is \$2.4 billion, and this amount is “simply to maintain the current level of overcrowding.”⁸

Changes Since 1985

Several factors have contributed to the need for a second look at jail overcrowding. Foremost, the problem of jail crowding has not abated since the 1985 publication of the first monograph studying this problem.⁹ Jails are still crowded but often with a different mixture of inmates and for different underlying reasons than in 1985. Changes in the type of inmate being housed¹⁰ and the length of confinement are due largely to changing arrest policies at the front end and sentencing policies at the back end. The war on drugs, which was at its beginning stages in the early 1980s, has become routine. Mandatory arrest policies for domestic violence offenses and drunk driving have become institutionalized. Deinstitutionalization of the mentally ill and their resultant involvement in the criminal justice system, although not new phenomena, have aroused renewed interest. Truth-in-sentencing laws, three-strikes-and-you’re-out laws, and mandatory minimum sentencing laws have changed the proportion of jail inmates in pretrial status.¹¹ The demand for jail beds has changed since the spate of laws facilitating the transfer of cases involving juveniles to adult criminal courts and in many instances juvenile offenders to adult jails.¹² Technological advances have had an ambiguous impact on jail populations and lengths of stays. Other developments such as the onset of and growth in specialized courts, the extension of victims’ rights, and the emphasis on community safety have influenced who goes to jail and how long they are confined.

Another development was passage of the Prison Reform Litigation Act (PRLA).¹³ Signed into law by President Clinton in 1996, PRLA restricts the role of federal courts in correcting violations of federal rights of inmates in jails and prisons and requires that any relief, including consent decrees, be “narrowly drawn, extend no further than necessary to correct the harm, and be the least intrusive means necessary to correct the harm.” The law’s effect on jail crowding litigation is as yet undetermined.¹⁴

Despite expenditure of substantial resources in this area, including the construction of additional jail beds and technical assistance offered by the National Institute of Corrections¹⁵ and other organizations, jurisdictions need an up-to-date guide to provide a structured format for jail population management planning.¹⁶ This monograph is designed to assist local officials by providing a framework for analysis and planning. It offers new insights based on lessons learned, descriptions of new challenges, and information and resources available to jurisdictions dealing with jail crowding. It is also intended to serve as a resource to preempt crisis management by preventing conditions in a jail that lead to overcrowding.

Need for a Systemwide Approach

A systemwide and long-term approach to dealing with jail crowding has been espoused for the past several decades.¹⁷ A similar approach was detailed in a 1998 report that ensued from a meeting between the Attorney General and the American Bar Association, Bar Information Program. The report recommended “practical attempts to make the best use of limited justice system resources by implementing projects that depend on collaborative, interagency planning.”¹⁸ Justice officials may have different reasons for seeking long-term resolution of crowding crises. Judges, prosecutors, probation/parole officers, and others often find that crowding acts as a severe constraint in dealing with individual cases in which jailing appears necessary, but space is unavailable. Public defenders and pretrial services officers are among those whose functions are likely to be impaired by delayed access to inmates caused by overcrowded facilities and overworked jail staff. Court functions may suffer from an inability to move inmates to and from scheduled court appearances in a timely manner. Indeed, the ramifications of jail crowding—in lowered productivity, diminished employee morale, and increased operating expenses—affect all agencies involved in handling criminal cases. Most affected is the jail administrator,¹⁹ who must deal with matters such as the increased likelihood of inmate and staff tension, damage to facility and equipment, inability to meet program and service standards, and budgetary problems resulting from overtime staffing.

An increasing number of jurisdictions, faced with dangerously crowded jails and strained local finances, have begun looking for ways to curb jail population growth and increase space. Their objectives have been to divert

persons from jail and shorten the custody period of those who remain. Jurisdictions have also sought to ensure that neither premature nor inappropriate releases occur that could endanger public safety. According to those surveyed for this publication, the systemwide approach has proved highly effective. They and others have concluded that jail crowding, whether periodic or chronic, is a sign that an examination of criminal justice policies and procedures is warranted.

Many jurisdictions have succeeded in curbing jail population growth and avoiding the need for larger facilities without compromising community safety or the integrity of the justice system. They have done so by using combinations of system efficiency measures and carefully considered alternatives. The need to focus on these system efficiency measures emerged from several factors. The first was a realization that the local crime rate is only one of the factors determining jail population. The second was a recognition that there is joint responsibility for jail population levels among agencies involved in criminal case handling. The third was an understanding that functions overlap and interdependence exists among all justice system components. Finally, it was understood that careful planning involving all components of the local criminal justice system is required.

Survey Method

Pretrial Services Resource Center project staff gathered information for this monograph by contacting a series of individuals. Initially, experts with knowledge of programs nationwide were contacted to provide references of local criminal justice and other officials. Then, referred local officials and those who contributed to the earlier monograph were contacted and asked about their efforts to achieve more effective use of jail space. Telephone and in-person interviews were conducted from mid-1997 to early 1999. In addition, project staff reviewed relevant reports, documents, and other materials.

Overview

Jail crowding must be recognized as a local problem and solutions developed in accordance with the unique circumstances of individual communities. While new construction to increase the number of jail beds may be one component of a set of proposed solutions to the problem, this document emphasizes other activities that can help to ensure the effective use of existing bed space. This monograph provides information to help jurisdictions study case processing and plan systemwide strategies. Emphasis is placed on the role that local criminal justice agencies can play, alone and with others, to determine the best use of jail space to prevent crime and maintain public safety.

Summarized briefly, this monograph contains the following chapters:

- ❑ Chapter 2 presents a flowchart of a typical adult criminal justice system. This is accompanied by a brief narrative of the decision points and options that are displayed in the chart. The importance of length of confinement in determining jail population levels is also discussed.
- ❑ Chapter 3 asks, “When is a jail crowded?” and identifies types of information needed to answer the question.
- ❑ Chapter 4 describes the policies and practices of criminal justice officials and extra-system actors that affect who is jailed and for how long and that influence the size of jail populations.
- ❑ Chapter 5 discusses systemwide mechanisms, including factors to consider when implementing strategies to address jail population pressures.

Anatomy of a Criminal Justice System

Jurisdictions can better understand local justice system operations and identify workable improvements by charting the stages of the criminal justice process at which custody or release decisions occur. Exhibit 1 depicts the flow of cases through a typical criminal justice system. The flowchart identifies the actors at each decision point and the options each can use to conserve jail space. The 14 decision points depicted in this composite represent the stages at which custody status may be affected. The diagram may include features not found in some communities, and it may be missing decision points and options that other jurisdictions use in handling criminal cases. Moreover, certain decision points in exhibit 1, such as the prosecutor's screening/charging decision, may occur earlier or later in the course of events. Others, such as bail review, may occur a number of times in a jurisdiction's system of processing cases.

The criminal justice process begins when a victim, witness, or law enforcement officer decides to seek or apply a formal crime response. Subsequent decisions represent potential points of incarceration—that is, times at which various system and extra-system actors have discretion to determine whether an individual will be jailed. A detailed understanding of the operation of the criminal justice system's case-handling process, from the system's initial contact with potential arrestees to the final disposition of convicted offenders, is a prerequisite to a jurisdiction's development of effective jail crowding strategies.

This chapter is intended to help the reader obtain the following:

- ❑ An understanding of the local criminal justice system as a series of screening mechanisms that can be modified to achieve optimal use of jail space.
- ❑ A recognition of the effects of day-to-day decisions and agency policies on the size of the jail population.
- ❑ An understanding of the role that each criminal justice actor plays in determining jail-use patterns and devising measures to control the size of the jail population.

Two Dimensions of Jail Use: Admissions and Length of Confinement

Jail population is driven by two factors: the number of inmates admitted and how long they stay. Jails have little control over admissions, but the

Exhibit 1 Flowchart of Criminal Justice Decision Points and Options

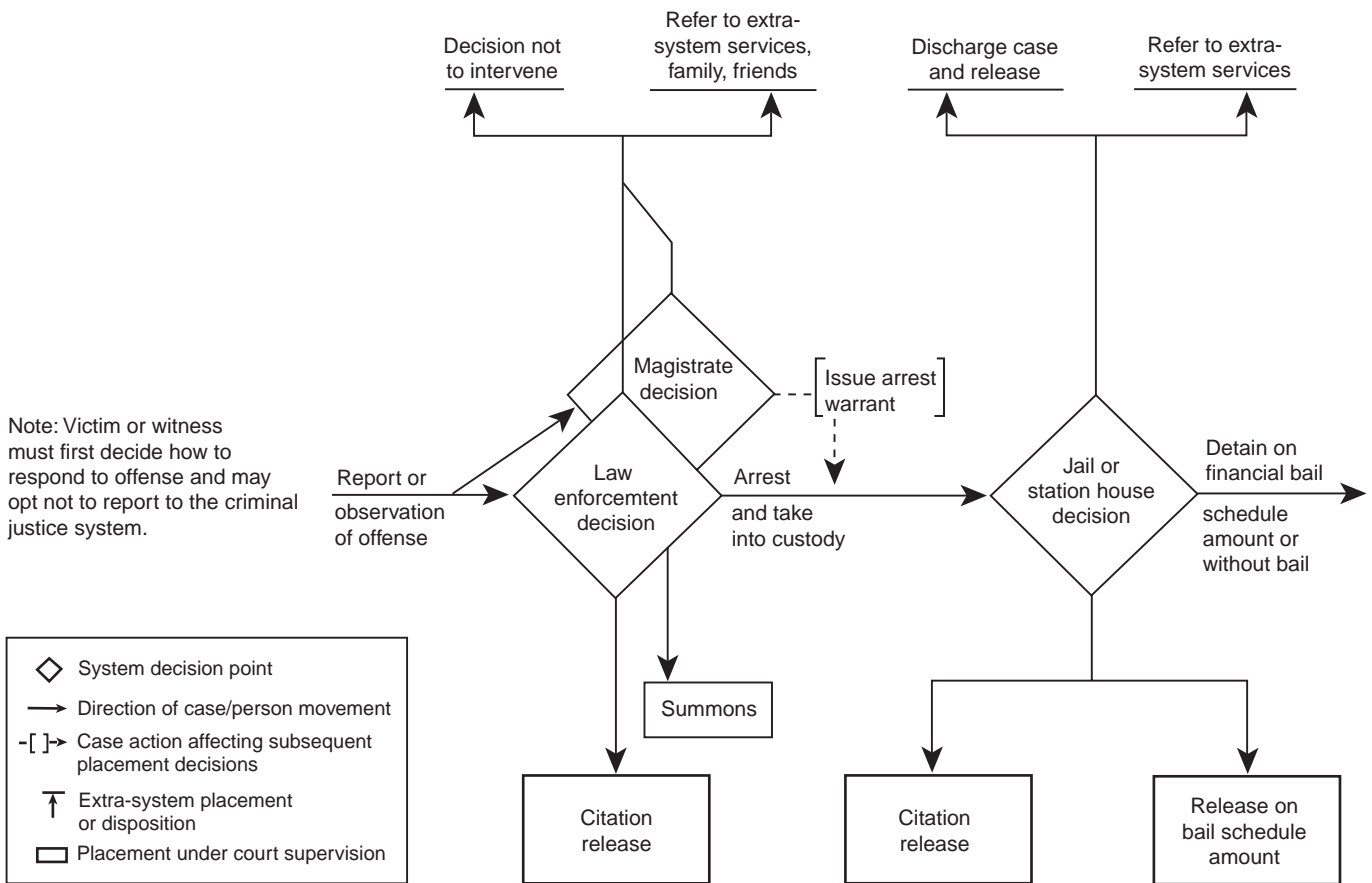


Exhibit 1 Flowchart of Criminal Justice Decision Points and Options (continued)

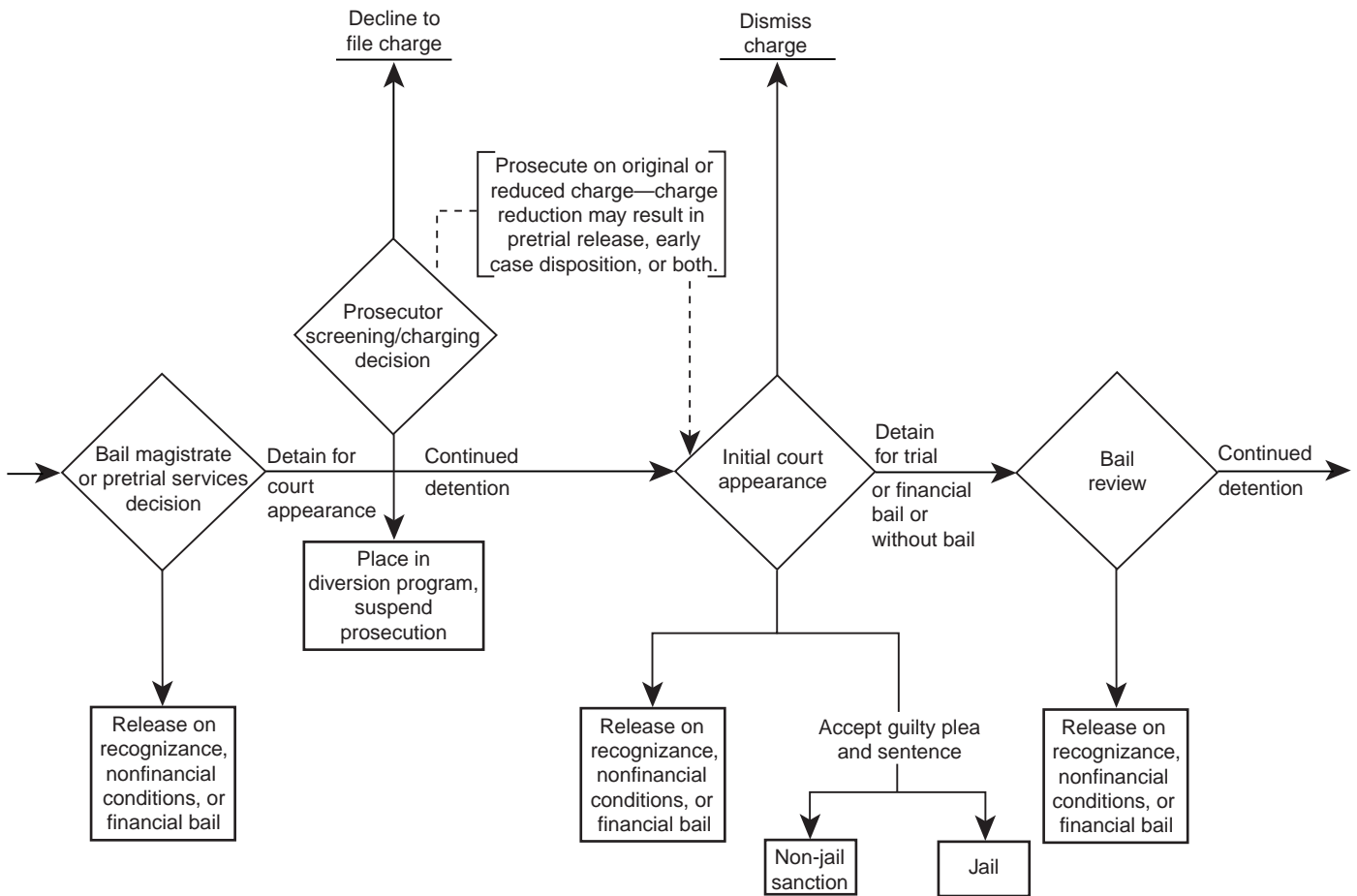


Exhibit 1 Flowchart of Criminal Justice Decision Points and Options (continued)

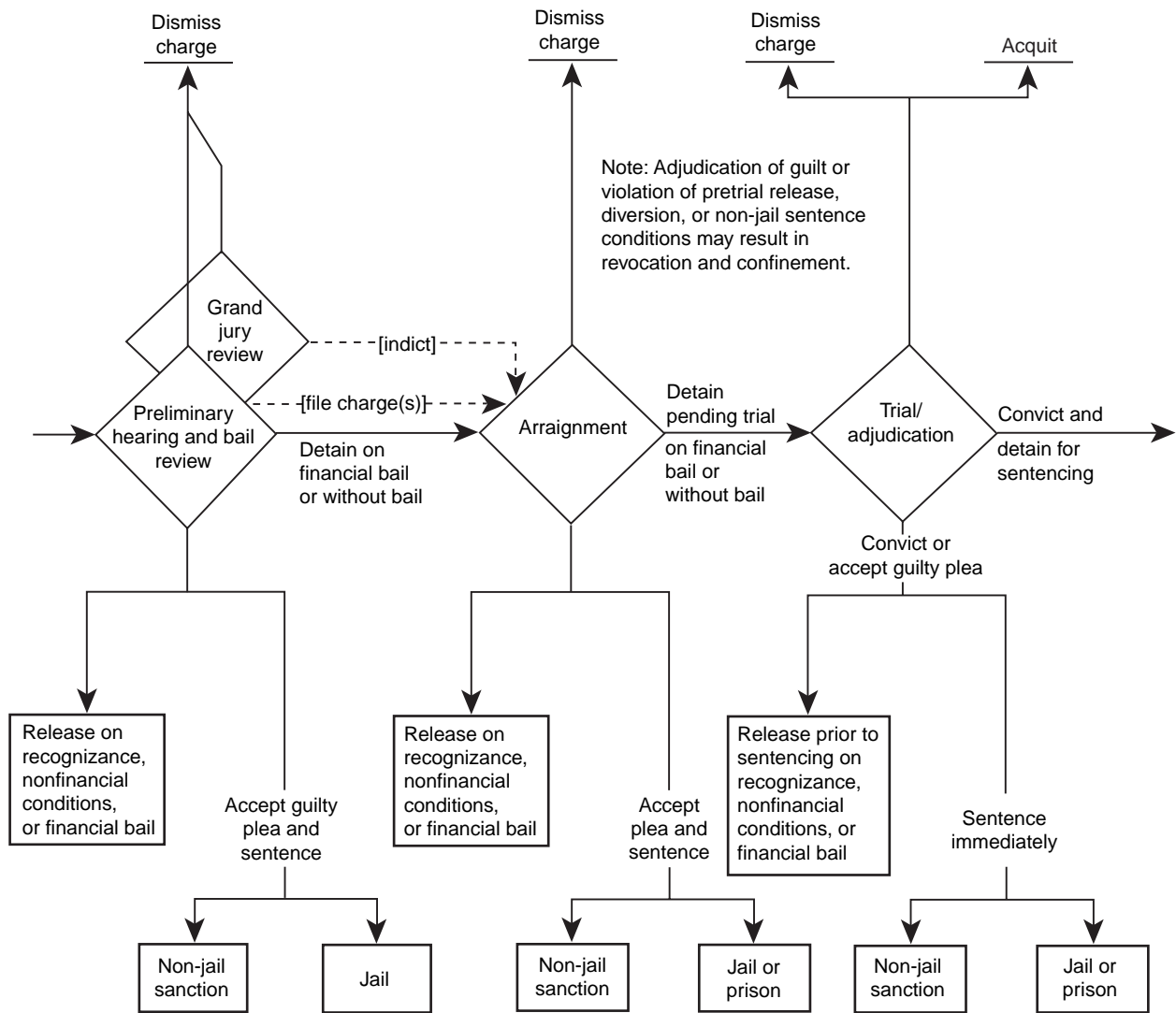
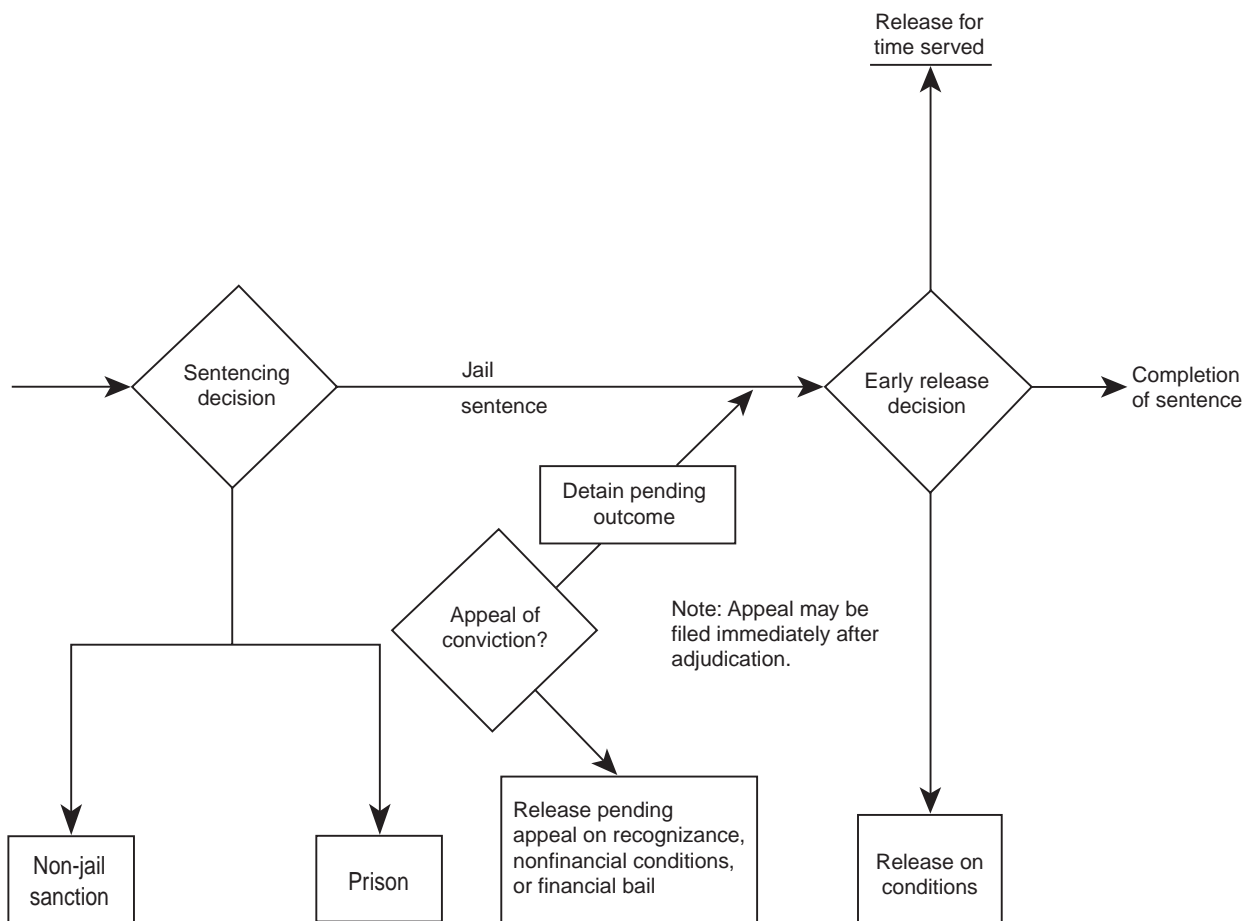


Exhibit 1 Flowchart of Criminal Justice Decision Points and Options (continued)



policies and practices of others may contribute to unnecessary use of jail space. For example, inmates such as public inebriates and the mentally ill may be better handled by community mental health or substance abuse centers rather than jails. Maximum use of citation release by police and sentencing alternatives by the courts can also reduce jail admissions.

Length of confinement (LOC) may be extended due to unnecessary delays in carrying out certain functions. Delays may occur when conducting the presentence investigation, processing persons for release following dismissal of charges, carrying out revocation hearings, or preparing a file for the next step at any point in the process. Other delays may arise from the unavailability of release options or the timing of events. If a pretrial system official such as a police officer, pretrial services officer, prosecutor, or judge is able to consider and choose a release option at the earliest stages of custody, LOC may be shortened considerably. For instance, in many jurisdictions, the prosecutor's charging decision takes place prior to the defendant's initial appearance, rather than days or weeks afterward, and can reduce or eliminate jail-bed use of persons whose cases are dropped or charges downgraded. LOC is also affected by bail practices. Higher bails generally result in longer pretrial confinement. Indigents and others unable to furnish bail represent a substantial proportion of the jail population. Average LOC may increase further if meaningful bail review does not take place or if private sureties are unwilling to offer services. As for other determinants of LOC, bail practices could be improved without sizable financial expenditures.

To identify events that cause delay, jurisdictions should construct a system flowchart for misdemeanor and felony cases. Such a chart allows the jurisdiction to follow cases as they proceed through the court process. The chart also quickly identifies "catch points" that may extend LOC for persons who should be released.

For several reasons, reducing LOC is often the first focal point of jail population reduction efforts. First, efficiency measures are less costly than creating or expanding alternatives to incarceration. Second, many jurisdictions encounter much less resistance to the idea of accelerating the speed and improving the efficiency of system operations than to the alternative of diverting substantial numbers of persons currently admitted. Third, local analysis often reveals that excessive LOC is the most serious underlying cause of crowding.

Local systems can be modified to divert many arrested and convicted persons from jail to more appropriate dispositions or to reduce periods of confinement, without threatening community safety. The first step to improved system performance is recognizing decision points, potential non-jail placements, and the determinants of LOC. Moreover, reviewing the number of actors involved at each decision point can reveal the interdependency of justice system agencies and motivate them to participate in efforts to reduce jail crowding. The objective of a detailed case flow model

is to reveal the opportunities that exist for resolving the jail crowding situation, not to show the system's complexities.

Criminal Justice Decision Points and Options

Decision Point 1: Law Enforcement or Magistrate

Following the report or observation of an offense,²⁰ a law enforcement officer has several choices.

- The officer may issue a citation ordering the suspect to appear in court.²¹
- The officer may decide that the behavior in question does not justify formal intervention but should be dealt with through informal channels. Prearrest diversion may be appropriate in certain circumstances, such as those involving public inebriates, the mentally ill, juveniles, vagrants, trespassers, or others involved in minor disputes or nuisance charges.
- The officers may make an arrest and directly transport the arrestee to a temporary holding facility²² or jail.

If a law enforcement officer or private citizen requests a warrant for arrest, the judicial officer or magistrate usually has several options.

- Sign the warrant and authorize the arrest of the named individual.
- Issue a summons requiring the defendant to appear in court to respond to the charge.
- Refer the complainant to appropriate extra-system services, or decline to intervene.

Decision Point 2: Jail or Station House

Once a suspect is taken into custody and transported to the station house or jail, the law enforcement or corrections staff at the facility become the principal gatekeepers of the system, with several options available to them.

- The case may be diverted to extra-system services. Diversion occurs particularly when an underlying physical or mental health problem was the reason for the arrest.
- Citation release may be an available course of action at the station house and in the field. A station house citation, also known as a "desk-appearance ticket," may be issued before or after the booking procedure. Law enforcement and pretrial services agencies often cooperate to conduct "prebooking release" at the station house in some jurisdictions (see Pretrial Services discussion, chapter 4). The defendant

receiving a citation would be released without supervision and required to appear at the next session of the court to answer to the charge.

- ❑ After arrest and before an initial court appearance, bail may be set according to a schedule determined by local court rules. Some local courts authorize release at this point without a bond for traffic or misdemeanor charges, but most bail schedules require the posting of some money as security against the possibility of failing to appear in court. Bail option in many jurisdictions is private surety. Bail bonding agents guarantee payment of the full bail amount in the event of a defendant's nonappearance.

Decision Point 3: Bail Magistrate or Pretrial Services

In many jurisdictions, lower court magistrates or bail commissioners review law enforcement charges, gather basic information on an arrestee's background, and establish required bail conditions. The bail magistrates may act alone or use pretrial services agency staff to obtain background data for an informed bail decision. Law enforcement or detention staff may also provide information and, if the defendant has obtained legal counsel, the attorney may also offer relevant information.

Decision Point 4: Prosecutor Screening/Charging

The timing of the charging decision varies by jurisdiction. Prosecutors may review charges for the first time prior to a defendant's initial court appearance. Some prosecutors perform prearrest or onscene review. The prosecutor takes information from law enforcement officials and, in some instances, from the arrestee, victims, or witnesses to determine whether prosecution should proceed on the original charge, proceed on a reduced charge, or be declined. Because charge reduction often leads to bail reduction and release and because a significant percentage of cases eventually may not be prosecuted, expeditious screening can yield substantial reductions in average LOC for those who are detained.

Diversion is an option that many prosecutors and courts consider at the early stages of case processing. Diversion programs generally identify first offenders facing misdemeanor charges. Defendants are offered participation in treatment, education, or job training programs with the agreement that charges will be dropped upon successful completion of the programs. Because few clients are likely to be drawn from the jail population, diversion programs have a less direct effect on reducing jail populations than other programs.

Decision Point 5: Initial Court Appearance

The initial court appearance is the most critical event in determining detention or release during the pretrial stage. It is at this point that bail is

considered for most defendants. In addition to the judiciary, participants in the initial court appearance generally include prosecution and defense attorneys (though counsel for indigent defendants may not yet be appointed), pretrial services staff, and probation staff, if sentencing is contemplated.

Generally available forms of release include the following:

- ❑ *Release on Recognizance (ROR)*: Requires no financial deposit and involves no conditions other than appearance for court and no additional criminal charges.
- ❑ *Conditional, Supervised, or Third-Party Release*: Requires no financial deposit but sets conditions such as regularly reporting to the court or pretrial services agency, continuing employment or educational status, staying away from the victim, and travel or other restrictions.
- ❑ *Unsecured Bail*: Similar to ROR but requires the court to set a dollar amount for which the defendant will become liable in case of failure to appear (FTA).
- ❑ *Deposit Bail*: Requires posting a percentage, usually 10 percent, of the full money bail amount. This money is refunded, sometimes excluding a small administrative fee, if court appearances are made.
- ❑ *Full Deposit or Cash Bail*: Requires the posting of the full amount of the bail bond, to be refunded if the defendant appears as required.
- ❑ *Property Bail*: Requires posting of property or other assets in lieu of full cash bail with the court.
- ❑ *Surety Bail*: Requires posting a nonrefundable percentage, usually between 8 and 15 percent, of the full bond amount with a licensed private surety agent who agrees to pay the full amount of the bond if the accused fails to appear as required.²³

The court has other options at this point in the proceedings. It can dismiss the case or accept a plea, perhaps after receiving a recommendation from the prosecutor. As previously mentioned, prosecution may be suspended while the defendant participates in a diversion program.

If denied or unable to post bail, the defendant remains in custody pending disposition (see discussion of Decision Point 8 for listing of sentencing options).

Decision Point 6: Bail Review at Hearings Between Initial Court Appearance and Trial/Adjudication

Between a defendant's initial appearance and final disposition of the case, various hearings may occur including a preliminary hearing and an arraignment. Review of bail conditions is an informal part of every hearing, but reconsideration may also take place at a specific court proceeding. In

many jurisdictions, review of bail conditions within a certain time period following initial appearance is required by legislation or by state or local court rules. In Kentucky, bail review must be conducted within 24 hours of initial court bail setting. A defendant may request reconsideration at any time. Bail review necessarily involves court officials, the defendant, defense counsel, and the prosecutor. Some pretrial services agencies also participate, providing further background on the defendant or suggesting possible pretrial release options.

Court options include reducing financial requirements and imposing any combination of financial or nonfinancial conditions to enable a defendant to secure release while ensuring court appearance. Bail may also be increased if a court determines that the likelihood of violation of a release condition has increased.

Decision Point 7: Trial/Adjudication

The court, jury members, prosecutor, defense attorney and defendant, victim, witnesses, and special interest advocacy organizations may all participate in the trial determining the adjudication outcome. If postconviction release is authorized, the bail surety agent again may play a role in the release decision.

Decision Point 8: Sentencing

A court's sentence depends on information from a variety of sources, including prosecution and defense representatives. If a presentence investigation (PSI) or other examination is required, those responsible for the report, most likely probation staff, will influence the outcome. If an offender is released before trial, pretrial services or other supervisory staff will report on pretrial release behavior directly or through the PSI report. If non-jail penalties or programs are being considered, appropriate program staff will appear in court or forward their recommendations. Also, the victim and/or offense witness might present a statement in court or through the prosecutor, PSI staff, or a victim assistance agency.

Among its sentencing options, a court may decide to suspend statutorily prescribed jail or prison dispositions. Suspension of a jail sentence, however, is likely to bring with it other sanctions, such as supervised probation, a fine, restitution, or a combination of community controls. As for pretrial release options, some courts combine alternative sentences (e.g., ordering community service hours with a suspended sentence or strict probation supervision). Finally, the court may choose to incarcerate a defendant.²⁴

The court may choose from a number of penalties other than incarceration:

- Probation Supervision:* Requiring the offender to report to the probation agency for a specified period of time, during which limitations on

association or movement, treatment, or restitution to the victim may be required.

- ❑ *Suspended Sentence*: Holding a more severe penalty in abeyance for a specified time on the condition of no further criminal activity and possibly requiring supervision, treatment, limitations on mobility, or restitution.
- ❑ *Fine*: Requiring cash payment, usually in installments, based on the damage incurred and the offender's ability to pay.
- ❑ *Community Service*: Requiring unpaid service for a certain number of hours to a local government agency or sponsoring private organization, sometimes as substitution for a fine. Hours of service required is calculated by dividing the fine by the established minimum wage.
- ❑ *Restitution*: Requiring cash payment by the offender of an amount calculated to offset the loss incurred by the victim or the community. Services are sometimes substituted for cash payment if the offender has little or no earning capacity.
- ❑ *Treatment*: Requiring the offender to undergo a regimen, on an in- or outpatient basis, that is designed to address a particular problem, such as alcohol or drug dependency or mental illness, associated with his or her criminal behavior.
- ❑ *Halfway House*: Requiring the offender to be confined in a residential setting apart from the jail, where programs may address treatment needs or offer specialized services, such as work/study programs or employment counseling.
- ❑ *Boot Camps*: Requiring the offender to be confined in a residential facility that follows a militarylike regimen of exercise, classes, and demeanor.
- ❑ *Electronic Monitoring*: Requiring the offender to wear an electronic device (transmitter) and follow set restrictions regarding curfews, activities, and communications under custodial authority.

Decision Point 9: Appeal

If the conviction is appealed, the defendant may be released via any one of the methods discussed in Decision Point 5.

Decision Point 10: Early Release

Many offenders can be released early from jail for accumulating good time credits. In jurisdictions with a jail cap, procedures are put in place to identify sentenced offenders who can be released so that the jail population will remain within its cap.

Information Needs for a Systemwide Strategy

Determining a jurisdiction's level of jail crowding and identifying its potential causes require two types of information: **case-processing information** and **jail population information**. The former is information on a case and person processing through the criminal justice system. The latter is information beyond the charges on which individuals go to jail, how long they stay, and what factors determine their admission and LOC. Both types of information are important in providing a complete picture of the ebb and flow of the jail population. They identify delays at various stages in the system that may contribute to LOC and categories of detainees who could be diverted from jail without jeopardizing community safety.

Experience has shown that information on jail populations is not readily available. Jurisdictions must institute special efforts to gather it. Case-processing information, on the other hand, although not usually available from a single agency, can usually be pieced together using information compiled by various components of the criminal justice system.²⁵ Because different approaches are used to gather the two types of information, each is discussed separately in this monograph.

Case-Processing Information

As described in chapter 2, decisions concerning the routing of cases and persons in and out of the court and jail systems occur at numerous points in the criminal justice process. The case flow diagram in exhibit 1 can help local decisionmakers assess the *timeliness* of various decisions and the *availability* of non-jail options for certain types of individuals at each point in the process. Appendix A provides a list of agency-specific questions to use when acquiring case-processing information.²⁶

Standard case-processing information that most agencies are required to keep include the following:

- Law enforcement data on arrests and citation releases.
- Jail administration data on admissions and length of confinement.
- Pretrial release data on referrals, interviews, and recommendations and the timeframe used.
- Prosecution data on cases received for screening, charging decisions, and the time elapsing between arrest and the charging decision.
- Defense/public defender data on cases assigned by the court and the time elapsing between arrest and contact with the arrestee.

- ❑ Data on the number of cases heard in initial appearance courts.
- ❑ Outcome of release/detention decisions.
- ❑ Time interval between arrest and the initial appearance hearing.
- ❑ Court data on cases adjudicated and the arrest-to-adjudication timeframe.
- ❑ Probation/parole data on detainers, revocations, and the length of time elapsing from detainer filing to decision on revocation.

By gathering and analyzing data on case volume, time intervals between events, and decision outcomes, officials can see how their actions affect the jail population level and whether the system is efficiently using jail space.

Jail Population Information

Local officials, including the sheriff or jail administrator, often have little information on the composition of the jail population beyond that needed for jail operations and security. Even the most accurate jail “housekeeping” information (e.g., individuals being held, their location, security classifications, and movements to and from court) fails to provide the data needed to answer fundamental questions about jail use, such as who are being held and why? Certain defendants may remain in jail because they are unable to pay a small amount of money to obtain release. Others remain because of unnecessary delays in the court system. A jail may house many chronic public inebriates, substance abusers, mentally ill persons, or juveniles. Significant jail-bed days may be expended on persons sentenced to or held for other local, state, or federal agencies. Administrators may be unaware of the frequency of admissions, the size, or the variation of segments of the jail population or of indicators of slow case processing. Many detainees could be diverted from the jail or dealt with more expeditiously, conserving jail space. Without appropriate data to define such aspects of jail use, efforts to identify appropriate processes or programs for jail population reduction will be hampered.

Several sampling techniques, with varying levels of complexity, can be used to gather jail-use information. This section describes two types of information local officials should collect, and the following section discusses three methods they can use to gather data, depending on the resources and time available.

Jail Information

This subsection presents a general overview of data needed for jail population analysis. Local officials should supplement these items according to the unique structure of their own criminal justice system and any specific research questions being explored. To decide what information will be

needed to supplement the standard items provided here, and before beginning any data collection effort, officials familiar with the processing of cases and persons through the local system should construct a system case flow model as suggested in chapter 2. Such a model can serve not only as a framework for case flow study but also as an aid in a jail population analysis. Using the model, officials can formulate questions to identify the reasons for jail crowding in their jurisdiction.

Key questions include the following:

- Are defendants being admitted and released within hours instead of being diverted from the criminal justice system through early case screening or the development of extra-system services?
- Are there specific categories of inmates such as alcoholics, drug abusers, and mentally ill/developmentally disabled persons for whom out-of-jail placements may be a more effective use of resources than incarceration?
- Are low bail defendants or defendants with unverified background information being unintentionally detained before trial?
- Are persons being held in the jail longer than necessary because of administrative inefficiencies?
- Are defendants spending more time in jail awaiting trial than they are likely to receive as punishment?
- Are prisoners being held who should be transferred to a state facility?

To tailor the jail population study to local practices, key actors should be asked to help construct the model and propose the research questions.

Inmate Background Information

Individual background information—including sociodemographic factors, prior criminal justice system involvement, pretrial release history, and history of escape—will aid in identifying categories of inmates who may be detained inappropriately. It may also alert administrators to the need for improved intake classification procedures and other services. Moreover, when matched with admission and release data, it will reveal how quickly certain categories of persons are processed through the system. Information on individual inmates may include the following:

- Age.
- Gender.
- Racial identity.
- Residence.
- Dependence on alcohol and/or other drugs.

- Mental health impairments.
- Number of felony convictions.
- Number of misdemeanor convictions.
- Relationship to criminal justice system at time of arrest.
- Pretrial release history (e.g., number of failures to appear or rearrests).
- Escape history.

When tabulated, this information can provide an accurate picture of a jail's population. Information collected on a sample of jail inmates can allow officials to examine the relationship between two or more factors. For example, officials can examine inmates' residence and drug abuse records to assess the need for treatment services in the jurisdiction. A more detailed discussion on analyzing inmate information is provided at the end of this chapter.

As previously noted, two factors determine the average daily jail population: the number of admissions and their LOC. LOC data are crucial to identifying system operations that cause delays in routine case processing. Other admission and release information will help jurisdictions identify the points at which alternatives to incarceration are or can be used. Such information may include the following:

- Arresting agency.
- Charge.
- Detention status.
- Release method.
- Bail amount.
- Arraignment judge.
- Trial judge.
- Length of confinement.
- Last court action.
- Number of days since last court action.
- Other detainees.

Analysis of these items, particularly when combined with inmate background information, can provide a basis for analyzing local incarceration practices—for example, the size of the pretrial and sentenced populations; the percentage of felons versus misdemeanants; the percentage of defendants held on less than \$500 (or \$1,000 or \$1,500) bail; and the proportion of the sample population held on detainees.

This information can be used to examine the relationship between two or more factors. For example, officials learn a great deal about incarceration practices by analyzing the relationship between length of confinement and bail amount. They may find that persons with higher bail amounts stay in pretrial detention longer than persons with lower bail amounts. Similarly, analyzing the relationship between type of release, LOC, and existence of a detainer may alert officials to delays in the processing of probation or parole holds or other detainees.

Methods for Gathering Information

If collecting detailed information on each jail admission is prohibitively expensive, a number of methods can be used to gather data on a sample of inmates from which projections can be made for the entire population. Sampling methods vary in terms of accuracy, reliability, timeliness, and cost. Many statistical sampling methods exist. Three have been used successfully by jurisdictions faced with jail crowding: the snapshot method, the exit survey method, and the admission cohort method.

Although the methods differ, they all require the collection of similar information, including background, jail admission, and release information of inmates selected for the sample. Jurisdictions using the admission cohort method collect information on a larger number of factors than those using the other methods and gather that information from jail records and other criminal justice agencies. Jurisdictions using the snapshot or exit survey methods rely exclusively on information available from jail records.

Snapshot Method

As the term implies, the snapshot method focuses on information on inmates captured on a typical day in jail. This sampling method is designed to reflect the population on a typical day, so the timing of the snapshot should be carefully considered. A snapshot should not be taken when an unusual event, such as a sting operation, has occurred and populated the jail with inmates who are *not* typical of the average population. Also, a jail snapshot should not be taken when courts are not in session on weekends and holidays unless these periods are the subject of separate analysis. The season during which a snapshot is taken is also important. For example, in Phoenix, Arizona, where an influx of transients during the winter months might result in a substantial increase in the jail population, a snapshot taken in July could be markedly different from one taken in February.

There are two different types of snapshots—the in-jail snapshot and the released-from-jail snapshot.²⁷ The in-jail snapshot identifies inmates incarcerated at a particular time and provides information on LOC. The released-from-jail snapshot is a picture of inmates released from jail on a particular day.

The *advantage* of the snapshot method lies in the ease, by using one-time-only figures, of identifying the types of inmates in a local jail. The *disadvantage* is that it portrays local jail populations at only a single point in time.

An in-jail snapshot is taken at a specific time, such as 6 a.m., on a specific weekday. Inmates in jail at that particular time constitute the sample, those admitted after 6:01 a.m. that day are not included. An *advantage* of the in-jail snapshot is that it can be used to compute percentages of different types of prisoners (e.g., male/female, pretrial/sentenced/other) in the jail population. The Bureau of Justice Statistics of the U.S. Department of Justice uses this method in its 5-year census of jail inmates and in its annual survey of jail inmates. The *disadvantage* of the in-jail snapshot is that it is statistically biased toward pretrial and sentenced inmates who spend longer periods of time in jail.

A released-from-jail snapshot might be taken during the 24-hour period from 12 midnight to 11:59 p.m. on a weekday. All inmates released from jail within that time span would constitute the sample. The released-from-jail snapshot provides LOC data for different types of inmates. Its *advantage* is that it can be used to estimate LOC for these different types of inmates. The *disadvantage* is that it may underestimate LOC if the sample contains a disproportionately high number of short-term pretrial defendants.

To overcome disadvantages of the snapshot approaches, jurisdictions can couple an in-jail snapshot with a released-from-jail snapshot or conduct a series of each. Either of the two snapshots provides officials with information on defendants who go to jail, how long they remain, and factors that may determine their LOC.

Exit Survey Method

The exit survey sampling method requires officials to collect information on all inmates released from jail over consecutive days. It is a series of 1-day released-from-jail snapshots. The exact number of days required for the sample depends on the number of persons needed for an acceptable sample size. Generally, an exit survey sample must include at least 10 percent of the entire relevant population—in this case, the number of individuals released from jail per year—or 500 persons, whichever is smaller.

Given this sampling rule of thumb, if a county releases 25 inmates from jail on a typical day, about 9,000 inmates per year, an acceptable minimum sample size would be 500, since 10 percent of 9,000 is 900. To obtain the sample at a given starting point such as January 1, a jurisdiction would select every person released from the facility over a period of consecutive days until 500 individuals were selected, in this case approximately a 20-day period. As each inmate is chosen for the sample, his or her background, jail admission, and release data are gathered.

The *advantage* of using the exit survey method is that the data are collected over a longer period of time and provide more reliable LOC information than data obtained from the 1-day in-jail snapshot, though a series of bi-weekly or monthly snapshots may provide a suitable alternative. Also, because the sample is selected over consecutive days, the exit survey more accurately identifies the number of defendants admitted to jail who remain in custody only a short period prior to pretrial release. A *disadvantage* of this method is that sentenced offenders tend to be underrepresented in the sample because they are released less frequently than pretrial detainees.

Admission Cohort Method

Although more complicated and costly than either the snapshot or the exit survey, the admission cohort sampling method gathers the most reliable and comprehensive information. It requires officials to track a systematic random or stratified sample of jail bookings through final case disposition for a designated period of time, perhaps a year. Regardless of the source of the sample, whether the jail's booking/intake log or release log, the total number of jail bookings or releases first must be determined.

Jurisdictions using this method generally have the resources and time to identify and draw a systematic random sample, collect a larger amount of information on sample inmates than jurisdictions using the other methods, and gather this information from a variety of sources. Because of the additional work involved, some jurisdictions have made the admission cohort method a special project of a county planning agency or have contracted it out to independent consultants.

For a 10-percent systematic random sample of 10,000 jail bookings, approximately 1,000 cases will be selected by using a random number chart or an automatically generated random selection process. For a stratified sample, every 10th booking or release (after random selection of the 1st booking) would be included in the sample. To randomly select the first booking, the numbers between 1 and 10 could be placed in a box and the number drawn would be the start of the sample. If 7 was drawn, the 7th booking would begin the sampling and every 10th booking thereafter (i.e., 17, 27, 37, 47) would be selected until the entire population (e.g., all bookings during 1985) had been sampled.

The *advantage* of the admission cohort sampling method lies in the accuracy and reliability of the information gathered. Local officials may feel more secure knowing that the information obtained reflects, with a statistically calculated degree of accuracy, a wide array of jail population characteristics that can be studied to determine how the jail is being used by various criminal justice agencies.

A *disadvantage* of the admission cohort sampling method is its cost. Data collection, including training (and possibly hiring) data collectors, completing computer coding, and analyzing data, requires sizable budgets.

However, for jurisdictions that can afford it and those that can obtain low-cost assistance, perhaps from a local university, this method offers the most reliable information upon which to base the examination of local incarceration practices.

Information Analysis

A jail population analysis, no matter how methodologically rigorous, can identify only the *symptoms* and not the *causes* of jail crowding. Knowing about the symptoms, however, greatly enhances officials' ability to identify the causes of jail crowding and, in turn, devise appropriate modifications in system procedures or create or expand specific programs. Whichever method of information gathering a jurisdiction uses, once the information has been collected, statistical measures will be needed to conduct analysis.

Initial analysis of jail population data should consist of frequency distributions on all the factors (such as age, gender, charge level, LOC, and bail amount). Exhibit 2 provides a sample frequency distribution of a variety of factors collected on a sample of inmates. A frequency distribution includes both the number of inmates in the sample and the percentage of the total sample they represent.

Frequency distributions of single factors (e.g., gender, age, detention status, charge, release category, and LOC) provide useful but limited information. Examining relationships of two or more factors (called joint distributions or cross-tabulations) offers local officials a better understanding of *why* inmates remain in jail for a specific length of time. Exhibit 3 is a cross-tabulation table that uses two factors, LOC and type of release.

Exhibit 3 shows that the majority of inmates released on recognizance, 53.3 percent, were released within 48 hours. Ninety percent of supervised releases occurred in 3–5 days. Also, no inmates on property bail were released before 6 days.

Based on these data, policymakers may question why pretrial release does not occur more quickly, (i.e., why a greater percentage of defendants are not released at pretrial status in the 0–2-day range). Such a finding may point to delays in pretrial release screening or indicate that the jurisdiction would benefit from allowing deposit bail, which could reduce the time defendants need to secure financial release. In addition, the dismissed category suggests that the prosecutor may not be making a charging decision until a week to 10 days after arrest or booking. Earlier prosecutorial screening, conducted by experienced prosecutors who can determine the most appropriate charges, might substantially reduce confinement time for this group.

Exhibit 2 Characteristics of Jail Population

Characteristics	Number	Percentage
Total Population	300	100*
Sex		
Male	266	88.7
Female	34	11.3
Age		
17–21	76	25.3
22–25	90	30.0
26–30	57	19.0
31–35	52	17.3
36–40	19	6.3
>40	6	2.0
Detention Status		
Pretrial	144	48.0
Serving jail sentence	108	36.0
Awaiting transfer to state	38	12.7
Detainers only	10	3.3
Charge		
Traffic	55	18.3
Misdemeanor	129	43.0
Felony	116	38.7
Release Category		
Dismiss	10	3.3
ROR	90	30.0
Supervised	10	3.3
Surety	150	50.0
Cash	30	10.0
Property	10	3.3
Days in Confinement		
0–2	77	25.7
3–5	167	55.7
6–10	36	12.0
>10	20	6.7

* Within each category, total may not add to 100 percent due to rounding.

Exhibit 3 Length of Confinement by Type of Release

Release Type	0–2 Days	3–5 Days	6–10 Days	>10 Days	Row Total
Dismissed Number	1	1	8	0	10
Row %	10.0%	10.0%	80.0%	0%	3.3%
Column %	1.3%	0.6%	22.2%	0%	
ROR Number	48	36	3	3	90
Row %	53.3%	40.0%	3.5%	3.5%	30.0%
Column %	62.3%	21.6%	8.3%	15.0%	
Supervised Number	0	9	1	0	10
Row %	0%	90.0%	10.0%	0%	3.3%
Column %	0%	5.4%	2.8%	0%	
Surety Bail Number	25	100	10	15	150
Row %	16.7%	66.7%	6.7%	10.0%	50.0%
Column %	32.5%	59.9%	27.8%	75.0%	
Cash Bail Number	3	21	4	2	30
Row %	10.0%	70.0%	13.3%	6.7%	10.0%
Column %	3.9%	12.6%	11.1%	10.0%	
Property Bail Number	0	0	10	0	10
Row %	0%	0%	100.0%	0%	3.3%
Column %	0%	0%	27.8%	0%	
Column total	77	167	36	20	300
	25.7%	55.7%	12.0%	6.7%	100%

Questions involving more than two factors, such as the relationship between bail amount, length of time in jail, and charge level for pretrial defendants, can provide an even more detailed understanding of incarceration practices.²⁸ For example, if the relationship between length of pretrial confinement and type of pretrial release were examined separately for those charged with felonies and those with misdemeanors, officials might recognize a need to modify misdemeanor pretrial release policies (e.g., by expanding eligibility for citation release). If charge level (felony/misdemeanor) were broken down further into individual charge categories, the analysis could point out the utility (in jail-bed day savings) of establishing alternative procedures for handling certain categories of defendants (e.g., public inebriates, shoplifters, individuals passing bad checks).

A Cautionary Note

An information-gathering effort focused on jail population data, to the exclusion of case-processing information, assumes that a criminal justice system is operating at or near peak effectiveness, which is often not the case. To formulate well-informed policies concerning jail use, a criminal justice system cannot rely solely on either a jail population analysis or a case-processing analysis. Both are necessary. Solutions based only on jail population data may address the symptoms of jail crowding without identifying the causes. For instance, without information describing the flow of cases, jail data showing a large number of inmates convicted of first-time property offenses might suggest a need for an alternative sentencing program directed at that group. Case-flow information showing only a small percentage of first-time property offenders receiving jail sentences, however, would suggest that, unless strict criteria were formulated, the clientele for a new program would most likely be drawn from those receiving less restrictive sanctions, rather than from the intended jail-bound group.

Similarly, analysis of jail population data might show that most pretrial detainees obtain release after only 7 to 10 days in custody. Taken alone, this finding could be interpreted as a justification for expanding a pretrial services program to expedite screening and bail review. However, information on case flow within system agencies might reveal inefficient case processing in a number of areas (e.g., court, prosecution, defense) that, if corrected, could reduce the jail population without requiring additional resources.

Systemwide Approach: How Individual Actors Can Affect Jail Population

This chapter is premised on the belief that each player in the criminal justice system, acting unilaterally or in concert with others, can affect jail population size. The case flow diagram in exhibit 1 summarizes the decision points at which justice system officials can directly affect how many persons are held in a jail system and their LOC. The actor-by-actor discussion in this chapter highlights some of the practical and often less costly ways to affect jail crowding. The chapter also provides examples of how officials in certain jurisdictions are using such practices. The chapter concludes with a brief discussion of state legislation, court rules, executive orders, and other external factors that affect jail populations and local jail-use planning efforts. As with the case flow diagram, the examples offered in this chapter should be considered in light of local statutes and practices.²⁹

Law Enforcement

Many law enforcement agencies are collaborating with other criminal justice agencies to alleviate jail overcrowding. Law enforcement personnel are the initial gatekeepers to the criminal justice system. Their actions in the field and at the station house dominate the initial decision of who is admitted into the county jail. They determine whether to make an arrest and whether to transport someone to the jail or the station house. They determine whether to book someone, await bail setting by a judicial officer, or cite and release.

Two developments since the 1980s have changed the role of the police. One development is the restriction of law enforcement officers' discretion resulting from implementation in numerous jurisdictions of mandatory arrest policies for certain offenses, most notably domestic violence and driving under the influence. The second development has been the rise of community policing.

Community Policing Programs

The public and the media support many features of community policing, which is now a widespread phenomenon.³⁰ Police operations have become more visible, increasing police accountability to the public. Operations have been decentralized to respond to the needs of various neighborhoods and constituencies. Citizens are being encouraged to take the initiative in preventing crimes and to become partners with police, thereby improving

relations between them.³¹ Many community policing advocates encourage officers to seek alternatives to arrest that may more effectively or efficiently solve the immediate problem. Studies over the past two decades have shown that community policing encourages even more officer discretion—police leniency with minor crimes and disorders—to achieve long-term problem reduction.³²

A study of Virginia’s Richmond Police Department’s community policing efforts found that arrests of suspects routinely encountered by patrol officers were rare. Although these encounters involved “suspected criminal activity,” in many instances, officers found little evidentiary basis for arrest after interviewing the suspect and victim, if present. Officers used a variety of nonarrest dispositions with suspects routinely encountered, including warnings and referrals to other agencies. Researchers noted that 50 percent of the officers involved in the study had positive opinions about community policing. Officers who had positive opinions made fewer arrests than the other officers. During the study, the officers with positive opinions about community policing accounted for 259 encounters with suspects and made arrests in only 5 percent of the instances. Officers with a negative or mixed opinion about community policing accounted for 192 encounters and had arrested 17 percent of their suspects.³³

Prearrest Practices

Citation programs. Citation and station house release procedures (e.g., notices-to-appear and desk appearance tickets) offer an effective method of diverting many arrestees from jail intake. Across the country, both small and large jurisdictions credit increased use of citations by law enforcement officers as one of several measures leading to a reduced jail population. Clearly written guidelines should set forth eligibility requirements and procedures for use in the field.³⁴ They should also emphasize the importance of citation release in eliminating unnecessary jail bookings and the effectiveness of citation release.

The Bernalillo County, New Mexico, sheriff’s policy instructs deputies to issue citations in lieu of arrest for nonviolent offenses. This policy has been in place since the early 1980s, when it was started in response to jail crowding. According to the sheriff’s department, the issuance of citations remains a safe and effective method of limiting the number of persons arrested and booked. The policy has been expanded recently to include the Albuquerque Police Department. Under the policy, police chiefs instruct officers to refrain from booking individuals unless they present a flight risk or a clear and present danger to the community (i.e., violent offenses) or are unable to prove their identity.

The Cite-in-Lieu-of-Physical-Arrest policy of Jefferson County, Kentucky, was instituted in 1991. The goals of the citation program are to save money, increase efficiency, alleviate jail crowding, and improve the

services of police, courts, and corrections by using existing justice personnel. An in-house evaluation revealed that the citation program has decreased the number of individuals jailed who pose little or no risk to society and who have a high probability of appearing in court. The six most frequently cited offenses are shoplifting, public intoxication, criminal trespass, disorderly conduct, operating a vehicle on a suspended or revoked license, and unlawful possession of less than 8 ounces of marijuana.

Programs for public inebriates. Perhaps the most common form of prearrest diversion is the use of short-term detoxification or “sobering up” facilities for public inebriates. In several jurisdictions, police officers take public inebriates to detoxification and referral centers instead of arresting them and detaining them in the local jail.

One such program is the Alcoholism and Drug Services Center in San Diego County, California, operated by Volunteers of America and law enforcement officers. One of the five programs that the center offers is its around-the-clock Inebriate Reception Center, which provides a police diversion plan, detoxification and survival referrals, basic needs assessment, and minimal care 24 hours a day. The police take publicly intoxicated individuals to the center. Clients who agree to stay for a minimum of 4 hours are not arrested. San Diego County claims success in relieving jail crowding through this process.

The Shisler Sobering Center in King County, Washington, provides a 60-bed facility for inebriates brought into the center by law enforcement officers in lieu of arrest.

Under a new program instituted by the San Francisco, California, mayor’s office in 1999, chronic inebriates (persons arrested three times within a 60-day period) are ordered to treatment programs in the city. Those who refuse are sent to jail.

Programs for the mentally ill. Persons suffering from mental illness are often jailed because of a lack of adequate mental health care in the community. Numerous studies have estimated that mentally ill, emotionally disturbed, or mentally retarded persons comprise from 10 to 20 percent of local jail inmate populations.³⁵ Law enforcement agencies have responded to this problem in a number of ways, including hiring civilian police employees with mental health training, creating training programs to help officers recognize mental illness, and working with other agencies, such as extra-system organizations to divert the mentally ill from jail by seeking services to provide emergency mental health care.³⁶

A prebooking diversion program exists in Fairfax County, Virginia. The Mobile Crisis Unit (MCU), funded and staffed by the county, works with law enforcement, the courts, and families to divert mentally ill persons from jail. MCU operates daily from 3 p.m. until 12 midnight. The unit

provides services that include home visits, police training on mental health issues during roll call sessions, backup for jail crisis intervention teams, consultations for hostage situations, psychiatric crisis evaluations, suicide assessment, and interventions in other crisis situations.

The Memphis, Tennessee, Police Department's Crisis Intervention Team (CIT) consists of 165 officers who volunteer for the assignment and receive 40 hours of training from mental health providers in the community. The program covers 4 shifts and provides 24-hour, onsite service. In 1997, the team responded to nearly 7,000 calls, with half being resolved on the scene. The remaining incidents resulted in transportation to the regional medical center's emergency room, which is a triage and holding facility.

Many police departments have emulated the Memphis CIT, including those in Seattle, Washington, and San Jose, California. The Seattle Police Department CIT provides officers 40 hours of training in recognizing and intervening in mental health crisis situations. Rather than taking mentally ill persons or addicts to jail, Seattle CIT takes them to a 24-hour triage center where they are screened, treated, and directed to the next step of treatment. The goal of the San Jose, California, CIT, which expects to train 125 uniformed police officers in handling the mentally ill, is to reduce violent confrontations between police and individuals who are in a mental health crisis. The training also consists of role-playing exercises, meetings with parents of mentally ill persons, visits to institutions treating the mentally ill, and interviews with mentally ill individuals who have encountered the criminal justice system.

In San Diego, California, the police department's Psychiatric Emergency Response Team (PERT) pairs licensed mental health professionals with police officers who are responding to situations that involve people with mental disorders. The team receives 80 hours of training over a 4-week period. Since it began operations in 1996, PERT has handled more than 3,000 cases, only 1 percent of which have resulted in incarceration. Individuals in the remaining cases were assisted through county mental health facilities or transferred to outpatient clinics. When the PERT teams are not responding to calls, they are following up on prior cases. The PERT program started with eight clinicians who were paid by the San Diego Alliance for the Mentally Ill, with funding from a federal grant and the Vista Hill Foundation.

In 1998, the Atlanta, Georgia, Police Department launched a pilot program aimed at diverting mentally ill persons who violate city ordinances. Under this initiative, the police department trains officers to recognize signs of mental illness and then call the Fulton County Mobile Crisis Unit rather than make an arrest. The unit includes a social worker and a psychiatric nurse who are authorized to commit a suspect at the scene and take the person to one of two participating hospitals.

Santa Fe, New Mexico, officials have also instituted a Crisis Mobile Team of behavioral health experts who help police officers at the scene decide the best course of action in incidents involving mentally ill persons. A case manager refers the person to the most appropriate outpatient facility.

Postarrest Practices

Many jurisdictions use postarrest and prebooking or postbooking variations of the citation and diversion programs discussed above.

Salt Lake County, Utah, reports using “nonbook release” as a means to reduce jail admissions. Law enforcement and pretrial services personnel cooperate to screen detainees charged with misdemeanors and traffic violations and release many with a formal statement of charges indicating the time of the required court appearance.

In Washington, D.C., police officers use a 24-hour phone link with the pretrial services agency to determine if arrestees qualify for immediate release.

Law enforcement officials in Bernalillo County, New Mexico, are part of a team that includes pretrial and mental health professionals working to keep mentally ill defendants out of jail and in treatment. The New Mexico Department of Health funded the Bernalillo County Psychiatric Emergency Coordinating Committee to establish a jail diversion project for mentally ill defendants charged with or convicted of misdemeanor offenses. Approximately 100 police officers have been trained in mental health crisis intervention. The statistics for 3 months of operation in 1998 showed that CIT responded to 948 calls, 60 percent of which resulted in persons being transported to local mental health agencies for treatment or evaluation.

Jail Administration

Jail administrators have little direct control over who is admitted to the jail or how long they stay there. They are far from powerless, however, in influencing jail capacity requirements. The high cost of jailing places a premium on cooperation between the jailer and other actors responsible for intake screening and case processing. The jail administrator has access to inmates and information about them. The jail administrator can facilitate efficient decisionmaking at the first stages of processing by providing access to inmates and sharing relevant information about the inmates. Conversely, jail policies and procedures that delay the pretrial services interview, the setting of bail, or the defendant’s contact with persons in the community may have repercussions for crowding.

Instituting Admission and Booking Procedures

Jails can control admissions in a variety of ways.

Booking fees. Many jails have decreased the number of admissions by charging municipalities booking and per diem fees for every arrestee brought to the jail, creating an incentive to use citation release in appropriate cases.

California counties are authorized to charge municipalities the costs incurred in booking persons into county facilities. Local agencies, such as city police departments and private security companies, can be charged a fee calculated on the overhead costs of processing arrested persons. A 1992 survey of 179 police agencies conducted by the California Police Chiefs Association found that, since the onset of booking fees, two-thirds of local police agencies had reduced the number of arrestees booked into local jails. Half of the agencies reported that they no longer booked most persons charged with misdemeanors, 25 percent did not take into custody persons wanted on appearance or out-of-county warrants, and 13 percent did not book some persons accused of felonies.³⁷

Charging booking fees is popular in many jurisdictions, including King County, Washington, Washoe County, Nevada, and Coconino, Maricopa, and Pima Counties, Arizona. King County corrections officials began by charging the various municipal law enforcement agencies in the county \$40 per booking; by 1999, the jail administrator was billing at a rate of \$125 per booking. This is believed to have contributed to an increase in the use of citation release and informal disposition of complaints and violations by arresting agencies. A similar situation occurred in Coconino County when the jail increased the fee from \$37.16 to \$70.05 per inmate per day.

No or limited admissions policy. Some jails are authorized to refuse admissions under certain circumstances or for certain groups of defendants. The Michigan Jail Overcrowding Emergency Powers Act of 1987,³⁸ which specifies a step-by-step release process when a jail's population exceeds rated capacity for 7 consecutive days, has an admissions procedure component. Numerous Michigan counties have invoked this act over the years. In Oakland County, Michigan, the sheriff implemented a nonadmission policy for persons charged with certain nonviolent offenses. Under this administrative policy, the jail no longer admits persons arrested for nonviolent offenses, with the exception of drunk driving, domestic violence, or assaults on police officers. Police officers still have the option of housing these persons in lockups to await their initial court appearances or releasing them from the station house on citation releases.

Many jurisdictions have specific admissions policies for certain types of cases, the most common being public inebriate cases. In jurisdictions with a detoxification center, a jail may refuse to admit public inebriates. In Volusia County, Florida, jail staff members check with the local 70-bed

detoxification facility to determine if space is available for an inebriate. Jefferson County, Colorado, charges the county-contracted detoxification facility a fee for refusing to admit a person charged with an intoxication-related misdemeanor. Under a plan instituted by the mayor's office in November 1998, the San Francisco County, California, sheriff's department has agreed to limit the number of persons charged with public inebriation who are held in jail.

Jail administrators have instituted other initiatives to divert mentally ill persons from jail at the point of admission, booking, or consideration for pretrial release (bail). In Denver, Colorado, a full-time psychiatric nurse at the jail screens incoming prisoners for signs of mental illness. Based on the nurse's recommendation, approximately half of the 60 mentally ill prisoners received each month are diverted from jail into the custody of community mental health center staff. The program is an example of how a key jail staff person and an adequate array of services in the community can successfully divert mentally ill persons from jails.

The Mental Health Authority in Washington County, Maryland, received a grant from the Maryland Department of Mental Hygiene for the jail administrator to hire two full-time case managers and a part-time psychiatrist to work at the jail. One case manager is responsible for assessing the needs of the mentally ill inmates at intake. The other case manager is responsible for finding suitable community placements for those booked into the jail.

The Mentally Ill Offender Project administered by South Sound Advocates, a private, nonprofit organization, works with staff at jails in Mason County, Thurston County, and Olympia City, Washington, to identify mentally ill persons as soon as they are booked into jail. The project staff work either to have these people released or to provide them with appropriate treatment while in custody. In cases of acute mental illness, when the charge is related to the person's condition, project staff seek to have the charges dismissed and the person evaluated further for commitment. When a mentally ill person is arrested and booked into jail, project staff determine whether the person is in treatment and, if so, secure the details of the treatment plan. Staff then present the relevant information to the judge at arraignment and ask the court to consider release on the condition that the person continue treatment.

Improving Release Procedures: Pretrial and Sentenced Populations

Jail administrators have instituted ways to control how long the release process takes for certain individuals. These include setting time limits for releasing pretrial defendants brought in on certain charges (e.g., public inebriation) and for transferring convicted offenders to a state facility or mentally ill persons to a state hospital.

In Saginaw County, Michigan, the sheriff implemented an administrative policy allowing persons arrested on misdemeanor charges to bail out of jail for the money they have in their pockets, up to a maximum of \$100. The new policy resulted from crowding at the jail and a state law that prohibits bail setting in misdemeanor cases in excess of 20 percent of the fine that the offense carries.

To meet the population cap for the Broward County, Florida, jail, an early release policy is in effect. The policy results in the release each month of more than 350 pretrial defendants charged with nonviolent offenses.

The Milwaukee County, Wisconsin, sheriff, who runs the county jail, worked out an agreement with the Wisconsin Department of Corrections (DOC) to take up to 105 probation or parole violators per week. The state also agreed, but not until it was forced to do so by a decision of the Wisconsin Supreme Court, to limit the processing time for parole and probation violation cases to 10 days. Prior to the policy's implementation, DOC held alleged probation and parole violators in the jail until their probation or parole revocation hearings without consultation with the sheriff and his staff.³⁹

In Bernalillo County, New Mexico, the jail administrator implemented a policy through administrative order, curtailing the time it takes to prepare a "judgment and sentence," the authorization document for transferring sentenced inmates from jail to the state prison. This change requires staff to calculate the presentence confinement time reported at sentencing. The judges approved the plan, which has resulted in inmates being transferred 7 to 10 days sooner than before the policy went into effect.

The Salt Lake County, Utah, jail administrator assigns inmates sentenced for nonviolent misdemeanor charges to a home incarceration/work release program, regardless of judicial sentence. This action is based on an interpretation of state law that gives the sheriff the legal responsibility to define "custody."

When the jail population reaches the county's self-imposed cap, jail administrators in Oregon are mandated by the Oregon Revised Statute of 1997 to inform the presiding circuit court judge, all municipal court judges, the district attorney, and the chief law enforcement officer that a jail population emergency exists. Once the jail administrator receives approval from the presiding judge to implement the Emergency Population Release (ERP) Program, the administrator has complete authority to release from the jail those inmates deemed eligible by a committee. Under the statute, the jail administrator cannot be held responsible for any civil or criminal liabilities that arise from releasing inmates into the community.⁴⁰

In response to a jail population cap imposed by a federal court, jail administrators in Cook County, Illinois, have been participating in the Administrative Mandatory Furlough Program, also known as I-bonds. When the

jail population exceeds its cap, administrators, acting under the authority of the federal court order, release pretrial defendants held on certain bond amounts.⁴¹ Instituted as an emergency measure to address the federal court order, jail officials halved the number of defendants released on I-bonds from 22,000 in 1991 to 11,000 in 1994⁴² by instituting an electronic monitoring program (see discussion under Creating Alternative Programs below). In addition to electronic monitoring, other programs such as day reporting reduced the figure further to fewer than 3,200 in 1996.⁴³

Gathering Needed Data

One way that a jail administrator can facilitate efforts to relieve crowding is by gathering information about the individuals in jail and their LOC. Without accurate information and an established, clear format for providing that information to the court and other officials, any population reduction program may be seriously hampered. The following program-by-program discussion highlights positive actions jail administrators have taken to alleviate jail crowding through the dissemination of data.

The Boulder County, Colorado, jail uses data to identify and respond to specific problems. Acting under the authority of the local Criminal Justice Board, jail officials identified repeat driving while intoxicated (DWI) offenders as a rapidly increasing percentage of the average daily jail population (ADP). In response, the jail administrator participated in the development of the Multiple Offender DWI (MOD) Program, an intensive supervision and treatment program that diverts this group of offenders from jail.

The Milwaukee County, Wisconsin, sheriff's department reviews a daily list of probation violators being held in jail and identifies those suitable for an electronic-monitoring release. Since implementation of this plan, more than 185 inmates per year have been released to home detention while awaiting resolution of their probation violation.

In Marion County, Oregon, the jail Intake and Assessment Unit carefully tracks inmates to identify those who qualify for non-jail alternatives. The unit operates 24 hours a day, 7 days a week. Persons charged with nonviolent offenses, whose circumstances have been determined to have changed (e.g., they may now have a verified address to which they can return) are released from jail pending trial. Under its Emergency Release Program, the unit provides the population review team a list of inmates every 2 weeks who might qualify for release to a work program. The team consists of a jail counselor, an assistant district attorney, and a jail lieutenant. Those released to the work program who are already employed may continue working at their job; others work at the facility or attend educational courses.

Many jails, such as the one in San Mateo County, California, provide judges with a list of all incarcerated defendants scheduled to appear in court so judges can target those cases for expedited processing.

Monitoring/Expediting Detention Cases

Some communities use jail case monitors to concentrate on delay reduction and bail review. In Spokane County, Washington, case monitors continuously review jail inmates to identify those who could be diverted from the jail or individuals whose case can be expedited in some manner.

In 1996, Jackson County, Missouri, hired an inmate population control coordinator to expedite cases of defendants detained pretrial. Among the responsibilities of the coordinator are monitoring the jail population, identifying inmates who could be placed on pretrial release, preparing bond review documents, and bringing to court cases of defendants who could be sentenced to time served based on their charge and length of stay.

Providing Access to Inmates

Jail administrators can help reduce the size of the jail population by improving inmates' access to pretrial service, public defenders, mental health and substance abuse treatment providers, probation officers, and other service providers. In many jurisdictions, such as Pima County, Arizona, Boulder County, Colorado, Pinellas County, Florida, Genesee County, Michigan, and San Mateo County, California, pretrial staff have work space at the jail and participate in the booking process. In Boulder County, Colorado, to alleviate overcrowding, jail administrators have provided space at the jail for professional staff to interview clients and determine eligibility for the Residential Halfway House Program.

Several jurisdictions, such as Maricopa County, Arizona, Volusia County, Florida, Spartanburg and Pageland Counties, South Carolina, Plymouth County, Massachusetts, and Adams County, Colorado, provide courtroom space within the jail. Situating a courtroom in jail can save many hours of detention time for the largest group of inmates—those released within the first 24 hours after arrest. Although courtroom facilities in jails are generally used for the initial appearance, they can be used for any court hearing, such as bond reviews for defendants who have remained in jail because they are unable to post bail.

Creating Alternative Programs

The Boulder County, Colorado, jail has created a Drug/Alcohol Evaluation Unit that evaluates offenders convicted of alcohol- or drug-related driving offenses for level of alcohol or drug dependence and petty misdemeanor drug offenses. The program includes assessment, report preparation, and caseload management. The court orders offenders into the program and

places them under supervision. Participants may receive intensive inpatient, intensive outpatient, or weekly outpatient treatments, instead of jail terms.

To comply with a federal court-imposed population cap, jail officials in Cook County, Illinois, have established an electronic monitoring program. The program is designed for pretrial defendants who have been denied release on recognizance and are being held on financial bail. During 1995, more than 10,000 defendants were released from jail to the program.

The Los Angeles County, California, jail system has also turned to electronic monitoring. The Community Based Alternatives to Custody (CBAC) program was developed by the jail administrator to reduce jail crowding and improve the supervision of inmates who are released early. More than 2,000 inmates participate in the CBAC program. Participants maintain their custody status while being detained at home and supervised through electronic monitoring until they have successfully completed their court-imposed jail term.

Prosecution

Prosecutors can play a major role in alleviating jail crowding. Following arrest, the prosecutor is the key figure in deciding who might be directed away from adjudication. A prosecutor's decisions at the intake, trial preparation, and sentencing stages bear directly on jail population levels and length of incarceration. In numerous jurisdictions, prosecutors have been instrumental in modifying case-processing procedures to alleviate jail crowding.

Intake and Screening Practices

Very early in the life of a case, prosecutors have the opportunity to decline prosecution, reduce charges as necessary, and identify cases eligible for diversion.

Early screening. Early screening of cases can be efficiently accomplished by experienced prosecutors. The prosecutor in El Paso County, Colorado, has an agreement with the court that requires all warrant requests to have prosecutorial approval before being presented to a judge. The prosecutor's office has an attorney available 24 hours a day to review warrants. Once an arrest is made on a warrant, the prosecutor screens the case further, improving his or her ability to make charging decisions early in the case.

As in many other jurisdictions, prosecutors in Milwaukee County, Wisconsin, screen charges of all incarcerated defendants within 1 working day of the arrest and meet with the arresting officers to make the charging decisions. The process usually consists of the prosecutor examining police reports and any other information about the alleged crime. The prosecutor

often conducts meetings with the complainant and the arrestee and then decides whether to charge the arrestee and, if so, on what charges. The Milwaukee prosecutor's office generally reaches a charging decision within 24 hours after an arrest is made on a weekday and within 36 hours on a weekend.

In Lucas County, Ohio, prosecutors have created a unit that screens warrantless arrests by telephone, which account for at least 50 percent of all felony charges. Prosecutors review the arrest with the arresting officers and decide immediately whether to file a case. About 20 percent of these cases are either dropped or reduced to misdemeanors. According to the Lucas County prosecutor, this screening process has resulted in a decrease in the jail population level as a result of reduced jail admissions and shorter periods of confinement for offenders whose charges are reduced.

The Multnomah County, Oregon, prosecutor's office screens cases within 1 day of arrest and provides discovery information to the defense counsel at the initial appearance to help speed case processing (see Prosecutor and defense counsel at initial appearance, below). Both sides then prepare for an early case conference. Although the prosecutor has 5 judicial days to make a charging decision for incarcerated defendants, an attempt is made to have the lower-level felony and misdemeanor cases disposed of in 2 or 3 days.

Experienced screening staff. To conduct early screening properly, jurisdictions must involve experienced prosecutors in the screening process. In Kalamazoo County, Michigan, the prosecutor teams less experienced staff with senior prosecutors when screening cases. Defense counsels are also provided with police reports, witness statements, criminal histories, and other information as soon as the charging decision is made.

Prosecutor and defense counsel at initial appearance. In jurisdictions where both the prosecutor and the defense counsel attend the initial appearance, plea agreements can be immediately negotiated for defendants charged with nonserious offenses. In several jurisdictions, including Multnomah County, Oregon, Alachua and Palm Beach Counties, Florida, Pueblo County, Colorado, and Montgomery County, Maryland, both the prosecutor and defense counsel attend the initial appearance, and the prosecutor provides the defense counsel with a complete set of reports, including criminal histories. With this information, the prosecutor and defense counsel can begin negotiations immediately on both pretrial release and final disposition.

Decisions To Divert

Diversion can occur before or after formal charges are filed. To have an impact on jail crowding, diversion programs must draw from persons likely to be detained before trial or, if convicted, sentenced to incarceration.

Multnomah County, Oregon, prosecutors have diversion programs that include first offense DWI charges, drug charges, and diversion for some domestic violence cases.

In Kalamazoo County, Michigan, the Substance Abuse Diversion Program (SADP) was designed to divert nonviolent felony defendants with drug problems into substance abuse treatment and rehabilitation programs. Charges are dismissed for defendants who complete the programs.⁴⁴

The prosecutor in King County, Washington, diverts first-time defendants accused of a variety of nonviolent property and public disorder offenses to a 30-day program. An eligible defendant is sent a hearing summons with an offer to participate in the diversion program. The requirements of the program include payment of \$75 or completion of 15 days of community service.

In Marion County, Indiana, a panel that includes a prosecutor, public defense counsel, and a mental health professional identifies and screens mentally ill persons within 72 hours of their arrest to determine their eligibility for a court-monitored mental health treatment program. The team devises a treatment plan that must be approved by the court. The court holds a bi-monthly hearing in each case diverted to monitor compliance with the treatment plan. Persons in the program who complete treatment requirements and are not arrested for a new offense for a specified period, usually 6 to 12 months, have their criminal charges dismissed.

Expedition of Detention Cases

If a defendant is detained following the charging decision, initial court appearance, or bail review, he or she is subject to the next critical element influencing the jail population—elapsed time prior to trial. The prosecutor plays a large role in the movement of these cases, especially in jurisdictions where the prosecutor is responsible for scheduling cases. Even where the case-scheduling or calendaring function is reserved to the court, the expeditious handling of cases is strongly influenced by prosecutorial management techniques.

As part of its population reduction strategy, Salt Lake County, Utah, established an accelerated calendar for jail cases, setting a time standard for prosecutors of 10 days between charge filing and preliminary hearing and 45 days between hearing and trial.

By placing jail cases on an accelerated calendar, Bexar County, Texas, was able to reduce the time to indictment from between 90 and 120 days to approximately 60 days bringing a sizable drop in average LOC in that system. Disposition of misdemeanor cases has also been shortened from 50 to 80 days, another key element to lowering the Bexar County jail population.

Case Management Practices

The way that a prosecutor's office manages its caseload can have a significant impact on jail crowding. In St. Lucie County, Florida, the prosecutor's office has joined with the defense to create a fast-track court in which seasoned attorneys screen cases to identify those that are expected to result in a plea bargain. When experienced attorneys are assigned to such cases, the time for reaching plea agreements is cut from several months to less than 4 weeks.

Monroe County, New York, also has a special court where the prosecutor and defense counsel can expedite pleas. Participation in this court has increased the percentage of preindictment pleas from 44 to 66 percent and decreased the average time to disposition from 18 months to 6 months.⁴⁵

Prosecutors' Role in the Bail Process

In many jurisdictions prosecutors attend the initial appearance. Even though judges have the ultimate authority to release or detain a defendant at the pretrial stage, they are influenced by the prosecutors' pretrial release recommendations.

Prosecutors' Role in Sentencing

A prosecutor's sentencing recommendation can have a significant impact on jail crowding. The American Bar Association Standards reflect the view that prosecutors should have a limited role in sentencing recommendations, specifying that the prosecutor should not make any recommendations unless requested to do so by the court.⁴⁶ The National District Attorneys Association standards take a broader view, asserting that "the prosecution should make sentence recommendations to the court or jury, whichever imposes sentence, in situations deemed appropriate."⁴⁷

To help alleviate jail crowding, local jurisdictions use a range of alternatives that meet the need for flexibility in sentencing. Numerous jurisdictions authorize prosecutors to use their discretion when recommending defendants for alternative sentencing if the law calls for incarceration.

Connecticut's prosecutors helped develop the Alternative Incarceration Program (AIP). AIP sentences are imposed when the prosecutor indicates that the defendant can expect a sentence of incarceration and agrees with the defense counsel to have an assessment conducted by a probation officer. The judge in the case makes a referral to the probation department, which assesses the defendant's suitability for an AIP sentence. The probation officer develops an AIP plan, specifying the conditions that should be part of the sentence. After the assessment is provided to the court, the judge determines the sentence.

Leadership

As the chief law enforcement officers in their communities, prosecutors can influence the local members of the criminal justice community as much as any other actor. In their role, they can greatly influence the measures that agencies take individually and the measures that the system as a whole takes to alleviate jail crowding. Prosecutor involvement is vital where the local strategy concentrates on cutting case-processing time, but it is no less important when considering alternatives to arrest, pretrial confinement, or sentencing.

By actively supporting the development of alternatives and effective case management measures, the Milwaukee County, Wisconsin, prosecutor has played a major leadership role in efforts to alleviate jail crowding.

In Monroe County, New York, the prosecutor has participated in a multiyear, complex local government and court effort that has postponed building additional jail space. The efforts include developing pretrial and posttrial alternatives, expediting cases, and improving case management processes.

Other Practices

Although not treated separately in this monograph, victim/witness services affect jail use. Most often, these programs are located in the prosecutor's office and offer a wide range of assistance, including notice of case status and court events (e.g., initial appearance, arraignment, indictment, continuance, trial, verdict, and sentencing), preparation of victim impact statements, scheduling of court appearances, transportation to court, and plea negotiation consultation. Victim/witness programs also often refer clients for crisis counseling and other emergency services.

Victim/witness programs are relatively new to the criminal justice system, and their impact on jail populations is difficult to gauge. Insofar as such services emphasize the need to protect victims and witnesses from defendants and convicted offenders considered dangerous, they may cause some courts to favor increased pretrial detention and jail sentences. Judges may compensate by making bail and nonincarceration sentences more accessible to those not charged with or convicted of violent crimes. Moreover, increased victim involvement could result in speedier resolution of cases, reduced pretrial detention time, and, when a program involves some form of victim-offender reconciliation, increased use of alternatives to jailing such as restitution, community service, and treatment.

Pretrial Services

The organizational auspices under which pretrial services are delivered vary across jurisdictions. Pretrial programs are found in court, jail, and probation departments; they can also be provided by independent or private agencies. Regardless of the organizational setting, a defendant's contact with a pretrial services agency may be the first time that a release/detention decision is made. This is particularly true in systems that lack prearrest diversion, citation release, or other release outlets described in the Law Enforcement, Jail Administration, and Prosecution sections of this chapter. Pretrial services programs can help alleviate jail crowding by providing three essential services. First, they provide information about the defendant to help the decisionmaker make an appropriate pretrial release/detention decision. Second, they provide the decisionmaker options for safely releasing the defendant. Third, they have the capacity to monitor and supervise defendants released before trial. In some cases, a pretrial services program also reviews the jail population for candidates who may be released or whose cases may be expedited.

Providing Information

One of the most important contributions of pretrial services programs to the efficient use of jail space is their role in facilitating bail decisions. The most significant aspect of this role is the gathering and verification of relevant information about the defendant. According to a 1990 survey of pretrial services programs, 85 percent of pretrial programs reported conducting interviews with defendants and completing their investigations prior to the defendant's initial appearance before a judicial officer.⁴⁸ Jail population size may be directly related to the hours of operation of pretrial screening services. Jail population levels may be reduced by adjusting staff schedules to ensure that a maximum number of defendants are interviewed on a timely basis. If full and timely coverage is lacking, the number of detainees may swell to unnecessary levels. Some court systems accept large numbers of detainees awaiting initial appearance as a matter of course, particularly on weekends and holidays, but others recognize continuous pretrial screening as necessary for efficient jail and court operations.⁴⁹ For many of these programs, full screening requires extended hours of coverage.

Pretrial program interviewers in New York City, New York, and Dade County, Florida, work around the clock to ensure that all interviews and investigations are completed by the time the defendant appears before a bail-setting court. In Mecklenburg County, North Carolina, the court makes pretrial services and magistrate bail-setting services available 24 hours a day, 7 days a week, as a means of avoiding dangerous overcrowding of jails. Because court rules in Kentucky require that the pretrial investigation be completed within 12 hours of the arrest, pretrial interviewers are on call 24 hours a day and often must travel long distances to rural parts of the state⁵⁰ to complete their interviews and investigations.⁵¹

Video technology was introduced in a rural area of Virginia to enable pretrial services programs to interview defendants located in widely dispersed facilities. The Southside Community Corrections and Pretrial Services of Emporia, Virginia, serves the Sixth Judicial District, that encompasses Brunswick, Greensville, and Sussex Counties. Video equipment was installed in the Brunswick and Sussex County jails, the Southside Regional jail, and the Southside Community Corrections agency in Emporia, where the pretrial interviewers are located. At 6 a.m. each weekday, the pretrial interviewer in Emporia goes “on screen” in the Brunswick County jail 21 miles away. Half an hour later, the interviewer goes on screen at the Sussex County jail 28 miles away. The activity is repeated at 7 a.m. for the Southside Regional facility located next door to the interviewers in Emporia. This schedule allows for interviews to be completed and information verified before the 9 a.m. sessions of the General District Courts in the three counties. The pretrial services agency recommendations are sent by facsimile to the various courtrooms in time for the morning hearings.

A pretrial services program must target the widest possible population in its information gathering. Pretrial programs in many jurisdictions, including Pima County, Arizona, Milwaukee County, Wisconsin, and San Mateo County, California, interview all felony and misdemeanor arrestees. In August 1997, the Governor of Puerto Rico signed an amendment to the existing pretrial release law that requires all criminal defendants to be screened by the Commonwealth’s Pretrial Services Office.

Several pretrial programs started out with a limited target population but expanded the population in response to jail crowding. For example, the Washoe County, Nevada, pretrial program initially served only misdemeanor offenders, but has expanded coverage to felony offenders upon the recommendation of a hired consultant. The Montgomery County, Ohio, pretrial program, which focused on only felony cases when it was established in 1989, expanded to include misdemeanors in 1994.

Risk Assessment Validation

To maximize its effectiveness, a pretrial services program should validate the risk assessment instrument that it uses to make recommendations to bail-setting officers. Several jurisdictions have conducted such validations, including Harris County, Texas, Cook County, Illinois, Hennepin County, Minnesota, New York City, New York, and Maricopa County, Arizona.

Delegated Release Authority

In many jurisdictions, courts have authorized pretrial program staff to release persons charged with some offenses prior to their first court appearance. Pretrial staff in Connecticut’s uniform statewide bail system are authorized to make direct releases in specified cases, including those involving defendants charged with certain felony offenses.

Pretrial programs in Pima County, Arizona, and Shelby County, Tennessee, are authorized under local court rule to release defendants charged with misdemeanor offenses. Pretrial staff work in the jail 24 hours a day interviewing defendants charged with misdemeanors before booking, apply a point scale to determine release eligibility, and release those who are determined eligible without having been admitted into the jail.

In Oregon, a statute allows the presiding judge of each circuit to designate release assistance officers who are authorized to grant pretrial release in all but the most serious cases.⁵² In Multnomah County, Oregon, pretrial program staff designated as release assistance officers interview arrestees as they are brought into the jail at night and make immediate release decisions. All defendants, whether released or not, must report to court the next business day for a judicial review of the release status. At the judicial review, a report on each defendant is presented to the judge.

In King County, Washington, pretrial services staff operating under the jail administrator are empowered by the court to release certain felony defendants prior to initial appearance.

Diversion Screening

The pretrial services agency may also play a role in screening defendants for diversion from prosecution. Such screening may be conducted by the prosecutor's staff. In some jurisdictions the pretrial agency performs initial information gathering and makes its findings available to the prosecutor or other officials responsible for accepting defendants for diversion.

An increasingly important aspect of pretrial services screening is the early identification of persons whose special needs make them appropriate candidates for diversion. Public inebriate and DWI defendants, drug abusers, and the mentally disabled constitute a large and growing segment of many jail populations. For example, DWI arrests and jailings are increasing with the nationwide crackdown on intoxicated drivers. Local systems are beginning to use pretrial agencies to develop appropriate options for defendants fitting this special needs category.

In Monroe County, New York, the local bar association sponsors a pretrial release/diversion program. The Pretrial Services Corporation has a special deferred prosecution component for persons charged with DWI. Staff members screen offenders, determine eligibility, make recommendations to the court and prosecutor, and supervise program clients.

A comprehensive study of drug courts revealed that pretrial program staff conduct the initial screening to determine defendants' eligibility for drug court in more than 20 percent of drug courts. According to the study, 30 percent of drug courts operate exclusively during the pretrial stage. Charges are dropped upon successful completion of program requirements.⁵³

In Fayette County, Kentucky, pretrial services staff contact the references of DWI arrestees and arrange for their immediate release to the custody of responsible third parties.

Special Population Screening

Pretrial services programs can play a major role in alleviating jail crowding by providing information and options to decisionmakers faced with meeting the special needs of certain populations. One special population is the mentally ill. Thousands suffering from mental illness or disability are in the nation's jails, but few jails have personnel with the expertise to identify inmates requiring services or to provide proper treatment. Pretrial services agencies perform an essential function in some jurisdictions by employing specially trained staff to screen defendants or by contracting with individual psychiatrists or clinics to perform evaluations.

A specially trained staff person in Multnomah County, Oregon, screens arrestees who have mental or behavioral disorders prior to initial appearance and identifies extra-system services and non-jail placements for court consideration. Third-party custody agreements are also arranged for certain defendants.

In Milwaukee County, Wisconsin, pretrial staff screen defendants for mental illness during the initial interview and refer them to the Community Support Program. The support program staff put together a supervision package to address these defendants' needs, including housing, medical, and financial services. A caseworker is assigned to oversee delivery of these services.

The Shelby County, Tennessee, pretrial services program implemented a mental health component to help mentally ill defendants get out of jail and into treatment. The federally funded program consists of two mental health counselors who interview newly booked inmates who show signs of mental illness. Using information gathered during this and regular pretrial interviews, the counselors develop a treatment plan that includes continuation of any regimen the defendant may be undergoing. The plan is presented to the prosecutor and public defender, whereupon the three parties present it to the judge. If the judge accepts it, the defendant is released on the conditions delineated in the plan. If the judge declines the release plan, the three parties work to expedite the processing of the case.

Changes in state transfer laws are increasing the numbers of juveniles prosecuted in adult courts. The presence of juveniles raises difficult issues for pretrial programs and pretrial release decisionmakers. Risk assessment instruments and release options that are designed for an adult population may not be appropriate for children, some as young as 13 or 14 years old.

One pretrial program is addressing this problem. With a federal grant, the Pima County, Arizona, pretrial program is designing a new risk assessment instrument specifically for juveniles charged as adults. The grant will also fund a case manager who will specialize in supervising these young defendants.

Changes in law have also considerably increased the number of persons arrested for DWI and for domestic violence. In many jails, inmates with these charges make up a significant portion of the pretrial detainee population. Several pretrial programs have taken steps to identify appropriate release options for these groups.

In Milwaukee County, Wisconsin, the pretrial program established a Pretrial Intoxicated Driver Intervention Project that places repeat drunk drivers in intensive alcohol treatment programs shortly after arrest, rather than after a conviction. The premise of the program is that drunk drivers will recidivate unless they receive immediate intervention. The program has two full-time caseworkers who screen, review, and assess repeat drunk drivers and provide intensive supervision from arrest through adjudication. Evaluations of the program show that it has reduced the probability of recidivism on drunk driving charges by 50 percent.⁵⁴ Such results increase decisionmakers' confidence in releasing repeat drunk driving offenders to such programs while their cases are pending, thereby reducing jail crowding. Given the program's positive results, the Wisconsin Department of Transportation granted funds for an additional 2 years of operation when the program's federal funding ran out after 5 years.

The Coconino County, Arizona, pretrial program contracts with a community center that offers classes for persons charged with domestic violence, support groups for victims, and mediation and followup services. The pretrial program refers defendants to the program and pays the initial assessment and enrollment fees when necessary.

Supervision of Release Conditions

Most state statutes or court rules specify the types of conditions that judicial officers can set. These include requiring the defendant to remain at or away from a certain address, area, or person; report regularly to a court agency; and refrain from using illegal drugs. In many jurisdictions, pretrial programs monitor court-ordered release conditions.

Pretrial staff in Maricopa County, Arizona, place random telephone calls to defendants with curfew conditions to ensure that they are at home during designated hours. They also make random field visits.

Several pretrial programs, including the one in Genesee County, Michigan, place pretrial defendants under electronic monitoring. Supervised by the sheriff's office, defendants may be permitted to leave home during the day

for their jobs but must return by a specified hour and provide pretrial program staff with regular documentation of continued employment. Other defendants might be given permission to leave home for a specific period to look for a job or conduct other business. Most defendants on electronic monitoring are subjected to periodic drug and alcohol tests. Pretrial programs in the District of Columbia, Prince George's County, Maryland, and Milwaukee County, Wisconsin, have in-house facilities to conduct drug testing.

Some jurisdictions have set up supervision programs designed specifically for defendants who would otherwise be detained. In the District of Columbia, for example, the pretrial program has an Intensive Supervision Unit that targets defendants who have been detained after the initial appearance. If released to the program, defendants are placed in the third-party custody of the D.C. Department of Corrections and are transferred to a halfway house for a 2-week orientation and transition period. While in the halfway house, they begin twice-weekly drug testing, which continues throughout the supervision period. They also are assigned to a caseworker who has no more than 20 defendants in his or her caseload.

The Pre-Trial Release Office of the Fifth Judicial District Department of Correctional Service in Polk County, Iowa, established an intensive supervision program that targets high-risk defendants who otherwise cannot obtain pretrial release. Under the program, staff visit the defendant at home up to five times each week and perform drug and alcohol testing. Most defendants also have to abide by a curfew; some are also electronically monitored.

Monitoring the Jail Population

Many defendants who are initially detained at pretrial, usually due to an inability to post the set bail amount, can be safely released as new circumstances arise or additional information surfaces. Several pretrial programs regularly monitor the pretrial detainee population to identify such defendants.

The Pima County, Arizona, pretrial services program discovered the value of such a bond review effort when it began its Fastrack Program in 1991. Under the program, pretrial staff interview felony defendants who were not released at their initial appearance. They collect additional information that might help a defendant secure release and identify appropriate release alternatives. Pretrial program staff then have the authority to schedule bond review hearings. The program has been credited with reducing the felony pretrial detainee population by 20 percent.⁵⁵

Other pretrial programs identify for defense lawyers detained defendants who may be ready to enter a plea. For example, a defendant charged with a misdemeanor who has already spent more time in jail during pretrial

than he or she would likely receive as a sentence upon conviction may be eager to plead guilty, receive a sentence of time served, and be released.

The Monroe County, Florida, pretrial program prepares a list each week of which defendants are in jail on a misdemeanor charge, how long they have been there, and when they are due back in court. The list is presented to the prosecutor and public defender at the beginning of the week to aid in plea negotiations. At the end of the week, the pretrial program receives a list from the public defender of all cases that have successfully negotiated a plea. The pretrial program schedules those cases for a Friday afternoon plea hearing. Through regular review of the jail population, pretrial programs can also help prevent defendants from getting “lost in the system.” As part of their duties to monitor jail population, pretrial programs regularly compare court and jail records to ensure that no discrepancies have led or could lead to the unnecessary detention of defendants.

Wisconsin Correctional Service (WCS), a private, nonprofit supervisory release agency in Milwaukee County, Wisconsin, interviews all defendants remaining in jail more than 72 hours following initial appearance to gather information from detainees with specific problems, such as drug and alcohol use and mental disorders. WCS verifies the information, devises an appropriate release/treatment program, and recommends placement to the court. The agency also supervises pretrial releasees who have mental disorders, and it is licensed to dispense prescribed medication.

Other jurisdictions that rely on followup review for jail population control are Philadelphia, Pennsylvania, through the Pretrial Services Division’s Conditional Release Section; Salt Lake County, Utah; and the state of Kentucky. The Kentucky Pretrial Services Agency, as part of the state’s Administrative Office of the Courts, assists local courts in conducting statutorily required bail review within 24 hours of a defendant’s initial bail setting. In the interim, additional information may be gathered on specific problems, probation and parole officials may be contacted about defendants under their supervision, the defendant’s family may be contacted, and extra-system referral agencies may be queried about their willingness to provide supervision.

Other Practices

Investigations of failure to appear. Defendants who fail to appear (FTA) in court disrupt the schedules of other parties in the case, such as the judge, prosecutor, defense attorney, and witnesses and can also have an impact on the jail population. When an FTA occurs, the judge issues a warrant for the arrest of the defendant. Once the warrant is executed, the defendant is typically booked into jail. Pretrial programs in several jurisdictions have sought to ease the impact of FTAs on both the court and the jail by establishing FTA units.

The District of Columbia pretrial program has had an FTA unit since the early 1980s. Unit staff seek to prevent bench warrants from being issued by notifying the court in advance of the court date that the defendant will not be present. Staff attempt to verify the reasons for the defendant's absence and report that information to the court. They also seek to resolve warrants issued by immediately contacting defendants who missed court dates and having them surrender voluntarily to the program. Several other programs, including those in New York City, New York, Philadelphia, Pennsylvania, and Maricopa County, Arizona, have established FTA units.

Presentence investigation. In most jurisdictions, presentence reports are prepared by the probation department to aid judges in sentencing. Pretrial services programs, such as those in Washington, D.C., and Cobb County, Georgia, often participate in the investigation process by providing background information collected and verified in the pretrial phase. Information on the offender's compliance with pretrial release conditions may be valuable to the court in considering non-jail sentences.

Jail and Case Flow Information

Pretrial services agencies also communicate useful information relating to pretrial case flow and the jail population to the court and others in city or county government. Local criminal justice advisory groups or jail crowding task forces may rely on the pretrial agency to provide such data on a periodic basis. Several pretrial agencies, including Kentucky's statewide program and Utah's Salt Lake County program provide regular jail census or system flow statistics.

Staff of the San Mateo Bar Association, which operates the pretrial services program in San Mateo County, California, maintain criminal justice statistics, including daily jail population analyses, that are provided to judges. The analyses consist of information about jail inmates and their length of stay, charges, and reasons for continued detention. The information is used to identify alternative program needs and areas of case processing that warrant improvement.

Judiciary

No other actors have more control over the ebb and flow of jail populations than judges. Judges are involved, directly and indirectly, in all aspects of criminal case processing. This discussion concentrates on judges on the courts of general jurisdiction that process felony trials and judges on the courts of limited jurisdiction that handle felony case preliminary proceedings and misdemeanor cases. Judges on each type of court affect jail admissions and LOC. This section highlights actions that judges can take in individual cases and those involving case-management policies in concert with other judges. In addition, judges in leadership positions

working with others in the criminal justice system can accomplish much to alleviate jail crowding. The court administrator, who is not dealt with separately in this monograph, can also affect jail numbers by generating case-processing data, managing the court calendar, and performing other duties for judges.

Case Initiation

Judges can reduce the number of jail bookings by issuing summonses in lieu of arrest warrants. In many jurisdictions, judges carefully screen warrant requests to determine if a summons can be issued in lieu of an arrest warrant. Courts in Volusia County, Florida, and San Mateo, California, for example, have made the judicial warrant review part of their overall strategy to alleviate jail crowding. In another effort to alleviate jail crowding at the case initiation stage, judges have ordered jail administrators to implement booking policies requiring them to refrain from incarcerating certain defendants.

Prompt Bail Setting

According to national jail inmate statistics, most pretrial inmates are those who cannot post a money bond.⁵⁶ The court creates procedures and rules that determine when, where, and how release decisions are made and establishes bail schedules that allow defendants to post a money bond prior to appearing before a judicial officer.

The court can adjust the frequency of initial appearance hearings, including holding them during evenings and weekends. In many jurisdictions, such as Mecklenburg County, North Carolina, Spartanburg County, South Carolina, and all the counties in Virginia, magistrates are on duty 24 hours a day to set bail before booking takes place at a jail. In Milwaukee County, Wisconsin, the circuit court holds Sunday sessions in addition to its Saturday and weekday intake court. In Maricopa County, Arizona, bail hearings occur four times a day.

Delegated Release Authority

Many jurisdictions delegate release authority to nonjudicial staff, such as pretrial services or jail officials, as another pretrial release decision method.

In Pima County, Arizona, Volusia County, Florida, Shelby County, Tennessee, and the state of Oregon,⁵⁷ the court has delegated the authority to release defendants charged with misdemeanors to the pretrial services program. In Shelby County, delegating release authority has decreased the average LOC for misdemeanor defendants from 24 to 10 hours.⁵⁸

The King County, Washington, district court established a three-tiered release policy to be applied by pretrial services personnel. The policy

specifies the types of charges for which the pretrial staff may (1) effect release without court consultation, (2) carry out release with court consultation by phoning a duty judge, or (3) submit recommendations to the court for the most serious felony cases. This release policy has led to significant reductions in court time, jail admissions, and LOC.

Bond Review Hearings

Judges can reduce the average LOC of defendants who at first are unable to post bail by scheduling bond review hearings several days after the defendants enter jail. The Volusia County, Florida, court regularly holds “jail arraignments,” hearings for defendants who have been incarcerated 3 to 5 days after their initial appearance and who might qualify for case disposition, bond reduction, or pretrial release consideration.

Case Management

Courts can greatly reduce the time to disposition by instituting delay reduction measures. Courts can set up special mechanisms, referred to in many jurisdictions as a “rocket docket,” to help defense counsel and prosecutors reach agreements in noncomplex cases. Effective calendaring (e.g., strict use of continuances, specific scheduling of trial dates) of cases from initial appearance through adjudication and sentencing also has crucial implications for the jail population.

Many courts can take plea agreements for the least serious cases at the initial appearance. This occurs in Multnomah County, Oregon, where both the defense and prosecution attend the hearing. The public defender can act as temporary counsel to all defendants and discuss an immediate plea with defendants charged with nonviolent offenses. This process speeds up case processing and decreases the length of time defendants are detained pretrial.

Courts can set up special mechanisms to expedite the processing of certain categories of cases. The court in St. Lucie County, Florida, has set up experimental fast-track courts to accept pleas. The state attorney’s and the public defender’s offices assign seasoned attorneys to screen the cases at intake and identify those likely to result in a plea, cutting the time for reaching plea agreements by two-thirds.

The Washoe County, Nevada, court implemented an Early Case Resolution program that has reduced the time of felony cases that are bound over from the lower court to the trial court from 30 to 15 days, and it began early negotiations on cases, reducing the average daily jail population by 32 inmates. Washoe County’s judiciary, public defense counsels, and district attorneys jointly implemented this program. Under the program, an assistant district attorney meets with an assistant public defender the day a defendant is arraigned to discuss resolution of the case. As a result, cases are usually resolved in 4 days, instead of 2 weeks. The defendant is

released on the day that the defendant, defense attorney, and district attorney agree on how the case will be resolved—through diversion, drug treatment, or another alternative.

In 1996, Marion County, Indiana, established an expedited court for minor felony and misdemeanor cases. The court was modeled on a similar court created a year earlier to process felony cases. The explicit goal of the court was to reduce the number of days that pretrial defendants spend in jail before trial to no more than 90 days. Before the program, defendants unable to post bail could remain in the jail for a period longer than the jail sentence they would receive upon conviction. The first defendants who appeared in the new court were all inmates of the county jail who, after pleading guilty, were sentenced to serve jail time that was equal to or less than the time they had served pretrial.

The trial calendar of Fairfax County, Virginia, is the state's busiest, with 22,000 cases filed annually. It is referred to as the rocket docket because it is one of the fastest courts in the state. The court disposed of 96.5 percent of all criminal cases in 1996 within 120 days, resulting in defendants spending less time in jail pretrial.

The concept of a rocket docket was applied specifically to the processing of domestic violence cases in Oakland County, Michigan. Arraignments occur within 5 days, instead of the 40 days that it took prior to the program, and cases are now tried in 13 days, instead of 113. Since the program began in 1996, it has experienced high conviction rates and a 38-percent decline in repeat offenses. According to the program's supporters, its success can be attributed to the judges who are trained to work on domestic violence cases.

In response to the slow criminal case processing that has resulted from the three-strikes-and-you're-out law, codified under Section 667 of the California Penal Code, Los Angeles County implemented two delay-reduction programs that combine many of the above-mentioned features. In 1996, the Early Disposition Program operating in some of the county's municipal courts was expanded to all 24 municipal courts. The program works as follows. First, senior district attorneys and public defense counsels agree which cases are suitable for early resolution. Then, pretrial services personnel check records before the disposition hearing, and within 48 hours of the initial municipal court appearance. More than 200 cases each month are resolved through the Early Disposition Program in the Central Division alone. The county's second initiative is the Delay Reduction Program implemented in 1996. This program involves a concerted effort by superior and municipal court judges to process cases in an expeditious manner. Under the program, defense attorneys must assure the court at the outset that the case can proceed to trial within 60 days of the superior court arraignment. The program limits the number of continuances, requires that all

pretrial motions be made in writing, and insists that disclosure of discovery material be made available at least 30 days before trial. The program's goals are based on the American Bar Association standards that call for 90 percent of criminal cases to be disposed within 120 days. Within a few months of the program's startup the number of cases older than 120 days was more than halved, from 1,300 to 600.

In 1997, prompted by chronic delays and backlogs, the presiding judge of the Westborough, Massachusetts, district court devised a new process for jury trials. Under the new system, called trial by appointment, any defendant who wants a jury trial is assigned a court date within 2 months of arrest. On the day of the trial, the judge expects all parties to be ready. No delays or excessive continuances are tolerated, and no plea negotiations are accepted once the jury is brought to the courthouse. The results of the new procedure have been dramatic. In the first 3 months, 32 cases had been tried, compared with 4 per month previously. Proponents of the new procedure note that faster case processing of defendants charged with drunk driving or drug-related offenses means quicker access to needed treatment.

In 1997, Broward County, Florida, received assistance when the state legislature created a new specialty division called Strike Force. Retired judges from across the state preside over this court. Cases that have been postponed are pulled from the dockets of sitting judges and reassigned to a Strike Force judge. Unencumbered by probation violation cases, arraignments, and other matters that take up much of the time of sitting judges, Strike Force judges can hear assigned cases immediately. Any case that involves few witnesses and can be tried in 1 or 2 days is eligible for assignment to the court. Capital and life felony cases are excluded. In the first 4 months of Strike Force's operation, more than 300 cases were disposed.

To bring the county jail into compliance with a court-ordered population cap, Jefferson County, Alabama, officials implemented a rocket docket procedure. Several agencies outside the jurisdiction assisted, including 15 state assistant attorney generals and 5 district attorneys from Montgomery County. In the first of 2 special sessions, Jefferson County criminal, civil, and family court judges disposed of more than 600 cases in pretrial hearings. As a result of the procedure, the jail population was brought to well within the jail's legal capacity, from 1,442 to 1,000 inmates.

Adjudication of Special Populations

Adding to its list of specialty courts, including a drug court and a domestic violence court, Broward County, Florida, in 1997, established a part-time mental health division within the county court's criminal division. It hears cases involving mentally ill or mentally retarded persons charged with nonviolent misdemeanor offenses. The chief circuit court judge established

the court by issuing an administrative order, noting that the increasing number of mentally ill persons has contributed to congestion of the court docket and an overcrowded jail. The county's chief assistant public defender participated in the creation of the mental health court. Persons determined to have possible mental disability, by either the police or nurses available at booking, are assigned to the court. The court's first order of business is to determine the most appropriate treatment placement for the individual, which may involve civil commitment to a state psychiatric hospital or pretrial release with the condition that the individual participate in community mental health treatment. Persons who participate in this court waive the right to a speedy trial, and the court monitors each defendant's progress in treatment.

Cook County, Illinois, also established a mental health court. The court operates in the sixth municipal district, which encompasses 16 municipalities, 1 of which is the poorest in the nation. The court integrates all phases of treatment of mentally ill persons who are involved in the criminal justice system. Mentally ill and/or substance-abusing defendants detained pretrial are released on bond with the condition that they undergo assessment for mental illness and substance abuse and follow the assessors' recommendations for treatment. Both the assessment and the subsequent treatment are available at the court-based mental health center. In addition to the courtroom, the center has a children's room for mothers attending treatment programs. Mediators trained in substance abuse and co-occurring mental health disorders are also available.

Sentencing

Although up to this point in the monograph the actor-by-actor discussion has centered on practices employed prior to adjudication, postadjudication practices warrant the same scrutiny. One key factor in sentencing that greatly affects jail population is the amount of time that passes between adjudication and sentencing. Another important factor is the availability and use of non-jail options when sentencing offenders.

The probation department usually prepares a presentence investigation report on offenders being sentenced for more serious offenses to provide judges with detailed background information about the offender. A number of jurisdictions have found ways to decrease the PSI report preparation time, resulting in significant jail-bed savings.

The King County, Washington, district court established an accelerated sentencing action that decreased the average time used to prepare the PSI report by 15 days, which resulted in a decrease in the average daily jail population of approximately 70 to 75 inmates per day. Washoe County, Nevada, reduced its average daily jail population significantly by decreasing the average time to produce a PSI report from 30 to 20 days. Maricopa County, Arizona, decreased the time between adjudication and sentencing

from 28 to 21 days by consolidating the defendant/offender report formats in a way that requires all agencies to use the same information and formats, thereby reducing redundant data collection and report writing.

Judges should have non-jail sentencing options to choose from.⁵⁹ Several special programs and non-jail sentencing options are in use throughout the country including community service, fines, probation (summary and formal), intensive probation, treatment for substance or alcohol abuse, diversion or treatment programs for the mentally ill, domestic violence treatment programs, electronic monitoring, home incarceration, halfway houses, and boot camps.

In Jefferson County, Kentucky, criminal justice officials can refer adjudicated defendants with chronic mental illness to the Community Treatment Alternatives Program (CTAP). The Seven Counties Mental Health Center in Louisville, Kentucky, operates CTAP, whose goal is to provide community-based mental health services as an alternative to incarceration. CTAP caseworkers review jail inmates daily to identify chronic offenders who have severe mental illness. Those determined eligible for CTAP are released only after a plan has been developed by the court, corrections, and community health service providers. The plan must meet the mental health needs of the detainee and specify conditions of release and compliance requirements. CTAP detainees must sign a contract that commits them to the program for a 2-year period and, in case of revocation, to a jail term. If a violation of the contract occurs, a judge determines whether to sentence the individual to jail, renew the 2-year contract to the program, or impose some variation of treatment and jail time.

Courts that have shown success in ensuring proper use of non-jail sentences (avoiding the tendency to use such sanctions simply as add-ons to other forms of community supervision) have employed one or a combination of three basic approaches.

- ❑ **Enhancing advocacy in individual cases at sentencing.** This may include modifying the probation agency's presentence investigation to explore more fully the possibility of non-jail sentences and providing support for probation or public defender services in preparing community sentencing plans. The court or the offender can contract with a private agency to develop individualized proposals for court consideration. One such agency, the National Center on Institutions and Alternatives (NCIA), based in Alexandria, Virginia, contracts to provide client-specific planning (CSP) services. For persons who appear likely to be incarcerated, NCIA develops proposals that detail specific plans for supervision, treatment, and restitution.
- ❑ **Designating target populations and developing strict eligibility criteria for non-jail sanctions.** A jurisdiction may set guidelines for the use of non-jail programs based on a study of sentencing patterns or may

limit placements to only those defendants with prior records, because first-time offenders often do not receive jail sentences. The Community Service Sentencing Project operated by the Vera Institute in New York City, New York, accepts only those defendants who have received jail terms of 1 to 6 months and have prior convictions.

- **Selecting offenders for non-jail sanctions.** Jurisdictions usually select offenders by providing the judge with the option of referring jail-bound cases to a review board that may recommend modification or suspension of the original sentence and placement in a residential or nonresidential program. Virginia's Community Diversion Incentive (CDI) Program uses such a review process for misdemeanants sentenced to local jails and felony offenders sentenced to state prison. Local 15-member CDI boards may also oversee pre- and post-adjudication community programs, as those in Frederick County, Virginia. Non-jail sentences may include probation supervision, a suspended sentence, a fine, the payment of court costs, community service, restitution, specialized treatment, community residential (halfway house) placement, or some combination of the above. Given the wide variety of available dispositions, courts have a great deal of latitude when applying sanctions in individual cases; community resources can often be enlisted by the court to create sentencing options that meet the needs of the victim, the community, and the offender. The Salt Lake County, Utah, court cites community service and restitution programs as a primary ingredient in keeping the jail population down. Although in some communities these sanctions serve as only get-tough alternatives to fines or probation supervision for certain offenders—especially drunk driving offenders—court officials in Salt Lake report a significant reduction in the number of persons serving jail time since the programs became operative. Salt Lake officials also report that their county has reaped large economic benefits as a result of the programs.

DWI Treatment

Few forms of criminal behavior have gained such prominent visibility in recent years as drunk driving. State and local governments throughout the nation have increased efforts to redress this crime. Local jurisdictions have responded in a variety of ways. Although many local justice systems have sought to jail more DWI arrestees and convicted offenders, others have acted to divert such persons from jail. Some states have enacted laws to incarcerate habitual DWI offenders.

Salt Lake County, Utah, courts use specialized detoxification and treatment programs as an alternative to jailing DWI offenders. Though state laws mandate custody, local courts in Utah generally consider public and private treatment services more appropriate than jailing. Jail administrators and judges also believe these programs will help limit jail population increases.⁶⁰

In Quincy, Massachusetts, first- and second-time DWI offenders may be placed on probation as an alternative to jail and ordered to a certified drunk driving treatment program. In this 26-week program, offenders are required to attend weekly group counseling sessions and Alcoholics Anonymous meetings. Offenders are required to remain abstinent, and many may be required to undergo random drug testing. The program is reported to be an effective jail crowding countermeasure while yielding high rehabilitative success rates.

Jail-Bed Allocation

When a new jail in Kent County, Michigan, began to fill up immediately, concerns were raised that the new facility would soon be overcrowded. A Jail Bed Allocation Committee, consisting of judges, prosecutors, defenders, and jail administrators, was formed to try to keep the jail from becoming crowded. The committee recommended, and all judges on the circuit and district courts agreed, that each judge be allotted a certain number of beds for sentenced and pretrial inmates. Judges can trade vacant beds with other judges. However, if a court exceeds its bed allocation, the chief judge notifies the court and allows 4 weeks for the court to address the overuse. After 4 weeks, the circuit court notifies the sheriff not to accept inmates from that court until the overuse has been corrected. Muskegon County, Michigan, has adopted the same policy. Since implementing the plan, the Kent County jail has not exceeded its court-ordered capacity.

Systemwide Leadership

The courts' pivotal position in the criminal justice system places judges, particularly presiding or administrative judges, in a leadership position to formulate and implement a systemwide approach to alleviating or preventing jail crowding. Research has found that judicial leadership is needed to achieve effective efforts to alleviate jail crowding. Judges affect jail population through their decisions in individual cases, their authority to set court rules for processing cases, and their leadership position in the criminal justice system. As leaders, judges can call together their brethren and other actors to examine the entire criminal justice system and its impact on jail population.⁶¹

Defense

Overlooked defender policies and practices are crucial to alleviating jail population pressures. System procedures critical to determining population levels include indigent screening and appointment, application of pre-trial release options, use of bail review, consideration of dismissal, plea bargaining, adjudication, and sentencing and sentence mitigation. All may be affected by defense practices. Defender services must strive to provide early and intensive intervention in case processing so that cases can be

completed rapidly and defendants who should be released pretrial are released quickly.⁶² Alleviating jail crowding is not the defense counsel's primary focal point, but as the defendant's representative, it is certainly a priority.

Early Participation by Defenders

Like early intervention by prosecutors, early indigent screening, defender appointment, and defendant contact can yield substantial jail-space savings. When defense attorneys are available at the initial bail-setting hearing, they can argue for the pretrial release of the defendant.

In many jurisdictions, including Montgomery County, Maryland, every defendant is assigned a defense counsel at the initial appearance, even if only for that hearing. In King County, Washington, the Administrative Office of the Public Defender requires defense contractor organizations to have an attorney on duty 24 hours a day to receive phone referrals. The attorneys consult on the phone unless it is a very serious case, in which event the defender goes to the jail.

The initial appearance also provides an excellent opportunity for defenders to begin discussions with the prosecutor about possible plea agreements. In some jurisdictions, such as Palm Beach County, Florida, and Montgomery County, Maryland, the prosecution and defense begin screening the simplest cases at the initial appearance. Because all parties are present, a plea agreement is often reached at that time.

Case Review

Commitment of high-quality system resources at the early stages of the court process is an essential ingredient in combating jail crowding. Early defense intervention in case screening may also foster improved cooperation between defender and prosecutor. All fast-track and rocket docket calendars depend on the cooperation between prosecutors and defense counsel in the first stage and cooperation with the court at later stages.

Early screening of cases by a seasoned attorney can lead to earlier case resolutions. Screening cases at the start can decrease case-processing time and the time some defendants spend in jail.

A good example of the impact of a thorough early analysis by the defense is in St. Lucie County, Florida, where the public defender's office is part of a fast-track process designed to reduce the time needed to reach a plea agreement. Two courts are dedicated to handling pleas, with a public defender and prosecutor assigned to each. These intake specialists are experienced attorneys capable of identifying cases appropriate for a plea. This process has cut the average time taken for plea agreements from months to weeks.

The Monroe County, New York, public defenders initiate an early conference with the prosecutor and judge to review cases for possible negotiation. The public defender's office reports that this process has increased the percentage of preindictment pleas from 44 percent to 66 percent and decreased the average case-processing time from 18 to 6 months.

In Baltimore, Maryland, public defenders work with prosecutors in the central booking facility 7 days a week screening cases of misdemeanor inmates who are not released within 3 days of arrest. Qualified cases are scheduled for plea or other disposition within 12 days or continue in the regular process. This effort has been credited with reducing the average length of pretrial incarceration by 7 days.

Defender Caseloads

In many jurisdictions, the heavy caseloads of public defenders or appointed defense attorneys, whose focal point is necessarily individual clients, preclude them from investing much time in devising general plans to decrease the jail population. Large caseloads and a lack of resources (e.g., investigators, case managers) have an impact on individual cases, as defense counsel are forced to push for pleas rather than trials. Large caseloads may also cause defense counsel to overlook clients who will spend only a few days in jail before securing release. In general, lighter caseloads and sufficient staff to investigate cases and prepare recommendations for bail and sentencing hearings promote better handling of individual cases and overall caseload management. When more attention is paid to individual cases, with fewer requests for continuances, more effective bail and sentencing recommendations are developed and less time is spent in jail.

Many jurisdictions have taken steps to keep defender caseloads manageable. The public defender's office in King County, Washington, an administrative office that contracts with three private nonprofit organizations to provide defender services, has established workload formulas for handling different kinds of cases. When a service providers reaches a specified limit, new cases are assigned to another provider or additional resources are provided to the contractor.

Defender offices have found that they can reduce the impact of high caseloads by making use of nonattorney resources. The Philadelphia, Pennsylvania, public defender's office has a social work unit that handles indigent determination and screening for social service needs. Also, unit staff assist the attorney and the client at the pretrial and sentencing stages of the case.

Finding Alternatives

Use of social service workers or paraprofessionals to complement the work of the attorney staff can also diminish jail population pressures. Two similar longstanding special defender services programs claim considerable success in securing non-jail dispositions for offenders most likely to be jailed. In Portland, Oregon, trial assistants are assigned to work with defense attorneys on all felony cases to expedite bail review, arrange placements in treatment programs, and prepare defense presentence investigations. In New York City, New York, the Legal Aid Society, an organization contracted to provide indigent defense services, has created a special unit to work with the legal staff as felony cases proceed to disposition. Like the Portland program, the unit assists in preparing bail reports, makes referrals to various community resources (e.g., psychiatric treatment or vocational training), and helps an attorney prepare presentence memoranda recommending specific non-jail dispositions.

The availability of alternatives, treatment options, and other resources is a powerful tool in decreasing jail populations. The Multnomah County, Oregon, public defender keeps and continually updates a database of services for both pretrial defendants and adjudicated defendants awaiting sentencing.

In Monroe County, New York, two staff members from the county's Alternative to Incarceration program are permanently assigned to defenders. They provide defense advocacy services for defendants in jail on bond and those about to be sentenced. Staff also locate alternative programs for clients and monitor their progress.

The Commonwealth of Virginia Public Defender's Commission employs sentencing advocates in most of its offices throughout the state. The advocates provide assistance by developing diversion plans or locating sentencing alternative programs for defendants. Sentencing advocates also work with defendants and their families to address and recommend treatment options or sentencing alternatives to the court.

Alternative Advocacy

The private defense bar's interest in improving bail practices has led to the establishment of pretrial services agencies in a number of communities. Bar associations have sponsored the creation of pretrial offices in San Mateo County, California, and Monroe County, New York, and ongoing bar involvement has served as a primary catalyst in dealing with jail crowding in both jurisdictions.

Public defender offices also support special alternative sentencing projects. The Community Partners in Action Center on Alternatives works with public defender offices in Hartford and New Haven, Connecticut, to develop

structured, individualized sentencing recommendations for clients likely to receive jail terms. This program is based on the client specific planning model pioneered by the National Center on Institutions and Alternatives.

Case Management

Finally, defender's case-processing systems may influence the size of the jail population. Vertical processing—assigning a case to the same attorney or team throughout the court process—may reduce court delay and save jail space. Reassignment of cases as they pass a certain stage—horizontal processing—often results in considerable case “dead time” while a new attorney becomes familiar with the case and defendant.

Other Practices

Defenders' discovery and case conflict resolution practices may influence the jail population size. In Volusia County, Florida, and other jurisdictions, the public defender submits a discovery motion at the beginning of each year to cover cases throughout the year. Since defenders do not have to file this motion in every case during the year, this cuts down on unnecessary bureaucratic delays and allows information to be passed quickly between prosecutor and defense counsel.

In Alachua County, Florida, the pretrial services officer gives the assistant state attorney two copies of the police officer's affidavit, the defendant's criminal history, and the pretrial report. To comply with discovery obligations, the assistant state attorney gives the second copy of the information to the assistant public defender at the initial appearance hearing.

In El Paso County, Colorado, the defense can request discovery prior to a pretrial negotiations conference. State law mandates that defense counsel receive discovery in less than 20 days.

A certain percentage of cases appointed to a defender's office are returned due to a conflict of interest. For example, the client may be a codefendant of one of the attorney's other clients or a victim or witness in another case. The sooner conflicts are identified, the shorter the court delay will be. In each conflict, the appointment process is repeated and new attorneys must be assigned who must familiarize themselves with the case. In King County, Washington, the Administrative Office of the Public Defender checks several different sources for conflicts before assigning a case and estimates that potential conflicts exist in approximately 10 percent of cases.

Probation and Parole

The range of non-jail alternatives can be effectively expanded in any jurisdiction if support and resources are mobilized for successful implementation. In most communities, the probation agency is charged with the

mobilization task, as well as with conducting the presentence investigation, arranging for services, and supervising probationers. Probation/parole agencies, particularly those funded directly by units of local government, are vital to the enhancement of non-jail sanctions. A number of survey sites appear to rely on these agencies to work to expand the range of both pretrial and sentencing options in the community. Moreover, local and state probation departments administer approximately 25 percent of all local pretrial services programs in the nation. Community resources for pretrial conditional release placements can do much to reverse escalating jail populations.

Probation and parole agencies can play a major role in alleviating jail crowding by providing non-jail alternatives for sentencing, enhancing case-processing efficiency by streamlining the time needed to complete PSI reports, and expediting revocation decisions.

Alternatives to Incarceration

Providing supervised probation, as an alternative to incarceration, results in significant savings in jail-bed space. According to a Bureau of Justice Statistics report, by the end of 1996, state and local probation agencies had supervised more than 3 million adults, about 1 in every 62 persons age 18 or older.⁶³ Since 1990, the nation's probation population has steadily increased at an average of 3 percent per year. By 1996, probationers accounted for 58 percent of adults under correctional supervision, including persons held in jails and prisons and those on parole.⁶⁴

In response to increased jail populations, probation agencies are working with other criminal justice agencies to develop alternative programs. Many counties opt for increasing the number of community-based alternatives, instead of the rate of incarceration, because the former is a more cost-effective means of alleviating jail crowding while maintaining public safety.

In California, the Los Angeles County, probation department joined the sheriff's department in developing the Los Angeles County Community Based Alternatives to Custody program. Sentenced offenders are screened by probation staff who interview an inmate, obtain and chart a full criminal record, and assess the inmate's risk level and program placement options, which include electronic monitoring, work release, and work furlough. Inmates with felony or misdemeanor convictions who qualify for program placement are released early from jail.⁶⁵ Although detained at home, inmates retain in-custody status until successful completion of their jail term. Program failures are returned to custody and are no longer eligible for CBAC participation. Currently, more than 2,000 inmates are electronically monitored through CBAC.

A 1995 BJS national survey of adults on probation showed that 70 percent of the probationers reported past drug use and 47 percent reported they

were under the influence of drugs or alcohol at the time of their offense.⁶⁶ The large number of probationers with drug and alcohol abuse problems has led many states to implement alternative programs that specifically address the treatment needs of alcohol offenders while reducing the jail population.

Boulder County, Colorado, probation officials, having identified repeat DWI offenders as a rapidly increasing percentage of the average daily jail population, participated in development of the Multiple Offender DWI Program, an intensive supervision and treatment program that diverts these offenders from jail. Repeat DWI offenders are sentenced to serve a minimum of 6 months in the county jail. Once offenders enter the jail, the Probation Alcohol Unit immediately assesses them. Offenders who do not possess any exclusionary factors⁶⁷ are then referred to the Correctional Alternatives Committee for approval. Once approved, offenders are transferred into the Work Release Program by jail administrative order. After successful completion of 180 days in the program, offenders are released from the jail and placed on probation for 180 days with a day-reporting requirement. This program affords sentenced offenders the opportunity to serve a split sentence, instead of serving their entire sentence in jail. The program administrator reports that an estimated 3,000 jail-bed days are saved each year through this program. The offender partially offsets the cost of the program to the probation department and jail by paying a weekly fee of \$15.

Some states have implemented statewide efforts to alleviate crowding in county jails.

In 1990, the Connecticut General Assembly passed a law establishing the Office of Alternative Sanctions (OAS) with the state's judicial branch to create and expand a statewide continuum of programs to augment the alternatives to incarceration available for judges to impose on pretrial and convicted offenders.⁶⁸ In the Alternative to Incarceration Program, prosecutors indicate that a defendant or offender can expect a sentence of incarceration and arrange with defense counsel to have an assessment conducted by a probation officer. The judge in the case makes a referral to the Office of the Adult Probation to have the defendant investigated for suitability for an AIP sentence. The probation officer develops an AIP plan, specifying conditions that should be part of the sentence. Once an offender is ordered by the court to participate in the program, he or she is supervised by the probation officer. Many participants in AIP report to a day incarceration center (DIC), remain under intensive supervision, participate in drug treatment, and perform community service as conditions of their release.⁶⁹ DICs are designed as community-based alternatives to jail or prison for defendants with more serious offenses. Participants report to the centers during the day and are electronically monitored at night. They are under supervision 24 hours per day, 7 days a week. Offenders who participate in AIP have been convicted of serious crimes such as drug-related or

violent offenses but have short criminal histories. AIP saves Connecticut approximately 700 jail beds each year.⁷⁰

Many probation departments have been playing a vital role in restorative justice programs. In 1995, Vermont implemented the Reparative Probation Program, which requires an offender to come face-to-face with the community at a meeting where an agreement is negotiated that specifies ways the offender will make reparation to victims and the community. The program's goal is to impose a punishment that responds to the criminal act without unduly burdening the courts, jails, and other criminal justice actors. It is an alternative to traditional probation because it focuses on issues related to the crime and on repairing injuries to victims and the community. Under this program, an offender is required to stipulate that he or she will have no further involvement with criminal activity and must agree to any other conditions specified. The offender appears before a reparative board consisting of five citizens from the offender's community. The board members and the offender discuss the details and impact of the offender's behavior. The result is an agreement between the board and the offender stipulating specific activities for the offender to complete. The agreement incorporates four specific objectives: (1) to repair the damage done to the victims of crime, (2) to make amends to the community, (3) to learn about the impact of crime on the victims and the community, and (4) to learn ways to avoid reoffending. The offender is not on traditional supervision, and agreement and compliance with the terms are the offender's responsibility. Once the board imposes sanctions, the offender has 90 days to fulfill the agreement and complete the program. Upon completion, the board may recommend discharge from probation.⁷¹

Expedited Processing of Probation/Parole Violators and Expedited PSIs

In 1995, presentence investigations were completed in 64 percent of felony cases and 19 percent of misdemeanor cases nationwide.⁷² Among those for whom a PSI was prepared, 80 percent received a probation recommendation.⁷³ Many counties are making changes within their probation departments to expedite case processing and PSI preparation and implementing new alternatives-to-incarceration programs to reduce the number of probation/parole violators in jail.

In September 1995, Monroe County, New York, initiated the Jail Utilization System Team (Project JUST) to allow for continuous study of the county's use of jail resources and provide a full range of controls—through expedited case processing and alternatives to incarceration for nonviolent offenders and sentenced inmates—to manage these resources. The project is administered by the county's Public Safety Sector Total Quality Management Team, which includes the county's probation department, sheriff, public defender, district attorney, police, and other criminal justice

agencies.⁷⁴ Two examples of Project JUST initiatives that include efforts by the probation department have had favorable results. Under expedited case processing of in-custody inmates, the court, district attorney, public defender, and probation department helped initiate speedier case processing for parole violators with new charges. The initiative helped decrease case-processing time for both inmates charged with felonies (from 198 days in 1994 to 139 days in 1996) and inmates charged with misdemeanors (from 87 days in 1994 to 72 days in 1996).⁷⁵ Another case-processing change initiated by Project JUST involved speeding up presentence investigation reports for in-custody cases. According to a report on the change, probation services reduced the preparation time for PSI from 4 weeks in 1994 to 2 weeks in 1996, saving 4,319 jail-bed days or 12 jail beds per day in 1996.

King County, Washington, established an accelerated sentencing action that reduced the average time to prepare a PSI report and decreased its average daily jail population by approximately 75 inmates per day. In Brevard County, Florida, the jail population oversight committee identified PSI delay as a serious problem through its study of the jail population in late 1983. The group worked with the state probation/parole agency's local office to streamline the PSI procedure, thereby reducing the number of days for submission of PSI reports in jail cases from 90 to 30–35 days.

Many counties have taken postsentencing actions to reduce the parole violation population in the jail. The Maricopa County, Arizona, court has expedited the adjudication of probation/parole violation hearings, reducing the average time by 43 percent (from 29 days to 16.5 days). The reduction has resulted in a decrease in the average daily population of inmates. The court and probation officers redesigned the process to have all violation hearings occur at the defendant's arraignment.

To reduce both jail crowding and jail costs, a Gwinnett County, Georgia, superior court judge holds probation revocation hearings at the jail once a month. At his first court session in the jail in 1997, the judge handled 25 probation violation cases in less than 2 hours. It would have taken a full day to hear this number of cases in court. Many of the prisoners were released because their violations were deemed minor.

Other Practices

In addition to instituting timely revocation procedures, probation/parole agencies can affect jail population levels through policies governing the use of automatic detention or revocation in cases of rearrest or failure to pay a fine and through their authority to issue arrest warrants. Direct issuance of arrest warrants, without court or prosecutorial screening, may result in inappropriate demands on scarce jail space and other system resources.

Bail Bondsmen

Even though commercial bail-bonding agents are businesspeople who technically operate outside the criminal justice system, their practices and the regulations and policies that influence their decisions have a considerable effect on jail population sizes. When surety bail is ordered as a condition of release, an arrestee must find a bondsman willing to write the bond. The defendant, in turn, pays the bondsman a nonrefundable premium, usually 10 percent of the bail set, and the bondsman assumes responsibility for the defendant's appearance in court. Should the defendant fail to appear, the bondsman must either locate and return the defendant to court or forfeit the entire bail amount. Consequently, many bondsmen require collateral or a cosigner in case of default.

The bondsman, not the court, makes the release decision in cases where surety bail is set, writing bonds for some defendants and rejecting others. Their decisions are based not only on whether a defendant is a good risk but also on the defendant's ability to pay the premium or post sufficient collateral to cover the bond.

Surety bail is a pretrial release option available in most jurisdictions. Only four states have replaced surety bail with defendant-option deposit bail, and one of those states has specifically outlawed bail bonding for profit.⁷⁶ In the remaining jurisdictions, bondsmen's decisions and the impact of these decisions on jail populations vary according to the conditions affecting the profitability of their business. Conditions include the following:

- ❑ State laws and administrative regulations.
- ❑ Local court practices regarding use of surety bail as a release option, collection of forfeited bonds, time to case disposition, and general support for bail-bonding activities.
- ❑ Market share and the structure of the local bail bond industry (i.e., the extent of insurance company involvement as underwriters for local bail bond firms).
- ❑ Other factors, such as bondsman preferences and types of defendants.

The regulatory environment and length of case processing may affect bondsmen's operations. For instance, bail bondsmen thrive in jurisdictions where bail forfeiture regulations or practices are lax. The opposite is true in jurisdictions with effective case processing, beginning with early release of pretrial defendants, which limits the number of candidates eligible for release on surety bail.

In addition to their case-by-case decisions, bail bondsmen may also affect the size of jail populations through organized efforts to alter court policies. In some instances, bondsmen have expressed opposition to strict court regulations. A decision among local bondsmen to decrease bondwriting

activity may cause an immediate and drastic increase in detention populations, bringing pressure on the court and other regulatory agencies to alter policies viewed as unfavorable to the industry.

Such tactics may be highly effective in jurisdictions that rely heavily on surety bonds as a release mechanism. They also demonstrate that bail bondsmen play an important and often underrated role in influencing pre-trial case handling and the size of jail populations.

Extra-system Services

The experiences of many jurisdictions reflect the critical and often central role of extra-system actors in implementing specific programs. Several jurisdictions surveyed for this publication reported benefiting from extra-system participation in systemwide use of jail space planning. Officials in a number of sites have involved a wide range of extra-system actors, including the following providers:

- ❑ Persons skilled in treating and counseling juveniles, drunk drivers, chronic public inebriates, the mentally disabled, and drug addicts.
- ❑ Professionals and volunteers in shelter, dispute settlement, crisis intervention, and emergency relief programs.
- ❑ Vocational education specialists.
- ❑ Employers able to provide jobs and community service slots.
- ❑ Church groups and social service providers willing to supervise pretrial or sentenced defendants.

Extra-system agencies, those operating outside the traditional criminal justice system, are essential to alleviating jail crowding. From the initial decision of a victim to press charges or a witness to cooperate with the police investigation to the possible revocation of non-jail sentences, extra-system service providers affect numerous decisions that determine jail admissions and length of confinement. Lack of such resources at any point in the case-handling process may force a jail into the role of “social service provider of last resort.” Extra-system services may also provide crucial resources in the event of court-mandated population reduction measures. Finally, various human service providers and concerned citizens often lend the breadth and objectivity of analysis essential to the success of systemwide jail-use planning efforts.

External Factors

The local criminal justice system consists of agencies and offices that have their own rules, practices, and procedures. The decisions of local agency administrators and staff are defined, however, not only by their internal

environment but by laws and policies set by higher levels of government in consideration of a wider, external environment. Because legislation, executive rules, and standards set local policy parameters and court orders are issued at the state or federal level, those involved in developing new jail-use policies must study these external areas most closely. Moreover, knowledge of state legislative, executive, and judicial structures is essential. Factors such as local demographics are important in planning for criminal justice and social service system needs. The availability of local, state, and federal resources also influences incarceration policies. Public opinion and media coverage of criminal justice issues play a large role in local policy and may even affect decisions in individual cases. The activities of various community organizations (such as the bar associations, chambers of commerce, Mothers Against Drunk Drivers, American Civil Liberties Union) affect local criminal justice policy. Political campaigns and referenda may bring about substantial shifts in practices, and highly publicized criminal acts can cause changes in confinement practices.

State laws, court rulings, and executive orders must be carefully reviewed to determine their effects on the following policy areas:

- System diversion.
- Bail policy.
- Defense counsel.
- Sentencing practices.
- Community corrections.
- Jail operations.
- Emergency procedures.
- State corrections.

In the area of **system diversion**, a jurisdiction must be aware of legislative/executive/judicial prescriptions pertaining to the treatment of chronic inebriates, drug addicts, the mentally disabled, juveniles, and others for whom alternatives to arrest or jailing may be mandated or encouraged. State policy may prescribe dispute resolution in lieu of immediate arrest and charging for certain offenses. The use of shelters may be encouraged as an alternative to jailing for homeless persons. Conversely, incarceration may be mandated for such individuals. State funds may be available for developing system diversion services.

In the area of **bail policy**, planners must be familiar with the presumptions in favor of or against pretrial release established by a state court rule, statute, or constitution. They must also have knowledge of legislatively authorized release options, such as citation release, personal recognizance, and deposit bail mechanisms. State law or court rules may call for pretrial preventive detention based on predictions of future criminal activity or

prohibit such practices. State law may also mandate victim or witness participation in the bail-setting process.

When considering **defense counsel**, jail-use planners must be aware of how the jurisdiction appoints attorneys for indigent defendants and whether a public defender agency is authorized in the jurisdiction. Specific procedures or standards may be established to ensure timely delivery of defense services, and systems of remuneration may be prescribed for defense attorneys who serve indigent clients.

In terms of **sentencing practices**, local review must include factors such as state regulations on the use of probation and parole (including authority to create local probation and/or parole programs) and sentencing guidelines for all offenses. State laws may mandate jail for certain offenses, such as the use of firearms in the commission of a felony, DWI, and habitual offenders.

Planners should review **community corrections legislation** that provides state compensation for local custody or supervision of offenders who might otherwise be sentenced to the state prison system and imposes penalties for state prison commitments when local custody or supervision is presumed appropriate. Legislation or executive guidelines may govern work-study release programs for persons serving local sentences. The state court or legislature may allow victims and witnesses to testify or otherwise participate in the court process or sentencing of offenders.

In the crucial area of **jail operations**, it is important to know whether discretionary powers are expressed or implicit with regard to jail admissions or extension of the limits of custody. Jail standards, particularly those relating to capacity, should be studied, and the jurisdiction must be familiar with the function of any state jail commissions or task forces. Jurisdictions should also investigate the availability of state or federal funds for jail operations (including per diem payments for holding state or federal prisoners locally) or capital expenditures and the existence of statewide jail data collection systems.

Legislation may authorize or mandate the use of **emergency procedures** to reduce the size of jail populations. Executive powers in such circumstances may also be spelled out. Laws or standards may require expeditious transfer of prisoners sentenced to state custody, with specific rules on elapsed time. Special procedures, incentives, or disincentives may exist relating to cooperative ventures among counties in the use of jail space or the establishment of regional or multicounty jail facilities. Officials of these types of facilities must examine any strictures concerning local authority to contract with private firms to build or operate jails or to obtain private financing for a new jail.

Finally, if a jail's conditions are under court challenge, the court may become involved in jail operations, perhaps ordering population reduction or

establishing new jail capacity limits. Court intervention may also impinge on practices outside the jail (such as bail setting or sentencing) depending on the extent of crowding and the long-term implications of the court order.

The **state corrections** system may also have a direct impact on jail population size through its handling of state-committed persons. The Bureau of Justice Statistics cited 18 states holding state prisoners in local jails at the end of 1998. Six of these states—Alabama, California, Louisiana, Mississippi, New Jersey, and South Carolina—each reported holding more than 250 state prisoners in local jails. Even though prison officials in these and other states may be hard-pressed to assist particular local systems beset with crowding programs, many find ways to respond. Even with significant prisoner “backlog,” state corrections personnel may be able to cooperate with selected jurisdictions to expedite the processing of paperwork necessary to accomplish custody transfers.

Some external elements—namely, state legislative, executive, and judicial standards—may affect jail population size and influence city and county jail-use planning. Local criminal justice administrators must be aware of the entire spectrum of external forces, including public opinion and the media, to develop appropriate jail-use policies and minimize future needs for jail capacity. They must also guard against external constraints. Many jurisdictions that have been successful in implementing new programs and procedures have encountered substantial opposition from external influences. Nevertheless, they have taken advantage of public attention and media interest to generate support for safe, money-saving innovations.

The external environment can cause jurisdictions to adopt a tunnel-vision approach, but a number of communities exemplify the value of dealing with the jail space question as a systemic problem, requiring comprehensive planning based on sound information. Chapter 5 discusses specific local information needs and several methods of collecting that information.

Systemwide Planning To Alleviate and Prevent Jail Crowding

As jurisdictions gather information to identify appropriate target groups for population reduction measures, the types of changes that emerge can be categorized as either “process” or “program” changes. Each category has its own benefits and drawbacks. The process/program distinction is raised in this chapter simply as a convenient way to discuss concerns associated with approaches to systemic change. In practice, the two categories are not mutually exclusive. For example, the creation of a new program, a “programmatic measure,” may also necessitate modifications in case-handling or defendant-processing procedures.

Process Changes

As solutions to jail crowding, process changes tend to be case-oriented as opposed to person-oriented, with their goal being to improve the efficiency of the case-processing system. Certain benefits accrue when process changes are implemented to reduce crowding. More efficient case processing can result in the following:

- ❑ An overall positive impact on case flow.
- ❑ Reduced need for more costly programs.
- ❑ Reduced length of confinement in jail for pretrial defendants and convicted offenders.⁷⁷

Consideration of process changes may also stimulate discussion of each actor’s case-processing procedures, thus improving other system actors’ understanding of current procedures. However, jurisdictions must exercise caution when considering process changes. First, process changes, though generating increased efficiency, may also lead to short-term increases in jail population, as jail-bound offenders are more expeditiously convicted and sentenced. Second, attempts to speed the processing of cases could require increased staffing in some agencies, with a commensurate increase in system-operating costs.

Finally, changes in court processes may be unexpectedly difficult to implement. In a national examination of the causes of court delay in criminal and civil courts, the National Center for State Courts identified the “local legal culture” (i.e., the informal norms established by judges and lawyers in governing the timeliness of case disposition) as a key variable in attempts to improve court efficiency. The report stated, “[T]he impact of the

local legal culture on the pace of litigation presents a serious challenge to those who would attempt to accelerate that pace. [Any] such effort will face considerable resistance that must be taken into account."⁷⁸

Program Changes

Programmatic changes tend to be more person oriented than process solutions. The intent of programmatic changes is to identify a particular population of jail inmates who could benefit from the intervention of particular programs. The success or failure of such programs is measured by the number of persons within the target population who are diverted or released from jail without disrupting the court system or endangering the public.

As with process solutions, certain benefits can be expected from programmatic changes.

- ❑ Because program solutions are aimed at particular target populations, rather than all defendants, they can have a direct impact on categories of persons who, without the program's intervention, would have been detained. Target populations might include persons with histories of drug or alcohol abuse, mental illness, or those awaiting trial on certain felony charges. In each instance, a program is implemented or expanded to address the needs of the target population either before admission to the jail or shortly thereafter, thus measurably affecting both confinement time and number of admissions.
- ❑ Programs aimed at a specific social problem, such as drug addiction or alcoholism, may remedy certain conditions (e.g., chronic drunkenness) while contributing to criminal justice system involvement and reducing recidivism.
- ❑ Unlike process changes, program changes may require little modification of the surrounding case-processing system.
- ❑ Program innovations can be evaluated more easily than process changes to determine their effectiveness in ensuring community safety and their impact on jail populations.

At the same time, program changes share certain disadvantages with process solutions:

- ❑ Every program implemented to decrease jail crowding has the potential to increase jail populations. That is, if ineffectively monitored, programs may include participants who otherwise would not have been detained.
- ❑ Program solutions usually require a "startup" period, when there may be little, if any, effect on the crowded jail. Depending on the complexity of the program design, this period might be lengthy.

- ❑ Additional costs may be incurred by the jurisdiction in creating, remodeling, or expanding a program.
- ❑ Strong system resistance may be encountered, because program staff will be attempting to convince key system actors to divert or release persons who in the past have been incarcerated.
- ❑ New programs, particularly while in development and before substantial public and political support has been established, are highly susceptible to individual client failures. The rearrest of a pretrial releasee or a new charge against a probationer, particularly when violence is involved, can easily cause the elimination of a recently established program, no matter how much impact the program might have had on the overall jail population.

Key Actor Participation

The approaches outlined in chapter 4 emphasize programs and practices of particular system actors (e.g., prosecutorial screening practices and their impact on jail population levels). It would be erroneous to assume that appropriate solutions to jail crowding problems might be derived from an examination of the isolated practices of one or two system actors. Jail crowding is the result of interaction among criminal justice system officials whose actions determine the rate of jail admissions and periods of confinement. No single system actor or agency can be blamed for crowded conditions because the practices of one actor or agency are virtually always affected by the actions of a number of others. Therefore, effective strategies to combat the problem of crowded jails necessitate an examination of the interaction of all involved actors and systems.

Earlier examinations of jail crowding have stressed the need to develop collective planning mechanisms. The 1983 recommendation of the Jail Overcrowding Project, funded by the Law Enforcement Assistance Administration, that emphasized the need to form jail population management boards made up of a broad range of local agencies, still holds true today.⁷⁹ Such participation was a precondition for counties to receive technical assistance or program funding. The final report recommended that the following system actors and agencies collaborate in studying the causes of jail crowding and in formulating and implementing recommendations:

- ❑ Sheriff.
- ❑ County department of corrections.
- ❑ Jail superintendent.
- ❑ Prosecutor.
- ❑ Court of general jurisdiction.
- ❑ Court of limited jurisdiction.

- Court administrator/clerk.
- Pretrial services agency.
- State or county adult probation.
- State parole office.
- Public defender.
- Municipal police departments.
- County commission.
- Office of the county executive.
- Director of data processing service.
- Other offices, depending on local circumstances. These may include county counsel, Federal Government agencies, or juvenile justice agencies.

The formation of such a broad-based group is, of course, no guarantee of success. To avoid the pitfalls of indecision and stagnation, participants must be prepared to share in the work of the group, develop a sound plan, and carry it out on schedule. The accomplishments of such boards in jurisdictions throughout the country suggest there is much to recommend about this approach.

A chief benefit of the collective involvement of all key system actors is an increased awareness of the impact of various actions on other system agencies and their procedures. In addition, the recommendations of a broadly constituted planning group are more likely to gain systemwide support and be successfully implemented than those offered by single system actors or a small, closed group. Further, a measure of political pragmatism accompanies "committee" recommendations and may allow some participants to support more imaginative policy options. As one local court official said during BJA's survey, "If the criminal justice committee decides that it's a good idea to change [a particular office procedure], I've got protection that's nonexistent if I decide to make the same change on my own. That committee allows me to be a bit more willing to take a chance on change."

Jurisdictions across the nation continue to rely on collaborative efforts under whatever name they go by: jail population task force, coordinating council, quality management team, criminal justice planning commission, or criminal justice coalition. Many such entities have addressed recent jail crowding situations. The Hillsborough County, Florida, Public Coordinating Council on Alternatives to Incarceration was set up in 1996 to explore several options to jail crowding when the state dropped its decade-long jail lawsuit against the county.

When the jail population reached crisis levels in late 1997, the Santa Clara, California, Jail Overcrowding Working Group, a task force made up of court and corrections officials, added to its agenda identifying ways to bring the population down to manageable levels. Under consideration were several options, from expanding non-jail alternatives such as electronic monitoring and a day-reporting center to instituting a Felony Advance Resolution Calendar to expedite certain cases.

The preferred approach of the Stark County, Ohio, Corrections Planning Board has been strategic planning and not crisis management. The board was convened in October 1997 to participate in a 2-day seminar attended by key members of the county's criminal justice system and outside groups to discuss ways of improving the criminal justice system. Changes subsequently implemented by the board have included streamlined pretrial proceedings, a day-reporting program, an integrated automated management information system, and direct indictment in select cases that have shaved off a month in case-processing time.

The Missoula County, Montana, jail task force was directly responsible for establishing a pretrial services agency. The program is intended to ease jail crowding by identifying inmates who can be safely released under certain conditions.

In 1998, the Genesee County, Michigan, Judicial Council formed a 15-member committee, known as the Jail Work Group, consisting of judges, pretrial services administrators, police, and other county officials, to develop a jail management plan that would alleviate crowding. The plan was aimed at avoiding the need to implement emergency measures in response to inmate populations exceeding jail capacity, as had occurred on numerous occasions. The group developed a plan that involved expediting trials, creating weekly jail population updates, and reinstating the Felony Plea Project, in which a district court judge took guilty pleas and handled sentencing in some felony cases. (Felony cases are generally bound over to the superior court.)

In a grassroots effort, 12 agencies in Dona Ana County, New Mexico, met to discuss how to deal with mentally ill persons who become involved in the criminal justice system. The meeting of representatives from the county jail, juvenile detention facility, other justice agencies, and mental health professionals from the local hospital and university led to more meetings with a state legislative committee. The committee was instrumental in changing state regulations that permit jurisdictions to contract with the local hospital to provide alternatives to pretrial detention for the mentally ill and to address the long waiting list for the state hospital.

In anticipation of the opening of a new jail, the Metropolitan Criminal Justice Coordinating Council of Bernalillo County, New Mexico, met to consider several alternative measures. The Council, composed of key criminal

justice actors, examined both changes in case processing and new programs. The measures included Sunday and afternoon arraignments, alternatives to jail for mentally ill defendants, citations in lieu of arrests, case consolidation, and streamlined procedures for sentencing orders.

Strategy Implementation Checklist

The following list is a guide for jurisdictions addressing jail crowding. The 10 steps require varying amounts of time and resources. Data gathering, for example, could require several days or several months to complete. Some steps may take place concurrently, or new jail crowding solutions may be developed and implemented after implementation of strategies. In either event, adequate evaluation of each approach to the crowding problem is crucial.

- Involve the key actors.** Make certain that all officials identified as having some impact on the jail population level are committed to finding and implementing solutions to the problem.
- Develop the necessary jail and system data.** Although the basic data needed for a jurisdiction to undertake a sound planning effort are provided in chapter 3, unique local conditions require that a jurisdiction design its own data-collection mechanism. Such mechanisms will ensure that the jurisdiction obtains the data required to answer site-specific questions.
- Examine data for indications of possible process changes and potential target populations for program changes.** Begin discussions with key actors on the benefits and drawbacks for the jurisdiction.
- Identify programs and processes to be implemented.**
- Develop methods to evaluate the impact of particular changes on the size of the jail population.** This step should take place before actual implementation.
- Implement new programs and processes.**
- Evaluate the impact of the programs and processes on the jail population.**
- Identify unanticipated effects that the programs and processes have on other criminal justice procedures.**
- Modify programs and processes based on the findings of the evaluation process.**
- Inform the public of system changes when initiated and of successful strategies as they are confirmed.**

Final Caveats

Many programs that have become integral parts of local criminal justice systems, such as those involving release on recognizance, diversion, and community service, were initially designed to reduce jail populations. In many instances, jurisdictions assumed that program implementation would solve the problem of crowding and that specific programs would serve as panaceas to deflate population pressures. Local research and experience, however, have revealed the complexity of the jail crowding problem and the futility of expecting one program or process to eliminate the phenomenon of rising jail populations and crowded cells. Long-term success requires time, patience, and the attention of the entire criminal justice community.

Research for this monograph has revealed situations in which the causes of crowding were readily evident and could be immediately remedied. Hence, if the cause of crowding is evident, an immediate remedy should be sought. Nothing in this document is meant to suggest that jurisdictions should not quickly undertake an obvious response to any clear-cut cause of crowding. If a particular procedure or program emerges as an obvious remedy with a predictable impact, lengthy data gathering and analysis may be eliminated. The steps outlined in this chapter for developing workable strategies are based on the assumption that the most obvious solutions have been tried and did not effectively or adequately achieve their intended result.

Case-Processing Questionnaire

Law Enforcement (Multiple Agencies)

1. How many adult arrests were made last year in your jurisdiction?
 - Total number of arrests _____
 - Felony arrests _____
 - Misdemeanor arrests _____
 - Traffic/local ordinance arrests _____
 - Other arrests _____
2. How many citations (“notices to appear”) did arresting agencies issue last year, *excluding* traffic offenses? _____

Jail Administration

1. How many jail admissions were there last year?
 - Total number of admissions _____
 - Felonies _____
 - Misdemeanors _____
 - Detainers without additional charges _____
 - Other _____
2. Does the jail administrator have release authority for pretrial defendants?
 - Yes No
3. If yes, how many defendants were released under this authority? _____

Prosecution

1. In the past year, how many referrals did the office of the prosecutor receive?
 - Total number of defendant referrals _____
 - Persons with felony charges _____
 - Persons with misdemeanor charges _____
 - Persons with ordinance violations _____

2. What percentage of defendants referred to the prosecutor were charged with an offense?

Defendants *arrested* for a felony and *charged* with a felony _____%

Defendants *arrested* for a felony and *charged* with a lesser felony _____%

Defendants *arrested* for a felony and *charged* with a misdemeanor _____%

Defendants *arrested* for a misdemeanor and *charged* with a felony _____%

Defendants *arrested* for a felony and *released* without any charges filed _____%

Defendants *arrested* for a misdemeanor and *released* without any charges _____%

3. On average, how much time transpired between a person’s arrest and notification to the court of the prosecutor’s formal charging decision described in Question 2 above?

less than 8 hours

8–24 hours

24–48 hours

2–5 days

5–10 days

10–14 days

More than 14 days

If so, specify number of days ____

Pretrial Services

1. In the past year, did an agency or office in your jurisdiction conduct pretrial release screening?

Yes No

2. If yes, did the pretrial services agency interview arrestees prior to their first court appearance?

Yes No

3. During the past year for which data were available, how many arrestees were screened for pretrial release?

Total number of arrestees referred to the agency _____

Number of arrestees interviewed _____

Number recommended for nonfinancial release _____

4. Does the pretrial services agency have the authority to release arrestees prior to their first court appearance? (Check all that may apply.)
 - Yes, it can release some arrestees on its own authority.
 - No
 - It can recommend release to law enforcement or court-appointed officials with the power to release arrestees before their initial court appearance.
 - It can contact a judge for approval prior to releasing arrestees.
5. What percentage of arrestees referred to the pretrial services agency were released prior to their first court appearance? _____%

Judiciary

1. For the past year, what was the average time between arrest and initial court appearance?
 - Less than 8 hours
 - 8–24 hours
 - 24–48 hours
 - More than 48 hours
2. When do initial appearance courts operate? (Check all that apply.)
 - Regular business hours
 - Nighttime
 - Saturday
 - Sunday
3. How many judges (or bail commissioners) set bail at any one time? _____
4. What was the average time (in months and/or days) between arrest and adjudication (not including sentencing)?

	Months	Days
Detained felony defendants	_____	_____
Detained misdemeanor defendants	_____	_____
Released felony defendants	_____	_____
Released misdemeanor defendants	_____	_____

5. What was the average length of time (in months and/or days) between adjudication and sentencing when presentence investigations were ordered?

	Months	Days
Felony offenders	_____	_____
Misdemeanor offenders	_____	_____

6. How were cases disposed?

Pleas	_____%
Jury trials	_____%
Non-jury trials	_____%
Dismissals/Nolle Contendre	_____%
Other	_____%

Defense

1. In the past year, what percentage of defendants were represented by counsel at their initial court appearance?

- 0–10%
- 10–25%
- 25–50%
- 50–75%
- 75–100%

2. On average, for those cases/persons to whom the court assigned defense counsel, how much time elapsed between arrest and counsel’s first meeting with the arrestee?

- Less than 8 hours
- 8–24 hours
- More than 24 hours

If so, specify actual amount of time ____

Probation

1. How many requests for presentence investigation (PSI) reports were made last year?

Total number of PSI requests	_____
Felonies	_____
Misdemeanors	_____

2. What was the average length of time (in months and/or days) from the time of PSI request to delivery of the PSI report to the court?

	Months	Days
Felonies	_____	_____
Misdemeanors	_____	_____

3. How many probation detainers were filed last year? _____

4. How many of the filed probation detainers resulted in revocation? _____

5. What was the average length of time (in months and/or days) between the filing of a probation detainer and a revocation decision?

	Months	Days
	_____	_____

Parole

1. How many parole detainers were filed last year? _____

2. How many of the filed parole detainers resulted in revocation? _____

3. What was the average length of time (in months and/or days) between the filing of a parole detainer and a revocation decision?

	Months	Days
	_____	_____

4. Were any inmates who were eligible for parole serving sentences prior to the expiration of their sentence?

Yes No

If yes,

How many hearings were conducted last year? _____

How many resulted in an inmate being released? _____

Sample Detention Form

Date:

Name/ ID#	Gender	Age	County Status	Most Serious Charge	Charge Level	Detention Status	Arresting Agency	Probation Hold (Y/N)	Parole Hold (Y/N)	Other Detainer (Y/N)	Bail Amt.
John Doe	Male	32	In-county	Agg. Assault	Felony	Sentenced	Akron PD	Y	N	N	
Jane Doe	Female	21	Out-county	Prostitution	Misdem.	Pretrial	Stow PD	N	N	N	\$100

*Some jails prefer to use numeric codes. For sample codes, see legend below.

- | | | | | | | | | | | | |
|---------------|--------------------|------------|--|----------------------|--------------------------------|---------------------|--|-------------------------|--|--------------------|--|
| Gender | 1=Male
2=Female | Age | 1=<18 years
2=18-29
3=30-39
4=40+ | County Status | 1=In-county
2=Out-of-county | Charge Level | 1=Felony
2=Misdemeanor
3=Violation | Detention Status | 1=Pretrial
2=Sentenced (local)
3=State Sentenced
4=Probation Hold Only
5=Parole Hold Only
6=Other | Bail Amount | 1=\$1-\$500
2=\$501-\$1,500
3=\$1,501-\$5,000
4=\$5,001-\$10,000
5=\$10,001+ |
|---------------|--------------------|------------|--|----------------------|--------------------------------|---------------------|--|-------------------------|--|--------------------|--|

Sample Jail Release Form

Name/ ID#	Gender	Age	County Status	Most Serious Charge	Charge Level	Length of Confinement	Release Method	Bail Amount
John Doe	Male	32	In-county	Agg. Assault	Felony	25 days	Sent.-Time	—
Jane Doe	Female	21	Out-of-county	Prostitution	Misdem.	1 day	Cash Bail	\$100

*Some jails prefer to use numeric codes. For sample codes, see legend below.

Gender	Age	County Status	Charge Level	LOC (days)	Release Method	Bail Amount
1=Male	1=<18 years	1=In-county	1=Felony	1=1-2	1=Dismissed	1=\$1-\$500
2=Female	2=18-29	2=Out-of-county	2=Misdemeanor	2=3-5	2=Release on Recognizance	2=\$501-\$1,500
	3=30-39		3=Violation	3=6-10	3=Percent Deposit Bail	3=\$1,501-\$5,000
	4=40+			4=11-20	4=Third-Party Custody	4=\$5,001-\$10,000
				5=21-30	5=Cash Bail or Bond	5=\$10,001+
				6=31-60	6=Acquitted	
				7=61-90	7=Sentenced to Time Served	
				8=91-150	8=Jail Sentence Completed	
				9=151-365	9=Non-Jail Alternative	
				10=366+	10=Sentenced to State Prison	
					11=Released From Detainer	
					12=Released to Other Activity	
					13=Other Release	

Contacts

Law Enforcement

Prearrest Practices

Citation Release

Sheriff Joe Bowdich
Bernalillo County, New Mexico
505-768-4100

David Nicholson
Jefferson County Crime Commission
Jefferson County, Kentucky
502-574-5088

Programs for Public Inebriates

Volunteers of America
San Diego County, California
619-232-9343

Gene Uno
King County Treatment Center
King County, Washington
206-587-0761

Programs for Mentally Ill Offenders

Fairfax County, Virginia
Mobil Crisis Unit
703-246-2253

Lt. Sam Cochran
Memphis, Tennessee Crisis Intervention Team
901-576-5735

Sgt. Lou Eagle
Police Department Crisis Intervention Team
Seattle, Washington
206-684-8183

Lt. Brenda Herbert
Crisis Intervention Team
San Diego, California
408-277-4631

Marla Kinkade
Psychiatric Emergency Response Team
619-692-4836

Fred Sandoval
Crisis Mobile Team
Santa Fe, New Mexico
505-984-6672

Postarrest Practices

Citation Release

Dennis Hunter
Pretrial Services
Salt Lake County, Utah
801-799-8400

Programs for Mentally Ill Offenders:

Jean Pettit
Psychiatric Emergency Coordinating Committee
Bernalillo County, New Mexico
505-761-8847

Jail Administration

Instituting Admission and Booking Procedures

Booking Fees

James Harmes
Jail Administration
King County, Washington
206-296-3404

Sheriff Joe Richards
Coconino County, Arizona
520-774-4523

No or Limited Admissions Policy

Terry Moore
Jail Administration
Volusia County, Florida
904-254-1552

Tom Giacinti
Jail Administration
Jefferson County, Colorado
303-271-4841

Eileen Hurst
Public Information Officer
San Francisco County, California
415-554-7225

Rhonda Lindenbaum
Mental Health Authority
Washington County, Maryland
301-739-2490

Tony O'Leary
Mentally Ill Offender Project
South Sound Advocates
Mason County, Thurston County,
and Olympia City, Washington
360-754-7676

Improving Release Procedures: Pretrial and Sentenced Populations

Steve Garza
Jail Population Manager
Saginaw County, Michigan
517-790-5408

Sheriff Ken Jenne
Broward County, Florida
954-831-8300

G. Larry Mays
Jail Administration
Bernalillo County, New Mexico
505-464-3955

Captain Robert Beenus
County Jail
Salt Lake County, Utah
801-743-5500

Gathering Needed Data

Tom Boyle
Colorado Criminal Justice Board
Boulder County, Colorado
303-441-4797

Jennine Kenny
Sheriff's Department
Milwaukee County, Wisconsin
414-278-5015

Commander Ted Nelson
Intake and Assessment Unit
Marion County, Oregon
503-581-1183

Roman Duranczyk
O.R. Program
San Mateo County, California
650-363-4181

Monitoring/Expediting Detention Cases

Beth Michaels
Community Corrections
Jackson County, Missouri
517-768-5812

Providing Access to Inmates

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

Claudia Brown
Boulder County Community Corrections
Boulder County, Colorado
303-441-4585

Sgt. Diane Houle
Pretrial Services
Pinellas County, Florida
727-464-6410

Barbara Menear
Pretrial Services
Genesee County, Michigan
810-257-3486

Roman Duranczyk
O.R. Program
San Mateo County, California
650-363-4181

Tom Short
Pretrial Services
Maricopa County, Arizona
602-506-1026

John DuPree
Assistant Court Administrator
Volusia County, Florida
904-239-7780

Creating Alternative Programs

Hal Niece
Drug and Alcohol Evaluation Unit
Boulder County, Colorado
303-441-3690

John Robinson
Jail Administration
Cook County, Illinois
312-443-6435

Jake Katz
Los Angeles County Sheriff's Department
Los Angeles County, California
805-257-8842

Prosecution

Intake and Screening Practices

Early Screening

Jeanne Smith
District Attorney
El Paso County, Colorado
719-520-6169

E. Michael McCann
District Attorney
Milwaukee County, Wisconsin
414-278-4646

Michael Shrunk
District Attorney
Multnomah County, Oregon
436-643-1999

Experienced Screening Staff

James Gregart
Criminal Justice Task Force
Kalamazoo County, Michigan
616-383-8900

Prosecutor and Defense Counsel at Initial Appearance

Michael Shrunk
District Attorney
Multnomah County, Oregon
436-643-1999

Rod Smith,
State's Attorney
Alachua County, Florida
352-374-3670

Gus Sandstrom
District Attorney's Office
Pueblo County, Colorado
719-583-6030

Decisions to Divert

Michael Shrunk
District Attorney
Multnomah County, Oregon
436-643-1999

James Gregart
Criminal Justice Task Force
Kalamazoo County, Michigan
616-383-8900

Michael Planet
Court Administration
King County, Washington
206-296-9305

Judge Steven Eichholtz
Superior Court
Marion County, Indiana
317-327-4479

Expedition of Detention Cases

Richard Shepherd
District Attorney's Office
Salt Lake County, Utah
801-366-7900

Susan Reed
District Attorney
Bexar County, Texas
210-335-2311

Case Management Practices

Joy Whitney
Public Defender's Office
St. Lucie County, Florida
407-462-2048

Honorable Patricia Marks
County Court
Monroe County, New York
716-428-5276

Leadership

E. Michael McCann
District Attorney
Milwaukee County, Wisconsin
414-278-4646

Howard Relin
District Attorney
Monroe County, New York
716-428-2334

Pretrial Services

Providing Information

Jerome McElroy
Criminal Justice Agency
New York, New York
212-577-0500

Victoria Cox
Pretrial Services
Dade County, Florida
305-874-1035

Janie Beaver
Court Services Department
Mecklenburg County, North Carolina
704-336-2027

Lance Forsythe
Southside Community Corrections Services
Emporia, Virginia
804-348-1035

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

Marilyn Walczak
Pretrial Services
Milwaukee County, Wisconsin
414-223-1307

Roman Duranczyk
O.R. Program
San Mateo County, California
650-363-4181

Carl Hinxman
Court Services
Washoe County, Nevada
775-325-6614

Thomas Muhleman
Pretrial Services
Montgomery County, Ohio
937-225-3473

Risk Assessment Validation

Carol Oeller
Pretrial Services
Harris County, Texas
713-755-5440

Thomas Quinn
Pretrial Services
Cook County, Illinois
312-627-8829

Dennis Avery
Community Corrections
Hennepin County, Minnesota
612-348-2110

Jerome McElroy
Criminal Justice Agency
New York, New York
212-577-0500

Marcus Reinkensmayer
Superior Court
Maricopa County, Arizona
602-506-3190

Delegated Release Authority

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

William Powell
Pretrial Services
Shelby County, Tennessee
901-545-2529

Steve LaMarche
Pretrial Services
Multnomah County, Oregon
503-248-3893

James Harmes
Department of Adult Detention
King County, Washington
206-296-3404

Diversions Screening

Susan Brannen
Pretrial Services
Monroe County, New York
716-454-7350

Melinda Wheeler
Pretrial Services
Fayette County, Kentucky
502-573-1419

Special Population Screening

Steve LaMarche
Pretrial Services
Multnomah County, Oregon
503-248-3893

Marilyn Walczak
Milwaukee County, Wisconsin
414-223-1307

William Powell
Pretrial Services
Shelby County, Tennessee
901-545-2529

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

Robert Tomten
Pretrial Services
Coconino County, Arizona
520-773-8706

Supervision of Release Conditions

Margaret Callaway
Pretrial Services
Maricopa County, Arizona
602-506-8503

Barbara Menear
Pretrial Services
Genesee County, Michigan
810-257-3486

Susan Shaffer
Pretrial Services
Washington, D.C.
202-220-5650

W. Stephan Simmons
Prince George's County, Maryland
301-952-7050

Marilyn Walczak
Pretrial Services
Milwaukee County, Wisconsin
414-223-1307

Dorothy Faust
Department of Correctional Services
Polk County, Iowa
515-242-6582

Monitoring the Jail Population

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

Robin Cooks
Pretrial Services
Monroe County, Florida
305-292-3469

Marilyn Walczak,
Pretrial Services
Milwaukee County, Wisconsin
414-223-1307

Jerome McElroy
Criminal Justice Agency
New York, New York
212-577-0500

Melinda Wheeler
Pretrial Services
State of Kentucky
502-573-1419

Other Practices

Investigations of Failure to Appear

Susan Shaffer
Pretrial Services
Washington, D.C.
202-220-5650

Jerome McElroy
Criminal Justice Agency
New York, New York
212-577-0500

Margaret Callaway
Pretrial Services
Maricopa County, Arizona
602-506-8503

Presentence Investigation

Susan Shaffer
Pretrial Services
Washington, D.C.
202-220-5650

Wanda Spann
Pretrial Services
Cobb County, Georgia
770-528-8950

Jail and Case Flow Information

Melinda Wheeler
Pretrial Services
State of Kentucky
502-573-1419

Roman Duranczyk
O.R. Program
San Mateo County, California
650-363-4181

Judiciary

Case Initiation

John DuPree
Court Administrator's Office
Volusia County, Florida
904-239-7780

Peggy Thompson
Clerk of Court
San Mateo County, California
650-363-4711

Prompt Bail Setting

Janie Beaver
Court Services Department
Mecklenburg County, North Carolina
704-336-2027

Larry Powers
Jail Administrator
Spartanburg County, South Carolina
864-596-2607

Marilyn Walczak,
Pretrial Services
Milwaukee County, Wisconsin
414-223-1307

Marcus Reinkensmayer
Superior Court
Maricopa County, Arizona
602-506-3190

Delegated Release Authority

Kim Holloway
Pretrial Services
Pima County, Arizona
520-740-3310

John DuPree
Court Administrator's Office
Volusia County, Florida
904-239-7780

William Powell
Pretrial Services
Shelby County, Tennessee
901-545-2529

Michael Planet
Court Administration
King County, Washington
206-296-9305

Bond Review Hearings

John DuPree
Court Administrator's Office
Volusia County, Florida
904-239-7780

Case Management

Michael Shrunck
District Attorney
Multnomah County, Oregon
436-643-1999

Joy Whitney
Public Defender's Office
St. Lucie County, Florida
407-462-2048

Judge Brent Adams
District Court
Washoe County, Nevada
775-328-3176

Office of Court Administrator
Marion County, Indiana
317-327-4747

Robert Horan
Commonwealth's Attorney
Fairfax County, Virginia
703-246-2776

Court Administrator's Office
Oakland County, Michigan
248-858-0344

Edward Brekke
Criminal Courts Operations
Los Angeles County, California
213-974-5270

Dixie Knoebel
Circuit Court
Broward County, Florida
954-831-5513

Adjudication of Special Populations

Judge Ginger Lerner-Wren
County Court
Broward County, Florida
954-831-7240

Sentencing

Sentencing Unit
Prosecutor's Office
King County, Washington
206-296-9000

Judge Brent Adams
District Court
Washoe County, Nevada
775-328-3176

Marcus Reinkensmayer
Superior Court
Maricopa County, Arizona
602-506-3190

David Nicholson
Jefferson County Crime Commission
Jefferson County, Kentucky
502-574-5088

DWI Treatment

Michael DeCaria
Treatment Unit
Criminal Justice Services Administration
Salt Lake County, Utah
801-799-8466

Jail-Bed Allocation

Judge Donald Johnston
Circuit Court
Kent County, Michigan
616-336-4467

Defense

Early Participation by Defenders

Brian Tsuchida
Defender Association
King County, Washington
206-447-3900

Diane Cunningham
Criminal Justice Commission
Palm Beach County, Florida
561-355-4943

Case Review

Joy Whitney
Public Defender's Office
St. Lucie County, Florida
407-462-2048

Edward Nowak
Public Defender
Monroe County, New York
716-428-5531

Defender Caseloads

Brian Tsuchida
Defender Association
King County, Washington
206-447-3900

Diane Graughlyn
Public Defender's Office
Philadelphia, Pennsylvania
215-686-7120

Finding Alternatives

Public Defender's Office
Multnomah County, Oregon
503-226-3083

Legal Aid Society
New York, New York
212-577-3300

Edward Nowak
Public Defender
Monroe County, New York,
716-428-5531

Alternative Advocacy

Gerard Hiliard
Private Defender Program
San Mateo County, California
650-312-5396

Edward Nowak
Public Defender
Monroe County, New York
716-428-5531

Other Practices

James Gibson
Public Defender
Volusia County, Florida
904-822-5770

Cynthia Morton
Criminal Justice Services
Alachua County, Florida
904-338-7364

Brian Tsuchida
Defender Association
King County, Washington
206-447-3900

Probation and Parole

Alternatives to Incarceration

Claudia Brown
Community Corrections
Boulder County, Colorado
303-441-4585

Expedited Processing of Probation/ Parole Violators and Expedited PSIs

Robert Burns
Probation and Community Corrections
Monroe County, New York
716-428-5765

Michael Planet
Court Administration
King County, Washington
206-296-9305

Marcus Reinkensmayer
Superior Court
Maricopa County, Arizona
602-506-3190

Chief Judge K. Dawson Jackson
Superior Court
Gwinnett County, Georgia
770-822-8617

Notes

1. Andy Hall et al., *Alleviating Jail Crowding: A System-Wide Strategy*, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1985.
2. Darrell K. Gilliard, *Prison and Jail Inmates at Midyear 1998*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, March 1999, p. 7.
3. Ibid.
4. Abt Associates Inc., *National Assessment Program: Assessing Needs in the Criminal Justice System*, Washington, DC: U.S. Department of Justice, National Institute of Justice, January 1984, p. 9.
5. Paul Feldman and Eric Lietblau, *Los Angeles Times* "Board Tells Sheriff to Seek Renters for 3 Closed Jails," April 4, 1996, p. B-1.
6. The \$22 million Santa Fe County Adult Correctional Facility, built with many more jail beds than required for local needs, received no requests for space for several months after it opened. In addition, the per diem charge for housing inmates has declined since the jail was designed, causing a further decline in jail revenues.
7. Bureau of Justice Statistics, *Jails and Jail Inmates, 1993-1994*, Washington, DC: U.S. Department of Justice, 1995.
8. Eric Schlosser, "The Prison-Industrial Complex," *The Atlantic Monthly* December 1998, pp. 51-77.
9. The average daily population in local jails in mid-1998 was 593,808 compared with 408,075 in 1990. During this period, the number of jail inmates per 100,000 U.S. residents increased from 163 to 219. See note 2, Gilliard, 1999, p. 6.
10. More women and juveniles held as adults are in local jails today than in 1985. The adult female jail population grew 7 percent annually from 1990 to 1998, compared with a 4.5-percent increase for men; the number of juveniles held in adult facilities nearly doubled between 1993 and 1998, from 3,300 to 6,542. See note 2, Gilliard, 1999, p. 6.
11. The ratio of pretrial detainees to those sentenced to local jails has changed over the years. In mid-1983, approximately 51 percent of the inmates held in local jails were awaiting trial compared with 57 percent in mid-1998. Bureau of Justice Statistics, *Jail and Jail Inmates, 1983*, Washington, DC: U.S. Department of Justice, November 1985. See also note 2, Gilliard, 1999, p. 6.

12. See note 2, Gilliard, 1999, p. 6.
13. 18 US.C. § 3626.
14. Darlene Grant and Steve Martin, "Should Prison Reform Litigation Be Curtailed?," *NCCD Focus*, San Francisco, CA: National Council on Crime and Delinquency, May 1996.
15. The Jail Center of the National Institute of Corrections, Federal Bureau of Prisons, offers several types of technical assistance and other jail-related programs, including local system assessments.
16. Besides the earlier monograph on this topic (see note 1, Hall et al., 1985), two other publications were prepared by the American Justice Institute for the Law Enforcement Assistance Administration as part of the Jail Overcrowding Project: Jerome R. Bush, *Jail Overcrowding: Guide to Data Collection and Analysis*, Washington, DC: U.S. Department of Justice, Local Law Enforcement Assistance Administration, May 1982 and Walter Busher, *Jail Overcrowding: Identifying Causes and Planning for Solutions*, Washington, DC: U.S. Department of Justice, Local Law Enforcement Assistance Administration February 1983.
17. President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society*, Washington, DC: U.S. Government Printing Office, 1967.
18. Bureau of Justice Assistance, *Improving State and Local Criminal Justice Systems*, Indigent Defense Series, Washington, DC: U.S. Department of Justice, October 1998, p. 1.
19. The term "jail administrator" in this monograph refers to corrections, law enforcement, or county official chiefly responsible for the operation and management of a jail.
20. The criminal case process often begins with an act or its result being observed by a victim or witness who may tolerate the situation or confront the behavior. If the latter course is taken, the first action is usually to call law enforcement officials or to file a charge with a judicial officer. Several other choices may be available, such as those discussed in chapter 4 as law enforcement/magistrate extra-system options.
21. In many states, including Ohio (Ohio RC 293526), the law mandates the issuance of citations in lieu of arrests for certain nonserious offenses.
22. A short-term holding facility is a block of cells at a police station where arrestees can be held for no more than 48 hours.
23. The court may order a combination of financial and nonfinancial bail conditions requiring, for example, money bail in addition to some form of supervised release.

24. As in the pretrial phase, serious or repeated violation of conditions accompanying a non-jail sentence or parole following a jail or prison term may result in revocation and confinement. In most jurisdictions, arrest on a new charge carries a presumption of revocation. Because resolving the question of revocation takes considerable time, a substantial amount of jail space is occupied by persons awaiting a decision on revocation.

25. Data contributed by various criminal justice agencies to describe the flow of cases and individuals through the system may result in inconsistencies and confusion. Law enforcement accounts of arrest volume may not match the prosecutor's records of arrests screened for charging. Probation figures on presentence investigation report totals and timeframes may differ from comparable court data. Such discrepancies can usually be reconciled by reviewing counting methods and definitions. If discrepancies persist, additional data may be necessary to conduct a jail population analysis. Accurate information on the length of time between events in a case are needed to calculate jail-bed use.

26. The questions in appendix A address basic system operation issues used in case flow studies. Jurisdictions undertaking such a study will need to augment these questions with more detailed items appropriate to their individual systems.

27. Sample forms that may be used to gather snapshot data can be found in appendixes B-1 and B-2.

28. Multivariate analysis can reveal which factors have the greatest impact on the jail population.

29. See appendix C for a list of contacts for the programs and procedures highlighted in chapter 4.

30. In 1994, the National Institute of Justice conducted a survey of police chiefs and sheriffs to identify the needs and problems of their agencies. Community policing was listed as an agency initiative of a majority of the responding law enforcement officials. From the sample, 278 police chiefs (82 percent) and 175 sheriffs (65 percent) said that they were establishing community policing initiatives, and virtually all of the remaining respondents indicated that they wanted to adopt such initiatives. Improving the quality of life in neighborhoods and involving citizens in fighting crime were the primary reasons cited for implementing community policing.

31. Police Executive Research Forum, *Themes and Variations in Community Policing: Case Studies in Community Policing*, Washington, DC: Police Executive Research Forum and U.S. Department of Justice, National Institute of Justice, 1996.

32. Stephen D. Mastrofski, Robert E. Worden, and Jeffrey B. Snipes, *Law Enforcement in a Time of Community Policing*, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1996.

33. Ibid.

34. Several agencies should be involved in developing written guidelines, including law enforcement officials, the county's prosecuting attorney, judges, and the defense bar.

35. According to a 1999 Bureau of Justice Statistics study, an estimated 16 percent of jail inmates suffer from a major mental illness, Paula M. Ditton, *Mental Health and Treatment of Inmates and Probationers*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, July 1999.

36. Henry J. Steadman et al., "Comparing Outcomes of Major Models for Police Responses to Mental Health Emergencies," *Psychiatric Services*, forthcoming, 2000. The study identified three approaches and selected the following programs to represent them: the Birmingham Community Service Officer Program, the Knoxville Mobile Mental Health Crisis Unit, and the Memphis Crisis Intervention Team.

37. Rene Lynch, "Time Limit on Holding Uncharged Suspects Suspended," *Orange County Register*, Santa Ana, CA, April 6, 1992 p. 2.

38. 1982 PA 325 MCL 801.51.

39. The sheriff sought a circuit court injunction imposed on the state to prevent the state from housing probation and parole violators in the jail. A ruling in favor of the state, based on the principle of state sovereignty, prompted the sheriff to take it to the appeals court. The Wisconsin Supreme Court ruled that the county sheriff may limit jail admittance and/or length of stay to alleged parole and probation violators when the jail is overcrowded. The court held that the fact that DOC must pay for keeping detainees at the jail did not mean that DOC had an absolute right to demand such detention.

40. Under the EPR Program, the jail administrator is authorized to create an eligible pool of inmates and send their files to a small committee, consisting of corrections personnel and prosecutors. The committee selects the individuals for release or alternative programs. Those inmates approved for release by the committee are released from jail without a hearing before a judge.

41. Eligibility for release on an I-bond fluctuates, depending on how far the jail population is over the cap. For example, one day the jail may release all pretrial detainees held in lieu of \$5,000 bail or less. If this action does not bring the population within the cap, the eligible bail amount for release is lowered.

42. John Howard Association, "Jail Conditions at the Cook County Department of Corrections and Compliance with the Consent Decree," *Court Monitoring Report*, February 1997, p. 26.

43. Ibid.

44. In 1997, 158 women were referred for enrollment in the program. Of these, 52 were enrolled, 44 percent of whom were also on probation or parole. Twenty women completed the program and had their charges dismissed; 25 women completed treatment. Of the 242 men who were referred for enrollment, 132 men were enrolled, 41 percent of whom were also on probation or parole. Nineteen men completed treatment and had their charges dismissed. *Summary of Court Operation*, Circuit for the Ninth Judicial Circuit of Michigan, 1997 Annual Report, p. 23.

45. Jail Utilization System Team, *Total Quality Management: Comprehensive Community Based Corrections Program*, Monroe County, NY: Jail Utilization System Team, October 1994.

46. American Bar Association, *Standards Relating to the Prosecution Function and the Defense Function*, Chicago, IL: American Bar Association, 1993.

47. National District Attorneys Association, *National Prosecution Standards*, Standard 881. Washington, DC: National District Attorneys Association, 1991, p. 236.

48. Kristen L. Segebarth, *Pretrial Services and Practices in the 1990s: Findings from the Enhanced Pretrial Services Project*, Washington, DC: National Association of Pretrial Services Agencies, 1991, p. 3.

49. Some pretrial programs are designed not to intervene until a defendant has made an appearance before a bail-setting judicial officer. These programs might begin their initial investigation after the defendant has been detained for a specified period. The rationale for such a design is that many defendants can be released, either on their own recognizance or by posting bail, without the intervention of the pretrial program. Limited resources, therefore, might be better spent focusing on those defendants who are unable to secure release.

50. Kentucky has a statewide pretrial program.

51. Kentucky Supreme Court Rule 410.

52. Oregon Revised Statutes 135235.

53. Drug Court Clearinghouse and Technical Assistance Project, *1997 Drug Court Survey Report Executive Summary*, Washington, DC: U.S. Department of Justice, October 1997, p. 17.

54. Mark Rosnow, *Milwaukee County Pretrial Intoxicated Driver Intervention Pilot Project: Four-Year Follow-Up Evaluation*, Milwaukee, WI: Wisconsin Correctional Service, August 1, 1997.

55. Shelby Meyer and Kim Holloway, "The Fastrack Program," *Federal Probation*, Vol. 57, No. 19, March 1993, pp. 36–41.

56. Allen J Beck and Darrell K. Gillard, *Prison and Jail Inmates at Midyear 1997*, Bulletin, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1998.
57. Oregon Revised Statutes 135235.
58. Interview with the director of Probation and Pretrial Services for Shelby County, Tennessee.
59. A jurisdiction's lack of community programs for offenders with recognized needs or a lack of confidence in such programs may lead judges to impose jail sentences in the hope that the offenders' needs will receive some degree of attention in the facility. Numerous localities have worked to augment the range of available non-jail sentencing options, including restitution, intensive probation supervision and treatment, and community service, only to fail to reach those who would otherwise be incarcerated.
60. Courts point to a recent increase in beer taxes earmarked for DWI treatment programs as proof of broad support for diverting DWI offenders from jail.
61. In Monroe County, New York, an overcrowded jail spurred the chief judge of the trial court and the county executive to establish a systemwide, multiyear process that examined the entire criminal justice system, resulting in a sophisticated and effective multiagency response to jail crowding.
62. Susan Sadd and Randolph Grinc, *The Neighborhood Defender Service of Harlem*, New York, NY: Vera Institute of Justice, December 1993.
63. Thomas P. Bonczar, *Characteristics of Adults on Probation, 1995*, Special Report, Washington DC: U.S. Department of Justice, Bureau of Justice Statistics, December 1997.
64. Ibid.
65. The program is designed for low-risk offenders who have not been convicted of violent crimes including child abuse.
66. Thomas Bonczar and Christopher J. Mumola, *Substance Abuse and Treatment of Adults on Probation, 1995*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics 1998.
67. Exclusionary factors include major assaultive history, significant mental health problems, below normal cognitive functioning, pending charges, or failing to meet the living requirements for the Day Reporting Center (e.g., not having a telephone).
68. Justice Education Center, Inc. *Longitudinal Study: Alternatives to Incarceration Sentencing Evaluation, Year 3*, Hartford, CT: Justice Education Center, Inc., September 1996.

69. Ibid.
70. Ibid.
71. Ibid.
72. See note 63, Bonczar 1970.
73. See note 63, Bonczar 1970.
74. Jail Utilization System Team, *Project JUST*, Monroe County, NY: November 1997.
75. However, according to the report's authors, "much of the impact of this initiative was lost as the state allowed state ready prisoners to remain in Monroe County Jail an average of 20 days longer than in 1994." Ibid.
76. Illinois, Kentucky, Oregon, and Wisconsin have no surety bail bonding Kentucky outlawed bail bonding in 1976.
77. Emphasis on reduced length of confinement, rather than number of admissions, will not increase the number of persons released or diverted from jail. The effect on jail population size is accomplished by releasing the same types of persons released in the past, but more expeditiously.
78. Thomas Church, Jr., et al., *Justice Delayed: The Pace of Litigation in Urban Trial Courts*, Williamsburg, VA: National Center for State Courts, 1978, p. 85.
79. See note 16, Bush, 1983.

Sources for Further Information

For more information on jail overcrowding or BJA grants and programs, contact:

Bureau of Justice Assistance

810 Seventh Street NW.

Washington, DC 20531

202-514-6278

World Wide Web: www.ojp.usdoj.gov/BJA

Bureau of Justice Assistance Clearinghouse

P.O. Box 6000

Rockville, MD 20849-6000

1-800-688-4252

World Wide Web: www.ncjrs.org

U.S. Department of Justice Response Center

1-800-421-6770 or 202-307-1480

Bureau of Justice Assistance Information

General Information

Callers may contact the U.S. Department of Justice Response Center for general information or specific needs, such as assistance in submitting grants applications and information on training. To contact the Response Center, call 1-800-421-6770 or write to 1100 Vermont Avenue NW., Washington, DC 20005.

Indepth Information

For more indepth information about BJA, its programs, and its funding opportunities, requesters can call the BJA Clearinghouse. The BJA Clearinghouse, a component of the National Criminal Justice Reference Service (NCJRS), shares BJA program information with state and local agencies and community groups across the country. Information specialists are available to provide reference and referral services, publication distribution, participation and support for conferences, and other networking and outreach activities. The Clearinghouse can be reached by

- Mail**
P.O. Box 6000
Rockville, MD 20849-6000
- Visit**
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