
Michigan Task Force on Jail and Prison Overcrowding

Final Report
March 2005

Prepared for
Governor Jennifer M. Granholm

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Letter from the Chair

Dear Governor Granholm:

Nationwide, more than two million Americans are behind bars. This number has never been higher in our nation's history, and represents the highest rate of incarceration in the world. Although statistics indicate that crime and arrest figures are decreasing in Michigan, the prison population fluctuates between 49,500 and 50,000 annually, costing taxpayers roughly \$1.4 billion. In addition, most jails operate at or near their rated capacity, causing sheriffs to, in some instances, ask county officials to allocate funds for expansion. In these difficult economic times, Michigan cannot afford to bear the social or financial costs associated with the unchecked growth of this population.

As part of your response to this dilemma, Governor, you encouraged the Michigan Department of Corrections to develop a Five-Year Plan to Control Prison Growth. This plan, developed and initiated in 2003, includes the Michigan Prisoner ReEntry Initiative and other measures geared toward reducing the prison population. As required each year by *Section 401 of 2004 Public Act 345*, on February 1, 2005, the Michigan Department of Corrections reported prison population projections that reflected 99.3% accuracy (based on projections issued last year). This level of reporting accuracy confirms that the Five-Year Plan is on track. Further, since the plan's inception, prison population in this state has declined by 902 inmates.

In your ongoing efforts to address both prison and jail population concerns in Michigan, you created the Michigan Task Force on Jail and Prison Overcrowding in June 2004. You charged this Task Force with articulating strategies for a more effective and efficient utilization of jail and prison resources without compromising public safety. The composition of the Task Force was unprecedented: never before had such a broad range of key Michigan criminal justice system stakeholders assembled to examine these critical issues. I am pleased to report that this Task Force, realizing the gravity of its charge, went to work immediately, endeavoring to produce profound and practical input that would lead to a more balanced, comprehensive approach to utilizing Michigan's jail and prison resources.

The work of the Task Force included consultations with both local and national criminal justice leaders. Collaborative dialogue amongst stakeholders supplemented these presentations at each meeting, and brought vital issues and best practices to the forefront. So effective was this cooperative approach that it has already begun to impact how criminal justice stakeholders approach the problem of jail and prison overcrowding in the state of Michigan -- *together*.

The strategies developed will take a collective effort to implement. During this difficult budget time, we must work collaboratively to ensure that limited resources are used wisely. As part of the overall budget picture in FY 2006, you recommended to the Legislature funds that provide a balance between our efforts to control both jail and prison crowding. One component of this critical balance is your recommendation of \$4 million to fund several of the approaches that the Task Force suggested to positively impact jail crowding. By expanding programs that address pretrial release, residential treatment, pretrial release of mentally ill offenders, and jail renovation/expansion, we hope to assist local units of government with their jail crowding efforts.

No single solution will prevent jail and prison overcrowding in Michigan. Adequately addressing this issue will require constant vigilance and effective communication between all stakeholders and policymakers. The Task Force, therefore, hopes that the strategies provided in this report will serve as a starting point for continued collaboration and cooperation among all members of the criminal justice community.

In closing, the Michigan Task Force on Jail and Prison Overcrowding respectfully submits this report of its efforts. We appreciate your leadership and support demonstrated throughout our tenure. Thank you for providing this Task Force the opportunity to serve the citizens of Michigan in this capacity.

Respectfully submitted,

Teresa A. Bingman
Chairperson
Michigan Task Force on Jail and Prison Overcrowding

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Michigan Task Force on Jail and Prison Overcrowding Executive Summary

INTRODUCTION

In June 2004, Governor Jennifer M. Granholm created the Michigan Task Force on Jail and Prison Overcrowding (Task Force) to engage key criminal justice system stakeholders in a collaborative dialogue regarding the relationships between jail and prison population and overcrowding. The Task Force was charged with compiling a report for the Governor that would articulate strategies for utilizing jail and prison resources in a more effective and efficient manner without compromising public safety.

The Task Force brought together, in some cases for the first time, a wide range of distinguished criminal justice professionals, experts, and leaders representing local, county, and state interests. These individuals included representatives of the Michigan Sheriffs' Association (MSA), the Prosecuting Attorneys Association of Michigan (PAAM), the Michigan Association of Counties (MAC), the Michigan Department of Corrections (MDOC), the Michigan Judges Association (Circuit Court Judges), the Michigan District Judges Association, the State Court Administrative Office (SCAO), law enforcement, and a representative of defense attorneys. Chaired by the Governor's Deputy Legal Counsel and Criminal Justice Policy Advisor, and facilitated by a Principal from the Center for Effective Public Policy [on behalf of the National Institute of Corrections (NIC)], this assembly of criminal justice system representatives worked together to carefully examine the broad spectrum of topics related to jail and prison population and overcrowding. Collectively, the Task Force identified and assessed various practices and procedures contributing to jail and prison overcrowding, as well as practical solutions to the overcrowding problem, including best practices and emerging innovations in Michigan and nationwide.

AN OVERVIEW OF JAIL AND PRISON OVERCROWDING IN MICHIGAN

County jails in Michigan are an important component of the criminal justice system, processing over 300,000 offenders into 94% of the state of Michigan's total jail beds in 2003, according to Jail Population Information System (JPIS) data. Jail administrators throughout the state struggle to manage the growing offender population held in jail with existing resources. Meanwhile, communities attempt to prioritize local resources to reduce jail overcrowding and, in some jurisdictions, have been denied local revenue for jail expansion or new facilities. Thus, county jails have been releasing offenders early and/or invoking the County Jail Overcrowding State of Emergency Act (1982 PA 325) on a regular basis.

In addition, Michigan has experienced serious overcrowding in the state's correctional facilities for many years. In late 2002, driven by the crisis of a looming Run-Out-of-Bed Date (ROBD) in December 2003 and a budget deficit that did not allow for future growth, the MDOC needed to find ways to decrease prison population without increasing its spending. By January 2003, the MDOC staff completed a thorough review of all policies and procedures within the department and, in cooperation with key criminal justice stakeholders, developed a five-year plan to control prison growth. This plan resulted in the ROBD being extended to June 2005. ROBD projections are reviewed and efforts to push that date back further (e.g., new programs such as prisoner reentry initiatives) progress on an ongoing basis.

There is no single cause for jail and prison overcrowding, though there are many different local procedures and practices that contribute to the problem. In fact, local procedures and practices differ at each of the various decision points in the criminal justice system -- from the initial contact with an offender by law enforcement to the sentencing decision rendered by the court. Moreover, various and often inconsistent policies and procedures exist relating to bonding practices, pretrial services, incarceration pending case disposition, and community supervision. These inconsistencies also impact jail overcrowding.

County jails will likely remain overcrowded and state prisons will reach capacity, unless criminal justice stakeholders work together to reduce or eliminate inefficiencies and implement alternatives to incarceration. Many local criminal justice systems within the state have already made substantial policy and process changes over the years, each attempting to expedite the cases of defendants in jail and prison to free up bed space. Their innovations can serve as part of the foundation for future improvements. Many of the concepts in this report build upon those efforts, and involve the development of new protocols and procedures that would affect the entire criminal justice system and target reduction of the number of offenders and pretrial detainees currently incarcerated. This collaborative approach, with key stakeholders reviewing local processes throughout the entire criminal justice system, should be utilized in future efforts to address the issues of jail and prison capacity and overcrowding. The Task Force hopes that the ideas set forth in this report will serve as a starting point for such collaborations and cooperation between various representatives of the criminal justice community.

RESOLVING JAIL AND PRISON OVERCROWDING: STRATEGIES FOR THE FUTURE

The Task Force agreed that punishment alone is not the solution to crime in Michigan, and that jail and prison facilities must be used primarily for those offenders who are a threat to communities.

Incarceration is expensive, yet necessary in some cases. Therefore, the criminal justice community must develop practices that reduce costs without sacrificing public safety.

After reviewing various practices and procedures within the state and investigating approaches to jail and prison overcrowding taken by other states, the Task Force decided to compile short, intermediate, and long-term strategies to assist local jurisdictions and the state in resolving jail and prison overcrowding issues. These strategies are not listed in order of priority; each are considered as important as the others.

SHORT-TERM STRATEGIES

- Encourage rational planning and collaboration efforts between the state and counties that emphasize efficient and effective utilization of jail and prison resources, and that do not compromise public safety.
- Encourage the MDOC to require probation agents to prioritize preparation of pre-sentence investigation reports (PSIs) – specifically, by preparing PSIs for convicted offenders who are prison bound first, those who will likely be sentenced to jail second, and those who are out on bond third.
- Encourage the MDOC to develop a process that ensures that the immediate transfer of all prison bound offenders to the state prison system is not delayed due to changes made to the PSI in the courtroom at the time of sentencing.
- Encourage counties to establish a jail monitoring system that includes reviewing jail rosters to identify offenders who could be safely diverted from jail or cases that could be expedited. This practice may also encourage local stakeholders to meet on a regular basis to determine what categories of detainees should be in jail.
- Encourage prosecuting attorneys to increase the use of diversion programs.
- Encourage the judiciary to actively participate in efforts to reduce jail overcrowding by utilizing the Michigan Supreme Court Jail Crowding Prevention and Response Checklist.
- Encourage statewide participation in the Community Corrections Act (1988 PA 511).

- Encourage the MDOC and the State Community Corrections Board to evaluate which JPIS data elements should be required for reporting, and whether JPIS data reporting should be required as a prerequisite for funding pursuant to the Community Corrections Act, the County Jail Reimbursement Program, and county jail expansion funds.
- Encourage authorizing district court judges to accept felony pleas.
- Encourage the use of citations and appearance tickets as appropriate alternatives to jail for nonviolent defendants who are not a threat to public safety.
- Encourage the MDOC to work with local community corrections advisory boards to review and consider county-specific probation violation response guidelines that are consistent with pertinent provisions of the MDOC's operating procedure. This practice will ensure that the available local options, as set forth within the department's guidelines, are best utilized.
- Encourage the use of technology to expedite the transfer of records from district courts to circuit courts.

INTERMEDIATE-TERM STRATEGIES

- Encourage the MDOC to incorporate a validated risk and needs instrument in the pre-sentence investigation process, which could be used as a tool for agents to recommend alternatives to jail time and appropriate jail/prison terms for low-risk offenders who do not jeopardize public safety.
- Explore ways to increase the number of residential placement services for offenders who are in jail because there are no treatment or secure settings available.
- Encourage local governments to incorporate evidence-based practices in their local criminal justice system.
- Encourage counties to enhance pretrial services programs by incorporating a validated risk and needs assessment tool, one of the least restrictive and cost-effective measures to ensure offenders' compliance. This tool will help determine an offender's current risk of failure to appear or risk of recidivism when bond is set, and when the court utilizes new technology such as electronic monitoring.
- Encourage the MDOC and the State Community Corrections Board to re-evaluate eligibility criteria for community-based residential services; a process that should include implementation of an objective risk and needs assessment process statewide.

- Encourage counties to enhance jail services and diversion programs for mentally ill offenders, especially those awaiting forensic examinations.
- Encourage increased collaboration among courts, law enforcement, corrections, and mental health agencies to identify, divert, and treat mentally ill offenders.
- Encourage local governments to explore ways to expedite processing offenders into jail.
- Explore technologies that streamline the process for collecting and sharing offender data statewide.
- Encourage the use of non-incarcerative sentence recommendations such as fines, costs, community service, and restitution in lieu of incarceration for low-risk offenders who do not pose a threat to society.
- Encourage consideration of alternatives to invoking the County Jail Overcrowding State of Emergency Act.
- Evaluate sentencing practices to determine whether appropriate offenders are being incarcerated.
- Explore how to involve directors of other state agencies in community corrections issues. [e.g., Family Independence Agency (FIA), Department of Community Health (DCH), Department of Labor and Economic Growth (DLEG)]

LONG-TERM STRATEGIES

- Encourage law enforcement agencies statewide to train officers and other personnel to recognize signs of mental illness and, in appropriate situations, encourage collaboration with mental health agencies for evaluation and recommendations.
- Support the MDOC efforts to reduce recidivism through the Michigan Prisoner ReEntry Initiative (MPRI), and encourage reentry initiatives at local levels.
- Explore whether establishing bail guidelines is an effective mechanism to reduce jail overcrowding.
- Explore the preliminary examination process to determine whether changes might expedite cases through the system.

- Assess county jail capacity in each jurisdiction to determine whether there is a need for expansion. Any recommendations should be based on an extensive analysis of the criminal justice system, jurisdiction by jurisdiction, and utilize a specialized work group (such as the Michigan Task Force on Jail and Prison Overcrowding) that is assisted by state or national criminal justice experts (such as the NIC or a similar organization). Moreover, recommendations should focus on providing flexible responses to a diverse offender population (e.g., gender, classification).

FINAL REPORT



Michigan Task Force on Jail and Prison Overcrowding **Final Report**

I. INTRODUCTION

County jails in Michigan are an important component of the criminal justice system, processing over 300,000 offenders into 94% of the state's total jail beds in 2003, according to Jail Population Information System (JPIS) data. Jail administrators throughout the state struggle to manage the growing offender population held in jail with existing resources. Meanwhile, communities attempt to prioritize local resources to reduce jail overcrowding and, in some jurisdictions, have been denied local revenue for jail expansion or new facilities. Thus, county jails have been releasing offenders early and/or invoking the County Jail Overcrowding State of Emergency Act (1982 PA 325) on a regular basis.

In addition, Michigan has experienced serious overcrowding in the state's correctional facilities for many years. In 2002, the Run-Out-of-Bed date (ROBD) was December 2003 and the Michigan Department of Corrections (MDOC) faced budget constraints that did not allow for future growth. By January 2003, the MDOC staff completed a thorough review of all departmental policies and procedures and, in cooperation with key criminal justice stakeholders, developed a five-year plan to control prison growth. This plan resulted in the extension of the projected ROBD to June 2005, where it currently stands.

Both jails and prisons serve to protect the public, but the transient nature of the jail population creates a different set of challenges for jails than those faced by prisons. Jails process a wide variety of criminal offenders for relatively short stays, while prisons handle a more narrow scope of criminal offenders for lengthier stays. Jails experience rapid population turnover and house a diverse population: sentenced and unsentenced felons and misdemeanants, probation and parole violators, inmates awaiting transport to prisons, mentally ill, and federal inmates are all housed within a jail. This wide variety of offenders in jails often creates housing dilemmas. For instance, certain populations must be kept separate from others (e.g., juveniles from adults, sentenced from unsentenced, male from female, and mentally ill from the general population). Additionally, space constraints limit where certain populations can be housed within jails. State prisons, on the other hand, hold a less varied population for longer stays, resulting in less frequent turnover. These differences complicate the already complex issues of jail and prison overcrowding.

Further, there is a relationship between jail and prison overcrowding: the actions taken by one system ultimately affect the other; they are not mutually exclusive. The state is responsible for financing and administering the prison system. County governments provide most funds used in jail operations, with sheriffs managing the facilities. The bottom line is that a significant amount of taxpayer dollars are being used to house and oversee criminals. **During these difficult fiscal times, it is imperative that the criminal justice community find ways to be smarter in its use of correctional resources, while maintaining the rights of defendants and victims, ensuring public safety, and upholding the integrity of the criminal justice system.**

There is no single cause for jail and prison overcrowding, though there are many different local procedures and practices that contribute to the problem. In fact, local procedures and practices differ at each of the various decision points in the criminal justice system -- from the initial contact with an offender by law enforcement to the sentencing decision rendered by the court. Moreover, various and often inconsistent policies and procedures exist related to bonding practices, pretrial services, incarceration pending case disposition, and community supervision. These inconsistencies also impact jail overcrowding.

County jails will likely remain overcrowded and state prisons will reach capacity, unless criminal justice stakeholders work together to reduce or eliminate inefficiencies and implement alternatives to incarceration. This collaborative approach, with key stakeholders reviewing local processes throughout the entire criminal justice system, should be utilized in future efforts to address the issues of jail and prison capacity and overcrowding.

With this in mind, Governor Granholm created the Michigan Task Force on Jail and Prison Overcrowding (Task Force) in June 2004. The Task Force was charged with compiling a report for the Governor that would articulate strategies for utilizing jail and prison resources in a more effective and efficient manner, without compromising public safety.

The Task Force brought together, in some cases for the first time, a wide range of distinguished criminal justice professionals, experts, and leaders representing local, county, and state interests. This included representatives of the Michigan Sheriffs' Association (MSA), the Prosecuting Attorneys Association of Michigan (PAAM), the Michigan Association of Counties (MAC), the Michigan Department of Corrections (MDOC), the Michigan Judges Association (Circuit Court Judges), the Michigan District Judges Association, the State Court Administrative Office (SCAO), law enforcement, and a representative of defense attorneys.

Chaired by the Governor's Deputy Legal Counsel and Criminal Justice Policy Advisor, and facilitated by a Principal from the Center for Effective Public Policy on behalf of the National Institute of Corrections (NIC), this assembly of criminal justice system representatives worked together to carefully examine the broad spectrum of topics related to jail and prison population and overcrowding. Collectively, the Task Force identified and assessed various practices and procedures contributing to jail and prison overcrowding, as well as practical solutions to the overcrowding problem, including best practices and emerging innovations in Michigan and nationwide.

Each of these representatives came to the table agreeing to work in a cooperative fashion to address the challenges of overcrowding, and to develop an acceptable course of action that respected both state and local capacity concerns. All parties concurred that the level of jail and prison system overcrowding had reached a critical point. They also recognized the difficulty of their charge to articulate strategies for utilizing jail and prison resources in a more effective and efficient manner without compromising public safety. The Task Force later found out that very few states, if any, had undertaken both prison and jail overcrowding issues simultaneously.

Based on the Governor's charge, the Task Force first articulated a mission statement, a set of guiding principles, and a concise statement of the problem.

II. MISSION STATEMENT

The Task Force will present findings to Governor Granholm that:

- Suggest short, intermediate, and long-term strategies for resolving statewide jail overcrowding;
- Acknowledge the interrelatedness of jail and prison overcrowding and capacity;
- Suggest strategies that may include the redistribution and/or addition of resources; and
- Suggest strategies for the establishment of a more deliberate, disciplined planning process with regard to jail population growth in order to prevent and/or become better prepared for future instances of overcrowding.

III. GUIDING PRINCIPLES

The Task Force agreed to adhere to the following 12 principles, which would guide them in their review of jail and prison overcrowding issues and the development of this report:

1. The primary responsibility of the Michigan criminal justice system is to administer justice. Another responsibility is to protect citizens and property.
2. Helping offenders become successful citizens is the most effective way to reduce recidivism and protect citizens and property.
3. Effective criminal justice policy utilizes prevention, education, accountability, treatment, and incarceration.
4. An effective corrections system includes an objective assessment process that assists in identifying offender risk and needs, and helps target appropriate, individualized supervision and treatment resources.
5. There are excellent examples of efficient and effective criminal justice systems in Michigan; “models” should be identified.
6. Even though the Michigan criminal justice system operates at a high level of efficiency and effectiveness, there are still improvements that can be made.
7. There is a direct relationship between jail and prison overcrowding and capacity; any strategies suggested will consider this acknowledgement.
8. Even though there are 82 separate correctional systems in Michigan (81 jail systems -- Luce and Oscoda counties do not operate jails -- and 1 prison system), stakeholders can more effectively manage jail and prison overcrowding if they work collaboratively, rather than separately.
9. Agreements will be required from all three branches of government (legislative, executive and judicial) to manage jail and prison capacity most effectively.
10. Michigan should strive to become a national leader and model for management of jail and prison overcrowding issues.
11. The Task Force hopes to become a resource for education, training, and information regarding jail and prison capacity issues in both Michigan and the nation. In order to accomplish such feats, the way prisons and local jails are used, as well as the continuum of punishments available to the courts must be driven by current research and the best means available for helping our criminal justice system to operate both efficiently and effectively.

12. It is important that any new policy or practice be based on “evidence-based practices,” which use the best available research to create and streamline effective practices and evaluate programs. The performance expectations from these practices must be outcome-based and measurable. Thus, the Task Force envisions that local criminal justice systems in Michigan should include:

- Systemic, collaborative planning and problem-solving that monitors and evaluates outcomes, plans for and oversees all aspects of local criminal justice systems, and provides a forum for discussion and debate.
- Decisions relating to individual cases, policies, programs, and the system that are based on timely data and information.
- Early pretrial screening tools that accurately identify defendant risk and needs.
- Post-conviction validated assessment tools that accurately identify offender risk and needs.
- Programs that are grounded in research and evidence-based practices.
- Sufficient capacity and resources to address the specific risk and needs of the offender population.
- A team approach in which all stakeholders share responsibility for all successes and failures.
- Operations that are as efficient as possible, without compromising public safety.
- Effective approaches to supervision and monitoring.
- The community as an active partner.
- Victim input at all stages of the planning and implementation process.

IV. PROBLEM STATEMENT AND RESPONSE

Problem

Jail space in Michigan is becoming increasingly scarce with less than an average of 15% of all jail space available on any given day. Prison space is also sparse, with a current ROBD projection of June 2005 for the state’s 50,000-bed system.

The citizens of Michigan are paying large sums of money to incarcerate offenders while recidivism rates remain high. Releasing some inmates early from jail exacerbates the problem of recidivism that, in turn, requires additional use of finite bed space.

Response

The question that must be addressed on behalf of Michigan taxpayers is how jail and prison resources can be used more efficiently and effectively to prevent overcrowding. Solutions must include sound planning and implementation of best practices. Solutions also must ensure public safety by protecting the rights of citizens and crime victims, keeping dangerous offenders off the streets, maintaining the integrity of the criminal justice system, and resolutely seeking the administration of justice. The number of citizens entering the criminal justice system must be effectively reduced or taxpayers will continue to pay to expand jail and prison space at the expense of other critical programs in the state, such as education and health care.

V. THE TASK FORCE PROCESS

The Task Force met regularly at various locations in Lansing, hosted by its members and the organizations they represent. There were five formal meetings, most lasting a full day. The Task Force met for the first time August 19, 2004 in the Governor's Cabinet Room. The September 22, 2004 meeting was hosted by PAAM in its meeting room. Representatives from the Kalamazoo Criminal Justice Council were guest presenters. The October 29, 2004 meeting was hosted by MAC in its conference room. D. Alan Henry, Director of the Pretrial Services Resource Center, was a guest presenter and Deborah Green discussed the Michigan Supreme Court's efforts pertaining to jail overcrowding issues. The November 22, 2004 and January 13, 2005 meetings were held in the Governor's Cabinet Room. MSA provided lunch in November and the MDOC provided lunch prepared by the Cotton Correctional Facility Food Tech Program in January.

In addition to the regular meetings that consisted of the entire Task Force, four ad hoc committees were established to investigate specific topics relating to jail and prison overcrowding. Information gathered by these committees was discussed by the Task Force at its regular meetings, and the committee findings and strategy proposals accepted by the entire Task Force are reflected within this report.

The four ad hoc committees, convened by designated Task Force members, met outside of the regular meetings of the Task Force and are listed below:

- Target Populations - Chaired by Mike Thomas
- Range of Sanctions - Chaired by Joan Yukins
- Pretrial Issues - Chaired by Stuart Dunnings
- Risk and Needs Assessment - Chaired by Joan Yukins

The Task Force reviewed substantial amounts of data to gain a better understanding of the current policies and practices that impact jail and prison overcrowding. Jail population data gathered from JPIS, which is operated by the MDOC Office of Community Corrections, indicated that the majority of county jails in Michigan are housing inmates at or near their respective rated design bed capacity. Furthermore, jails have increased capacity since 1998.

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|--|
| <ul style="list-style-type: none">• Jail capacity in 2003 was 18,034 beds, a 13.9% increase from 1998 (15,826)• Jail capacity in September 2004, was 18,566 beds, a 17.3% increase since 1998• Jail capacity is projected to be 19,022 beds by the end of 2005 |
|--|

The MDOC Office of Research and Planning provided the Task Force with information regarding available bed space within the Michigan prison system. This information is summarized below:

- Net operating capacity at the end of calendar year 2004 was 49,263 and 706 of those beds were vacant. Current budgetary proposals anticipate continuing on-line capacity at about that level during the next year and beyond. Prison population projections indicate that this will only be possible with aggressive implementation of existing and new initiatives to further control growth, and that is the means by which the MDOC plans to keep population within current capacity levels.
- Absent these efforts, the projections forecast that current female bed capacity will fall below a 50-bed availability threshold by the spring of 2005, and current male capacity will fall below a 300-bed availability threshold by the summer of 2005. If these availability threshold benchmarks are crossed, more beds in reserve will have to be brought on-line, thereby increasing costs.

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- Following the capacity changes announced as part of the budget for this fiscal year, MDOC will still have about 1,100 beds in reserve. Beyond that, though not recommended for use, there are about 3,000 beds that were used in the past which have since been vacated or scheduled to close [e.g., two prisons (in Ionia and Jackson), prison farms, camps, individual housing units, and temporary day room beds]. Using any of these beds would increase costs.

The Task Force noted that the MDOC has provided in excess of \$271 million to counties statewide through the Office of Community Corrections over the past five years.

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| <ul style="list-style-type: none">• \$10,035,713 for jail construction/expansion funding• \$74,399,965 for comprehensive plans and services• \$85,228,569 for probation residential services• \$101,676,107 for county jail reimbursement |
|--|

In addition, the Task Force discussed trends in arrests and crimes in Michigan:

- According to the 2003 Michigan Uniform Crime Report, crime has decreased by 123,897 from 1998 (1,186,104) to 2003 (1,062,407) and the number of arrests have decreased by 85,648 from 1998 (438,148) to 2003 (352,500)

SPECIAL PRESENTATIONS

The Task Force also received information from several national and local criminal justice leaders and discussed how the Michigan Supreme Court has assisted courts with jail overcrowding issues. Presentations on and discussions of these topics are outlined below:

Pretrial Services Resource Center (PSRC): The PSRC (www.pretrial.org) is a non-profit organization, governed by a national board of directors. Primarily, the PSRC conducts research and provides technical assistance to county governments, only occasionally assisting state entities. Under the leadership of Director D. Alan Henry, the PSRC was originally established in the 1970s by the U.S. Department of Justice in response to issues related to pretrial screening, release, and diversion. At the time, very little was known about decision-making in the early stages of the criminal justice system process or the impact of pretrial decision-making on jails.

Mr. Henry provided the Task Force with a national overview of decision points, criminal justice processes, options that can impact jail population, and strategies that many jurisdictions throughout the country are utilizing to reduce overcrowding. He stated that when the PSRC is asked to provide assistance to local jails, they typically find that local officials agree that roughly 20% of the jail population can be diverted to other programs or released in more efficient and effective ways, while assuring that public safety is maintained.

Mr. Henry also indicated that he had not worked with a group charged with addressing both jail and prison overcrowding at the same time, yet he recognized the unique opportunity for meaningful collaboration. Mr. Henry agreed that the Task Force should remain committed to data-driven decision making, and applauded the direction in which the Task Force was headed.

He remarked that the initial agreements of the Task Force regarding data were critically important, but that the agenda was very ambitious given the time allowed. He indicated that perhaps the Task Force could develop a blueprint for action by early 2005 and address long-term projects at a later date.

Kalamazoo Criminal Justice Council (KCJC): Members of the KCJC presented information to the Task Force about their local criminal justice system. The KCJC members and staff who appeared at the meeting included Sheriff Mike Anderson, Honorable Paul Brindenstine, Prosecuting Attorney James Gregart, Honorable J. Richardson Johnson, KCJC Executive Director Tammy Woodhams and Kalamazoo Community Corrections Advisory Board Manager Grace Kalafut. Kalamazoo county ranks 74th in the state with regard to jail capacity per capita population. The group reported that the KCJC has expanded the range of pretrial and sentencing options, and continues to meet regularly as a team to monitor the jail population. The KCJC attributes their successes to a “systemic, collaborative 50,000 foot view of their system.” Other themes gleaned from the KCJC presentation include:

- Uniform program and operating standards are important goals.
- Operating a jail is a difficult job.
- The “right” people need to be in the “right” places in order for positive change to occur.
- All criminal justice system stakeholders should be at the table for progress to be made.
- A systemic perspective is critically important whether you are planning for a new jail or addressing a particular decision point in the criminal justice system.
- Having a range of sanctions, including prevention programs, pretrial options, and sentencing sanctions is important.

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- Accountability and enforcement are important aspects of program integrity.
 - Emergency releases are not an effective strategy for managing jail population.
 - Validated assessment instruments are important and necessary tools for identifying offender risk and needs.
 - Data and information should drive all that is done.
 - Community involvement is important.
 - Being proactive, not reactive, is always the best approach.
 - Secure beds and jails are a necessary part of the range of sanctions.
 - Without available space, alternative programs are not effective and do not provide integrity to the system.

More information regarding the KCJC can be found at www.kcjc.org.

The Supreme Court's Initiative on Jail Crowding: Deborah Green, the Region I Administrator for the State Court Administrative Office, discussed the Michigan Supreme Court's efforts to remedy jail overcrowding. Ms. Green reported that Michigan Supreme Court Justice Maura Corrigan convened a meeting with Circuit Court Chief Judges from around Michigan in June 2003 regarding this issue. A checklist (available at www.courts.mi.gov) was created to assist courts in assessing and understanding steps that can be taken to reduce jail overcrowding. Emphasis was placed on streamlining or making the criminal justice system more efficient. The courts have experienced great success in shortening pretrial and pre-sentenced offender jail stays.

VI. LOCAL CRIMINAL JUSTICE SYSTEM INFRASTRUCTURE: ISSUES, BEST PRACTICES, AND STRATEGIES

1. COUNTY JAIL CAPACITY AND EMERGENCY RELEASE

Issue

The majority of county jails in Michigan are housing inmates at or near their rated design capacity. The operation of jails is further complicated by the fact that many jails are old and in need of rehabilitation or replacement and that new construction places additional strain on county budgets.

The County Jail Overcrowding State of Emergency Act, which outlines the release process when a jail has exceeded its rated capacity for seven consecutive days, has a section permitting sheriffs to defer admission of certain offenders. In 2002 and 2003, at least ten county sheriffs invoked the County Jail Overcrowding State of Emergency Act at least 73 times. Numerous other counties were able to avoid declaring jail overcrowding by boarding defendants in neighboring county jails. JPIS data indicates that 3% (440 offenders) of the statewide jail capacity was utilized during 2002 and 2003 to house offenders for other jurisdictions.

Best Practices

State and local officials agree that the best way to deal with overcrowding is to address the issue before it occurs.

The primary goal of community safety is best achieved by avoiding emergency releases and ensuring that scarce housing space is reserved for violent offenders.

As a result, counties are seeking long-term, less costly solutions to manage increasing offender populations and to avoid jail overcrowding. Several counties have had to cope with persistent overcrowding problems and have received technical assistance from the NIC to plan for new facilities or to ensure that best practices are instituted in the local criminal justice system.

One example of best practices in action is the Genesee County Jail Admission Policy. This policy provides admissions criteria to assist in determining which offenders are eligible for housing in the jail. Decisions are based on the type of offense committed. Similar criteria are utilized when determining which offenders would be released early due to overcrowding.

During the mid-1990s, the state appropriated funds to support three jail bed expansion programs (i.e., Minimum Security Facilities, Local Facility Expansion Program, and the Regional Jail Program). **The state contributed a total of \$10 million in construction funding for 1,696 new beds, about 16% of the total construction costs (\$69 million).** County jail capacity has increased from 15,826 beds in 1998 to 18,566 in 2003, and will increase to 19,022 beds by the end of 2005. The Average Daily Population (ADP) for sentenced and unsentenced felony offenders has been relatively stable, while sentenced misdemeanants decreased 3% and unsentenced misdemeanants increased 3% from 1998 through 2003. The percentage of jail capacity reported increased from 90.4% in 1998 to 93.8% in 2003.

Strategies

- Encourage consideration of alternatives to invoking the County Jail Overcrowding State of Emergency Act.
- Assess county jail capacity in each jurisdiction to determine whether there is a need for expansion. Any recommendations should be based on an extensive analysis of the criminal justice system, jurisdiction by jurisdiction, and utilize a specialized work group (such as the Michigan Task Force on Jail and Prison Overcrowding), that is assisted by state or national criminal justice experts (such as the National Institute of Corrections or a similar organization.) Moreover, recommendations should focus on providing flexible responses to a diverse offender population (e.g., gender, classification.)

2. JAIL POPULATION INFORMATION SYSTEM (JPIS)

Issue

Preventing jail overcrowding requires a fundamental understanding of the jail's offender population, including the differences between sentenced and unsentenced offenders, felony and misdemeanor offenders, and rate of admissions as opposed to the rate of release. **Changes in the rate of admissions or lengths of stay can dramatically impact the number of offenders in jail daily.**

Effectively preventing overcrowding requires the capability for collecting data, monitoring the population, analyzing offender admissions and lengths of stay, and sharing this information with key stakeholders in local jurisdictions.

It is essential that criminal justice leaders in each community collaborate and use this information to develop sound policies and practices with regard to offender jail admissions and lengths of stay.

Best Practices

In Michigan, JPIS was developed as a means to gather standardized information on jail utilization and demographics from county jails throughout the state.

JPIS is the product of a cooperative effort between the MDOC's Office of Community Corrections, the County Jail Services Unit, and the MSA, with assistance from Michigan State University and the NIC. JPIS was never intended to have all the information contained at each individual reporting site, but specifications required capturing data related to individual demographics, primary offenses, known criminal history, arrests, convictions, sentencing, and releases.

The primary purpose of JPIS is to provide the ability to monitor and evaluate jail population characteristics for use in policy planning decisions. As a statewide database, it is sufficiently flexible to be made compatible with existing jail management and Management Information Systems (MIS) in each county. Originally developed as a mainframe process, the JPIS system was later revised to run in a client/server environment, utilizing a bulletin board and the internet to gather monthly files and return error reports and analytical reports.

The locally-centered approach taken for JPIS development has had a substantial impact on the utilization of local jail management systems throughout the state. When JPIS requirements were first implemented, more than half of the counties in Michigan were without functional automated jail management systems. Objective inmate risk classification was in its infancy. Now, all the counties have automated systems and nearly every county has transmitted electronic data files to the central JPIS system. In 2003, 93.8% of the total jail beds statewide were reflected in JPIS. Similarly, the JPIS requirement for standardized classification of offenders has been a major factor in the adoption of objective offender classification processes and procedures throughout the state. As a result of the Task Force meetings, the MSA and MAC have indicated that their associations would assist those counties not reporting JPIS data to ensure that 100% of the jail beds statewide are reported going forward.

The state of Washington designed a system that interfaces successfully through the sharing of electronic data. This system was created by legislation (RCW 36.28A.040) that required the implementation of an electronic, statewide city and county jail booking and reporting system. The system serves as a central repository and instant information source for offender information and statistical data, and is capable of communicating electronically with each of Washington's city and county jails, as well as other state criminal justice agencies. The system allows the entry and retrieval of "real time" and historical information on offenders held in each of the state's jails. It also provides ad-hoc reports and summary data at pre-determined intervals for use in managing the jails within Washington, and for automated victim notification. More information on this practice is available at www.leg.wa.gov.

Strategies

- Explore technologies that streamline the process for collecting and sharing offender data statewide.
- Encourage the MDOC and the State Community Corrections Board to evaluate which JPIS data elements should be required for reporting, and whether JPIS data reporting should be required as a prerequisite for funding pursuant to the Community Corrections Act, the County Jail Reimbursement Program, and county jail expansion funds.

3. RISK AND NEEDS ASSESSMENT

Issue

Michigan counties do not have a uniform and objective assessment tool to appropriately assess offender risk and needs relative to risk of recidivism. Criminal justice agencies statewide rely primarily upon a conventional approach to supervision that emphasizes individual offender accountability, as assured by a supervising case manager or agent. This approach gives minimal consideration to what research indicates is necessary to accomplish risk and recidivism reduction.

Best Practices

International research indicates that certain programs and intervention strategies produce sustained reductions in recidivism. The NIC's model for implementing evidence-based practices in community corrections identifies eight principles for effective offender interventions. The first principle is "Assessing Offender Risk/Needs." This principle is fundamental to conducting effective interventions that change behavior and protect communities. Second, the "Criminogenic Need Principle" refers to the offender's dynamic risk factors (e.g., criminal personality, anti-social attitudes, values, beliefs, peers, substance abuse, and dysfunctional family) that, when addressed or changed, affect the offender's risk for recidivism. Thirdly, the "Responsivity Principle" requires offenders to be appropriately matched to services based on individual characteristics (e.g., culture, gender, motivation, and learning style). These principles are vital to the implementation of evidence-based practices in community corrections and reductions in recidivism.

Specifically, supervision and treatment methods should be supported by evidence-based practices. Decision-making based on such practices will result in more accurate assessments of offender risk and needs, and in turn, more appropriate supervision and treatment for each individual offender.

Defining the concept of “risk” as it pertains to offender recidivism refers to the probability of re-offending. Researchers have identified specific factors that have been shown to be the best predictors of recidivism. Offenders identified as low-risk have few or less intense risk factors as compared to high-risk offenders. Identification of the risk factors will engender appropriate and promising targets for intervention. **Research also indicates that higher-risk offenders are more likely to benefit from intensive services. Statistically, lower-risk offenders are adversely affected by more intensive sanctions and services (i.e., probability of re-offending increases).** Therefore, local criminal justice stakeholders should be actively involved in the community corrections planning process to ensure that scarce resources are allocated and prioritized in a manner that imposes sanctions and provides appropriate services for offenders with a high risk of recidivism before those with a low risk. Approaches that utilize this approach will more effectively contribute to public safety.

Strategies

- Encourage local governments to incorporate evidence-based practices in their local criminal justice system.

4. MENTALLY ILL OFFENDERS

Issue

Offenders with severe mental illness generally have acute and chronic mental illness and function poorly in the community. Many are homeless, and a growing number of these mentally ill offenders are housed within jails and prisons throughout the country. In most jurisdictions, jails are poorly equipped to deal with this population. Between 1992 and 2001, Michigan closed 10 state mental health hospitals, forcing mentally ill persons into jails and prisons, and heightening both their risk and that of other inmates and correctional staff. Factors that contribute to the placement of mentally ill persons into the criminal justice system include: communities’ lack of adequate support for persons with mental illness, mentally ill offenders’ difficulty in gaining access to community treatment, and the lack of understanding by law enforcement and society of the mentally ill.

County jail administrators are facing issues similar to those of mental health professionals, including the challenge of preventing mentally ill inmates from committing suicide. According to the Justice Department, suicide is the leading cause of death in jails and the third-leading cause of death in prisons nationwide. In Wayne county, eight inmates killed themselves between 1999 and 2002. Six inmates in Macomb county committed suicide between July 2000 and April 2002, and Oakland county recorded its first suicide in more than a decade in 2002.

Suicides are relatively uncommon in Michigan prisons – only three prisoner suicides were recorded in 2003. The MDOC has implemented thorough policies pertaining to the oversight of prisoners who are considered suicidal, and for administering prescribed medications. The MDOC also inspects county jails to ensure that they have written policies regarding inmate care, and that inspection reports are provided to sheriffs and county commissioners (who decide how to address any deficiencies).

As determined by the Department of Community Health (DCH), there are relatively few prisoners with mental health disorders in the Michigan prison system. Approximately 2% (1,957) have major mental health disorders and 4% (1,188) have non-major mental health disorders. One factor that contributes to fewer mentally ill offenders entering the prison system is that many have been diverted into more appropriate treatment programs.

County jails statewide have incarcerated a greater percentage of mentally ill offenders than the prison system. Statistics that indicate the number of mentally ill offenders in Michigan county jails are not available in a central database, however, in 1988, the National Association of Counties reported that approximately 10% of the inmates in jails were considered to have a mental illness. While some mentally ill offenders require incarceration due to the nature of their crimes, mentally ill offenders incarcerated for minor crimes should be diverted to treatment programs.

The criminal justice system is not equipped to effectively handle mentally ill offenders. The Michigan Mental Health Code Act (1974 PA 258) requires mental health agencies to provide services designed to divert persons with serious mental illnesses, serious emotional disturbances, or developmental disabilities from possible jail incarceration when appropriate. This law is limited, however, and prevents offenders with less severe mental illnesses from being diverted from incarceration. Thus, Michigan county jails have experienced an increase in mentally ill offenders who are incarcerated for lengthy stays.

Best Practices

Governor Granholm established the Michigan Mental Health Commission to identify the most pressing issues confronting the current system and to make recommendations that would improve Michigan's public mental health policies and programs. As part of that report, goals were identified, including "[G]oal 4: No one enters the juvenile and criminal justice system because of inadequate mental health care." The commission identified diversion models in Michigan that could be implemented to achieve appropriate care for adults and children outside of the criminal justice system. The recommendations of the Mental Health Commission are consistent with the strategies in this report. A copy of the Mental Health Commission's report is available at www.michigan.gov/mental_health.

A factor identified by many Michigan counties as an area that, if addressed, would save jail beds and costs associated with housing mentally ill offenders, is the time it takes for the forensic evaluation process to be completed. In some counties, offenders are housed in jails for extended periods of time awaiting competency hearings. These mentally ill offenders could be referred to an appropriate mental health agency for services before their trial, or at an early stage in the criminal justice process, and begin receiving treatment immediately. Jails would benefit from the decrease in jail time and medical costs, as well as their need to address the security risk associated with housing mentally ill inmates.

In 2004, Oakland county initiated a new jail diversion program in coordination with law enforcement, county mental health, the prosecutor's office, and the courts. The program diverts nonviolent mentally ill offenders from jail into treatment, thereby reducing jail overcrowding. Police officers are trained to identify mentally ill offenders and are instructed to take an offender to one of the several emergency treatment centers located in the county instead of transporting offenders to jail. More information is available at www.co.oakland.mi.us/sheriff/news.

Recently, the MDOC's Office of Community Corrections funded a Mental Health Jail Diversion Program in Macomb County (\$292,000). The program is expected to divert 100 mentally ill offenders from jail annually (average length of stay 60 days) and save approximately 6,000 jail bed days. If successful, this program may serve as a model for additional mental health jail diversion programs throughout Michigan. More information is available at www.macombcountymi.gov/communitycorrections.

Strategies

- Encourage counties to enhance jail services and diversion programs for mentally ill offenders, especially those awaiting forensic examinations.
- Encourage increased collaboration among courts, law enforcement, corrections, and mental health agencies to identify, divert, and treat mentally ill offenders.

5. STATE AND LOCAL PARTNERSHIPS

Issue

Appropriate alternatives to jail may not be available or fully utilized statewide for a variety of reasons. These include, but are not limited to, a lack of community corrections comprehensive planning to address local issues impacting jail utilization, a lack of local criminal justice stakeholder involvement in the criminal justice system planning process, a lack of stakeholder knowledge of and/or confidence in alternatives to incarceration, and a lack of funding resources.

Best Practices

The Community Corrections Act created state and local partnerships to develop comprehensive data-driven corrections plans to address prison and jail overcrowding. The act enables local units of government to develop specific programs to address local issues. It then provides funding to support developing the programs and providing services in the communities. The Office of Community Corrections works in cooperation with the MDOC Field Operations Administration and local units of government pursuant to the act. Local governments participate in the implementation of the Community Corrections Act by establishing a local community corrections advisory board and developing a local comprehensive corrections plan. The plans identify local policies and practices, as well as programs and services which will help communities achieve their objectives.

The state has awarded local governments over \$187.5 million from 1998 through 2004 to support community corrections programs. In FY 2005 the MDOC awarded \$31.4 million in support of community corrections programs in 73 of Michigan's 83 counties.

Another initiative targeting best practices is the MPRI, a collaborative effort of the Governor's office, MDOC, DCH, DLEG, FIA, and community service organizations.

The vision of the MPRI is that every offender will be released from prison with the tools needed to succeed in the community. The mission of the MPRI is to reduce crime by implementing a seamless plan of services and supervision developed with each offender, delivered through state and local collaboration from the time of the offender's entry into prison, through their transition, reintegration, and aftercare in the community.

Strategies

- Encourage rational planning and collaboration efforts between the state and counties that emphasize efficient and effective utilization of jail and prison resources, and that do not compromise public safety.
- Encourage statewide participation in the Community Corrections Act (1988 PA 511).
- Explore how to involve directors of other state agencies in community corrections issues. [e.g., Family Independence Agency (FIA), Department of Community Health (DCH), Department of Labor and Economic Growth (DLEG)]
- Support the MDOC efforts to reduce recidivism through the Michigan Prisoner ReEntry Initiative (MPRI) and encourage reentry initiatives at local levels.

PROBATION VIOLATORS

Issue

There has been a significant shift in the use of county jails for probation violators, according to statewide Offender Management Network Information (OMNI) felony dispositions data for the fourth quarter of 2003 through the third quarter of 2004.

OMNI indicates that during this timeframe, prison and probation dispositions decreased by 4.4% (146 offenders) in 2003 and by 6.5% (216 offenders) in 2004, while offenders sentenced to jail only increased by 13.4% (438 offenders).

Prison and probation dispositions:

↓ 4.4% (146 offenders) in 2003

↓ 6.5% (216 offenders) in 2004

Offenders sentenced to jail only

↑ 13.4% (438 offenders).

Of the 438 offenders sentenced to jail, 73% of these offenders were sentenced to Berrien, Kent, Macomb, Oakland, and Wayne county jails.

The JPIS data shows that felony and misdemeanor probation and parole violators occupied 9.87% (512,571 days) of the 79.9% (14,413 reporting capacity) jail beds statewide in FY 2003.

County jail beds used:	
Felony probation violators	5.5%
Parole violators	1.95%
Misdemeanant violators	2.42%

Felony probation violators used 5.5% (285,560 days), parole violators used 1.95% (101,334 days), and misdemeanor violators used 2.42% (125,677 days) of county jail beds.

Best Practices

Courts can drastically reduce their dockets and the number of admissions to jail if, for technical violations (those offenders that fail to comply with a condition of probation, excluding a new crime), they authorize probation agents to issue “Probation Violation Waivers” in lieu of the courts issuing petitions to show cause or bench warrants. The counties throughout Michigan that have implemented this practice have experienced fewer jail admissions and a declining number of court appearances.

The MDOC’s operating procedure relative to probation violation response guidelines indicates that MDOC staff should meet with local community corrections advisory board managers to develop county-specific probation violation response guidelines. Such collaboration would ensure that local response guidelines best utilize the available local options and are consistent with MDOC’s probation violation response guidelines.

In Wayne County’s Circuit Court, the Community Corrections Advisory Board and the MDOC Regional I Field Operations Administration collaborated and implemented a Show Cause Hearing process in lieu of warrants to have technical probation violators appear in court. As a result, the average daily population of probation violators in jail has been reduced from 70 to 20.

Strategies

- Encourage the MDOC to work with local community corrections advisory boards to review and consider county-specific probation violation response guidelines that are consistent with pertinent provisions of the MDOC’s operating procedure. This practice will ensure that the available local options, as set forth within the department’s guidelines, are best utilized.

VII. DECISION POINTS IN THE CRIMINAL JUSTICE SYSTEM: ISSUES, BEST PRACTICES AND STRATEGIES

1. ARREST DECISIONS

Issue

Law enforcement is essentially the gatekeeper to the jails. Officers on the street are the first to determine whether to make an arrest and transport an offender to jail, issue a citation or appearance ticket for active warrants, or divert offenders who are mentally ill or experiencing other detectable health problems to an alternative setting.

Best Practices

Many counties in Michigan have indicated that the use of citations and/or appearance tickets have been effective methods for diverting defendants from jails. The Bureau of Justice Assistance report entitled, *A Second Look at Alleviating Jail Crowding: A Systems Perspective* (2000), indicates that both small and large jurisdictions credit increased use of citations by law enforcement as one measure successful in reducing jail overcrowding.

As stated herein, persons who are mentally ill are often detained in jails. Some law enforcement agencies in the state have responded to this problem by creating training programs to help officers recognize mental illness and collaborate with local mental health agencies to divert mentally ill defendants from jail. In the past few years, the Michigan Sheriffs' Association has assisted sheriffs throughout the state to deal more effectively with mentally ill defendants in jail and to divert those offenders to appropriate treatment programs.

Strategies

- Encourage the use of citations and appearance tickets as appropriate alternatives to jail for nonviolent defendants who are not a threat to public safety.
- Encourage law enforcement agencies statewide to train officers and other personnel to recognize signs of mental illness and, in appropriate situations, encourage collaboration with mental health agencies for evaluation and recommendations.

2. COUNTY JAIL INTAKE AND RELEASE DECISIONS

A. Booking

Issue

County jails are complex operations with frequent population turnover. The County Jail Population Information System data for 2003 indicates that over 300,000 offenders were admitted into 94% of the state's total jail beds.

Best Practices

In Arizona, jails streamlined the booking process by implementing internet and application integration technologies that enabled the arresting agencies to enter booking data into the system.

Under this arrangement, much of the offender information is already in the database when the offender arrives at the jail. This efficiency expedites the booking process. More information regarding the Arizona Criminal Justice Commission's expedited booking process can be found on their website at www.acjc.state.az.us.

Strategies

- Encourage local governments to explore ways to expedite processing offenders into jail

B. Pretrial Services

Issue

The Bureau of Justice Statistics' Special Report, *Profile of Jail Inmates 2002*, indicates that the pretrial population is 28.2% nationwide – 17% of this population is on trial or awaiting trial and 11% is awaiting arraignment or a revocation hearing on a prior release status (e.g., bail/bond, electronic monitoring, house arrest, day/weekend reporting, work/study release, or furlough). The MDOC's JPIS data from 1998 through 2003 indicates that the pretrial population for felons remained stable at 23%, while the misdemeanor population increased by 2% from 9% to 11%.

During this same period, the average length of stay for pretrial misdemeanants increased by one day, from 3 days to 4 days. This small increase, however, has resulted in approximately 130,000 additional jail bed days used statewide – an increase of 336 in average daily population.

Best Practices

Pretrial services programs can help reduce jail overcrowding by advocating for the release of certain inmates before trial. For instance, pretrial services provide the judiciary with information about defendants to guide decisions concerning appropriate pretrial releases and detentions. Such services provide a means for safely releasing a defendant from jail, and have the capacity to include models that allow the defendant to be supervised and monitored within the community. These programs vary throughout the state, but they all have the same goal: to reduce defendant lengths of stay in jail prior to trial.

Reducing the length of stay results in fewer incidents of jail overcrowding, opens jail beds for violent offenders and inmates who have been sentenced to a jail term, and limits the need for counties to spend tax dollars to house offenders in neighboring county jails. For many overcrowded jails, pretrial services programs may greatly reduce jail overcrowding by including models that advise judges of cases in which the release of a nonviolent defendant from jail may be appropriate, with the provision of appropriate community-based monitoring and supervision options (such as the use of electronic monitoring). In 2003, Kent county saved nearly 134,000 jail bed days by utilizing pretrial services. Prior to the implementation of pretrial services, the Kent county jail's pretrial population was over 60%. In 2003, the pretrial population was approximately 31%. In FY 2004, the Office of Community Corrections, pursuant to the Community Corrections Act, partially funded (\$117,250) the Kent County Pretrial Supervision Program, which had an annual budget of \$255,800. The program had an average daily population of approximately 115 offenders who would remain incarcerated in jail if the program were not available.

Pretrial services programs also ensure that defendants are provided with equal opportunities, regardless of their economic backgrounds. With such programming, offenders are not kept in jail because they are poor and cannot afford minimal bonds. Many pretrial defendants initially detained in jails, usually due to an inability to post bond, can be safely released from jails. Many pretrial services programs include jail population monitors who regularly monitor the pretrial population to identify such defendants, particularly those who have a minimum bond set.

In the Michigan Pretrial Services Manual, the State Court Administrator's Office acknowledged that the creation of new pretrial services agencies and the improvement of existing pretrial agencies will assist the judiciary and the criminal justice system in the following manners:

- Improve the release/detention decision-making process in trial courts by providing complete, accurate, and objective information to judges;
- Provide pretrial supervision to ensure court appearance, public safety, and compliance with pretrial release conditions;
- Reduce case processing delay;
- Reduce jail overcrowding resulting from the lack of alternative sanctions such as pretrial supervised release, monitoring, and drug testing/treatment;
- Ensure that jail/prison beds are reserved for serious violent felony offenders;
- Provide substance abuse assessment information to the judiciary at the earliest point in the process so that only appropriate conditional release orders are issued with monitoring and sanctions for noncompliance;
- Reduce recidivism by increasing offender accountability through pretrial supervision and monitoring via the least restrictive measures to ensure compliance;
- Increase database development of pretrial programs for evaluation purposes; and
- Increase coordination within a county/community criminal justice system for more efficient use of resources.

To maximize the effectiveness of pretrial services programs, a validated objective risk and needs assessment instrument should be utilized. This will ensure that appropriate recommendations are being provided to the courts for pretrial release decisions. Both the American Bar Association (www.abanet.org) and the National Association of Pretrial Service Agencies (www.napsa.org) encourage the use of objective criteria to assess a defendant's risk of failure to appear.

JPIS data from 2002 through 2003 indicates that approximately 34% of Michigan jail beds were occupied by unsentenced felons and misdemeanants. This figure is above the national average of 28.2%.

If pretrial services were expanded in the state, then additional jail beds would be available for prison bound offenders and misdemeanants serving their sentences.

Strategies

- Encourage counties to enhance pretrial services programs by incorporating a validated risk and needs assessment tool, one of the least restrictive and cost-effective measures to ensure offenders' compliance. This tool will help determine an offender's current risk of failure to appear or risk of recidivism when bond is set, and when the court utilizes new technology such as electronic monitoring.
- Explore whether establishing bail guidelines is an effective mechanism to reduce jail overcrowding.
- Encourage counties to establish a jail monitoring system that includes reviewing jail rosters to identify offenders who could be safely diverted from jail or cases that could be expedited. This practice may also encourage local stakeholders to meet on a regular basis to determine what categories of detainees should be in jail.

3. CHARGING DECISIONS AND PROSECUTION

Issue

The county prosecuting attorney can play a vital role in reducing jail overcrowding. During the initial stages of a case, prosecutors determine whether a crime has been committed, the appropriate charge for a crime, and whether the circumstances surrounding a crime and/or an offender's background warrant consideration of an alternative to incarceration such as assignment to a diversionary program (e.g., drug court). In several counties throughout the state, prosecution diversion programs have been designed to divert nonviolent felony offenders with drug abuse problems into substance abuse treatment programs.

Best Practices

In 2003, Wayne county took steps to reduce the frequency of emergency conditional releases of pretrial defendants by expediting case processing. This approach was based on assessing levels of risk and needs and by implementing several processes and practices in accord with differentiated case management principles. An expedited plea offer and pre-exam hearings process had an extraordinary impact on jail utilization. Data collected for 2003 relative to pre-exam cases demonstrated that more than 70% of the defendants either accepted the plea agreement offered or waived preliminary examination, expediting the trial track for such cases.

In addition to a 40% plea rate, 25% of the defendants who appeared at pre-exam hearings were granted a personal recognizance bond pending trial, plea, and/or sentence. Absent the expedited plea/pre-exam program, these defendants would not have been eligible for bond review for a minimum of seven days. In addition, they would be held at least 15 more days for sentencing. Since the inception of this program, the Wayne County jail's average daily population has been reduced by approximately 90 offenders. This reduction has allowed for the elimination of emergency administrative releases.

Strategies

- Encourage prosecuting attorneys to increase the use of diversion programs.
- Explore the preliminary examination process to determine whether changes might expedite cases through the system.

4. BAIL AND SENTENCING DECISIONS

A. Case Management

Issue

The judiciary has great influence over the jail population. Judges at both the district and circuit court levels directly affect jail admissions and offender lengths of stay. For example, judges determine who will stay in jail prior to trial by setting bond amounts. They also determine who will be sentenced and the terms of sentence.

Best Practices

A review of community corrections comprehensive plans, developed pursuant to the Community Corrections Act, indicates the following models are considered best practices. In Midland county, a human services coordinator screens cases in jail to identify nonviolent defendants who have not posted low bonds and advises the court to consider release in such cases. Calhoun County District Court judges implemented a three to five day bond review process and the circuit court judge performs regular bond reviews when cases are bound-over. Ingham County 54-A District Court adopted a seven day personal recognizance bond policy to alleviate jail overcrowding, and in Kalamazoo county, the judges frequently utilize non-cash bond conditions.

Courts can also reduce jail admissions and defendants' lengths of stay by instituting delay reduction measures. According to *A Second Look at Alleviating Jail Crowding – A Systems Perspective* (U.S. Department of Justice, October 2000), some courts in California and Florida have implemented a judicial warrant review process as part of their strategy to reduce jail overcrowding.

Some courts have employed expedited processes to reduce jail overcrowding. For instance, in Monroe county, the district court developed a "Fast Tracking Arraignment" process to decrease the number of offenders arrested on misdemeanor warrants. The court mails notices to offenders with warrants, advising them to voluntarily report to court during specified hours in lieu of being arrested and detained. The district court also takes pleas on felony cases, while weekend arrests are arraigned in 24 hours by a magistrate on call. These practices expedite cases through the court system, thereby reducing the length of jail stays.

Strategies

- Encourage the judiciary to actively participate in efforts to reduce jail overcrowding by utilizing the Michigan Supreme Court Jail Crowding Prevention and Response Checklist.
- Encourage authorizing district courts judges to accept felony pleas.
- Encourage the use of technology to expedite the transfer of records from district courts to circuit courts.
- Evaluate sentencing practices to determine whether appropriate offenders are being incarcerated.

B. Pre-sentence Investigations

Issue

Administrative rules outlining the content of PSIs require a proposed plan, including an assessment of the offender's strengths, weaknesses, abilities, established behavioral patterns, and readiness for change. A supervision plan is required if probation is recommended. The department does not utilize a formalized needs assessment instrument and the risk assessment instrument used in making sentencing recommendations for prison-bound offenders has not been validated since 1996. A risk assessment instrument should be revalidated every three years to ensure its reliability.

Due to the lack of a validated risk instrument, judgments on an offenders' risk of recidivism are subjective. If a validated risk instrument were used in the PSIs process, an offender's rate of risk could be considered in the PSI Guidelines, particularly where a lengthy term impacts jail and prison overcrowding. Additionally, without a validated needs instrument in the PSI process, it is difficult to accurately and consistently assess and prioritize an offender's needs and match an offender to the appropriate intervention or treatment program.

Best Practices

The MDOC is statutorily charged with completing PSIs for all felony convictions statewide and for misdemeanor convictions when ordered by the court. Approximately 50,000 reports are completed annually. According to the MDOC's policy directive relating to the preparation of PSIs, agents are to prepare the PSIs for a confined offender within three weeks of referral. Agents are allowed four weeks to prepare the PSIs for an offender who has been released on bond.

Strategies

- Encourage the use of non-incarcerative sentence recommendations such as fines, costs, community service, and restitution in lieu of incarceration for low-risk offenders who do not pose a threat to society.
- Encourage the MDOC to incorporate a validated risk and needs instrument in the pre-sentence investigation process, which could be used as a tool for agents to recommend alternatives to jail time and appropriate jail/prison terms for low-risk offenders who do not jeopardize public safety.
- Encourage the MDOC to require probation agents to prioritize preparation of pre-sentence investigation reports (PSIs) – specifically, by preparing PSIs for convicted offenders who are prison bound first, those who will likely be sentenced to jail second, and those who are out on bond third.
- Encourage the MDOC to develop a process that ensures that the immediate transfer of all prison bound offenders to the state prison system is not delayed due to changes made to the PSI in the courtroom at the time of sentencing.

C. Sanctions in Sentencing

Issue

Michigan counties have an array of resources available to structure sanctions and facilitate rehabilitation (e.g., community service, cognitive behavioral programming, employment and employability services, intensive supervision, mental health services, substance abuse treatment, and residential programming.) This broad range of options can be incorporated in the development of a structured sentence and case management plan when an objective risk and needs assessment has been completed. Thus, an objective risk and needs assessment process must be implemented in Michigan to effectively reduce offender risk and recidivism.

Best Practices

Community-based residential centers with 24-hour structured supervision represent one of the primary direct jail diversion programs in Michigan. The Office of Community Corrections administers funds for these residential centers, which are located statewide. In fact, in FY 2005, services are being provided in 63 counties throughout the state as a jail diversion option. Residential programming offers a continuum of sanctions/services (e.g., short-term jail stays followed by residential substance abuse treatment services, outpatient treatment, and residential services followed by daily reporting for probationers and parolees). To ensure that relevant updates are provided, residential services program eligibility criteria, which were adopted by the State Community Corrections Board in the early 1990s, should be re-evaluated to ensure consistency with evidence-based practices.

This fiscal year, the average daily population increased by 50 beds for an ADP of 1,008. It is expected that the changes that occurred during the last fiscal year in the County Jail Reimbursement Program eligibility criteria for felons convicted of a third offense of operating under the influence of liquor (OUIL) will continue to have an impact on the utilization rates of residential services (OUIL third felons are statutorily “locked out” of prison and no longer eligible for reimbursement). Also, a greater emphasis on straddle cell offenders and parole violators will likely have an impact on program utilization rates. Straddle cells are cells in which, under sentencing guidelines, the maximum sentence range exceeds 18 months and the minimum of the range is 12 months or less. Thus, additional residential beds will become necessary to provide adequate residential services as an alternative to incarceration.

Strategies

- Encourage the MDOC and the State Community Corrections Board to re-evaluate eligibility criteria for community-based residential services; a process that should include implementation of an objective risk and needs assessment process statewide.
- Explore ways to increase the number of residential placement services for offenders who are in jail because there are no treatment or secure settings available.

VIII. CONCLUSION

Many existing procedures within the criminal justice system, if streamlined, have the potential to stop or reverse jail and prison overcrowding without releasing dangerous offenders into our communities. Procedures and policies from initial contact with the offender through sentencing and placement of an offender in jail or prison must be reviewed in an effort to promote efficiency in the criminal justice system. The Task Force focused in part on these procedural elements, developing short, intermediate, and long-term strategies to assist sheriffs and counties with local overcrowding and capacity concerns.

Many of the strategies within the report can be implemented quickly and will provide immediate relief to jails. Others will take time to implement, and may require additional resources.

Development of a sustainable plan to identify the resources for these longer-term strategies is critical. Constructing new or expanding existing facilities may become a part of the solution to overcrowding, but such expansion should only take place after there has been a thorough evaluation of the entire local criminal justice system, jurisdiction by jurisdiction.

Solving the problem of jail and prison overcrowding demands the cooperative involvement of all stakeholders in the criminal justice system.

The Task Force believes that the strategies described in this report could serve as a springboard for future collaborative efforts. By outlining a systemic strategy for a more effective and efficient utilization of jail and prison resources, without compromising public safety, the Task Force hopes to have provided a resource that will help advance efforts to address jail and prison overcrowding in the future.