

*Chapter Five*  
**Jail Population Management**

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# *Chapter Five*

## **Jail Population Management**

### A. Criminal Justice System Coordination

#### 1. Background

Having amassed convincing evidence that conventional approaches to jail overcrowding have little lasting value, the Law Enforcement Assistance Administration (LEAA) — a division of the U.S. Department of Justice — in 1978 launched the Jail Overcrowding Program. The program embodied a series of concepts that, individually, were widely endorsed by criminal justice planners but which had not been unified by a methodology. These concepts were:

- Jail space is a scarce resource that must be continuously managed to ensure its availability.
- Since responsibility for jail population size is assigned to no one and must be jointly assumed by all agencies using the jail, an organizational mechanism for the joint development of policy on overcrowding must be developed.
- Credible data on the characteristics of persons arrested and data on processing patterns must be developed and provide the basis of any plan for dealing with overcrowding.
- To determine needed jail capacity; a community must first develop confinement policies and a range of alternatives to incarceration.

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- The use of qualified technical assistance can reduce the technical and political problems inherent in planning and effecting change.<sup>1</sup>

The recommendations contained in this chapter are based on an analysis of local data collected over the last year and on the interviews conducted with system officials; and rely on the American Justice Institute report and other recent jail-planning publications and guidelines. The aim of these recommendations is to make it easier for Blue Earth County to devise and implement a “systems-approach” to managing its criminal justice system. This approach relies on a methodology that centralizes policy development and is driven by data. Such a methodology provides a reliable foundation upon which to build in the future, and prepares the County to respond to anticipated, as well as unexpected, demands.

The recommendations made in this chapter carry a price tag. This is a classic example of “pay me now, or pay me later.” Currently, Blue Earth County has the opportunity to put in place a model criminal justice system that, among other things, will insure that the population of the facility will be managed efficiently. Adopting the recommendations contained in this chapter will require the expenditure of funds and major policy changes; however, making the policy changes and spending the funds *now* will yield dividends in the future.

The first dividend could be in the form of fewer jail beds. If Blue Earth County is successful in implementing the recommendations made in this report, fewer jail beds will be needed in the first phase, saving millions of

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<sup>1</sup>Jail Overcrowding: Identifying Causes and Planning for Solutions, American Justice Institute, February 1983, pp. 8-9.

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dollars in construction costs and more significantly, long-term savings in the operation of the facility.

These recommendations are made at a time when Blue Earth County is considering an expansion of its jail resources. This makes the call for systems planning all the more timely and important. Custody resources should not define a local system. They should be viewed as but one component of a comprehensive system of justice; one in which the jail is managed as part of a continuum of well integrated resources. The management of costly and scarce custody beds needs to be guided by well-defined policies and its management should serve to strengthen and enhance a range of meaningful alternatives.

Toward this end, these recommendations focus on efforts which will establish a framework for coordinated policy formation; develop data collection protocols that will insure an information-based approach to decision-making; introduce risk-based tools for allocating limited resources; create new front-end services for screening and supervision; and begin to explore a new model for doing business that recognizes the importance of innovative and effective alternatives.

Blue Earth County is at an important juncture. It can simply expand its custody resources and continue with the old way of doing business, and then wait for the next crisis to occur; or it can make the decision to integrate these new beds into a stable, balanced, and well-managed system. Blue Earth County has the opportunity to develop a criminal justice model that, based on 'best practices,' is both innovative and designed within the context of the local culture. Blue Earth County has the opportunity to develop a new criminal justice paradigm.

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The recommendations for the first stage of local systems planning include:

- ✓ Make permanent the Justice Planning Committee
- ✓ Design Data Collection/Information System Protocols
- ✓ Expand the Pre-Trial Services Program
- ✓ Create a Drug Court for substance abusers
- ✓ Examine Detox procedures
- ✓ Shift the paradigm for resolving criminal cases
- ✓ Put in place a Continuum of Sanctions for convicted offenders

### 2. Justice Planning Committee

In order to achieve the goals outlined above, Blue Earth County needs to make permanent the Justice Planning Committee. The committee will be responsible for setting overall criminal justice system policy, which can be used as a template against which the system can make decisions and measure change.

The Justice Planning Committee should continue to meet on a regular basis. Its ongoing agenda should include the continuous review of jail statistics, the management of the jail population, and the discussion of criminal justice system issues affecting the agencies. The chairperson of the Committee needs to take a strong leadership role if it hopes to be a success.

The Committee's immediate goal should be to agree upon, formalize, and put into place, standardized policies and procedures for managing the available correctional space in Blue Earth County. As has been repeatedly emphasized throughout this report, if the jail population is to be managed effectively, Blue Earth County criminal justice system can no longer continue to

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function as a collection of separate systems. A single, overarching system must be achieved that provides consistency throughout all areas of the criminal justice system, by providing unifying policies and a mechanism for ongoing system review and revision. When single decisions affect an entire system, they should not be left solely to the responsibility of any one component of a criminal justice system. Of course, individual decisions must still be made by various agency officials on a day to day basis, regarding defendant processing, Pre-Trial Services, and so on; but such decisions must be made within a more commonly defined framework than what exists at present.

The recommendations contained in this chapter concern policy decisions to be considered by the Justice Planning Committee.

### B. Information Systems

The data collection effort has been very time consuming for many persons in the criminal justice system. The lack of an integrated Management Information System results in a manual data collection effort that doesn't allow for the regular sharing of information. The courts have their own systems but they aren't linked to anyone else's system, as is the jail system and the prosecutor's system.

The jail system needs to have the ability to produce regular management reports for the Justice Planning Committee showing how the facility is being used. The state of Minnesota is embarking upon the creation of a data warehouse. The data collected as part of this project begins to show how a comprehensive warehouse could be used to develop the management reports necessary to give the decision makers the information needed for effective jail population management.

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The jail snapshot process that has been used during this project needs to be continued. Steps need to be taken to automate the process so that it is no longer a once a month manual effort but becomes an automated daily snapshot producing a monthly report showing a composite of how each prisoner day is spent.

### C. Pre-Trial Services

The Bail Evaluation Unit of the Community Corrections Department conducts interviews and verifies information on those persons required by state statute—those prisoners charged with violent offenses. The same information needs to be collected for all defendants who are arrested and detained until first appearance.

The program needs to be staffed sufficiently to interview all persons who are in-custody each morning. The information should be verified and if the defendant is not released, should be presented to the judge with a recommendation for release along with the necessary conditions to be set. The screening process can also include the necessary indigency screening for the purposes of appointment of counsel. Minnesota statutes allows this screening to be part of the interview and it is important that this be conducted as part of the pre-trial interview instead of immediately prior to court. A recommendation for release should be available to the court for most defendants by first appearance.

All persons released to the program should be monitored, tracked, and if necessary, supervised. Referrals will be made as appropriate to community agencies. A system needs to be developed for notifying defendants of upcoming court dates. Defendants who miss a scheduled court date need to be

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contacted within a half day of that court appearance and attempt to reschedule the appearance.

This process will significantly impact the failure to appear and re-arrest rates. Chapter Two (pages 32-35) documents the problems in the current system. The inability to set and monitor appropriate conditions of release leads to system failures. Shifting appropriate release responsibility to Pre-Trial Services and staffing the program sufficiently to monitor necessary conditions will allow the same high rate of pre-trial releases with a lower failure rate.

To determine whether release decisions are consistent with acceptable levels of risk, the county should initiate a study to track the outcomes of persons who have been released prior to adjudication. A study such as this will provide empirical evidence to support or refine existing practices, and in the end will allow the county an added degree of confidence in its release practices.

A Pre-Trial outcome study would determine who is likely to fail-to-appear or be re-arrested based upon certain offenses or the defendant's characteristics. After the research has been conducted, the Justice Planning Committee can establish guidelines for screening and supervision. Simply instituting the above recommendations will reduce the failure rates.

### D. Drug Court

It is recommended that Blue Earth County establish a Drug Court for offenders with substance abuse problems, including alcohol. The system may choose to adopt a diversion model program that would be in keeping with the 1993 legislation that allows a county to establish a diversion program. The

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other model to consider is a post adjudication model where the defendant has already entered a plea and enters the program post trial.

The key to the program and why this concept is set apart from other attempts by the criminal justice system to address substance abuse problems is that the use of intermediate sanctions are employed and that the judge remains involved with the case. The very successful Community Corrections DUI Intensive Supervision Program has been effective; however, adding the component of the judge staying regularly involved with the case will increase successful outcomes.

It isn't the length of sentence that matters; instead, it is the certainty, swiftness, and immediacy of sanctions that affects offender behavior. This is achieved by having the offender appear regularly before the judge. Missed appointments, dirty urines, failure to seek or maintain regular employment or education are dealt with immediately. Intermediate sanctions are handed out and then the offender is expected to still complete the required task.

Successful programs are operating in Hennepin, Ramsey, and Dodge counties. The United Department of Justice, Office of Justice Programs, Bureau of Justice Assistance has grant money available to counties wishing to establish a Drug Court. The funding is provided in a two-part process. The first part provides funding for counties to put together a planning team and includes on-site and off-site technical assistance. A group of local officials travel to sites with existing programs and along with teams from other jurisdictions is given assistance in putting together the model that will work for an individual community. The second phase of the funding provides actual dollars for implementing the program that is planned. Contact should be made with the Justice Department to determine the next grant funding cycle.

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The Department has recently opened up funding for Mental Health Courts, another specialty court that uses the same premise as drug court working with offenders with mental health issues. The county may wish to consider this type of program as well.

### E. Detox

For the first nine months of 2002, Blue Earth County spent over \$200,000 to provide Detox services for 506 persons. The average cost per client was \$399.63. These costs were compared to a social Detox program operated by a private non-profit vendor who provides services with lengths of stay ranging from 1 day to 14 days with an average stay of 3 days. The costs for this program average \$143.46 per client, less than half the average spent by Blue Earth County. Minnesota laws complicate the transportation and housing of persons in need of Detox. It is recommended that a subcommittee of the Justice Planning Committee be established to examine the Detox policies and recommend a more cost-effective model.

### F. Court Process

A recent National Institute of Justice publication examined the “efficiency, timeliness, and quality” of criminal trial courts. The findings included the following:

The study challenges conventional thinking that the timeliness and quality of justice are mutually exclusive, arguing instead that courts can exercise considerable control over how quickly cases move from indictment to resolution without sacrificing advocacy or due process.<sup>2</sup>

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<sup>2</sup> Efficiency, Timeliness, and Quality: A New perspective From Nine State Criminal Trial Courts, Brian J. Ostrom and Roger A. Hanson, National Institute of Justice, June, 2000.

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The relative pace of litigation depended largely on the local legal culture, that is, the expectations and attitudes of judges, prosecutors, and defense attorneys.<sup>3</sup>

It is recommended that the criminal justice system examine the paradigm of how cases are processed. The first recommendation is to establish an Early Case Resolution Program. An experienced prosecutor and an experienced (emphasis on the word experienced) will meet several times a week to review newly arrested criminal cases. The cases will be assessed to determine if after reviewing available discovery the case might be resolved shortly after arraignment. The goal should be to resolve a quarter to a third of all newly arrested defendants within 30 days. The offers will need to be realistic and aggressive. Both sides need to be engaged in the process of resolving cases. The mantra is “same justice sooner.”

Once the early case resolution cases are off the docket, a case management plan for resolving the remainder of the cases needs to be established. The data shows that over 80 percent of all resolved cases are resolved as a result of a guilty plea (Chapter Two, page 29). The timeliness of the entrance of the plea is the issue. Currently, attempts are made to resolve the cases that are going to enter a plea at various intervals prior to the scheduled trial date. The paradigm shift is to resolve cases at specific intervals *from* the point of arraignment, not backwards from the scheduled trial date. In other words, as soon as the defendant is arraigned the case needs to be placed on a specific track with scheduled events to occur at required intervals:

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<sup>3</sup> Ibid.

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discovery, motions, and offer. The offers again need to be realistic based upon how the case will ultimately resolve.

The above recommendations apply regardless of the defendant's custody status. While in-custody cases will always take precedence, the fact that the defendant is out of custody does not equate to taking the pressure off the resolution of the case. The failure-to-appear and rearrest rates discussed in Chapter Two (Pages 32-35) can be mitigated by shorter processing times.

Establishing a video system from the jail to the court to conduct arraignment proceedings will save in transportation costs as well as to enhance security in the courthouse. The current courthouse has serious security deficiencies; keeping the number of prisoners transported from jail to a minimum is critical. There does need to be a prosecutor and a public defender available at all first appearance and arraignment proceedings.

### G. Continuum of Sanctions

Minnesota has been one of the leaders in using intermediate sanctions, including Sentence to Serve, Huber, and Community Corrections. This section examines those programs and makes recommendations for enhancing their use.

#### 1. Work Program

Minnesota has a rich history in changing the paradigm of punishment. The state has operated the Sentence to Serve (STS) program since 1991. In addition, there is a half-time county position to supplement the three-quarters time state position. It provides the opportunity for an offender to be punished by performing needed public works projects in the community rather than taking up a jail bed.

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Offenders reside at home and report-in, and then are transported by the program out into the community to perform needed public works projects. A correctional officer supervises the crews. Those who fail to report or are disruptive to the work crew are sanctioned with a stay in the facility, followed by re-assignment to the program.

A Work Program provides the system with a low-cost sentencing alternative that allows the offender to participate in constructive activities that can aid victims and the community. It is more structured and therefore more punitive than regular community services. While it needs to be developed in a manner that reflects the local culture, it does allow low risk offenders to pay back their debt to society without taking up a scarce jail bed, which, because of the prohibitive cost, only further punishes society. This kind of program does, for a significant population, provide the immediate, swift intervention that is needed.

The Work Program should also act as a deterrent. It is easy for an offender to enter the facility to serve a sentence and avoid being seen by the community. Being involved in a Work Program provides a measure of accountability for those who violate community laws.

The problem is that the program is primarily funded by the state and there are not enough slots available. The program only operates on 7 weekend days each month—the time that most offenders can serve without disrupting their regular employment. More slots need to be added, even if the only way to do this is at the county's expense. There should not be a waiting list and this option should be available to the court for all offenders.

The program is currently current in its supervision of offenders; however, the goal is to increase the number of slots and increase the court's use of the

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program as an intermediate sanction. Clients involved in the recommended Drug Court, Intensive DUI program, Huber program as well as persons serving short-term jail sentences should be considered for this sentencing sanction.

### 2. Huber

As discussed in Chapter Four (pages 8-9), approximately 40 percent of the prisoners being held in the Blue Earth County jail are classified as Huber prisoners. These prisoners reside in a minimum-security annex to the jail and either work or go to school in the community and then return back to the jail. Approximately half of the sentenced prisoners (Chapter Three page 20) are classified as Huber prisoners. The average sentence length is 175 days (Chapter Three page 21).

It is recommended that the system put in place a formal continuum of sanctions that will allow Huber prisoners who have successfully followed the rules and regulations of the program and participated in required counseling be released to electronic monitoring. All of the court's required conditions will continue, including alcohol and drug monitoring. The only difference is that the offender will reside at home instead of at the jail. The specific time frame for which the step-down in sentence will occur will need to be established and needs to be tailored on a case-by-case basis. Community Corrections needs to be involved with jail staff in establishing the criteria and assisting with the process.

All sentenced prisoners in the Blue Earth County Jail should be involved in having an ongoing evaluation conducted of their status. Participation in available programs for alcohol, drug, and mental health programs as well as employment and educational opportunities should be encouraged and part of

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the process of the inmate earning the right to participate in the Huber program and ultimately the electronic monitoring program.

In addition to working closely with Community Corrections, additional punishment can be imposed by having the offender complete time on the STS program in addition to the other requirements. Violations of program rules will result in a sanctions being imposed that may include a change in classification but will still allow the offender the opportunity to once again be placed in an alternative program.

All of the offenders serving time in the county jail will be released back into the community at the expiration of the sentence. It behooves the system to provide the appropriate transition. Huber status is an excellent first step—moving the prisoner down to electronic monitoring is the next step in the process.