APPENDIX D

Strategies to Control Occupancy Levels of Local Correctional Sanctions in La Crosse, Wisconsin
STRATEGIES TO CONTROL OCCUPANCY LEVELS
OF LOCAL CORRECTIONAL SANCTIONS
IN LA CROSSE COUNTY, WISCONSIN

NIC TECHNICAL ASSISTANCE #93-J1144

June 22, 1993

This report contains the views presented by Robert C. Cushman to Marion County Oregon in NIC TA #88-J1072 as amended by Billy F. Wasson
This report, and particularly the recommendations contained within it, sets forth a strategic plan which will help La Crosse County live within its correctional resources and capacity limits. A basic principle of the plan is that this cannot be accomplished by individual departments acting alone; all must work together.

But the plan recommended here does not focus exclusively on the jail, or even on community alternatives. It also provides the tools for the County to obtain more control over changes in the workload and cost of all justice operations, and improve the management of the entire justice system. By following the advice presented in this report, officials in the County will be able to:

1) monitor changes in composition, intake and length of stay in local correctional sanctions, and of the case loads of the Departments;

2) clearly track and describe changes in decision making policies at seven key justice system decision points;

3) obtain analyses of these changes so there is a diagnosis of how they came about;

4) have available a forum or mechanism for evaluating whether these changes are desirable and/or affordable;

5) make use of new mechanisms for modifying current policies and practices so as to implement desirable changes and eliminate those that are impediments to the fair, effective and efficient administration of justice in the County.

DESCRIPTION OF THE TECHNICAL ASSISTANCE THAT WAS PROVIDED

The consultants were on-site in the County June 14-19, 1993. This report is intended to provide assistance in the following areas:

1) Provide a conceptual model which clearly but simply explains the dynamics involved in changes of occupancy levels of County correctional sanctions.

2) Show County, key officials of justice agencies, and officials of general government that changes in the occupancy levels of a correctional facility are primarily the result of changes in policy and practice. Illustrate how changes in occupancy levels can be traced to these changes in policy and practice.

3) Help key officials of justice agencies and officials of general government see that the factors which lead to
crowding a correctional sanction lie outside the control of persons in direct charge of the operation of the sanction.

4) Obtain acknowledgement and understanding that controlling occupancy levels of correctional sanctions will require the active cooperation of justice officials from throughout the justice system.

5) Illustrate how the dynamics which lead to changes in the occupancy levels of correctional sanctions explain how the workloads change, and, in turn, illustrate how these dynamics also explain workload and expenditure changes of the entire local justice system.

6) Help key officials of justice agencies and officials of general government see that the workload and the cost of the justice system is primarily the result of choices made by decision makers at seven key justice system decision points.

7) Provide a "road map" to show what the information that needs to be collected to illuminate and then analyze decision making at these seven key decision points. Explain how this information can be used to evaluate current policies and practices, to evaluate trade-offs in expenditures and staff time, and to set priorities and make choices when resources are scarce. Begin a process in which key local participants begin to use this information to inform decision makers and improve decision making.

8) Help justice agency leadership, and officials of general government understand that it is possible for justice agency leadership to control the level of the workload of the justice system.

9) Help prepare justice agency decision makers to make choices; that is, to begin to actively manage the workload and its cost, rather than let the workload seek its own level.

10) Initiate activity which should result in appropriate follow through to take place after the technical assistance visit; that is:

   a) the further development and improvement of the jail population accounting system;

   b) utilization of the same methodology to monitor the changes in workload of all the sanctions as well as the principal organizational workload components in the County;

   c) location and acceptance of responsibility for the justice stem coordination council function;
d) authorization, administrative placement, funding and implementation of staff to collect, analyze and facilitate use of information to describe decision making at the seven key justice decision points;

e) design and implementation of data collection to provide skeletal information about decision making at the seven key decision points.

Each item on this follow through agenda can be further detailed. For example, work to be supervised by the justice system coordinating council includes:

1) preparation of a plan to prevent crowding of the correctional facility;

2) agreement as to the responsibility of the parties and the procedures that will automatically "kick in" once the population of the correctional facility exceeds its capacities.

BACKGROUND CONCEPTS

The following will introduce some concepts which provide the basis for later recommendations:

"Stair Step" Increases in the Costs of the Administration of Justice

The visual picture we have of gradually increasing County justice costs can be represented by a line on a graph that slowly rises from year to year. However, this picture is inaccurate. Actual plots of increases in justice costs look like stair steps. This is because expenditures move from plateau to plateau as "units" are added; that is, when a new jail is opened, when a new probation officer is added, when a new court room is added, and so forth. These represent big step-ups in cost.

Counties naturally try to postpone these "stair step" increases. But, gradual growth in the workload is always building up throughout the system, and at some point "capacity" of some important part of the system is reached. When this is recognized and acted upon, the system experiences a big increase in costs. The system moves from one expenditure plateau (and capacity limit) to another.

Relationship Between Stair Step Increase and Crowding

What happens during the time period between plateaus can best be observed in correctional institutions because, there, capacity is literally cast in concrete - there are a limited number of bed spaces. And it is here that the most common method for postponing "stair step" increases can be observed. In correctional facilities it is called "crowding", and essentially this is what
happens to the entire system. In order to postpone large "stair step" increases, each unit - that is, each court room, each Prosecutor, each Probation Officer, each jail - becomes crowded or congested.

**Crowding Decreases the Average Per Capita Cost of Incarceration**

Interestingly, as a larger and larger volume of cases is processed by the same resources, the cost per case will decrease. So, we can articulate the principle that the more severe the crowding, the lower the cost per case, and the bigger the stair step that will eventually have to come on line to increase capacity. Of course, the bigger the stair step the more resistance there may be to actually commit funds to add the needed capacity. And once added, it will appear very expensive in terms of cost per case, especially if the newly added unit is allowed to operate "under capacity".

**A Workload Seeking Capacity Limits**

Many experts believe that the justice system, and particularly custodial facilities are "capacity driven". That is, as soon as additional capacity is provided, the workload will expand to fill it. Another way of saying this is to conclude that the various "capacities" of the justice system have a tendency to seek their own level. In this sense, the cases coursing through the system are what is managing the justice system. If this is true, the justice system is being described as "unmanageable", or beyond being managed. Growth is inherent and unstoppable.

**Can Increases in the Workload Be Controlled?**

Many officials agree with this view: Interviews with officials reveal there is a pervasive belief, or perhaps it can be called a concern, that it is politically and technically impossible to control the cost of the justice system. The costs are translated into increases in workload that are controlled by many separate agencies, driven by public expectations, and they simply are not controllable. The justice system seems to operate with an engine all its own; in a sense, the justice system is managed by the workload rather than vice versa.

Of course, each part of the justice apparatus has capacity limits. As a new jail is added, for example, the system may soon bump up against another capacity limit in some other part of the system. In fact, adding a jail can be expected to hasten the migration toward these other capacity limits.

**Managing Within Resource Limits**

Clearly, there are resource limits to the operation of any county justice system. These limits will vary from community to community and from time to time. Eventually, the competition for funds will create a backlash as the public's willingness to pay
for increased justice services is weighed against paying for other needed services. This point will come sooner, rather than later, if the community perceives justice resources are not being managed well.

The operators of the justice system in the County are obligated to maximize the public protection services that can be produced by the resources that the public has provided for these purposes. This means these resources must be managed.

But how can this be done in a system that is believed to be beyond management? How can key justice leaders and officials of general government close the gap between ideals and practice? How can we really put officials in control of the workload, and, therefore, the costs of the justice system?

The recommendations contained in this report are designed to improve the ability of County officials to discharge these obligations.

Solving Problems Versus Managing Conditions

Jail crowding, court congestion, and run-away justice system expenditures are not justice problems to be solved, but justice conditions which need to be managed. To some extent, these conditions will always be with us. The public cannot expect officials to make them "go away".

Managing From a System Wide Perspective

Managing the County justice system more effectively will require new ways of organizing, and new ways of thinking. For example, it will be important to recognize that these conditions need to be managed from a system wide perspective. "Micro-management" of individual justice agencies in isolation from the rest of the justice system represents the leading edge of a backward movement. It is a thing of the past and is inconsistent with contemporary thought and practice in public administration.

Another example of a new way of thinking concerns hierarchy. Certainly, much of our traditional thinking about management is hierarchical; that is, someone is boss to someone else. This is simply an unacceptable management scheme for the justice system. No one wants, or will permit, a justice "Czar". The appropriate policy mechanism would be collegial, and it should emphasize coordination, cooperation and communication, as principal mechanisms.

Meetings would take place frequently, and in an atmosphere where the separation of powers, and the authority, prerogatives and discretion possessed by each agency is respected.

It might not always "work"; that is, breakdowns might occur, but on the whole, there would be a system wide acknowledgement by all
key actors in the local justice system that they affect one another. that they create the workload for each other, and that most of the problems they deal with each day are created by that workload. In other words, as Pogo said: "We have met the enemy and they is us."

The Importance of Information Management

Managing these conditions properly requires information. This means the County will need to develop reliable information about system processes. Most counties do not understand this and the data they have available to diagnose their system problems. and to evaluate the effects of remedial action is very inadequate. Fortunately, La Crosse County is making progress in this area. While there are still gaps in information the County will need to manage more effectively, there is much more relevant information accessible than in most jurisdictions. The important task for the County is to organize to use information more effectively.

Automation and Employee Productivity Improvement

In this connection, it may be useful to point out that there is a close association between information system development and automation of justice functions. Additional automation should increase the productivity of justice system workers. Increased worker productivity is one way the County can postpone moving from on plateau to another along the stair step of increasing justice costs which was described in earlier sections of this report. Increased investment in information systems and automation should be supported to the extent that it will improve worker productivity and increase the capacity of these workers to absorb higher case loads without adding additoional staff.

RECOMMENDATIONS AND OBSERVATIONS

1. Recommendation: The jail should implement a Correctional Facility Population Accounting System.
Discussion: Three variables determine the occupancy level of a correctional institution. They are: a) the population count at any given time; b) the rate at which persons enter the facility; and c) their length of stay. These dynamics can be modeled using a water tank as an example. (See diagram attached.) This "hydraulic" model forms the conceptual basis for the notion of a population accounting system.

A population accounting system is similar to keeping an accurate check book register. One begins by determining the "balance" in the checking account. In our case, the "balance" is obtained by taking a count of the inmates in the facility. The name and identifying number of each inmate would be recorded, or entered into a computer. From this point on, the facility would keep track of "deposits" to the checking account; that is, every inmate who is admitted to the facility. And, when an inmate leaves the facility, the inmate's name would be removed from the list. If this population accounting is done properly, a staff member should be able to look at the list and determine exactly who is in the facility at any given time.

The population accounting system can be made more useful if, in addition to name and identifying number, the facility also gathers information about important inmate characteristics; for example, sex, most serious charge, whether the inmate was arrested by probable cause or by warrant, the name of the arresting agency, and so forth.

In correctional facilities that enter information about inmates into a computer, it is an easy task to automatically add these inmate characteristics to a record containing the inmate's name and identifying number. It is also recommended that the date at which an inmate passes from pre-trial status to sentenced status be collected. This will permit separate analysis of pre-trial and sentenced prisoner populations.

This information will provide the data that is needed to diagnose changes in occupancy levels over time. It will allow facility managers to create a "snap shot" of the inmates in the facility at any point in time. It will allow an examination of bookings and releases for any time period. It provides the data needed to quickly calculate length of stay for many inmate types.

A basic population accounting system will let facility managers know if a change in population levels is due to changes in the rate of admissions, or changes in length of stay, by type of inmate. These changes can quickly be traced to changes in decision making; that is, to changes in policy or practice by one or more agencies that affect jail population.
FIGURE 1

The Water Barrel Analogy

Average daily population is a function of admission rate and length of stay.

Example flows:
- Traffic
- Non-Traffic
- Felony
- Misdemeanor
Sharing this documented information with others serves to "explain" the changes in occupancy levels. It will also help others see that changes in population levels is a dynamic, ever-changing condition which needs to be constantly managed. It should also make it clear that the facility management cannot control occupancy levels single-handedly. It should help the leadership of other justice agencies see this as their problem as well, and with this realization will come a sense of increased responsibility for creating and exercising management options to control occupancy levels. Controlling occupancy levels will increasingly be seen as "our" problem.

The need to collect "baseline" information should be considered an integral part of this recommendation. The population accounting system should describe and document the utilization of the bed space of the current facility; it should then be used to describe the transition to additional space which will become available at the correctional facility; and finally, when some stability in bookings and releases is achieved, the system can be called upon to describe "how the jail was used in the past, how utilization changed during the transition period, and how it is being used today". This report will essentially summarize the result of changes in justice policies and practices.

2. Recommendation: The County should establish a mechanism to identify and monitor changes in the workload of the justice system.

Discussion: The workload and, therefore, the expenditures of the justice system are the aggregate result of decisions made by justice system personnel as citizens are arrested, detained, prosecuted, and sentenced.

Of the many decisions that are made about offenders and their passage through the justice system, there are seven key decisions which govern the offender case flow and the expenditures of the County justice system. These decisions are listed on the following page. A diagram is also presented to show the relationships among these key decision points. Monitoring of the system workload should be focused on these key decision points.

This function should not be the responsibility of a single agency or department. It should be carried out under the umbrella of a county-wide assembly of justice system policy makers who jointly have the power and ability to initiate and modify justice system policies and practices. (See Recommendation #4)

3. Recommendation: Changes in the workload of the system should be brought to the attention of key justice decision makers, officials of general government with responsibility
FIGURE 2

Seven key justice system decisions
determine the workload, size and cost of any
justice system.

1. Decision to arrest
2. Decision to detain pre-trial
3. Decision to release from pre-trial detention
4. Decision to prosecute
5. Adjudication outcome
6. Sentencing decision
7. Sentence modification decision
Flow Diagram of the seven key justice system decision points

- **Arrest Decision**
  - Yes: **Pre-Trial Detention Decision**
    - Yes: **Delivery to Pre-Trial Jail**
      - **Decision to Release from Pre-Trial Jail**
        - Yes: **Adjudication Decision**
          - Yes: **Sentencing Decision**
            - **State Custody**
            - **Local Custody**
            - **Sentence Modified**
      - **Decision to Prosecute**
        - No: Field Citation with Promise to Appear
        - No: Referral, or Delivery to Other Service or Resource
          - Release, No Further Action
        - Yes: **Decision to Release from Pre-Trial Jail**
  - No: Field Citation with Promise to Appear

- **In Custody**
- **Not in Custody**
for funding or guiding the operation of the justice system, and the public.

Discussion: While identifying changes in workload at one or more of these seven key decision points is the first step in the process being recommended here, it is also necessary to bring the fact that things are changing to the attention of people who are in a position to evaluate and act on the changes that are taking place. Further, there needs to be an attempt to identify the reasons that the changes are taking place. In this context, the reasons for the changes can always be traced back to some change in the decision making behavior of one or more key agencies operating the justice system.

The process that is recommended has two parts. The first part is analogous to shining a flashlight on one or more decision points to illuminate changes that are occurring. The second part requires feeding back information to describe the changes to the decision makers who are directly and indirectly creating the changes and to those who are being affected by these changes. This allows the decision makers to see the down-stream effects of changes in their decision making and to reevaluate, and where desirable, modify their decision making behavior. If illumination and analysis of the facts provides common sense support for a given policy, it will and should be retained. Otherwise, there may be discussion which would lead to consideration of a change which would improve management of the justice system.

This procedure will also allow early assessment of proposed changes in policy or procedure before they are implemented. Action should be based knowledge, as well as, intuition.

The recommendation calls for informing people at three levels: a) justice system operators and key decision makers; e.g., the County Coordinating Council; b) officials of general government; e.g., members of the Board of County Supervisors, the County Executive; and c) the public.

The reason for this three-tiered review of the operation of the system is to provide several lines of defense against very powerful forces that can easily be underestimated. In looking at the situation in other localities, it is clear that sometimes conditions develop to the point where justice agency officials are unable to work together to make the changes that are necessary to keep the workload under reasonable control. There are many instances where even the general officials of government have not been able to contain the enormous forces for expanding justice workload and expenditures; thus, the final line of defense lies with representatives of an informed public. Like a board of directors, they would have three functions: 1) ask discern-
ing questions: 2) serve as the social conscience of the community; and 3) act when the system is in trouble, and especially when justice officials or officials of general government are unable or unwilling to do so.

4. Recommendation: A County Coordinating Council should be formed with staff support.

The Council, with appropriate staff assistance, should routinely monitor the workload and costs of the system, and serve as the group to "steer the course" or serve as the "guidance control system," not for the operations of single agencies, but for achieving system wide coordination, cooperation and communication. This group should only consider problems which affect more than one agency. The emphasis on interagency problems would be directed to achieving and maintaining a "system's balance" with respect to resources, case flow, and system operation.

5. Recommendation: The County Executive and the County Board of Supervisors should periodically assess any changes in the flow of cases and/or offenders through the seven major decision points, assess the ability and willingness of justice agencies to deal with problems which may be emerging, and take appropriate action to see the county justice system is operated within the financial resources available to provide justice and other county services.

Discussion: This recommendation is focused on the role of officials of general government. This role requires doing whatever is necessary to help the County Justice Coordinating Council and its "justice steering committee" process work properly. It means monitoring the process closely enough to be able to tell when it is not working adequately, and doing whatever is necessary to improve its functioning. Beyond this, these officials of general government have a responsibility to find the funds to maintain adequate justice agency service levels, but to also maintain a balance that does not allow demands for justice services to bankrupt the county or push out other needed county services.

6. Recommendation: The County Coordinating Council, working in concert with officials of general government, should develop a mechanism which will inform the public of changes in justice expenditures and workloads, especially where these changes can be traced to changes in justice policy and practices.
Discussion: This recommendation recognizes the need for a third tier of organization that may play a role in examining policy and controlling justice system workload and expenditures. However, there is no specific recommendation about how this should be accomplished. The basic idea is that there should be some way of bringing the community into the examination of policies, and the evaluation of changes in workload and expenditures which are the result of changes in policy.

The public also needs better information to more easily evaluate the impact of proposed changes in justice policy and practice. The trade-offs need to be presented clearly and honestly. In this way, the public can serve as a sounding board and source of advice.

7. Recommendation: The County must continue to work for justice policy and program changes by city governments within the County, and by various officials in executive, judicial and legislative branch agencies of State government.

Discussion: Many of the forces which affect the County justice system lie beyond the control of county government to control directly. In order to solve some County justice problems, it will be necessary to change city or state government practices.

This recommendation merely encourages that continued efforts take place outside county boundaries to allow the County to influence its own destiny. For these reasons, County officials need to continue to work with the cities within the County, the Legislature, and various state executive and judicial branch agencies to do what is needed to bring about changes that will improve the administration of justice in the County. Justice officials can also do a great deal by providing leadership and service to their statewide professional organizations. These organizations can have great impact on changing policies that work against Wisconsin counties.

8. Recommendation: La Crosse County should develop a program to improve the productivity of justice system employees. Automation and increased staff training should be two elements of such a plan.
CONCLUSION:

Implementing these recommendations will be difficult, politically. Fortunately, justice officials in La Crosse County have had a good deal of experience working together to solve common problems. Even so, the process and the recommendations set forth in this report can be expected to produce mixed reactions, at least initially, because the recommendations run counter to the way justice agencies usually prefer to operate.

There will be resistance to many of the ideas that are presented here. There will be doubts; some will believe it is unrealistic, perhaps impossible, to get justice officials to cooperatively and jointly carry out the steps that are proposed here. It may take a long period of time before many of these ideas and recommended steps are adopted. Most likely, this will be done incrementally. But, to the degree that it is politically possible to implement them, even initiating some of these steps will produce improvements.

There are many encouraging signs that the County officials are capable and willing of operating the justice system when reasonable resource/capacity limits are reached. Clearly the sentencing guidelines represent a mechanism for recognizing that there are prison capacity limits, and that some rational sentencing scheme was needed to make best use of the available resources.

The rate at which offenders now enter the justice system, and their current lengths of stay indicate that policy and procedural mechanisms are presently in effect and are regulating the flows of offenders through the system. It is just that these policies and practices and their effects are unclear. In other words, to some degree, officials are already operating according to policy and established practice. What is proposed here will simply bring the decision making process into clearer focus, and permit policies and practices to be visible and examined.

There is no alternative but to require justice officials to work together to control the workload so that public protection is maximized with available resources. This is good public administration. This is professional management. This is what the citizens of the cities and county deserve and what I believe officials are now capable of producing.

The strategy set forth in this report can help officials meet this challenge. It will also enhance their individual and collective reputations as professionals, and as good managers, and thereby, enhance the integrity of the law.
APPENDIX A

On-Site Interview Schedule of NIC Team
APPENDIX B

APPENDIX C

MIS Information Resources: Justice Research and Statistics Association & SEARCH Group, Inc.
APPENDIX D

Strategies to Control Occupancy Levels of Local Correctional Sanctions in La Crosse, Wisconsin