Recommendations to the
Elkhart County (Goshen) Indiana
Jail Capacity Management Board
Regarding Data Collection and Other
Issues Relating to Jail Capacity
Management Program Planning

TECHNICAL ASSISTANCE REPORT

Bureau of Justice Assistance
CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
A Joint Program of the Bureau of Justice Assistance, U.S. Department of Justice, and
American University School of Public Affairs
Recommendations to the
Elkhart County (Goshen) Indiana
Jail Capacity Management Board
Regarding Data Collection and Other
Issues Relating to Jail Capacity
Management Program Planning

January 1990

Consultant:
Dr. Alvin W. Cohn

Prepared Under BJA Cooperative Agreement Number 89-DD-CX-K013
**ATAF ASSIGNMENT DATA SHEET**

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<th>Technical Assistance No.:</th>
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<td>Requesting Jurisdiction:</td>
<td>Elkhart County, Indiana</td>
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<td>Requesting Agency:</td>
<td>Elkhart, Indiana, Office of the Sheriff</td>
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| Requesting Official:      | Carol Miller  
Coordinator of the JCMB |
| Dates of On-Site Study:   | December 11, 12, 13, 1989 |
| Consultant(s) Assigned:   | Dr. Alvin W. Cohn |
| Central Focus of Study:   | Jail Capacity Management |

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Organizations undertaking such projects under Federal Government sponsorship are encouraged to express their own judgment freely. Therefore, points of view or opinions stated in this report do not necessarily represent the official position of the Department of Justice.
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APPENDIX A - National Overview of Innovative Options To Relieve Jail Overcrowding

APPENDIX B - Alternatives To Incarceration To Relieve Overcrowding
I. INTRODUCTION

A. Background of Request for Technical Assistance

On June 17, 1988, the Elkhart County, Indiana Sheriff Randall D. Yohn requested technical assistance from BJA's Adjudication Technical Assistance Project at the American University to address a growing jail crowding situation in Elkhart County, Indiana. The ATAP assigned Walter Busher, a specialist in jail capacity management to conduct a needs assessment study. Following a site visit to Elkhart County on September 19-21, 1988, a report was submitted to Sheriff Yohn which presented a number of recommendations concerning criminal justice programs and processes designed to alleviate jail crowding conditions in the Elkhart County Jail and to support the Jail Capacity Management Board.

In February 1989, the recommended Jail Capacity Management Board (JCMB) was established, composed of representative members of the criminal justice community and a professional planner, Carol Miller, was hired (on a part-time basis) to provide staff and coordination services to it. The purposes of the newly formed JCMB were those recommended in the 1988 ATAP report, i.e., to identify, describe and quantify the factors which determine the size of the jail's population; to achieve consensus on appropriate intervention measures; to formulate and monitor jail population control policies, procedures, and priorities; and to assume the risks inherent in the adoption of new practices and programs initiated under board auspices.

The JCMB has been meeting regularly since February 1989 to discuss and evaluate criminal justice activities and programs in Elkhart County in terms of their impact on the jail population. Particular effort has been made to address the 1988 ATAP report recommendation to undertake a data collection and analysis effort to identify specific local criminal justice practices, policies, and procedures which may bear on the current jail crowding situation.
In an effort to organize and launch this data collection effort, Ms. Miller requested additional assistance from the ATAP in August 1989. The ATAP assigned Dr. Alvin W. Cohn, President of Administration of Justice Services, Inc., in Rockville, Maryland, to provide this assistance. Dr. Cohn has worked with many local jurisdictions to address jail capacity management concerns, data collection protocols, and the development of alternative to incarceration programs. On December 11-13, 1989, Dr. Cohn and Ronald D. Allen of the ATAP staff made a site visit to Elkhart County (Goshen). Prior to the site visit, Dr. Cohn reviewed the ATAP 1988 needs assessment study, relevant statistics and other background information relating to the jail crowding situation.

Before the study team arrived on-site, the JCMB Coordinator also gathered preliminary data to describe criminal justice processes in Elkhart County. She also made arrangements with Goshen College to provide a group of sociology students, supervised by a professor, to collect and analyze data to be gathered by the JCMB.

During the site visit, the study team met with the Jail Capacity Management Board on December 11, 1989. The following persons attended:

Dick Bowman          Elkhart County Administrator
Nick Cenova           Data Processing Director
Michael Christophen   Prosecutor's representative
David Hess            Elkhart County Commissioner
Mike Kettlebar        Chief, Goshen Police Department
Steve Malone          Major, Sheriff's Department
Cathy Miller          Jail Commander, Sheriff's Department
Carol Miller          Coordinator, JCMB
Alan Sirinek          Director, Court Services
Hon. Olga Stickel     County Court, Goshen Division
Hon. David Widmoyer   Nappanee City Court
Hon. Worth Yoder      Superior Court
Brent Zook            Public Defender, Goshen

1 Initially, the ATAP assigned as a consultant Jerome Bush who was unable to perform the study because of health problems.
Dr. Cohn and Mr. Allen also conducted individual interviews with the following Elkhart County criminal justice personnel.

Carol Miller  Coordinator, JCMB
Cathy Miller  Jail Commander, Sheriff's Department
Randall D. Yohn  Sheriff
Honorable Gene Duffin  Circuit Court

In addition, the study team met with Dr. Tom Myers, a Goshen College Statistics professor, and four sociology students on December 12th to provide them with specific information on the types of data to collect, strategies to collect it, and prospective methods in analyzing the data.

B. Elkhart County Judicial System

The judicial system in Elkhart County is comprised of a Circuit Court, a Superior Court with three divisions, a county court with two divisions and three city courts located in Elkhart, Goshen and Nappanee. The Goshen City Court has been designated as the Governor's Task Force Court, and all arrests by officers funded by the Governor's Task Force are handled by this court. The three Superior Courts and the Circuit Court have jurisdiction over Class A, B, and C felonies; misdemeanor and D felony charges may also be filed in these courts. The Circuit Court receives primarily the Class A and B felony cases such as murder, robbery and rape, etc., as well as other cases in order to balance the caseload. The prosecutor maintains a non-computerized index file of court locations, and, in cases in which a defendant has prior pending charges, every effort is made to file subsequent charges in the court in which the prior cases are pending.

Criminal filings in the county totaled 1,442 felonies and 1,578 misdemeanors in 1988. The population capacity of the Elkhart
County jail is 196 beds. Since January 1, 1988, the average daily monthly population has exceeded 250 inmates.\(^2\)

C. **Scope of the On-Site Visit**

The objectives of the site visit were to: 1) provide the JCMB Coordinator with feedback on preliminary data collected and other descriptive information relating to criminal justice operations prepared as a first step in the data collection effort; 2) elicit perceptions from the JCMB regarding factors related to jail crowding which should be addressed in the data collection effort; 3) upon completion of the group exercise, meet with a designated research team comprised of Goshen College students to provide guidance on their role in the data collection effort; and 4) meet with various criminal justice officials to suggest ways in which their respective agencies could assist in the data collection effort or otherwise alleviate the jail crowding situation.

In the following section, factors that the JCMB believes contribute to jail overcrowding in Elkhart County are identified and prioritized. These factors should form the basis for further data analysis.

II. POSSIBLE CAUSES OF JAIL OVERCROWDING PERCEIVED BY JCMB MEMBERS

In order to determine the causes of the jail overcrowding problems experienced in Elkhart County, the study team met with members of the Jail Capacity Management Board (JCMB) on December 11, 1989. A research strategy known as the Nominal Group Technique was utilized to assist in identifying areas of offender processing that might fuel jail overcrowding. Twelve members of the JCMB from various segments of the criminal justice system were in attendance, including representatives from the Elkhart County Jail, the County Data Processing Director, the Chief of the Goshen Police Department, the Director of Court Services, Judges from County, City and Superior Courts, and the Goshen Public Defender. During the conduct of this group exercise, JCMB members identified a range of factors believed to contribute to the high inmate population in Elkhart County, which are summarized below.

1) Increase in the number of filings of criminal charges
2) Not enough use of bonding
3) Impact of Indiana Mandatory Sentencing laws
4) Justice system fragmentation
5) Frequent continuances to permit continued plea negotiation or case investigation
6) Lack of adequate ROR and Pre-Trial Release options
7) Increased public awareness of drunk driving/drug abuse and pressure for more severe sanctions against offenders
8) Pre-trial case processing delays due to insufficient prosecutorial staff
9) Pre-trial case processing delays due to insufficient public defender staff
10) Pre-trial case processing delays resulting from failure to consolidate multiple cases against one defendant in one court
11) Department of Corrections Moratorium for accepting sentenced offenders
12) Lack of consistent police policies/practices regarding use of citation release
13) Use of the jail as a dumping ground for addicts and mentally unstable individuals
14) Statutory requirement delaying scheduling of Omnibus Hearings and subsequent court dates
15) Variation in bond schedules from court to court
16) Lack of diversion programs

The JCMB members were then asked to rank order these statements to identify the four leading causes of jail crowding, based on their perceptions. This second step identified the following factors as most significantly impacting on the jail population:

1) Fragmented nature of the criminal justice system
2) Lack of pre-trial release and diversion programs and lack of use of Release on Recognizance
3) Not enough use of bonding as an avenue of release
4) Pre-trial case processing delays due to insufficient prosecutor/public defender staff

The recommendations which follow are divided into two parts:

- The first set pertain to the data collection and analysis effort needed to follow up on the factors contributing to the jail population problems which were identified during the on-site visit.
- The second set relate to other issues and policies relating to jail population management in Elkhart County.
III. RECOMMENDATIONS

A. Regarding Data Collection Effort

1. The Sixteen Issues Identified by the JCMB as Potential Causes of Jail Crowding, and the Four Prioritized Ones in Particular, Should Form the Basis for Further Data Collection Efforts.

   The sixteen issues identified by the JCMB as potential causes of jail crowding, and the four prioritized ones in particular, should form the basis for further data collection efforts. The JCMB Coordinator should first convert the statements into testable hypotheses. For example, the statement "lack of pre-trial diversion" programs should be re-stated as "the absence of a pre-trial diversion program is a factor in jail overcrowding." As another example, "the lack of ROR" should be converted to the hypothesis "Release on Recognizance is underutilized as a means of early release prior to trial." If data collection is limited by manpower and time restrictions, those hypotheses that the group identified as being the most significant contributors of jail crowding should be included, whereas other less significant ones may be left out if necessary. The JCMB should be notified of the hypotheses selected for testing to determine if other factors can be included that were not addressed at the group meeting.

2. The JCMB Coordinator Should Revise the Data Collection Instrument Developed Prior to the Study to Include the Factors Noted in Recommendation One.

   The JCMB Coordinator developed a data collection instrument prior to the conduct of the group exercise. She should add the necessary data elements on this form that are required to test the hypotheses. While on-site, the study team assisted the Coordinator in extracting the appropriate data elements that logically derive from the JCMB statements about causes of jail overcrowding. She should continue in this effort and when the complete set of data
elements are identified to test all the hypotheses in the study, a preliminary search of jail and court records should be conducted to determine the availability of the data.

The study team briefly reviewed information maintained at the jail and it appears that it is a good source of data. The Court Services Division may also be able to supply some of the disposition data on offenders. The JCMB Coordinator should meet with the Director of Court Services to identify relevant data elements and to determine the most efficient means to collect them. If the data cannot be acquired in the form needed, is too cumbersome to collect and its overall value is deemed minimal, priorities should be set in terms of what is essential data and what is not.

3. **Once the Data Elements are Agreed Upon, the Requisite Data Elements Should be Arranged on a Data Collection Form in a Manner that the Data Collection Team can Easily Code.**

   Once the data elements are agreed upon, the requisite data elements should be arranged on a data collection form in a manner that the data collection team can easily code. The form should be pre-tested by the members of the data collection team. Pre-testing means having a small sample of data collection forms completed by the team in order to determine the types of problems the form might present, and to calculate the average length of time it will take to complete one form. In determining the scope of the data collection effort, the time factor necessary to complete one form should be weighed against the amount of time the Goshen College students can provide.
4. The Coordinator Should Work Closely With the Study Group From Goshen College to Develop a Data Base That Will Help to Profile the Jail Population.

The Coordinator should work closely with the study group from Goshen College to develop a data base that will help to profile the jail population. It is recommended that a statistically valid sample (approximately 10 to 15 percent) of bookings from 1988 be selected, with about three or four "snapshots" of 1989 booking days used to validate the sample. The sampling period should avoid the pitfall of having a large number of cases still pending, which would limit the effectiveness of the study.

5. Once the Data Collection Portion of the Project is Complete, the Data Should be Keyed Into Computer Format at Goshen College for the SPSS-X (Statistical Package for Social Sciences) Data Analysis Phase of the Study.

Once the data collection portion of the project is complete, the data should be keyed into computer format at Goshen College for the SPSS-X (Statistical Package for Social Sciences) data analysis phase of the study. If possible, it is recommended that the data collection forms be keyed in on a regular basis so that this task does not become overwhelming at the end. The Goshen College statistics professor should oversee this task and ensure that the data is being entered in the prescribed computerized form. The analysis should consist of frequency distributions, cross-tabulations, average measures, and calculations of the time between events in case processing. The findings of the data analysis that relate to the hypotheses and other special analyses should be summarized and presented to the JCMB by the Coordinator as a foundation for further action.
6. **The Potential for Integrating the Data Collection Instrument Being Developed by the Goshen College Students Into the Jail Management Database, Which is Expected to be Installed by the End of January 1990.**

   The potential for integrating the data collection instrument being developed by the Goshen College students into the jail management database, which is expected to be installed by the end of January 1990. It may also be possible to integrate the SPSS package into the system so that continuing evaluations, analyses, frequency distributions, and reporting tables can be made concerning other intake-release decision-making events in addition to bookings.

7. **JCMB Coordinator's Computer Work Station Should be Linked to the Jail Management Database.**

   The Coordinator's work station should be linked to the mainframe (booking) system being developed in order to access and create data for computational and routine reports.

8. **The JCMB Should Establish Two Committees: One Concerned With Data Development and the Other Concerned With Pre-Trial and Post-Adjudication Programs.**

   The JCMB should establish two committees: one committee that addresses data development and report preparation and the second should address potential pre-trial and post-adjudication alternative sentencing programs. Interested criminal justice personnel outside the JCMB should be included in Committee work when appropriate.

   The prospective Data and Reports Committee should address such issues as (1) the new system for booking; (2) data elements that need to be added to the system; (3) processes and personnel needed for data collection; (4) the types of analyses that should be conducted routinely; and (5) the types of reports that should be
prepared and distributed routinely concerning jail population and intake-release decision-making events.

The second committee concerned with diversion options should review all possible pre-trial and post-sentence alternative incarceration programs in order to develop a priority list of those programs and services which might be implemented in the county. This committee should also develop some cost-benefit analyses and develop recommendations for program implementation. (See Attached "National Overview of Innovative Options to Relieve Jail Overcrowding").

9. **The JCMB Coordinator Should Review Information on all Current Work Release Offenders and Develop Projections on How Many Safely Could Have Been Sentenced to Probation Instead of Having to be Incarcerated.**

The JCMB Coordinator, in working with the Probation Department, should review information on all current work release offenders and develop projections on how many safely could have been sentenced to probation instead of having to be incarcerated. Further, a report should be prepared on criteria for sentencing directly to work release (as now occurs) and what probation conditions might be imposed on the recommended new program.

10. **The JCMB Should Begin Developing a Cost-Benefit Analysis of Alternative Courses of Action in Addressing JCMB Issues.**

The JCMB should begin developing a cost-benefit analysis of alternative courses of action in addressing JCMB issues. It is suggested that the JCMB Coordinator begin an analysis of the actual costs for each jailed offender on a daily basis in order to determine "off-sets." For example, if the County is considering the hiring of a full-time prosecutor, how many actual bed-days of savings will it take to cover the total costs for this new staff person? Similarly, how many bed-days of savings will it take to
hire an additional pre-trial screening worker for various alternative sentencing programs such as ROR or a restitution program, etc.?

It is expected that the results will provide sufficient aggregate information upon which to base decisions for changes in policies, procedures, and programs. Once the profile is established, it will be possible to examine specific policies and procedures that impact on the jail population. The JCMB should be kept apprised of developments of the study and preliminary reports should be prepared and distributed on a regular basis.

B. **Other Issues Bearing on the Jail Population**

1. **It is Strongly Recommended that an Additional Staff Person be Hired to Increase the Number of Persons to be Screened for Possible Release on Recognizance and in Order to Provide Supervision of Those Persons in the Community as They Await Trial.**

It is strongly recommended that an additional staff person be hired to increase the number of persons to be screened for possible release on recognizance and in order to provide supervision of those persons in the community as they await trial. This additional staff person should be assigned to the Probation Department to ensure appropriate community-based supervision standards, which will likely result in much lower failure to appear rates.

2. **It is Recommended That an "Inactive" File be Created of Prior Arrestees, to Include Name, Social Security Number, Date(s) of Arrest(s), and any Other Appropriate Identification Numbers.**

Currently, booking officers must search manually for prior bookings to determine if an offender is known to the jail. It is recommended that an "inactive" file be created of prior arrestees, to include name, social security number, date(s) of arrest(s), and
any other appropriate identification numbers, as soon as possible. An inactive file of names can be created beginning with the present and working backwards. The utilization of part-time students may be an economical way of creating this file.

3. **It is recommended that consideration be given to the use of Electronic Monitoring/House Arrest With Probation for Appropriate Individuals for One to Three Months While Still Being Supervised by the Probation Department.**

   It is recommended that consideration be given to the use of electronic monitoring/house arrest with probation for appropriate individuals for one to three months while still being supervised by the Probation Department. Such a sentence for appropriate defendants could result in relieving critically needed beds.

   If a decision is made to use electronic monitoring, it is recommended that electronic equipment be leased rather than purchased and that it be an "active" rather than a passive system. With the offenders paying for the service, resulting in almost no cost to the county, such a system is also not labor intensive but does require monitoring resources.

4. **It is recommended that the Judges in Elkhart County Meet as Soon as Possible to Review Their Respective Bond Schedules, Especially at the Misdemeanor Level.**

   It is recommended that the judges in Elkhart County meet as soon as possible to review their respective bond schedules, especially at the misdemeanor level. An analysis by the JCMB Coordinator suggests that these schedules vary widely. If a common schedule can be created and if the judges can reach agreement on allowing booking officers to release selected offenders who have scheduled bonds below a ceiling on (signature bonds or on ROR), a number of offenders who would have been jailed will be released instead.
If such a policy is considered by the judges, it would be important to develop a set of release criteria concerning those offenders eligible for such consideration and/or those not eligible (e.g., drug traffickers, spouse abusers, etc.).

5. **The County Should Consider Adopting An Ordinance that Establishes a Jail Cap.**

The county should consider adopting an ordinance that establishes a jail cap (Madison County, Wisconsin utilizes this jail cap approach). This cap, based on 85 percent of the functional capacity of the jail facility, could be called into effect in an emergency or crisis by the Sheriff, when the capacity of the jail exceeds that level after 48 or 72 hours. At that point, the Sheriff could be authorized to release selected prisoners (according to established criteria) according to sentenced completion time. For example, those inmates who have completed 99 percent of their sentences would be released, those with 98 percent sentence completions next, and so on until the functional capacity has been reached and the crisis is over.

Under such a system at the time of sentence, all offenders would have their sentence completion dates calculated and that sentence completion time would automatically be calculated on a daily basis. Therefore, should a crisis be called and the cap put into place, those sentenced offenders who could be released will be identified.
IV. SUMMARY

It is apparent that Elkhart County has made a serious commitment to address the jail crowding situation and that it is endeavoring to manage the set of conditions which impact the jail population. The creation of the Jail Capacity Management Board, the employment of a part-time staff person to act as Coordinator of the Board, the initiation of a data collection effort/analysis by the Goshen College study group, and other activities recommended in the 1988 ATAP report demonstrate this commitment.

The recommendations presented in this report are designed to assist the JCMB and its Coordinator in identifying and documenting the policies and practices of the local criminal justice system and its contribution to the current jail population crisis and in developing a systematic program for improvement. Additionally, once the new booking system is put into place and the Goshen College study group completes its data collection and analyses, a number of reports should be generated that will provide a foundation for considering changes in policies and procedures impacting on the jail population.

Much responsibility is being placed on the current JCMB Coordinator and care will have to be taken to establish appropriate time-lines and priorities insofar as her assigned workload is concerned, or else the position may need to be increased to full-time in the alternative. It is also apparent that some of the recommended changes and program changes will have costs attached to them. Therefore, attention should be paid to the cost and benefits of making these changes in light of the priorities of the JCMB, the community values in Elkhart County, and their interrelationship together as a whole. The Board should address these matters as it proceeds in ongoing deliberations in light of community priorities and needs.
NATIONAL OVERVIEW OF INNOVATIVE OPTIONS TO RELIEVE JAIL OVERCROWDING

Prepared By:
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Administration of Justice Services, Inc.
Rockville, MD 20853

Jail overcrowding does not simply happen. It frequently results from poor or inadequate planning, inappropriate policies, lack of communications among and between criminal justice officials, unanticipated increases in offenders and how they are processed, and/or changes in the law which criminalize certain behaviors.

Poor or inadequate planning together with inappropriate or absent policies suggest a "reactive" posture on the part of community officials; that is, a failure to anticipate needs and/or to develop responsive measures to anticipated problems. Poor communications between officials reflect an inability to examine collectively problems of a mutual nature - a failure to share ideas, problems, and potential solutions.

And, changes in the law, such as has occurred in the area of drunk driving, unquestionably have impacted local jail situations beyond reasonable levels - impacts which were not always considered when the legislation was passed.

The consequences of the above is that local communities have been caught short, if not overwhelmed, and have become faced not only with consent decrees, but with a time gap that frequently precludes short-term if not immediate resolution of their particular and well-defined problems.

There is no doubt that new facilities can be designed and built and new staffing and operational patterns can be developed, but it is not possible to relieve immediate crises without short-term solutions. These frequently involve innovative practices, changes in policies and procedures, and additional human and financial resources.

More important, such solutions require planning, policy and standards development and implementation, and assessment strategies to determine successes and failures - and, most importantly, conducted with a systems perspective.

Insofar as approaches are concerned to alleviate a defined overcrowding situation, a local jurisdiction essentially has five options (ignoring the situation is not an option!): (1) increase the use of existing alternatives to incarceration, (2) develop new alternatives, (3) improve the efficiency of the existing jail facility, (4) develop alternative residential facilities, and (5) build a new jail.

Obviously, the last option is one that takes considerable time and resources, which may be true for efforts to improve the existing facility. However, while the development and expansion of alternatives may require additional resources, such approaches, at least, can be initiated as a matter of policy. Yet, new residential facilities conceivably could be developed by private vendors, about which more will be detailed later.

Yet, increased or new alternative programs are destined to fail if there is
no consensus among key decision-makers that they have utility, promise, and can be supported by the criminal justice and general communities. Further, relatively few if any short-term programs will have constructive permanency if they are not planned with a systemic view. Long-term plans are equally destined to failure without systems-wide planning that reflects consensus and is goal-directed.

In planning for jail overcrowding relief at both pre-trial and post-sentence levels, a community must examine forces and conditions which impinge upon the jail, including those of an internal as well as external nature. This means that an analysis must be undertaken of the reasons and processes by which offenders are booked into the jail, why they may remain in jail, and the reasons for which they are released. An examination of the kinds and types of offenders routinely found in a jail population must also be conducted.

As a consequence, those functions associated with arrest, booking, case screening, arraignment, bail decisions, sentencing, and the management of various kinds of offenders (e.g., mentally ill), among others, all have to be reviewed to complete the assessment required for adequate and appropriate planning. As well, how the jail handles and manages offenders, staffing patterns, SOPs, and actual physical facilities have to be examined - and from a systemic perspective.

The management of daily operations within the jail unquestionably is the responsibility of the sheriff/jail administrator. But the management of conditions which produce difficulties, not the least of which is jail overcrowding, is a total community and criminal justice system responsibility. In other words, the problem does not stand alone.

An analysis of the forces which contribute to jail overcrowding undoubtedly will provide some clues as to the direction the jurisdiction should take to deal with its problems and particular situation. The solutions, obviously, will involve changes in policies and procedures, as well as possible programmatic changes.

Yet, none of the above should be interpreted to mean that the set of solutions adopted does not involve the building of a new or added jail facility. However, it does mean that construction should always be treated as a last resort, but along with other possible solutions.

Moreover, the proposed solutions may do no more than suggest a number of approaches which need to be considered by any jurisdiction attempting to manage its own problems, conditions, and situations.

In the final analysis, systemic planning for the immediate and long-term relief of jail overcrowding should not be viewed as a problem that needs to be resolved. Rather, a greater degree of success is likely to be achieved if the situation is viewed as a set of conditions that needs to be managed.

This means that key decision-makers must come to grips with what they expect the jail to be, what kinds of strategies are needed to effectuate change (if indicated), and how the future can be controlled from a "proactive" rather than a "reactive" posture. Additionally, it means that effective and systemic planning goes hand-in-hand with meaningful involvement by those per-
sons, agencies, and organizations associated with the jail, its inmates, and its operations.

At this point, it must be pointed out that a profound philosophical notion pervades the entire jail overcrowding issue—a notion that must be addressed but is not easily resolved. This revolves around a value judgment of whether or not it is in society's best interest to promote the release from incarceration of various kinds of offenders.

Put another way, it is concerned with our beliefs about punishment and control and whether or not official agents of the network of criminal justice services should develop processes and programs to encourage the release or non-incarceration of criminal offenders. Further, even if the reasons for such encouragement are cost-effective and beneficial for society in general, should such alternatives to incarceration become the tools of choice?

This is not the proper forum to debate or answer this issue, but it is put on the table because it has criticality for local decision-making and programming.

From a pragmatic point of view, as one develops information to identify appropriate target groups for population reduction measures, the types of changes that will be reviewed will be seen as either "process" or "programmatic." Each carries its own advantages and disadvantages in term of system change, even though they are not mutually exclusive. For example, the creation of a new program (a "programmatic measure") may also necessitate modifications in case-handling or defendant processing procedures. ROR and work furloughs illustrate the point.

Process changes as solutions to jail crowding tend to be case-oriented rather than person-oriented. It has a goal of improving the efficiency of the case processing system. Here, as examples, if case screening can be speeded and/or bond reviews can be expedited, the processing system is improved, which should impact the jail population.

Programmatic changes tend to be more person-oriented in that the intent is to identify a particular population in the jail that could benefit from the intervention and/or availability of a particular program. Here, the success or failure is measured by the number of persons within the target population who are diverted or released without disrupting the criminal justice system or endangering the public.

As we begin to identify potential process and programmatic efforts to reduce jail crowding, let us be sensitive to another crucial issue. In the last decade or two, many programs that have become integral parts of criminal justice systems (e.g., ROR, diversion, work furloughs, community service), initially were designed either to meet the needs of a target offender population or were designed to perform a jail population reduction function.

In many instances, it was assumed that it would be a "good" program, but no assessment has ever been conducted to see if the program actually met needs. In other instances, it was assumed that with program implementation, the problem of crowding would be solved—that the specific program would serve as a panacea in an effort to deflate population pressures.
However, experience, observation, and some research have revealed the complexity of the jail crowding problem and the futility of expecting that one program or process to eliminate the problem. In effect, we have found that palliatives are not panaceas and that long-term success—and impact—requires time, patience, and system-wide planning.

An analysis of material on jail overcrowding reveals that virtually all serious attempts to manage jail populations include aggressive processes and programs to provide alternatives to incarceration at various points in the criminal justice process. They include those within law enforcement, the jails themselves, prosecution, and the courts.

Let us review possible options that can be found in various parts of the country briefly and then we will discuss those which have the most significance in greater detail:

**LAW ENFORCEMENT RELEASE PROGRAMS**

1. Field Citation (misdemeanors) + *
2. Diversion to Services (family disputes, mentally ill, etc.)
3. Release without charge (public inebriates)

**JAIL RELEASE PROGRAMS**

1. Jail Citation (pre-trial misdemeanors) + *
2. Release without Charge (pre-trial public inebriates) +
3. Diversion to Services (pre-trial mentally ill)
4. Warrants – Holds Clearance Programs +
5. Programs to Reduce the Parolee Population
6. Sheriff-Initiated Work in Lieu of Jail (sentenced DWIs) + *
7. County Parole (sentenced misdemeanants) +
8. Early Release (sentenced misdemeanants; 80% rule) + *
9. Early Release (work, good time) + *
10. Weekend Furloughs/Sentences
11. Bond Schedule Release + *
12. Case/Traffic Management

**PROSECUTORIAL PROGRAMS**

1. Diversion from Prosecution (pre-trial misdemeanants, felons)
2. Early Case Screening (pre-trial)
3. Early Defense Review of Cases (pre-trial public defender)
4. Expedited Processing of Detention Cases (pre-trial)
5. Felony Recognizance Release (OR) (pre-trial)

**JUDICIAL PROGRAMS**

1. Release on Recognizance (pre-trial) + *
2. Early Bail Setting (pre-trial)
3. Signature Bond (pre-trial)
4. Extra Bond Reviews (pre-trial)
5. Supervised OR Release (pre-trial)
6. Third Party OR Release (pre-trial)
7. Use of Summons in Lieu of Arrest Warrants (pre-trial)
8. Court Delay Reduction Programs (pre-trial)
JUDICIAL PROGRAMS (continued)

9. Speedy Trials (pre-trial)
10. Video Arraignment (pre-trial)
11. On-Call Judges (pre-trial)
12. Night Courts (pre-trial)
13. Court Calendaring and Trial Staff Management (pre-trial)
14. Non-Incarceration Sentencing Programs (probation, community service, fines, restitution, treatment) *
15. Home Detention/Electronic Surveillance (pre-trial, post-sentence) *
16. Expediting Writing of Pre-Sentence Investigation Reports
17. Delayed Imposition of Sentence
18. Deferred Sentencing
19. Modification of Sentence (shock probation, shock parole)
20. Jail Overcrowding Cap *

NOTE: + = HIGH FREQUENCY USE IN COUNTRY  
* = LARGE IMPACT ON JAIL POPULATION.

There is no way of knowing precisely what programs and processes are in effect in all of the jurisdictions in the United States nor of their precise impact on jail populations since there is no reporting mechanism in place. What is described here, then, is the result of what has been published in various documents and of field observations.

The literature does suggest, however, that in a number of jurisdictions, as one judge said, "there is a lot of little ways" to halt or reverse jail population increases without releasing serious offenders. The following discussion highlights just a few of the "little ways" available at different parts of the system.

LAW ENFORCEMENT - Decisions surrounding local arrest practices - whether to arrest, transport to jail or stationhouse, book or detain for bail setting - are critical determinants of jail population size. Law enforcement practices both before and after arrest can be modified to reduce jail admissions.

Jurisdictions such as San Diego County (CA) and Frederick County (VA) use, perhaps, the most common form of pre-arrest diversion through short-term "sobering-up" facilities for public inebriates.

San Diego also has been successful in reducing crowding through the use of a privately operated detoxification reception program where inebriates must remain for a minimum 4-hour period. Though a largely rural area, the Frederick County, Virginia detoxification program, operated by the Division of Court Services, has also diverted a large number of persons from jail.

Similar pre-arrest diversion programs are in effect for persons involved in family disputes and for homeless persons in other jurisdictions throughout the country. In Galveston, Texas, law enforcement officials have instituted practices to divert the mentally ill - a population that frequently makes up 10 to 20 percent of a jail's population. A team of deputies receives special training to assist in meeting the emergency needs of the mentally ill and works closely with other agencies in the community. Offenders so identified are taken directly to a mental health facility.
Many agencies also use a number of post-arrest practices such as station-house release before booking, field citations, and court-delegated authority to release suspects according to a bail schedule to eliminate unnecessary confinement. Similarly, a well-defined and operated Release on Recognizance program, although managed by jail or prosecutor officials, has proven to be an effective reducing technique.

**JAIL ADMINISTRATORS** - Elected sheriffs or appointed jail administrators are often viewed as the managers MOST affected but LEAST powerful in dealing with jail crowding. While having little if any control over jail admissions and length of confinement, jail administrators nevertheless can help reduce overcrowding through several techniques.

The first is that of assuring ready access of prisoners for pre-trial release and recognizance screenings and for bail reviews. Quick access to detainees tends to be a common characteristic of successful jail reduction programs. As examples, the sheriff in Mecklenburg County (NC) allows pre-trial services staff to be present during the jail admissions process, which gives them immediate access to defendants, which obviously speeds decision-making. This also applies for prosecutorial case screening processes, which can be speeded up if offenders are readily available.

In some other jurisdictions, jail administrators are delegated authority to release defendants pre-trial or to divert drunk drivers to treatment centers. Other administrators help develop nonjail pre-trial release and sentencing options or cooperate with other jurisdictions to alleviate crowding on a multi-county basis.

The jail administrator also can develop a systemic approach to "case management" through the appointment of a Case Traffic Manager, which would provide the judge and other criminal justice officials with feedback regarding prisoners awaiting or following adjudication. Such a person would track all offenders in terms of status and inform officials of the need to make decisions as appropriate. This tracking will also assist if there is a Speedy Trial law in effect, to help move prisoners to other state facilities (e.g., DOC), when there are warrants or holds in effect, or when the prosecutor has not filed charges on a timely basis.

The Bexar County, Texas case manager provides data routinely to help judges monitor the court status of prisoners and prevent length of confinement from being extended through oversight or inattention.

In DuPage County, Illinois, the jail administrator works on an "80 Percent Rule," whereby offenders who have completed 80 percent of their sentences can be released "early" if the jail has reached a "cap." Consideration is now being given in that facility to release sentenced offenders whose terms expire Saturday through Monday on the preceding Friday - if the jail is overcrowded and/or there is an excessive number of "weekend" prisoners to be booked.

**PROSECUTION** - Prosecutors act at more case-handling decision points than any other officials. This gives them an especially important role in containing jail population growth. Early case screening, diversion, and deferred prosecution unquestionably reduces unnecessary length of confinement or confinement itself by eliminating or downgrading appropriate cases as
early in the case processing as possible.

In Milwaukee County (WI), assistant prosecutors review arrests around the clock by examining police records and conducting meetings between complainants and suspects. This process enables Milwaukee prosecutors to decide on the appropriate charge within 24 to 36 hours after arrest—in most cases.

Prosecutors in Milwaukee also use "vertical case processing"—assigning the same attorney or team of attorneys to prosecute a case from start to finish. Though not necessarily the case in all jurisdictions, reassigning cases from one assistant prosecutor to another while the matter is before the court—"horizontal case processing"—may cause stagnation in caseflow, increased requests for continuances, and lengthened time to trial.

PRE-TRIAL RELEASE SERVICES—Providing background information on defendants, release recommendations, and other pre-trial assistance (e.g., diversion of the mentally ill) can be an important component of solutions to crowding. Pre-trial services can often help merely by adjusting staff schedules to ensure timely screening and interviews for a maximum number of defendants.

In Mecklenburg County, NC, for example, pre-trial services and magistrate bail setting are available 24 hours a day, 7 days a week. In Kentucky and Sarpy County, Nebraska, pre-trial staff are on call 24 hours a day to interview persons arrested, notify judges by phone of the prisoner's qualifications for release, and supervise the release process if nonfinancial bail is authorized.

In Maine, the legislature has authorized the Division of Parole and Probation to provide intensive supervision to selected pre-trial defendants who have been charged with serious offenses and who are released without bail. As a matter of fact, at least one defendant has been charged with first degree murder.

Limited release authority is delegated to pre-trial services staff in an increasing number of jurisdictions. In San Mateo County, CA, pre-trial staff are authorized to release misdemeanor suspects prior to their first court appearance. Seattle, WA is experimenting with delegated release on certain felony charges.

In other jurisdictions, many pre-trial programs, in a coordinated manner between the courts and prosecution, respond to jail population pressures by expanding the range of release options (conditional and supervised release, third-party custody, unsecured bail, deposit bail) and by conducting regular bail reviews for those detained for trial. In DuPage County, IL, all defendants unable to make bail have their cases reviewed in hearings one week after bail is set. This process is being moved up to a 48-hour time span in an effort to reduce crowding.

A National Institute of Justice study found that supervised release programs in Miami, Florida; Portland, Oregon; and Milwaukee, Wisconsin, significantly reduced the bail-held population without significantly increasing the risk to public safety.

JUDICIARY—Judges make more decisions affecting jail population than anyone
else, which should make them the "leaders" in seeking jail population reduction solutions. Judges can issue summonses instead of arrest warrants; provide guidelines authorizing direct release by police, jail, and pre-trial staff; and provide bail; setting outside normal court hours.

Evaluators of the four-year Jail Overcrowding Reduction Project of the former Law Enforcement Assistance Administration found that the project's most successful sites were those with strong judicial leadership.

Many courts provide 24-hour bail-setting magistrates. The King County, Washington District Court has a "three-tier" release policy that reduces court time, jail admissions, and length of confinement. The court-established guidelines specify the charges for which pre-trial services staff may (1) release without consulting the court, (2) release after phoning a duty judge, or (3) make recommendations to the court in the most serious felony cases.

Reducing court delay is crucial to effective use of jail space. Bexar County, Texas seeks to eliminate "dead time" by having the court administrator work with a jail case coordinator to identify cases in need of special attention and processing steps that can be shortened. Each judge receives a weekly list of prisoners awaiting indictment, trial, sentencing, or revocation in his or her court.

DEFENSE — The National Institute of Justice's field test on Early Representation by Defense Counsel found that early screening for indigency, defender appointment, and defendant contact can decrease length of confinement and thus yield substantial savings of jail space. Vertical case processing in defense offices (staying with the same case) also helps cut length of confinement.

In Mecklenburg County, NC, pre-trial conferences between defense and prosecution help identify, eliminate, or downgrade marginal cases and facilitate plea negotiation. Both offices can thus budget staff time more efficiently and thereby lessen pre-trial confinement.

In St. Louis, Missouri, efforts to reduce staggering defender caseloads by appointing private attorneys in felony cases have also reduced case disposition time, stimulated bail review, and resulted in shorter pre-trial confinement.

PROBATION AND PAROLE — Not only do probation and parole agencies provide nonjail alternatives for sentencing (taking the bulk of most sentenced offenders), these agencies can enhance case processing efficiency by streamlining presentence investigation procedures and expediting revocation decisions.

In Brevard County, Florida, the jail population oversight committee spotlighted PSI delays and worked with probation and parole officers to cut PSI preparation time from 90 days to 30 or 35 days for jail cases. This is also done by the Denver District Court Probation Department. In Brevard County, the time required for decisions on probation revocation was cut to 24 hours, thus decreasing the use of jail beds for persons on probation "hold" orders. In Dane County, Wisconsin, the jail administrator has studied probation holds and length of confinement and is working to reduce decision-making
that impacts jail bed use.

OTHER ALTERNATIVES - In 1972, the Minnesota Restitution Program, the first of its kind in the nation, gave property crime offenders the opportunity to avoid or abbreviate their sentences by working to repay their victims. Presently, some courts will allow criminal charges to be dropped once restitution is made, thereby forgoing the sentencing procedure altogether. Although its merits, gauged by recidivism rates, have been questioned, it appears that, at worst, restitution is as successful as incarceration.

Mississippi and Georgia, among many other states, have made restitution programs (both residential and non-residential) mainstays of their community corrections efforts. In Indiana, a private agency, Prisoners and Community Together (PACT), operate eight programs with wide community approval. Another program, the Community Restitution In-Service Program (CRISP), in Pima, Arizona, makes restitution a condition of probation, which offers the courts an additional sentencing alternative in lieu of incarceration.

Similar to restitution is the option of community service, especially for indigent offenders. In addition to helping them repay their debt to society, such service often helps offenders learn how to work.

Work release and work furloughs have become popular programs and offer a significant alternative to incarceration. In many jurisdictions, these programs are managed by jail officials on residential and non-residential bases.

Intensive supervision programs, usually managed by probation and parole agencies are becoming increasingly popular in many states. While initially designed to deal with state-based prison commitments, they have begun to find their way at operational levels at local jurisdictions. In Maine, there has been some experimentation with intensive supervision programs for violent offenders, including murderers and child molesters.

Instead of incarceration, they are monitored closely in their own communities. The ISP officers, admittedly with reduced caseloads, are making as many as 10 to 15 face-to-face contacts in the field each week. In almost one year of operations, there has been no additional felony arrests of the ISP clients and only 10 technical violations.

Comprehensive Community Corrections, as directed by state legislatures, is an innovative approach to encouraging local jurisdictions to keep selected offenders in the community instead of committing them to state facilities. One of the earliest and most ambitious efforts to achieve this end occurred in California through the state subsidy plan.

Communities in California were paid as much as $4,000 for each offender they kept out of the state prison system. While the "success" rate of the program has been seriously questioned, there is no doubt that those persons maintained in the community committed no more crimes than those already receiving probation. Indiana's program established funds for local work release, treatment, and counseling programs - all of which helped to reduce the local jail populations and certainly reduced state commitments.

Minnesota's Community Corrections Act, passed in 1973, is an even more comp-
prehensive statewide approach. The state distributed money to communities which voluntarily develop local alternatives to imprisonment. Originally, the act required the counties to compensate the state for every offender sent to state prison for an offense carrying a minimum sentence of less than five years. That act established a policy that only offenders charged with very serious crimes were imprisoned. However, the provision was dropped when the state's more explicit sentencing guidelines were enacted.

This approach does not require localities to adopt specific designated alternatives to incarceration, but allows each community to devise a plan based on its own needs and resources. Alternatives can include, but are not limited to, traditional or intensive probation, community service, restitution, weekend detention (an administrative nightmare for jail administrators!), and alcohol and drug abuse treatment. The localized approach also encourages grassroots participation in the system, which makes the idea of non-prison punishment more understandable to citizens.

In 1980, an evaluation of the act concluded that it had increased the number of offenders treated in their own communities, had encouraged judges to use local programs and increased the quality of local programs – all without increasing risk to community safety.

Ohio, Oregon, and Kansas have adopted systems modeled closely on the Minnesota law and have had comparable success rates.

Finally, let me discuss house arrest and electronic surveillance. Once again, we do not have accurate information about the multitude of jurisdictions were either or both of these programs are in operation. We do know that at least 25 states and the District of Colombia utilize house arrest as an alternative to incarceration, especially at the misdemeanant level.

While the bulk of these programs are managed by probation and parole agencies or departments of correction, some are being developed by sheriffs' departments. In Sarpy County, Nebraska, for example, the sheriff, through the jail administrator, is running a program for his and five other neighboring counties. Up to 50 offenders are being placed on electronic surveillance at any given time. And, as occurs in many of these programs, it is the offender who pays the bulk of the costs for the program (a daily fee), which is similar to the process utilized in work release programs.

In my opinion, house arrest and electronic surveillance, hopefully used in combination, are not faddist approaches to solving our jail population crises. Instead, these are responsible programs which can be utilized to one extent or another in almost every jurisdiction facing a jail population explosion. However, these programs should be responsively and responsibly developed, all key actors and decision-makers should be involved in the planning for their use, and there should be evaluation processes built into the programs to determine degrees of success.

Finally, let me suggest that there is another approach which should be taken to alleviate population crises. This is the utilization of private entrepreneurs and vendors to develop and manage a host of alternative programs, both of a residential and nonresidential nature. Non-criminal justice officials and organizations have already demonstrated their ability to create and manage, with accountability and success, such programs and treatment
centers, detoxification centers, alcohol and substance abuse educational programming, ROR programs, community service projects, restitution programs, and work furlough programs.

Additionally, these private practitioners are working successfully in private probation (Florida and Arizona), misdemeanant parole (New Jersey), house arrest/electronic surveillance (Florida and California), ROR (New York, Nebraska), and residential treatment (Wisconsin). As a result of the high level of accountability and demonstrated success in these and other alternative programming areas, there is no reason why local officials should not develop and encourage such activities.

The key, of course, is adequate and appropriate monitoring by key government officials and contracts that require a high degree of performance and accountability.

In the final analysis, while various parts of the network of criminal justice services can develop solutions to jail overcrowding on an individualized basis through such practices as highlighted above, one or two agencies in the local justice system are not enough to bring about comprehensive changes to the crowding problem.

Jail crowding results from the actions of many, with their decisions interacting to determine jail admissions and length of confinement. Effectively combating crowding requires taking into account the "interactive" nature of the problem.

Jurisdictions that successfully implement a systemwide approach to jail overcrowding have identified as critical needs (1) the participation of key decision-makers in formulating solutions, (2) detailed information on case processing and on the actual characteristics of the jail population (including projected jail population), (3) the identification of available and projected resources to combat the problem, and (4) possible changes in state laws and local ordinances needed to facilitate appropriate programming and remodeled processes.

Through systemwide planning, the involvement of all key actors and agencies in the network of criminal justice and community-based programs and services, and the willingness to innovate in the creative development of alternative resources, the problem of jail overcrowding will not necessarily be solved, but the management of the conditions that lead to the problem certainly can be enhanced.

January 12, 1989
## Alternatives to Incarceration to Relieve Overcrowding

### Law Enforcement Release Programs
1. Field Citation (misdemeanors) + *
2. Diversion to Services (family disputes, mentally ill, etc.)
3. Release without charge (public inebriates)

### Jail Release Programs
1. Jail Citation (pre-trial misdemeanors) + *
2. Release without Charge (pre-trial public inebriates) +
3. Diversion to Services (pre-trial mentally ill)
4. Warrants – Holds Clearance Programs +
5. Programs to Reduce the Parolee Population
6. Sheriff-Initiated Work in Lieu of Jail (sentenced DWIs) + *
7. County Parole (sentenced misdemeanants) +
8. Early Release (sentenced misdemeanants; 80% rule) + *
9. Early Release (work, good time) + *
10. Weekend Furloughs/Sentences
11. Bond Schedule Release + *
12. Case/Traffic Management

### Prosecutorial Programs
1. Diversion from Prosecution (pre-trial misdemeanants, felons)
2. Early Case Screening (pre-trial)
3. Early Defense Review of Cases (pre-trial public defender)
4. Expedited Processing of Detention Cases (pre-trial)
5. Felony Recognizance Release (OR) (pre-trial)

### Judicial Programs
1. Release on Recognizance (pre-trial) + *
2. Early Bail Setting (pre-trial)
3. Signature Bond (pre-trial)
4. Extra Bond Reviews (pre-trial)
5. Supervised OR Release (pre-trial)
6. Third Party OR Release (pre-trial)
7. Use of Summons in Lieu of Arrest Warrants (pre-trial)
8. Court Delay Reduction Programs (pre-trial)
9. Speedy Trials (pre-trial)
10. Video Arraignment (pre-trial)
11. On-Call Judges (pre-trial)
12. Night Courts (pre-trial)
13. Court Calendaring and Trail Staff Management (pre-trial)
14. Non-Incarceration Sentencing Programs (probation, community service, fines, restitution, treatment) + *
15. Home Detention/Electronic Surveillance (pre-trial, post-sentence) *
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17. Delayed Imposition of Sentence
18. Deferred Sentencing
19. Modification of Sentence (shock probation, shock parole)
20. Jail Overcrowding Cap *

### Note:
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* = LARGE IMPACT ON JAIL POPULATION

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