Report of A Consultancy to the
Government of Guam
To Review and To Assist In Developing
Strategies To Address The Issue Of
Jail/Prison Overcrowding

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
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Report of A Consultancy to the
Government of Guam
To Review and To Assist In Developing
Strategies To Address The Issue Of
Jail/Prison Overcrowding

Site Work:
September 1987

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Peter Haynes
Hon. Edward King
Howard Messing
Central Focus of Study: To Review and Assist in Developing Strategies
to Address the Issue of Jail/Prison Overcrowding

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I. INTRODUCTION

A. The Origin of the Request for Technical Assistance

On May 20, 1986, the then Attorney General of the Government of Guam wrote to the Director of the Adjudication Technical Assistance Project (ATAP), requesting that ATAP "assist the Government of Guam in program planning, evaluation design, and implementation strategies for (coping with) jail/prison overcrowding." Following telephone discussions and exchanges of correspondence with the succeeding Attorney General and the Director of Corrections at the time and with representatives of the U.S. Department of the Interior, ATAP deployed a four-person team of consultants to Guam during the period September 21-24, 1987. This report contains the principal observations, findings and recommendations of the ATAP consultant team.

B. Organizational Relationships

The Adjudication Technical Assistance Project (ATAP), is operated by the EMT Group, Inc., of Sacramento, California. ATAP is authorized and funded by the Bureau of Justice Assistance of the U.S. Department of Justice pursuant to provisions of the Justice Assistance Act of 1984. Under the terms of its cooperative agreement with the Bureau of Justice Assistance (BJA), the EMT Group, Inc., receives, screens and responds to requests for technical assistance from state and local units of government seeking to deal with existing or potential overcrowding of their penal institutions.

ATAP's effort on Guam (and subsequently with the Commonwealth of the Northern Marianas Islands) was co-sponsored and co-funded by the U.S. Departments of Justice and Interior. The Department of Interior also designated staff to provide liaison between the ATAP team and Guam (and CNMI) officials during the team's on-site study.

C. The Different Missions of the ATAP and National Institute of Corrections Teams

At approximately the same time that the ATAP team was on Guam, three top officials of the U.S. Department of Justice's National Institute of Corrections (NIC), were also on the island. These officials had come to Guam in response to criticisms leveled against the Guam Penitentiary by the Civil Rights Division of the U.S. Department of Justice. These criticisms implied a need on the part of the penitentiary for the kinds of management technical assistance and staff training and development programming which NIC is authorized to make available to correctional institutions. The NIC officials were
on Guam to determine how NIC might most effectively deploy its training and technical assistance resources to aid the penitentiary in addressing its internal operational problems which were precipitating complaints of civil rights violations.

While the ATAP team's mission to examine overcrowding occasioned its visit to the penitentiary and to support an exploration of its impact on operations, the ATAP team's study focus was much broader than was that of the NIC officials. Any examination of actual or potential overcrowding must be concerned primarily with factors which impact an institution's admissions and inmate length-of-stay. As these factors are influenced by all criminal justice agencies, ATAP team members met with officials whose decisions create the demand for available detention space. Because the supply of available space is within the decision-making realm of Guam's executive and legislative authorities, the ATAP team also met with the Governor and certain of his key aides as well as with Senators with special responsibilities relative to the administration of criminal justice.

D. The Composition of the ATAP Team

The ATAP team aggregated a broad range of experience and expertise. Edward King, Chief Justice of the Federated States of Micronesia, contributed to the team's perspective an appreciation of the history, culture, political priorities and legal structure and traditions of Western Pacific societies in general, and of the Marianas in particular. Peter Haynes, Professor of Justice Studies at the Arizona State University and Executive Director of the Arizona Criminal Justice Commission brought to the team knowledge and insight into issues and problems inherent in criminal justice planning and administration, as well as an awareness of federal resources currently available to criminal justice agencies for financing and programming improvements in service. Howard Messing, Professor of Law at Nova University, recently Fellow at the National Institute of Justice and Federal Master for the Broward County (FL) Jail, assured the team an acute perception of operational and legal issues attending prosecutorial, judicial and detention performance. Walter Busher, team leader, has contributed his perspective on overcrowding remedial strategies gained from ten years of field work in local jurisdictions with acute jail population and capacity management problems.
II. HOW THE ASSIGNMENT WAS CONDUCTED

A. Staff Briefing
   The four team members assembled on Guam on Sunday, 9/20/87 for a preliminary
   briefing by the team leader. The on-site work was projected as a needs assessment
   study. Limits of possible future Bureau of Justice Assistance technical assistance were
   described.

B. Team Briefing By U.S. Department of Interior Guam Field Representative
   Anthony (Tony) M. Palomo, U.S. Department of Interior Field Representative met
   with the full ATAP team at 9:00 a.m. Monday, 9/21/87. Palomo had alerted key criminal
   justice officials to the team’s on-site plans and mission in response to the team leader’s
   request made prior to the team’s departing for Guam. At the team briefing, a schedule
   of appointments was developed and confirmed with officials. Palomo also provided the
   team with logistical and other kinds of information which proved useful in facilitating
   the meetings which occurred over the three-day study period.

C. Persons Interviewed
   Between 9:00 a.m. on 9/21 and 3:00 p.m. on 9/24, members of the team, in varying
   combinations, met with the following persons (listed in alphabetical order):

   Hon. Paul J. Abbate, Presiding Judge, Superior Court
   Hon. Joseph F. Ada, Governor
   John C. Aguon, Chief of Police, Guam Police Department
   Ladd Bauman, Attorney-at-Law, ACLU
   Fred Black, U.S. Attorney’s Office
   Michael Cruz, Deputy Director of Planning
   James C. Gutierrez, Adult Probation Supervisor
   Thomas J. Lannen, Deputy Attorney General, Special Operations Division
   John B. Maher, Deputy Attorney General, Civil Litigation Division
   Hon. James Miles, Member, Guam Senate
   Anthony Palomo, Field Representative, U.S. Department of the Interior
   Harold Packer, Executive Director, Guam Public Defender Program
   Louis Paulino, Assistant Director of Corrections
   Michael Reedy, Director of the Budget
   Adolph P. Sgambelluri, Director, Department of Corrections
   Hon. Frank Santos, Member, Guam Senate
   Timothy A. Stewart, Attorney-at-Law, ACLU
   Dianne M. Strong, Acting Dean of Students, University of Guam
   Roy S. Taijerou, Chief Probation Officer
   Perry C. Taitano, Acting Administrative Direct, Superior Court
   Julia Taylor, Executive Director, Guam Legal Services
Maj. Joaquin Torre, Director of Detention, Guam Police Department
Howard Trapp, Attorney-at-Law, Defense Bar
Charles H. Troutman, Attorney General's Office, Compiler of Laws
D. Paul Vernier, U.S. Attorney's Office
III. OBSERVATIONS AND FINDINGS

A. Introduction

In an attempt to understand and assess Guam's adult detention circumstances, the team focused its attention on the following questions:

(1) What factors and whose decisions determine the number of persons being admitted to the Agana Jail and the Adult Correctional Facility (ACF)?

(2) What factors and whose decisions determine how long persons remain in the two institutions once they are admitted?

(3) What factors and whose decisions determine the availability of beds (prison capacity) at the Adult Correctional Facility?

The first two questions are concerned with criminal justice agencies' demand for incarceration capacity. The third question is concerned with the supply of beds and related programming which determines the extent of ACF's capacity to incarcerate at any given time.

Demand is determined largely by the day-to-day decisions made by criminal justice agency personnel in the course of processing cases through the criminal justice system. Supply is determined largely, although not exclusively, by periodic decisions made and actions taken by the members of Guam's Legislature and the Territory's Executive Branch of Government.

B. Existing and Contemplated Capacity

Guam's existing adult facilities are (1) the Agana Jail, administered by the Guam Police Department, and (2) Guam's Adult Correctional Facility, administered by the Department of Corrections.

The Agana Jail, when current renovation is completed, will operate primarily as a 24-hour lockup, although it may also be used to hold some pretrial detainees not released within twenty-four hours from the facility. The renovated facility will have eighteen cells and four cell blocks. It will have a capacity of 36. However, when women prisoners are held, some reduction in functional capacity may occur. The not infrequent practice of holding prisoners in protective custody, intermittently at least, will also lower the jail's functional capacity.
The Agana Jail is located in proximity to the Courts and most of Guam’s other criminal justice agencies. When available for occupancy, the jail should provide a more efficient and economical means of handling pretrial detainees than has been the case in the past.

The Guam Correctional Facility, located at Mangilao, presently consists of two components. One part is the Rosario Unit. The Rosario Detention Unit contains twenty-four cells and has a staff-rated maximum capacity of 48 beds. This unit has been used recently primarily for persons in pretrial status. When the Agana Jail renovation is completed, the Rosario Unit’s use will probably change and at least part of its capacity will be used for sentenced prisoners.

The rest of the Guam Correctional Facility holds sentenced prisoners. Not counting the 48-bed capacity of the Rosario Detention Unit, the prison has a staff-rated capacity of about 122 beds. On 9/27/87, when the team visited the prison, there were 169 prisoners in custody, occupying all but one of the staff-rated bed capacity of 170. The complete head count is detailed in Table I. On 9/24, the prison was preparing to receive 26 additional arrestees accused of drug dealing. Subsequently, additional drug arrests were made. Obviously, the prison’s capacity is being strained at times. Some prisoners (23) were held off island.

The team was advised several years ago that the U.S. Congress approved funds for the construction of a 96-room dormitory. Although the plans for the additional space have been approved, Guam officials had not developed a spending plan for the construction and none of the funds had been committed as of 9/24/87. However, the team noted an item in the 10/27/87 edition of the Pacific Daily News which reported that the Governor "announced that plans are being prepared for construction of a 32-room minimum, medium and maximum facility at DOC".

Although the team is uncertain about the precise nature of the new building plans, it is of the opinion that any current overcrowding is likely to be significantly alleviated, if not solved, by: (1) the availability of space at the Agana Jail, (2) the availability of space at the Rosario Detention Center after the jail renovation is completed, and (3) additional construction at the prison now apparently nearing authorization.
TABLE I

CORRECTIONAL HEAD COUNT GUAM
SEPTEMBER 21, 1987*

TOTAL 192

Detention (Rosario) 43

Sentenced On Island 126

Sentenced Off Island 23

Female Unit 7
(Includes 3 Detainees)

Infirmary 3

Guam Memorial Hospital 0

Protective Custody 4

Receiving/Discharge 10

Community Corrections 43

Delta Wing (3 wings) 48

F Unit (4 cubicles) 13

Maximum (2 dorms) Vacant

* Head count of 169 does not correspond to sum of numbers in different status (i.e., 171).
C. Case Processing: From Arrest to Sentencing

1. Admissions

The team heard little that suggested there would be any overuse of the Agana Jail for detaining persons arrested on misdemeanor charges. The Guam Police Department does issue citations in lieu of booking in minor matters. There exists the possibility, although not the probability, when the remodeled jail becomes available, and the cost and inconvenience inherent in transporting misdemeanor arrestees to Mangilao for booking is no longer a factor, that misdemeanor bookings might increase at the Agana Jail. However, even were this to happen, it seems unlikely that there will be any significant effect on the number of admissions to the Department of Corrections’ Adult Correctional Facility.

Data on jail and prison admissions was not available for study. However, data provided to the team by the Superior Court indicated that the Courts’ felony caseload was over 50% higher in 1985 and 1986 than in 1984. (Figures for 1987 were not available.) Moreover, local informants expressed the opinion that there has been a definite increase in the past year or two in the seriousness of the offenses for which arrests were made.

The following table lists criminal filings for the years 1984 - 1986:

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<tr>
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<th>1984</th>
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<tbody>
<tr>
<td>Felony</td>
<td>213</td>
<td>357</td>
<td>336</td>
</tr>
<tr>
<td>Misdemeanor</td>
<td>773</td>
<td>1023</td>
<td>1130</td>
</tr>
<tr>
<td>Total</td>
<td>986</td>
<td>1380</td>
<td>1466</td>
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While no Department of Corrections figures could be produced for inspection, it seems safe to assume that, if there is a growing number of more serious cases in the Courts’ workloads, there are more persons being admitted to the jail and ACF following arrest on felony charges.

2. Length-of-Stay

Pre-Arraignment

From what the team was able to learn, very few persons arrested on misdemeanor charges stay in jail very long. Typically, anyone accused of having committed a misdemeanor is booked and promptly released. A person who is intoxicated or under the influence of drugs is normally held through the night and then released in the morning. In short, misdemeanor cases do not appear to be tying up many beds in the detention center.
Persons charged with felonies typically are held throughout the night. The next morning an attorney from the Attorney General's Office interviews the arrestees at the detention center. The attorney has the authority to release individuals accused of committing felonies pending the issuance of an indictment. Any accused felons (or misdemeanants) not released under the above procedures remain in the detention center until they are brought before a Superior Court judge, usually at approximately 4:00 p.m. the day after the arrest was made. Before that hearing, a member of the pretrial division of the probation office meets with the accused to obtain information which will be submitted to the court for use in making its decision concerning pretrial restrictions on the freedom of the individual.

Post-Arraignment

Estimates given to the team of the number of persons being held in pretrial status ranged from 15 to 30 persons, on the average. This suggests that, typically, approximately 10% to 20% of persons held in custody at any time are in pretrial status. Such a ratio of pretrial detainees to a jurisdiction's total confined population would be regarded as very low (and desirable) on the mainland. However, the fact that Guam is an island jurisdiction may make direct comparisons inappropriate.

In many jurisdictions, the time required to move a case from arrest to trial can be a major contributing factor to institution crowding. This may be a contributing factor in Guam. Those officials familiar with the flow of cases through the courts suggested that while the system's goal is to move felony cases to trial within 45 to 60 days following arraignment, this goal often is not achieved. Two practices seem most likely to be responsible for prosecution dragging on for periods up to six months in some cases. One factor is the practice of assigning the vast majority of criminal cases to one judge. This may be overloading that judge's calendar to the point that he does not have enough court time to process all cases expeditiously. The second factor which complicates speedy prosecution is that of public defender-requested continuances, many of which are not vigorously opposed by the prosecuting attorney. Defense counsel frankly admit that a frequent motivation for defense-requested delays is that a key witness may move away, thus reducing the likelihood of conviction.

These pretrial delays may be increasing the number of persons held in pretrial detention and contribute to the overcrowding of the facility. However, the unavailability of processing time data makes it all but impossible to quantify the actual impact of these practices on the prison's population situation.
Post Conviction

A common contributor to overcrowding in many jurisdictions is the time required for probation officers to complete pre-sentence investigations and file their report with the court in cases where the convicted person remains in custody. A closely related problem can be the time which elapses between the filing of the pre-sentence investigation report and the act of sentencing. These problems do not appear to be present on Guam.

Summary

To whatever extent there is crowding at the ACF, it would be unfair to attribute any significant part of it to the pace at which the prosecution, adjudication and sentencing functions are carried out. This is not to say, however, that were the criminal justice officials responsible for these functions to formally and studiously examine their existing procedures and practices they would be unable to shorten the time involved further. Such an effort would be worthwhile even if it resulted in the reduction of only two or three days in the average processing time of defendants convicted and sentenced to the ACF, thereby reducing some pressure on the institution during peak population periods.

D. Case Processing: Sentencing

The team was informed by the (soon to retire) Presiding Judge of the Superior Court that approximately 70% of all convicted felons were sentenced to prison -- most to the ACF. The Presiding Judge normally handles the largest part of the Superior Court's criminal calendar and has a reputation for being "a tough judge". A 70% sentenced-to-prison disposition rate, viewed in a national perspective, would support such a reputation.

Although precise data were not available for analysis at the time of the team's visit to the ACF, indications were, that between 80 and 90% of the 170 beds were occupied by prisoners serving sentences imposed by the judges of the Superior Court. When the number of pretrial prisoners is reduced by the re-opening of the Agana City Jail, it would seem likely that no less than 90% of the ACF's inmates will be serving sentences. Given the growth rate in felony prosecutions suggested by Superior Court records, it seems unlikely, given a continuation of existing sentencing practices, that the 150-155 beds available for sentenced prisoners will prove to be enough.

If those judges who now handle the criminal calendar adopt a different sentencing policy, it could impact the ACF. A "tougher" sentencing policy, i.e., one employing greater dependence on long prison terms, can be expected to hasten the advent of
sustained crowding at the ACF. On the other hand, any tendency by judges to consider sentences involving alternatives to maximum security confinement or shorter sentences at the ACF could be expected to delay the advent of chronic crowding.

It was the team's observation that Guam has not developed many resources which could support sentencing disposition plans which would be viewed by judges as acceptable alternatives to incarceration at the ACF. So long as the judges have no credible alternatives to consider at sentencing, it is understandable why there is such dependence on incarceration at the ACF.

Guam, it seems, is at, or nearing, the point when all existing ACF capacity will be required to meet the sentencing orders of the courts. Unless, or until, additional capacity is created, the primary options available for avoiding the crowding of the ACF will be:

1. Reduction of length of sentences imposed and/or served
2. Increased substitution of non-ACF confinement for ACF confinement (e.g., residence in minimum security facilities, work release, group homes, monitored or un-monitored home detention, etc.)
3. Increased substitution of probation and parole as alternatives to incarceration.

E. Some Considerations Bearing Upon Future Prison Capacity Requirements

The team suspects that the system is using the ACF for many sentenced prisoners who, in most other jurisdictions, would be committed to a well-programmed minimum security facility providing a reasonable criminal sanction at an acceptable level of risk to the community safety. There is no way of knowing how many of such cases would be in such a facility on Guam were one now available. The fact that one is not available, or in the process of development, would suggest that, within existing sentencing traditions, few persons would be saved the experience of being detained at the ACF. In addition, although work release is available, recent developments, both in legislation and executive orders (#87-23) have reduced access to this option. There is sentiment in some quarters to reduce access even more.

Guam's future population and demographics are hard to predict. As the entire Pacific Island area is undergoing rapid change in its culture and economy, it would seem reasonable for Guam's officials to expect not only a higher crime rate but a change in the kind of crimes and offenders. Therefore, to project future correctional programming
solely on the basis of present sentencing practices, prison capacity and offender profiles could prove to be a very expensive and non-productive exercise. Any plans to build and operate maximum security confinement capability for inmates who can be more cheaply and effectively penalized for their crimes by means of other kinds of programming should be seriously questioned by both criminal justice and non-criminal justice officials.

F. Case Tracking and Management Information

The criminal justice process in Guam provides for a series of stages at which decisions are made. At each of these decision points, a number of options are available to the official decisionmakers. Individuals subject to arrest and prosecution pass through one or more of these decision points over a period of time until a final disposition involving dismissal or conviction is reached.

As far as the team could determine, there is no case recording system on Guam which can track individuals from entry through discharge from the criminal justice process. Consequently, no one on Guam knows with certainty how often any given option is selected at each decision point, how long it takes for individuals to move from one decision point to the next, what kinds of decisions are made given specific circumstances, and how effective decisions made prove to be.

The inability of the system to track individual cases can complicate processing by the officials involved. The overall system is also deprived of valuable information which could be derived from compiling data on all cases serviced by the system. Such compilations, properly planned and executed, could provide criminal justice officials, individually and collectively, valuable information for use in developing and monitoring policies, procedures and programs. With a management capability, the system could make case and management decisions on the basis of facts instead of guesses, myths and instinct.

G. The Department of Corrections

The Department of Corrections has a long, dismal and turbulent history marked by mismanagement and poor performance. The Department's internal problems are the focus of studies by other federal bodies and need not be dwelt on here. What interested the ATAP team was the extent to which the Department's principal activity, the ACF, was having a negative impact on the overall administration of justice. It appeared that officials everywhere were distressed by being in a situation where they had few, if any, alternatives to using an institution in which they had so little confidence. The ACF
situation was influencing decision-making in a number of agencies.

While the team found that most of its informants were concerned with matters relating to the quality of care and custody available at the ACF, some expressed the hope that the Department of Corrections might develop new or strengthen existing programs which would involve something less than 24-hour confinement at Mangilao.

It is very likely that the Department of Corrections itself contributes to the ACF's population size in at least two ways. First, the lack of discipline and control which has heretofore marked the ACF operation creates ample opportunities for inmates to engage in conduct which precipitates longer lengths-of-stay or even additional prosecution. Second, the Department's apparent failure to date to successfully develop a reservoir of institution and non-institution-based programs through which graduated release arrangements could be carried out, has probably had the effect of tying up maximum security beds at the ACF.


The team found that Guam is ill-prepared to deal with problems which cut across the operational boundaries of individual criminal justice agencies. There is no institutional focus on criminal justice as a system. Heads of agencies do not meet on a formal basis to discuss problems of mutual concern or to develop plans for more efficiently providing service to their common clientele. There is no central data collection which could supply agencies, the Governor's Office and the Legislature with management information. There is little indication that officials appreciate or acknowledge that their agencies contribute to the ACF's crowding problem or that they must be participants in the management of the problem. The crowding problem is largely viewed as the Director's (Department of Corrections) problem to work out on his own. In short, the ATAP/BJA team found the criminal justice system badly fragmented and lacking in any sense of community.

Any government's criminal justice operation can be said to resemble a family. It is created and supported by parents who are expected to exercise authority over its members. Each member has a unique set of responsibilities assigned to it and is given a set of tasks to perform which are intended to benefit the family as a whole. When adequately provided for, appreciated and respected, the dependent members of the family perform well, quarrel little and help one another. If, for any reason, any member of the family becomes sick or delinquent and therefore limited in what it can do, all other family members must make adjustments in their own routines, plans and aspirations to
accommodate the non-performance or mal-performance of the afflicted one.

Using this analogy, the ATAP/BJA team sees Guam's criminal justice family as one with serious problems. Its parents -- the Territory's Executive and Legislative Branches of Government -- have not been getting along at times. They've had trouble understanding their wayward offspring, the Department of Corrections, and disagree over how to handle it. Other members of the family -- The Attorney General's Office, the Public Defender's Program, the Police and the Courts -- for years faced with the reality of an unstable Department of Corrections, have had to modify their own programs from preferred courses of action. In short, Guam's criminal justice family, bearing the burden of the chronic turmoil in the Department of Corrections and lacking consistent and firm leadership and sense of direction, gives the impression of going nowhere except from one crisis to another.

Happily, the team noted strengths in the system as well which offered promise of healthier operations ahead. As noted above, parts of the system do seem to be functioning compatibly and move their mutual clientele through prosecution and adjudication with reasonable dispatch. Administrative recordkeeping of Agana Police Department and the Superior Court and its adjunct agencies provide some insight into the size and nature of the total workload flowing through the criminal justice system. There are some experienced, dedicated employees who recognize the system's weaknesses and are not afraid of change. Officials in the executive branch appear to be aware of and concerned about the serious threat that continued mismanagement of the prison poses not only to the safety and lives on inmates and staff alike, but to the fiscal health of the territorial government itself. The Governor's appointment of a Director of Corrections, with prior correctional institutional management experience and an appreciation for the need for organizational discipline, is viewed by the team as a very positive step, particularly because the Governor has promised the Director his firm backing for his remedial measures. The team also viewed as an encouraging development the fact that a corps of Senators are aggressively seeking to acquaint themselves with the requirements of modern and efficient corrections programs. The team feels this development can only favor the growth of a more professional and less political environment at the Department of Corrections.

To return briefly to the family analogy, the team believes there is a basis for hoping that the members of Guam's criminal justice system are becoming tired of conflict and are becoming increasingly disposed toward talking with one another about defining some common objectives and beginning the task of achieving them together. The team's
recommendations below are intended to facilitate the growth of collective action by all elements of Guam's government which share some degree of responsibility for providing, supporting and operating its criminal justice machinery and programs.

Essentially, prison overcrowding is the result of a jurisdiction failing to keep its demand for beds in concert with the available supply. The demand for beds arises out of the decisions made by police, prosecutors, defense counsel, judges, probations officers and others. The supply of beds available at any given time is the result of decisions made by a jurisdiction's Executive and Legislative Officials. Because the Department of Corrections itself is not a major determinant of either the number of beds needed or available, its Director should not be expected to bear the responsibility for the cause and cure of overcrowding alone. The responsibility for both cause and cure must be acknowledged, shared and accepted by every official. The ATAP team found little indication that this has yet occurred.

Any recommendations for addressing an existing or potential overcrowding situation must be addressed to all parties whose understanding of the problem and its causes is a prerequisite to the successful undertaking of remedial action. The recommendations which follow add up to a suggested framework for the government of Guam to create and employ for collectively managing its demand for incarcerating prisoners within the existing confinement capacity.

It is realized that the territorial government has been in the midst of a full-fledged budget crisis, with a deficiency of approximately $200 million and political conflict between the new governor and the legislature over finances. However, there is only limited awareness that the overcrowding issue is as much a managerial question as a resource issue. For example, although the food budget for corrections is $400,000 per annum, there is only limited use of prison farming to save this expenditure. Another example shows that the 10-25% of work furlough earnings available for correctional services have not been aggressively pursued as a supplemental resource.

There are resources available in the local Guamanian Community which can be tapped to help deal with this problem. The Friends and Families of Prison Inmates are particularly active. They identified various sources of assistance including: the University and Community College, various military organizations and the community at large.
Other components of the Justice system, e.g., Courts, seemed to have been successful in dealing with their administrative challenges in an effective forward looking manner. Staff in the Courts were able to identify other policy issues in Guam which were addressed by cooperative action, e.g., reorganization of secondary schools. The expertise is available.
IV. RECOMMENDATIONS

A. Introduction

The Adjudication Technical Assistance Project (ATAP) team is convinced that if Guam's officials are ever to achieve control over its longstanding and potentially explosive prison capacity management problem instead of being forever at its mercy, they must promptly initiate action at two levels. First-level action needs to address the current crisis. Beyond measures which may have already been initiated since the appointment of a new Director of Corrections in September, any and all steps which are feasible should be aggressively pursued to make the adult correctional facility (ACF) a safe and healthy environment for inmates and staff and to reduce the territory's vulnerability to inmate-initiated and U.S. Department of Justice-initiated legal action. Recommendation Number I below suggests action measures at this level.

Second-level action, which is recommended, addresses the burgeoning crowding problem (and other problems) nearer its root causes. Because these recommendations are concerned with organizational, political, cultural and program development issues, they are not subject to quick and easy implementation. Their acceptance will mean that many officials will need to re-examine the way they have traditionally viewed the allocation of responsibility for the administration of justice. These recommendations and the principles they embody have evolved out of the experience of hundreds of jurisdictions which, at the point of crisis, found it necessary to address their jail and prison overcrowding as a collective effort based on the acknowledgement that the causes of crowding are to be found in every official's bailliwick and that the remedy must involve the coordinated efforts of every official using the correctional facilities or responsible for their support.

Recommendation Number 1-A:

It is recommended that to the extent such actions have not already been initiated, the Director of the Department of Corrections (DOC), with the full backing of the Governor and the Legislature, avail himself and his staff at all levels of all technical assistance offered by the National Institute of Corrections, the Bureau of Justice Assistance of the U.S. Department of Justice, the Department of the Interior and any other source. All such technical assistance should be directed to the objectives of organizing and carrying out formal training programs, the design and utilization of a formal plan for recruiting, examining and certifying new employees, the preparation and
promulgation of formal policies, rules and procedures for the operation of the Adult Correction Facility and any other programs which the DOC undertakes, and the formulation and administration of departmental disciplinary and grievance procedures for both inmates and staff.

Rationale:

In any government, the effective administration of justice requires the existence and participation of a well managed Department of Corrections capable of delivering humane and secure detention in a manner which meets constitutional requirements. A corrections department with a transient administration, untrained, undisciplined and poorly supervised staff cannot supply a jurisdiction's criminal justice system with a constitutionally approved court-ordered sanction which will have the effect needed by the community for its reassurance and the offender for his control and reformation.

In order to introduce and foster the growth of a professional level of correctional care and custody and to build and maintain a well-disciplined staff and program, the Director of the Department of Corrections should bring to bear every resource available to him as soon as possible.

Transforming a program which has long been a territorial embarrassment and liability into an effective and respected community asset will not be easy. The task will involve adopting policies and procedures which will be at odds with deeply entrenched traditions and cultural values. To assist him overcome and break through the resistance which change will arouse, the Director should have access to not only the expertise of experienced correctional and management technicians, but also the unyielding support and prestige of the Territory's political officials. The Director's use of skilled trainers, knowledgeable program planners and experienced systems analysts can help generate and retain the interest, support and involvement of a wide range of community political and lay leaders that he will require.

The recommendation involves action which can and should be taken promptly and at a modest cost to the territory. Federal agencies should be willing to assist the Director carry out any well designed effort to upgrade the DOC's operation, particularly if the Director can demonstrate he has firm backing from Territory officials.
Recommendation Number 1-B:

It is recommended that the Governor select and authorize a staff member, research group or academic institution with research and demographic study experience to prepare estimates of the characteristics of future Department of Corrections inmate populations, basing the estimates on an analysis of (1) the characteristics of the DOC’s present population, (2) past, present and projected future Superior Court sentencing patterns, and (3) available demographic data on Guam’s population trends.

Rationale:

There are indications that Guam’s population is growing in number and changing in composition. There are also indications that public opinion regarding local crime and its management is changing. Finally, with changes of personnel and assignments on the Superior Court Bench currently being made, prior sentencing patterns may be yielding to new ones.

All of these shifts could have significant implications for the numbers and kinds of persons which the DOC will have to build and program for in the years ahead. In the absence of competent, current analysis to serve as a guide to planners, administrators and legislators, there exists the danger that any planning now going on, or contemplated to determine the future construction and program requirements, may be based on projections involving no longer valid assumptions. Given the cost of prison construction today, and the possibility that less expensive alternatives to maximum and medium security confinement may be considered acceptable sentencing dispositions, a reasonable attempt should be made to provide the most accurate information and opinion possible to those officials who have the responsibility for allocating resources for correctional programming.

One means of accomplishing this is to establish a statistical analysis center (SAC) which would be eligible for federal funding support.

Recommendation Number 2:

It is recommended that the Governor propose and the Legislature create, by formal action, a permanent policy and program planning and coordinating body to be known as the Joint Council on Criminal Justice (JCCJ) or by some other name descriptive of its intended purpose. The mission of the JCCJ should be the formal bringing together of all officials concerned with the operation and support of the criminal justice system to collectively consider issues and sponsor policies and programs intended to strengthen the administration of justice.
The JCCJ should include as members (1) the Governor or his designee(s), (2) Senators from appropriate committees of the Legislature, (3) the Presiding Judge of the Superior Court and/or one or more judges designated by the Presiding Judge, (4) the Attorney General, (5) the Director of the Public Defender's Program, (6) the Director of the Department of Corrections, (7) the Chief of Police, (8) the Court Administrator, (9) the Chief Probation Officer, and (10) representatives of the U.S. Defense and Interior Departments and such other officials of public bodies and community organizations as the core group of Executive, Legislative and Criminal Justice Officials may decide to involve.

**Rationale:**

Every day, Guam's criminal justice agencies carry out a wide range of activities which, collectively, constitute the machinery which dispenses justice to persons accused of and/or charged with violating the territory's laws. Each year, thousands of arrests are made, a somewhat lesser number of persons are prosecuted and defended, hundreds of persons admitted to the jail and/or prison and hundreds of thousands of dollars expended. Yet, all this appears to be happening without any individual or body formally considering how the Territory's increasingly hard-to-come-by revenue dollars might best be allocated and applied for maximum impact. There is no vehicle with the responsibility for planning or coordinating the development of agency policies and the execution of programs, processes and procedures based upon them. Nor is there any entity charged with the task of documenting what is happening as the result of actions taken and not taken and assessing whether the results accomplish what their sponsors intended.

Criminal justice program planning, coordinating, monitoring and evaluation require that someone raises questions and that a capacity exists to obtain creditable information which can be used to answer questions. Guam has no-one posing important questions and no-one producing information which could give direction to criminal justice operations and provide insight needed to improve program efficiency and effectiveness.

The administration of criminal justice on Guam is attended by many issues - many controversial - which have significant implications for the Department of Corrections and prison capacity management. Because each issue has political, economic, professional practice and even cultural implications, they cannot be resolved by off-island consultants but only by officials whose functional areas the issues impact. These issues are likely to go on being avoided unless or until there is some forum created which will address them in a formal and consistent way.
Expressed as questions, some of these issues are:

- How can the position of Director of the Department of Corrections be made less vulnerable to external political interference and empowered with respect to the DOC staff?
- What measures are needed to upgrade the skills and performance of ACF line staff, improve its status and public image and reduce turnover?
- To what extent should the DOC move to develop alternate detention capacity for inmates not requiring maximum security custody?
- How can the work release program be restructured and strengthened and public confidence in it restored?
- Should the DOC seek to reduce reliance on off-island custody for sentenced prisoners and if so, how?
- How high a priority should the DOC assign to initiating new and strengthening existing educational, vocational and mental health programming for inmates?
- Should an effort be made to create a pool of earmarked and/or privately contributed funds which would be available for the DOC, probation and parole officers and volunteers for their use on behalf of inmates, probationers and parolees? If so, how should such funds be raised and who should administer such a resource?
- To what extent should court agencies and the DOC seek to increase the use of volunteers with inmates, probationers and parolees?
- Who should administer a volunteer program and how should volunteers be recruited, screened, trained, assigned and supervised?
- Can ACF inmate lengths-of-stay be reduced if existing prosecution, trial and sentencing practices are modified? How can the average length of time required to process cases from arrest to trial be reduced?
- Could a stronger parole program justify and result in shorter lengths-of-stay at the ACF?
- If additional halfway house, work release and parole supervision capacity were available, what effect could it be expected to have on the amount and kind of additional construction planned for the ACF?
- What would be the most effective way to utilize various federal justice program funds allocated to Guam?
- Are there ways to increase the kind and level of participation and influence of Guam University and the U.S. Armed forces in crime prevention and control activities?
What might be done to facilitate this integration of new arrivals from other Pacific jurisdictions into acceptable group activities and to minimize the likelihood of their isolation and alienation?

What kinds of case and process information needs to be recorded, compiled and analyzed to assist criminal justice agency administrators, legislative committees and executive branch officials make more effective decisions?

Is there a need for an ombudsman who can receive and review complaints raised by defendants and inmates and/or their families?

Issues such as those imbedded in these questions are representative of the kind of matters which should be considered by the proposed JCCJ with the assistance of a criminal justice data base and staffing discussed below.

The proposed JCCJ, when functioning, could be the vehicle Guam now lacks and needs which would bring together and coordinate the program efforts of the quasi-independent parts of the criminal justice apparatus and its support bases, facilitate the growth of consensus on critical issues, allow for the sharing of risks inherent in individual agency programming and build community understanding and support for and confidence in decisions made on case, organizational and legislative issues. It is evident that the proposed benefits can extend beyond those obtained in dealing with prison overcrowding and should apply to a wide variety of criminal justice issues. The majority of other jurisdictions have already reached such a conclusion.

**Recommendation Number 3:**

It is recommended that the Governor and the Legislature, in conjunction with establishing the Joint Council on Criminal Justice, provide the JCCJ with the services of at least one full time staff person to give the JCCJ such technical support as required to carry out its work.

Any staff position(s) authorized should be filled by an individual or individuals acceptable to the membership of the JCCJ and be a person or persons selected on the basis of their technical knowledge and skills and familiarity with criminal justice practices and issues. In addition to the needed technical skills, staff should have or are be likely to earn the trust and confidence of JCCJ members.

**Rationale:**

The primary role of the JCCJ should be to engage in policy development and decision-making. A prerequisite for these activities is a relevant and credible body of information, timely provided and presented in a readily digestible format.
The members of the JCCJ will not have the time nor should they be expected to find it to acquire study data, prepare meeting agendas, schedule meetings and record and/or carry out decisions reached. The JCCJ should have competent staff to facilitate its functioning.

In providing the technical support required by the JCCJ, the staff person(s) will need to engage in the following kinds of activities:

- Staffing all meetings of the JCCJ and its committees and task forces, if any, arranging meeting space, preparing and disseminating agendas and minutes.
- Development of a competent data base and analyses, responsive to information needs of the JCCJ.
- Presentation of data to the JCCJ for its consideration.
- Preparation of draft and final reports.
- Arranging for any technical assistance requested by the JCCJ or needed by staff.
- Preparation and distribution of minutes of JCCJ meetings.
- Handling public relations matters subject to the direction of the Chairman of the JCCJ.

The JCCJ’s staff, if it possesses appropriate technical skills, can spearhead the organization of a criminal justice information system (see below).

**Recommendation Number 4:**

*It is recommended* that, as soon as it is established and staffed, the JCCJ sponsor a cooperative effort among the Territory's criminal justice agencies to develop and fully employ a Criminal Justice Information System (capable of automation after fully tested and perfected). The system should possess the capability to (1) provide its user agencies with all case and procedural information needed to facilitate case processing and management and (2) produce management information needed by agency administrators individually and collectively and by the JCCJ's membership and staff for consensus building and policy and program development.

**Rationale:**

Each year Guam is spending hundreds of thousands of dollars to support its criminal justice agencies' operations and periodically spending millions to build and equip correctional institutions. Every year, hundreds of persons are subjected to the processes of criminal justice to varying degrees and in a variety of ways. Yet, no officials or
formal bodies, such as criminal justice agency directors, the Governor's staff or the legislature - have available a comprehensive and creditable data base. Executive, Legislative and Criminal Justice decisionmakers lack an appropriate data base which can accurately describe how many and what kinds of persons are being served by the criminal justice system, how they are being processed and to what effect. For this reason, they have no alternative at present but to act on the basis of guesses, impressions, incomplete information, myths, and prejudices. The toll which is being paid, whether measured in dollars or the distress suffered by both the criminal and his victim is obviously very high. Appropriate data could supply valuable guidance in allocating and spending tax monies and deciding on appropriate alternatives.

Guam's officials and governmental bodies badly need accurate, creditable information for improved case handling and management decision making. To acquire such information requires only that all criminal justice officials agree to cooperate in the design and use of a single information system capable of tracking every case referred to any agency for service, using a common identifier. Properly designed from a technical standpoint, a criminal justice information system could expedite individual case handling and, over time, create a data base capable of providing decisionmaking officials throughout Guam's government with accurate information for program planning, monitoring, evaluation and for determining support requirements.

Criminal justice issues are attended by much controversy on Guam. While the availability of data generated by a competent criminal justice information system cannot guarantee the complete elimination of disagreements, it will provide the ingredients necessary to foster consensus building among officials and organizations. Decisions supported by consensus can be expected to eliminate much of the indecision, inaction, inconsistency and waste which appears to have attended the administration of criminal justice in Guam for many years.

**Recommendation Number 5:**

It is recommended that if the Joint Council on Criminal Justice decides to sponsor the development of a criminal justice information system (CJMIS), the JCCJ and its staff seek authority to obtain competent technical assistance to work with a committee of representatives from the criminal justice agencies that will be participating in the CJMIS.
Rationale:

The process by which user requirements of a CJMIS are determined and satisfied by the system is a technical one, particularly if the system is to be automated. There is much accumulated experience available on how systems should be set up and operated. This experience should be brought to bear early in the planning process to minimize the likelihood that omissions and errors will be made in designing a system to meet Guam's specific needs.

Individual agencies are already collecting some of the data which would be included in a comprehensive criminal justice information system. Some agencies already have some hardware. A technical assistance consultant could be helpful in suggesting ways existing data recording practices and equipment can be incorporated into a single coordinated system to minimize disruption or present routines and to keep equipment costs down.

Recommendation Number 6:

It is recommended that the Governor, with the support of an appropriate representative of the Senate and the Presiding Judge, join in requesting the U.S. Department of Justice, Bureau of Justice Assistance to provide them and the criminal justice system officials with the temporary services of an experienced facilitator to assist them with the organization and staffing of a joint council on criminal justice.

Rationale:

The accumulated experience of hundreds of county and state governments that have had to address critical crowding problems has revealed the importance of establishing bodies such as the JCCJ proposed in Recommendation Number 2. The experience of such bodies reveals that they want and benefit from receiving the guidance of persons who can help their memberships define their role and develop an action plan. Persons familiar with the organization and operations of JCCJ-like collective action bodies, called facilitators, function as catalysts. They provide information and make suggestions, not decisions. They can advise those taking responsibility for creating the collective planning body and meet with the body as soon as it is established. They often are available to the body and its staff on an "as needed" basis after the body is organized and fully involved in carrying out its action plan.
It is possible but by no means certain that a joint request from the Governor, Legislature and the Presiding Judge of the Superior court representing the criminal justice community of agencies for the services of a facilitator would be favorably received. The federal agency(ies) providing the facilitator may require the government of Guam to share the costs involved.
V. CONCLUDING COMMENTS

In the course of its brief four-day reconnaissance, the ATAP team came to appreciate the complex nature of Guam's criminal justice operation and its problems. It may seem presumptuous of the team, on the basis of such a cursory exposure, to report any findings and to make recommendations. Some who review this report may also question the team's qualifications to assess what is realistic and what is not in the context of Guam's traditions, culture and politics.

To those who may have such concerns, the team can only offer its assurances that throughout its on-site study it was acutely aware of its limitations. In reporting its observations, the team has sought to focus on the strengths and weaknesses of the operational environment of criminal justice agencies and officials, not on specific operational procedures. In formulating its recommendations, the team has sought to suggest an organizational methodology and machinery which Guam's officials should find useful in addressing some of the root causes of the justice system's problems.

In making its recommendations, the team appreciates the fact that their adoption (or even their serious consideration), if seriously attempted, will be difficult given the Government's existing organizational structure, the traditional independence of operating agencies, and the Island's political workings and economic circumstances. Within this perception, the team offers its recommendations with the expectation that the principle they embody will require compromises with political realities and with the hope that in whatever final form they may be adopted, they will prove helpful.