An On-Site Review of
Elkhart County's Jail Overcrowding Situation

TECHNICAL ASSISTANCE REPORT

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Technical Assistance Assignment No. 160

An On-Site Review of
Elkhart County's Jail Overcrowding Situation

September 1988

Consultant:
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Adjudication Technical Assistance Project
The American University
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Technical Assistance No.: 160
Requesting Jurisdiction: Elkhart County, Indiana
Requesting Agency: Elkhart County Commissioners
Requesting Official: Randall D. Yohn, Sheriff
Dates of On-Site Study: September 19-21, 1988
Consultant Assigned: Walter H. Busker
Central Focus of Study: Jail Overcrowding

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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. EMT is solely responsible for the factual accuracy of all material presented in this publication.
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### B. Recommendations

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## IV. Prerequisite Conditions for Productive Action
I. BACKGROUND

A. Reason for Request for Technical Assistance

On June 22, 1988, the EMT Group’s Adjudication Technical Assistance Project’s (ATAP) Director received a letter from Randall D. Yohn, Sheriff of Elkhart County, describing the current crowding situation in the county jail and certain measures he had taken in an effort to cope with it. The Sheriff wrote: “The Elkhart County Commissioners and I may be interested in having a study conducted with regard to the County Criminal Justice System and Jail Overcrowding.” The Sheriff, who had been referred to the EMT Group by a board member of the Center for Criminal Justice - a private service delivery agency serving Elkhart County - requested further information on the kind of assistance EMT could provide to Elkhart County.

B. EMT’s Response

Following negotiations conducted by phone and correspondence between EMT’s ATAP staff on the one hand and the Elkhart County Sheriff and County Administrator on the other, an agreement was reached calling for ATAP to conduct a problem definition study involving on-site work in Elkhart County. ATAP selected a consultant and advised him his mission was to examine the workings of the Elkhart County Criminal Justice System for the purposes of: (1) identifying factors likely to be fueling the jail problem and (2) making an assessment of the kind of special expertise which might be useful if brought to bear on the problem(s) revealed by the on-site study.

The consultant established contact with the Elkhart County Administrator, designated as on-site coordinator for the study, and arrangements were made for the consultant to be in Elkhart County during the three day period of 9/19 - 9/21/88.

Prior to arriving on-site, the consultant was provided with and reviewed copies of recent monthly reports for the jail and for its work release program; copies of the minutes of the Sheriff-hosted meeting on jail population, (4 meetings); a memorandum prepared on 4/28/88 by the Prosecuting Attorney for the judges of the Circuit, Superior, County and City Courts covering information exchanged during a meeting attended by the judges and prosecuting attorney on 4/26/88; a letter written to EMT Group by Judge Duffin commenting on certain bonding matters; and a report prepared by the Director of Court Services dated 4/8/88 for Judge Duffin and Judge Stephen E. Platt of the Supreme Court containing certain statistical and analytical information on criminal filings and case dispositions.
The Sheriff provided EMT with copies of reports resulting from two earlier studies made in Elkhart County:


These reports also were reviewed by the consultant prior to his arrival in Elkhart County.

C. On-Site Activities

Upon arrival, the consultant was briefed by Richard Bowman, Elkhart County Administrator, concerning the current jail crowding and the reactions of county officials to it. During the final moments of this briefing, the Chairman of the County Commission, Marvin D. Riegevecker, was present.

The consultant then met individually with the following persons (listed in order interviewed):

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<th>Name</th>
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<tr>
<td>N. G. (Nick) Cenova</td>
<td>Director, Elkhart County Data Center</td>
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<tr>
<td>Randall D. Yohn</td>
<td>Sheriff</td>
</tr>
<tr>
<td>Hon. Gene R. Duffin</td>
<td>Judge, Circuit Court</td>
</tr>
<tr>
<td>Clifford R. Williams</td>
<td>Public Defender</td>
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<tr>
<td>Brent Zook</td>
<td>Public Defender for Circuit Court</td>
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<tr>
<td>Michael A. Consentino</td>
<td>Prosecuting Attorney</td>
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<tr>
<td>Ruth Andrews</td>
<td>Exec. Dir., Center for Community Justice</td>
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<tr>
<td>Hon. Olga Stickel</td>
<td>Judge, Elkhart County Court, Goshen Division</td>
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<tr>
<td>Hon. David A. Denton</td>
<td>Judge, Elkhart City Court</td>
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<tr>
<td>Alan Sirinek</td>
<td>Director of Court Services</td>
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During the course of the consultant's work in Elkhart, additional reports were acquired and reviewed which related to the workloads of the jail and Court Services Department. A report on Elkhart County demographics was obtained from the County Planning Department. Certain material on the 1988 operating budgets for County Criminal Justice Agencies contained in the County's Budget Book was provided by the County Administrator. Finally, miscellaneous information obtained from the Elkhart County Alcohol and Drug Abuse Program (ECADAP) was reviewed.

Prior to leaving Elkhart County, the consultant attended a meeting of the Sheriff's
Committee on Jail Population. During this well-attended meeting, the consultant summarized some of his observations and discussed some of the areas to be addressed in his written report.
II. OBSERVATIONS AND FINDINGS

A. Preface
1. Study Limitations

The observations and findings noted below and the assessments based on them arise out a brief (2 1/2 day) reconnaissance involving interviews with ten persons, a reading of the minutes of the Sheriff-hosted meetings of the Jail Crowding Committee, an examination of other written information provided only by county officials and an analysis of monthly jail reports for portions of the past twelve months. At best, the information that was generated from these activities provided only an overview of how a complex criminal justice apparatus is functioning and yielded conclusions which should be regarded as tentative until tested by more comprehensive investigation by county officials or other consultants with special expertise.

2. The Frame of Reference Employed for Examining Jail Overcrowding

A jail should be considered crowded when its population averages in excess of 80% of its rated capacity (often defined as functional capacity), and seriously crowded or "overcrowded" when its population averages in excess of its rated capacity.

The dimensions of a jail's population are determined by just two factors: the number of persons admitted and prisoner length-of-stay.

In the aggregate, the decisions made by criminal justice officials about who is to be admitted to jail and about how long persons admitted remain in custody constitute the demand for jail capacity. Demand is a variable factor.

The total number of beds a jail can provide at any moment -- its rated capacity -- constitutes the supply, a fixed factor until changed as a consequence of decisions made by a county's executive/legislative officials.

The size of a jail, measured in terms of the number of beds it was constructed to provide, constitute the supply of beds available to accommodate demand. The supply of beds can be increased by acquisition or construction authorized by the County's executive/legislative body.

Jail crowding occurs when demand for beds exceeds the currently available supply. At the core of any rational effort to lessen or eliminate jail crowding must be measures to bring demand and supply into balance and to maintain that balance.

As the control of demand and supply resides in many officials exercising independent decisionmaking authority, any effective effort to coordinate demand and
supply (manage the dimensions of the jail's population) must involve the active participation of every official with decisionmaking power.

B. The Criminal Justice Machinery in Elkhart County

Indiana's Constitution and legislature, local traditions and demographic factors and the exercise of discretionary powers by county criminal justice and executive/legislative officials have interacted over time to provide Elkhart County with a fractured criminal justice apparatus which severely inhibits the expeditious administration of criminal justice. The inefficiencies inherent in the existing apparatus are, in part at least, contributing to the County's failure to contain its demand for adult detention within the supply of available capacity.

Judicial, prosecutorial, defense and correctional functions are not concentrated in a single courthouse but, are carried out in two locations within 10 miles of one another. As far as criminal justice activities are concerned, the County has two courthouses. A Circuit Court and a Superior Court (with three divisions) share jurisdiction over felony matters. Two divisions of the County Court - one division in each courthouse - operate largely as independent entities. The workloads of the individual Circuit, Superior, County and three City Courts are determined in part by geographical and residence factors and in part by the prosecuting attorney's preferences based upon his perception of how the judges will dispose of the kind of case and defendant for which prosecution is intended. The courts each have evolved their individual policies and procedures governing pretrial release, sentencing and calendar management, subject to mutually agreed upon modifications worked out in a joint forum held under the auspices of the circuit court judge - a forum which involves only the judges of the Circuit, Superior and County Courts.

The County has a part-time Prosecuting Attorney whose staff, for the most part, divide their time between prosecuting criminal cases in designated courts and their private practice. The Public Defender is also a part-time official as are his deputies. The Public Defender and his staff service only the courts at the Elkhart Government
Center. The courts housed in the courthouse in Goshen each appoint and pay private counsel to represent indigent defendants. Attorneys under contract to the courts in the county courthouse in Goshen all have a private practice.

The six judges of the Circuit, Superior and County Courts jointly select a director of court services who is responsible for the administration of programs of juvenile probation (including the County's Juvenile Detention Facility), adult probation and pretrial release services for the six courts. Each adult probation officer is assigned to work primarily in one court, although apparently with not the same degree of exclusiveness which characterizes the assignment of prosecuting and defense attorneys.

The City Courts in Goshen and Elkhart each have their own probation staffs.

The County's jail and all of its detention and correctional activities are administered under the direction of the elected sheriff. The County's detention apparatus consists of the jail and several privately-operated residences used for selected persons completing the final phase of work release programs. The jail rarely is called on to house juveniles, federal pretrial and sentenced inmates or inmates under the jurisdiction of another county's courts. However, the jail is required to hold state parole violators.

The City of Elkhart has its own jail which has been used as a short-term (less than 72 hours) lockup. Recently, the Elkhart Chief of Police, who is responsible for administering the lockup, has been seeking to minimize the use of the facility by transporting most arrestees requiring confinement to the County Security Center in Goshen.

C. **The Locus of County Executive/Legislative Authority**

Elkhart County's executive and legislative responsibilities are divided between a three-member Board of Commissioners and a seven-member County Council. The Commissioners decide the organizational, personnel, program and capital improvement needs and priorities of the County's criminal justice agencies; the County Council is responsible for generating and allocating the fiscal resources required to fund the agencies' operations.

D. **The Jail and Its Population**

The Elkhart County Jail, also known as the Elkhart County Security Center (ECSC) located in the County Seat of Goshen was built in 1971 with a design capacity of 112. Between 1971 and 1984, the jail's average daily population (ADP) grew to 165. An enlargement of the jail was authorized and in 1984 the additional construction was
available for occupancy. The facility's present rated capacity is 196 beds.

Within months of becoming available, the ECSC's additional 84 beds were fully occupied on a continuous basis. Since January 1, 1988, the ECSC's ADP, on a monthly basis, has exceeded 250, with peak populations reaching 295.

The ECSC serves all the police jurisdictions in the County. Only the City of Elkhart has a detention capability - a small jail used as a lockup for pretrial and sentenced cases being held for less than 72 hours.

An examination of the limited information contained in the jail's monthly reports suggests two trends are developing: 1) the average length-of-stay (ALS) of inmates in pretrial status is increasing; and 2) inmates in pretrial status are constituting an increasing percentage of the jail's total population.

The jail's detention rate (number of inmates per 100,000 county population) of approximately 177 is approaching twice the national rate of approximately 100/100,000. The average length-of-stay of the ECSC's pretrial population is currently approximately 40 days. This period is far in excess of the ALS for pretrial prisoners in most jails in the U.S.

No formal policy or procedural changes were in evidence or mentioned by persons interviewed which could be expected to reduce either the jail's admissions or the ALS of inmates in pretrial or sentenced status. To the contrary, changes in the County's demographics, the continuing aggressive arrest and prosecution campaign targeted on drug and drunk driving law violators, the slowly but surely growing numbers of one-time convicted driving while intoxicated (DWI) offenders at risk for serving mandatory jail sentences in event of future DWI arrests, and the reported absence of any lessening of public sentiment for long jail terms for convicted defendants all suggest a continuing growth in the detention load of the ECSC in the immediate future.

In view of these facts, statistical indications and operational factors, it can be said that by any definition the Elkhart County Security Center is overpopulated. It is overpopulated to an extent which inhibits or defeats constructive program efforts and places inmates at risk of experiencing conditions which violate their civil rights and from which they can be expected to seek judicial relief through state and federal courts or local administrative action through aggressive misconduct.

The fact that to date the ECSC has escaped serious damage from inmate violence born of frustration or from federal or state court intervention pursuant to inmate-initiated legal action suggests that the facility has been managing its growing crowding situation adroitly. Other factors which appear to contributing to the unusual level of
inmate acceptance of discomfiture are: 1) their preference for serving time in the jail rather than in the facilities of the State of Indiana, and 2) their desire to build up "credit for time served" which can reduce the length of time some may eventually serve in state institutions.

The absence of significant levels of inmate protest based on overcrowding, while not to be regretted for many reasons, does pose a problem for aware and concerned officials. Without circumstances which create a crisis atmosphere in the mind of the public, many officials may find it politically difficult to pursue successfully the kinds of measures which are needed to resolve the overcrowding situation. Absent a public perception that the "overcrowding problem" is a serious crisis, a county's political leaders may perceive their options as either procrastination or programming and/or construction measures which, if initiated, might be attended by political risks.

E. Criminal Justice Agencies Lack the Kind of Information Needed to Describe the Volume, Course and Rate of Flow of Cases Through the Criminal Justice Process

The Sheriff, each court, the Prosecuting Attorney, the Public Defender and the Director of Court Services all maintain case records on individuals who become subject to their jurisdiction. Each entity compiles some reports which describe the volume of cases it serves as well as some of the actions taken. These records are required for administrative housekeeping purposes. Some of these records contain data elements on cases and actions taken which are not compiled or otherwise processed to yield information which could be very useful to anyone interested in trying to identify and understand factors contributing to the rising jail population.

Every person arrested or cited, detained or not detained, is subject to one or more decisions made by criminal justice officials. At each decision point, the decisionmaker must choose one of several options which are available to him by law. A certain amount of time elapses as each defendant moves from one decision point in the criminal justice process to the next. How long it takes for a defendant case to proceed from one decision point to the next and what option is selected are important facts. When reported for a single defendant or compiled for all cases passing through the criminal justice machinery, they can reveal a great deal about how the size of a jail population is determined and about the characteristics of the defendants.

At present, as far as could be determined, no one in Elkhart County is engaged in trying to compile information which would describe the characteristics of persons being detained and prosecuted, what happens to them in the course of their prosecution and
what the outcome is in terms of their characteristics. What kind of persons are released on their own recognizance? What percentage of persons released on "O.R." appear when required to for their hearings? What factors are associated with those who do and with those who don't? How many persons arrested and booked at the jail on felony charges eventually have their charges reduced to misdemeanors? How long did it take for the charge reduction to occur? How many persons booked on felony charges and prosecuted on misdemeanor charges were able to post bail only after the charge reduction? What percentage of such cases made all scheduled court appearances? How many such cases who went to trial were acquitted?

This kind of information is not readily available in Elkhart County. If it was available it would provide clues as to policy changes which might be made which could save bed days at the jail at little or no increased risk to the community.

Because this kind of information is not available, groups such as the Sheriff's Jail Population Committee have only impressions, guesses, myths, prejudices and a few isolated facts to guide them in deciding upon measures to reduce the jail population. Today, a private business which sought to operate with as little information about its inventory, production efficiency and product performance as Elkhart's criminal justice officials have about what is happening in its criminal justice system would not long escape bankruptcy.

Fortunately, most of the data elements which are needed to build a useful data base and provide Elkhart County officials with strategic information are already being collected and recorded somewhere in the system. What is lacking at this time is a mechanism for retrieving them so that they can be compiled, processed and analyzed to provide answers to the kinds of questions which are beginning to be asked by those now focusing on the jail problem.

F. Given no Changes in Present Policies and Procedures by Criminal Justice Officials, the Pressure on the Jail is Far More Likely to Increase than Diminish

The following circumstances and trends can be expected to add to the ECSC's population in the foreseeable future:

(1) County Population Growth - Elkhart County's population growth during the past decade and for the next, while steady, has not been nor is it predicted to be explosive. However, the sociology and economy of the area are changing as is the percentage of the population that is crime-prone.
(2) State legislation mandating jail sentences for persons convicted more than once of driving under the influence of alcohol will gradually create a reservoir of convicted first time offenders, a certain percentage of whom will repeat the offense. Unless the legislature and/or the County's judges can permit the required sentences to be satisfied by confinement in other than conventional jail space, the ECSC will be increasingly burdened by DWI cases serving their mandatory sentences.

(3) Drug use and trafficking is no longer a phenomenon foreign to Elkhart County. Its growing presence has already led to a program of intensified law enforcement and prosecution which is clearly reflected in the monthly inventories of the ECSC's population. Because there is little evidence on a national basis of a drop-off in drug use or arrests and little indication of any lessening of the federal government's fiscal support for programs such as the one now in place in Elkhart County, and because there is a high repeat rate among convicted drug law violators, it can be safely predicted that for the next five years, at least, there will be a larger number of inmates at the ECSC held on drug charges.

(4) The recently announced intention on the part of the City of Elkhart to get out of the jail business will have an impact on the ECSC, not so much in the numbers of admissions that will result, but in the length-of-stay of those who are admitted. If Elkhart police department officers choose to issue citations for minor misdemeanors, then the ECSC is likely to receive primarily persons with mental health problems and homeless persons. These kinds of cases tend to remain in custody for days while plans for their disposition can be worked out by social service agencies or court services personnel.

(5) As state prisons become more crowded and come to be perceived by defendants, defense counsel, judges and some prosecutors as dangerous places, the use of county jails for serving sentences when the option is legally permitted tends to become the disposition of choice. The use of the county jail option is also frequently favored when sentencing judges believe the defendant will serve more time in custody if sentenced to jail than if sentenced to the state department of corrections - which may be inclined to grant early parole in an effort to help relieve its own prison crowding situation.

These factors, by increasing the demand for beds already in short supply may
weight the scales more heavily in favor of the County not renewing its contract with the State of Indiana to house a certain number of offenders who can be sentenced either to prison or to jail. Local officials, in their understandable desire to offset some of the jail's operating cost with State money, should not underestimate the potential and hidden costs of tying-up beds with State commitments which make the same beds unavailable to county pretrial defendants and sentenced prisoners not eligible to state prison sentences.

G. The Collective Response of Officials to the Crowding Problem is Stymied by Lack of Data and a Strategy for Action

The Elkhart County officials interviewed appeared to fully accept the concept that the jail crowding problem should not be regarded as the sheriff's problem but a problem which can only be addressed by collective action of all officials. The fact that for over a year, all criminal justice officials or their designees have been participating as members of the Sheriff's Jail Population Committee is evidence of the acceptance of the concept and can only be regarded as a positive development.

A review of the Committee's meeting minutes suggests that the officials are encountering difficulties deciding how to attack the crowding problem. Statistics collected and reported to the Committee establish little more than the fact that the criminal justice system's workload is growing. Data collected comparing bond schedules with those of nearby counties answer no significant questions. Some proposals for organizational or procedural changes suggest that there has been more focus on symptom relief than on underlying causes of the jail's population growth. While there are numerous indications that the committee members sense that current processing practices are an important factor contributing to the jail's overload, no statistical data is available to convert the suspicion to fact.

Apparently frustrated by their inability to identify and/or measure the factors other than workload growth that are causing the rising demand for incarceration, the Committee has focused largely on ways and means of developing additional custodial capacity outside the jail. The minutes reflect little awareness of the possibility that increasing the supply of beds without reducing the demand for detention could prove to be an exercise in frustration.
The formation and continued existence of the Committee is a necessary and positive prerequisite to problem solving. What the Committee appears to lack at this time is a sense of how to proceed to define the problem, identify its causes and arrive at a consensus as to remedies to be applied. Until the Committee decides upon an action plan it runs a serious risk of breaking up out of frustration.

H. The Existing Structure, Organization and Deployment of Prosecutorial and Defense Services may be Contributing to Inmate Length-of-Stay and Should be Subject to Competent Evaluation

Any serious effort undertaken in Elkhart County to bring into balance the criminal justice agencies’ demand for jail space with the available supply should assign high priority to an examination of the feasibility of continuing the practice of employing as prosecutors and public defenders attorneys who are heavily engaged in private law practice. The potential for less than expeditious processing of criminal cases is certainly present and acknowledged by the criminal justice personnel interviewed. Every criminal case scheduling decision which must be made by attorneys who are obligated to accommodating private clients poses at least the possibility that a defendant in a criminal action may have to occupy a bed in the jail for a longer period than would be justifiable in either the defendant’s or the tax-paying public’s interest.

Intertwined with the question of part-time versus full-time prosecutorial and defense personnel is the question of the deployment and the professional training, supervision and accountability of staff. It is reasonable to speculate whether or not attorneys who base both the county’s work and their own private practices primarily upon their individual private law offices can be expected to develop the same intensity of identification with and interest in concerns of county government such as jail crowding as would attorneys in the full-time employment of the County. The fact that both the county’s Public Defender and Prosecuting Attorney report a high level of staff turnover suggests a transitory rather than a sustained interest in the problems associated with the administration of justice in Elkhart County.

The question of how any jurisdiction’s prosecutorial and defense services should be structured and operated to provide the jurisdiction’s taxpayers with the most competent and efficient service involves many complicated issues. There are national organizations which possess the requisite perspective, experience and expertise to address the question with a detachment and objectivity which, understandably, may not be available among those in a jurisdiction where the question arises. At such time as Elkhart County
officials may wish to undertake an in-depth evaluation of the existing organization of its prosecutorial and defense services and/or explore alternative organizational options, the services of national technical assistance-delivery organizations should prove helpful.

I. The Desirability of Increasing Pretrial Capacity Services Warrants Detailed Study

In an effort to obtain some indication of the extent to which pretrial release activity is impacting on the size of the jail’s pretrial population, information on the number of jail admissions reported by the sheriff was compared with the number of “pretrial reports made” appearing in a Court Services Department report. The Sheriff’s Department’s reports indicated that the jail averaged about 2,860 admissions between 1/1/88 and 8/31/88, or an average of about 12 admissions/day. Undoubtedly, this total includes persons who were subject to the jurisdiction of the city courts not serviced by the County’s Department of Court Services. The total also is assumed to include some duplicate admissions, persons sentenced to jail following release on bond, state parole violators and other persons not subject to the jurisdiction of Elkhart County courts. From the information available, it was not possible to immediately determine how many of the estimated 2,860 admissions were cases that were subject to the courts serviced by the County’s Court Services Department.

If one arbitrarily and conservatively assumes that only one-half of the admissions or (1,430 cases) fell within the jurisdictions of the Circuit, Superior and County courts, one has a reasonably safe figure for further analysis.

The August, 1988 monthly report of the Director of the Court Services Department covering pretrial activities between 1/1/88 and 8/31/88 indicates that, at most, 571 verbal and written reports were made by CSD staff to the six courts served. Assuming each of these reports related to a different individual - a questionable assumption - it would appear that only 40% of the assumed base of 1,480 persons admitted to jail and subject to jurisdiction of one of the six courts were the object of CSD screening activity. Other information contained in the CSD’s report suggested that the 40% estimate may be high.

While the reports provided to the consultant by the Sheriff and the Court Services Department director do not contain enough detail to make a more definitive representation of the extent of pretrial release activity and its impact on jail length-of-stay, they do provide indications that are compatible with indications gained from other avenues of assessment suggesting that a greater and more aggressive application of pretrial services might well result in a measurable lessening of pressure on the jail and
the judges. At the very least, a competent assessment of the cost-benefit potential of intensifying and accelerating the application of pretrial screening seems warranted.
III. RECOMMENDATIONS

A. Preface

Elkhart County has a badly crowded jail. It may have to construct or otherwise acquire additional bed space, as many jurisdictions experiencing growth and change have had to do. But Elkhart County officials and their constituents are beginning to appreciate the fact, on the basis of the County’s recent experience, that it is a disillusioning experience to construct additional jail capacity at considerable cost and (and to staff and operate it at even greater cost) only to have it quickly evaporate because no controls were in place to assure its rational use.

The single fact that the Elkhart County jail’s incarceration rate is close to twice the national rate and three times the rate found in some jurisdictions with demographic, economic and sociological characteristics less favorable than those currently in evidence in Elkhart County suggests at least the possibility that there are organizational problems and operational inefficiencies attending the administration of criminal justice. The fact also suggests that local officials are not employing to the same degree dispositional alternatives to incarceration that have been accepted and routinely adopted elsewhere as jail population and capacity management measures.

The recommendations which follow constitute in the aggregate a plan of action for county officials to acquire the capacity to manage their jail problem rather than being constantly managed by it. The action plan would create a mechanism for collective fact finding, consensus building, program coordination, and risk-sharing where one does not currently exist. It includes a methodology for generating a body of credible information needed now for improved decisionmaking and for assuring the ongoing availability of a competent data base for future program planning, monitoring and evaluation by criminal justice officials. The recommendations call for officials to consider the desirability of submitting their individual department organizational structures and operations to individual and group review and to study and critique by appropriate professional expertise upon request.

If accepted for implementation, the recommendations will involve officials and, perhaps, selected citizens in roles they may or may not be used to assuming, a level of responsibility-sharing to which they are not accustomed, and a commitment to accepting change which they may find difficult and disconcerting at times. In one way or another, all the recommendations interrelate. The early implementation of some could be expected to provide measurable results in the near future while the implementation of others may
have to wait on legislative and political changes and require more time to produce desired benefits.

Finally, the recommendations make sense for Elkhart County only because the consultant feels confident that seven circumstances which have been associated with their successful implementation elsewhere - summarized in Section IV of this report - are present in Elkhart County.

B. Recommendations
   1. **Create a Jail Capacity Management Board by Formal Resolution of the County Commission**

      It is recommended that the County Commission establish by formal resolution an entity to be known as the Jail Capacity Management Board (JCMB) (or by some other name denoting its focus on jail crowding). Its mandate should be: 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 core membership of the JCMB should consist of the

      1) sheriff and director of the jail
      2) prosecuting attorney
      3) public defender
      4) director of court services
      5) four judges, providing representation from the circuit, superior, county and city courts
      6) chairman of the county council or his/her designee
      7) chairman of the county commission or his/or designee
      8) county administrator
      9) director of data services
      10) a representative of the county's police chief's and/or city councils
      11) a representative of the Indiana State Department of Corrections exercising field service responsibility in Elkhart County

      Only department administrators or their chief assistants should represent operating agencies on the board.

      Any augmentation of the JCMB with representatives of community groups or unaffiliated citizens should be at the option of the core members after the board has completed its organization.
The JCMB should undertake the following tasks:

- discuss and define its purpose and role
- determine how it should be organized to carry out its purpose
- decide issues regarding adding citizen representation
- develop meeting schedules and decide on agendas for meetings
- decide upon an action plan
- acquire a staff person and define his/her role and duties
- with staff help, develop a criminal justice operations flowchart which identifies 1) each decision point in the criminal justice process between arrest and final discharge from all system-imposed obligations, and 2) every dispositional option available to decision makers at each decision point
- formulate hypotheses and questions concerning the impact of the use of existing programs, policies and procedures and/or alternative options
- authorize staff to initiate data collection and analysis efforts to address hypotheses and questions raised
- assure staff access to data sources during data collection activities
- review interim and data summaries prepared by staff
- review reports of board committees
- make findings on the causes of crowding
- define target populations for special program attention
- following completion of data collection and analysis project, formulate recommendations based on findings and set priorities for their implementation
- direct staff to incorporate recommendations and priorities into a written jail capacity management plan
- review, amend, approve, distribute, and publicize the jail capacity management plan
- consider the board’s on-going role relative to implementing the plan’s provisions and monitoring the impact of its use
- assume responsibility for the risks inherent in executing new programs, policies and procedures, thereby shielding individuals responsible for their execution from unjustified criticism
2. **Staff the Jail Capacity Management Board**

It is recommended that coincident with its establishment of a Jail Capacity Management Board, the County Commission authorize that the JCMB be supplied with an appropriate level of competent staff support.

The primary function of the JCMB should be decisionmaking arising out of consensus. A prerequisite of effective decisionmaking is relevant and credible information, timely provided and presented in a readily digestible format. The individual members of JCMB will not have the time (nor should they be expected to find it) to acquire study data, prepare meeting agendas, schedule meetings and record decisions reached. For these reasons, it is critical that the JCMB be provided with sufficient competent staff time to support, structure and facilitate the board’s functioning. In Elkhart County, this staff function should be able to be performed by one qualified person.

The technical qualifications required by the board’s staff person can be inferred from the kinds of tasks which need to be performed (See below). Beyond possessing technical competence, he or she should be familiar with the workings of criminal justice at the county level and have personal characteristics which will engender trust and confidence on the part of all board members.

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

- staff all meetings of the JCMB and its committees and task forces, if any, by securing meeting space, and preparing and disseminating agenda and minutes
- spearhead and oversee the development of a comprehensive data base and data analysis effort responsive to the information needs of the JCMB
- present requested data to the JCMB for its consideration
- prepare draft reports, including the jail capacity management plan
- determine any technical assistance needs of the JCMB and its staff and of operational agencies and seek the delivery of the indicated expertise from available technical assistance sources
- subject to the direction of the JCMB’s chairman, handle public relation matters
- serve as coordinator for criminal justice agencies’ efforts to arrive at a criminal justice information system (See Recommendation 3, below)
when directed to do so by the board, prepare and distribute the completed and approved jail capacity management plan.

It is recommended that the County Commission authorize and the County Council fund a data collection and analysis project to be carried out under the direction of the proposed JCMB and executed by the board's staff.

The generation of the recommended data base and its analysis can be expected to require about six months, assuming the ready availability in agency files of needed information and competent project supervision by board staff. The process required is well established and technical assistance is available to assist the board in organizing and executing the project.

There are costs associated with the development of a data base and its analysis. When incorporated into a project, the design of the data collection effort and forms required, the training, supervision and work of data collectors, the acquisition of technical assistance expertise over and above what is available at no cost from federal and state sources, and computer costs involved in the processing and analysis of the sample data collected can approximate $35,000. This estimate includes the cost of the board staff person involved in directing and supervising the project effort.

The proposed data collection and analysis project involves, in brief:

- the JCMB formulating hypotheses it wants tested and questions it wants answered regarding the operation of the criminal justice system
- the extraction from the hypotheses and questions by project staff of the data elements needed to provide the desired information
- the incorporation of the data elements into instruments for use in collection efforts
- the drawing of a random sample of all cases of persons booked at the jail whose prosecution is now complete (as an alternative, all cases rather than a sample may constitute the study group)
- the systematic collection for each study case of every data element included in the study plan
- the keypunching of the data collected for electronic data processing
- the analysis by project staff and/or technical assistance consultant of the processed data
- the presentation of the data analysis to the JCMB
4. **Authorize the Development of an Integrated Automated Information System**

It is recommended that the County Commission declare its intention that the county’s criminal justice agencies be equipped with an integrated automated information system which will have the capacity to track all persons admitted to the ECSC (or cited and released in lieu of being admitted) through the full course of their prosecution, adjudication and correction by means of a common identifier. The information system should provide each organizational element of the criminal justice system with on-line capability. The system should also be capable of producing management information for use in decisionmaking by individual agency officials and by the Jail Capacity Management Board.

The recommended development of an integrated automated information system should be under the technical direction and coordination of the Director of the County Data Center working with a "users committee" composed of representatives from each criminal justice organizational entity.

To the extent politically possible, the development of a county system should seek to involve the participation of the police, courts and probation departments of the county's municipalities.

The County Commission should assure itself that any special automated programs being sought by individual agencies (jail, county, court, etc.) to accommodate their special needs will be compatible with the requirements of a systemwide information system and will not, in effect, provide an excuse to individual agencies not to participate in a comprehensive criminal justice information system.

The execution of the work required in implementing Recommendation No. 3 will facilitate the planning required for the recommended automated information system.

5. **Institute a Routine Review of Status of all Pretrial Prisoners Held in the ECSC**

It is recommended, in the interest of providing some early relief to the jail, that the circuit court judge, with the support and cooperation of all members of the Elkhart County judiciary and the County Prosecutor and Public Defender, designate a member of the staff of the Court Services Department or Sheriff’s Department to review no less often than once a week the court status of every pretrial prisoner and to apprise the appropriate judge of any circumstance or potential measures which could accelerate the movement of cases through the criminal justice process and/or reduce the period of pretrial confinement of inmates.
Even in counties with unified, closely coordinated court systems, it is not uncommon for a certain number of cases to "fall between the cracks" with defendants getting "lost in the system" or becoming the victims of some procedural oversight. The processing delays which result can and do add up to a lot of jail days which incrementally worsen jail crowding situations. In Elkhart County, where the court system operates with a minimum of overall coordination and administrative support, the possibility for this kind of phenomenon occurring should be actively guarded against.

Until the recommended Jail Population Management Board (See Recommendation #1) is able to undertake a deliberate examination of the impact which current practices of all criminal justice agencies have on the jail problem, judicial assignment of responsibility to a person to serve as an "expeditor" should be considered as a useful interim measure. The expeditor would function in the interest of county government, seeking through conferences with harried deputy prosecutors and public defenders to explore ways and means of speeding up the pace of getting defendants to the point of plea and/or trial. The person serving as staff to the JPMB should be considered as a candidate for the expeditor role.

6. Effect the Removal of Work Releasees and Work Release Program Staff from the ECSC

It is recommended that the County's current intention to relocate the work release program to minimum security quarters situated near the County's population centers and with ready access to public transportation be implemented at the earliest date consistent with careful planning of program and building design. The Sheriff's concept that a minimum security facility for housing the work release program should be introduced to the community as a corrections service center rather than as a jail annex makes excellent sense from both operational and political standpoints and is worthy of commendation and support.

Besides making available approximately seventy-six beds in the ECSC for pretrial and sentenced inmates requiring secure custody, the relocation of the work release program should facilitate the strengthening of community-based programming not only for work releasees but for other kinds of releasees and probationers living free in the community but requiring the assistance of a variety of community support services.
7. **Strengthen the Court Services Agency and its Pretrial and Probation Supervision Capabilities**

It is recommended that serious consideration be given to strengthening the capacity of the Court Services Department to provide the courts with a credible intensive community supervision option to employ in lieu of pretrial and post conviction incarceration.

Judges cannot be faulted for making extensive use of pretrial and post trial jail incarceration when they know their Court Services Department cannot further stretch its resources to provide a credible option of close and successful supervision in the community.

Given the urgent need to reduce the demand on the jail's existing supply of beds, County officials should give serious consideration to initiating on a trial basis an "intensive probation supervision" program. It is suggested that two additional positions be authorized in the Court Services Department to be filled by experienced personnel. Just one or two of the County's courts should be designated to receive the services of these additional staff persons during an initial trial period. Each staff person should be required to handle no more than 20 cases. The judges of the designated courts would be invited to assign to those intensive supervision caseloads only those types of defendants who are currently usually sentenced to jail in lieu of being placed on probation. If (1) there is a low failure rate among the trial program's cases, and (2) the use of the jail beds not required for the project cases is restricted to individuals requiring close custody, then there should be a notable lessening on the level of demand for the jail's supply of available beds.

It is suggested that a trial period of 12-18 months be established for this "intensive probation supervision" experiment and that, prior to announcing its availability to the judges of the designated courts, a careful analysis be conducted of sentenced offender characteristics to develop specific criteria for candidates for this program. These criteria should be developed by the Court Services Department director in consultation with the Prosecuting Attorney and either the Public Defender or other appropriate representative of the criminal defense Bar.

The experience of this special unit during the trial period should be fully documented and closely monitored, and regular progress/information reports distributed to all of the courts and other criminal justice agencies serving the County.
8. **Technical Assistance Expertise Should be Sought in Implementing Recommended Measures**

It is recommended that if a decision is made to implement recommendations Nos. 1, 2, 3, 4, 6, 7 and 9, the JCMB (or its predecessor group) seek and use the skills, knowledge and expertise available through federal, state and private technical assistance sources.

In the past decade and one-half, an enormous amount of effort has been expended across the nation by jurisdictions struggling to contain their jail crowding problems and crises. Much of this effort has been observed, analyzed and recorded. Today, the federal government, many state governments and some private organizations (e.g., American Corrections Association, National Council on Crime and Delinquency, National Sheriff's Association) as well as numerous unattached consultants are available to assist jurisdictions such as Elkhart County address their jail crisis situations.

If those to whom this report is addressed decide to undertake the implementation of one or more of the measures recommended or any other measures, the EMT Group's Adjudication Technical Assistance Project will be available to Elkhart County to assist its officials to procure expertise from a wide range of sources.

9. **Request Further Technical Assistance**

Next to the reduction of court delay, no other criminal justice strategy can have as great an impact on the dimensions of a jail population as the aggressive use of a program of pretrial services. Arrestees brought to a jail can be compared to accident victims brought to a hospital's emergency room. The circumstances of both should be promptly assessed, information needs to be obtained and sometimes verified, previous contacts need to be explored and records obtained and reviewed. Available resources—family, fiscal and professional—need to be identified and contacted. Once critical records are compiled and reviewed, an informed decision can be made concerning an arrestee's or accident victim's immediate disposition. In hospitals, the decision is made by the examining doctor; at a jail, the decision is made by a pretrial service agency screener within the area of discretion granted by the judiciary.

To carry the analogy a step further and apply it to Elkhart County, all persons brought to an emergency room are seen and evaluated prior to release or admission to a hospital proper. At the Elkhart County jail, only a fraction of the arrestees are seen and screened and some of them not until up to seventy-two hours have elapsed.
Pretrial release screeners assess an arrestee's eligibility and suitability for release using established criteria. They also can obtain and report to judges information helpful to them in deciding questions concerning such matters as bail conditions and eligibility for public defender services. Pretrial release personnel can also propose and carry out conditions of supervised release.

Studies have demonstrated that the earlier the pretrial screening of arrestees occurs and judges act on the information, the more likely arrestees are to be released during the pretrial period and the less likely they are to be sentenced to jail if convicted. In Elkhart County, jail records suggest that critical information does not always reach judges by the time of an arrestee's first appearance. In such cases, a judge must then defer making bail and other kinds of decisions until a subsequent appearance is scheduled.

While the present volume of jail admissions does not justify 24-hours-per-day pretrial screening coverage, the volume of booking activity does appear to warrant greater coverage than is presently provided by personnel of the Court Services Department and the Elkhart and Goshen Probation Departments.

An assessment of the current level of need for pretrial services and how the jail, Court Services Department and city Probation Department resources might be organized and deployed for maximum effect could prove to be very useful to the County as it intensifies its efforts to whittle away at the size of the jail's population.

Such an assessment should be undertaken by professionals experienced with the conduct of such programs in a wide variety of operational settings and sizes of jurisdictions so that a national perspective can be brought to bear on the situation in Elkhart County. For this reason, it is recommended that the County contact the Pretrial Services Resource Center, in Washington, D.C., to determine whether and how its resources may be helpful to Elkhart County, either on a direct contract basis or under the auspices of one of the Bureau of Justice Assistance's technical assistance programs.
IV. PREREQUISITE CONDITIONS FOR PRODUCTIVE ACTION

As Elkhart County's officials begin to intensify their efforts to better understand the reasons for the chronic crowding of the ECSC and find ways for containing the demand for incarceration within the available supply of detention resources, it may prove instructive to consider seven key prerequisites for productive action. These prerequisites are rooted in the experience of over sixty counties which have sought to address their critical jail crowding in a rational manner. Some jurisdictions succeeded; others failed; still others are still trying, and have succeeded in at least slowing or stabilizing demand in the face of county growth and changing demography.

Jurisdictions which have experienced the most benefits have been those where the following circumstances existed when formal action was initiated:

1) Political and criminal justice officials recognized that a crisis situation existed that threatened their control of their areas of operation and influence.

2) There was at least one readily identifiable person enjoying the respect of political and criminal justice officials with an irrepresible commitment to igniting action and a willingness to play a leadership role, if asked.

3) The county's officials had previously demonstrated their ability to engage in collective decisionmaking and action.

4) The county's leaders and agency staffs both had an appreciation for the need to have credible data for case tracking and management purposes.

5) County political leaders did not rely entirely on state and federal grants to support an action program but committed county resources to the tasks of studying and acting on the crowding problem.

6) The county's criminal justice agencies' leadership understood the fact that there would be inconveniences inherent in the processes of problem study and accepted on faith that the results to be obtained would justify the inconveniences.

7) The achievement of consensus among the county's leadership to act was followed promptly by the preparation of a formal action agenda.
In summary, the indications of a community's capacity to successfully address its jail crowding problem are:

- unrelenting pressure on officials to act
- committed leadership to ramrod action
- demonstrated capacity for collective action
- appreciation of need for competent data
- willingness to commit local resources
- acceptance of need for temporary inconvenience
- early agreement and start-up on action agenda

As indicated earlier in this report, each of these circumstances appear to exist in Elkhart County. For this reason, we can expect that a significant effort will be initiated to cope with the overcrowding problem and that the effort will prove rewarding.