INTERGOVERNMENTAL RELATIONS IN LOCAL JAIL FINANCE AND MANAGEMENT IN FLORIDA: A COMPREHENSIVE REPORT

EXECUTIVE SUMMARY

AUGUST, 1993

Advisory Council on Intergovernmental Relations

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Created in 1977, the Advisory Council on Intergovernmental Relations is a public entity that facilitates the development of intergovernmental policies and practices. Because the intergovernmental element is key in its purpose and functioning, the ultimate challenge facing the Florida ACIR is improving coordination and cooperation between state agencies, local governments, and the Federal government.

PREFACE

The Florida Advisory Council on Intergovernmental Relations (ACIR) provides a forum for the research and discussion of financial and other policy issues that are of mutual concern to the State and its local governments. One of the primary areas in which state and local government agencies interact in the development and implementation of public policy is the criminal justice arena. Thus, while the Florida Legislature establishes the broad contours of criminal justice policy through the enactment of the state's criminal code and the policy directives and funding it provides to a variety of state law enforcement, criminal court, and correctional agencies, local governments also fulfill a vital role through the discharge of their responsibilities in enforcing state criminal laws and funding and/or operating various court system and correctional agencies. Given this sharing of powers, the development of mechanisms aimed at promoting intergovernmental coordination is critical in insuring the effective, equitable, and accountable provision of criminal justice services in the state.

This report focusses on an institution that represents a key component of the state's criminal justice system: the local jail. Specifically, the report summarizes research conducted by the ACIR over a three year period into a series of issues pertaining to the financing and management of local jails in Florida. After establishing the national context by reviewing the functions, finance, and management of local jails in the United States at large, the study provides a functional and statistical profile of Florida's local jails. Subsequently, the report documents the problems of escalating costs and facility overcrowding that have characterized the state's local jails over much of the last decade, and presents and discusses ACIR research bearing upon the implementation status of a wide range of policies, procedures and programs designed to manage these problems. In addressing these issues, the report brings an explicitly intergovernmental perspective to bear on the problems of local jail finance and management both nationally and in Florida. This intergovernmental perspective, which also was pursued in a 1984 report on the nation's jails issued by the United States Advisory Commission on Intergovernmental Relations, reflects the importance of intergovernmental forces in shaping the functions discharged by local

jails, their influence over the size and composition of jail populations, and the resource commitments necessary to support these.

With the exception of Chapter VII, which was co-written by Ms. Cyndi Morton, Assistant Director of the Alachua County Department of Criminal Justice Services, this report was authored and is based on research undertaken by Matthew S. Tansey of the ACIR staff. The ACIR gratefully acknowledges the numerous officials who provided assistance in the research that is presented in the report. In particular, special mention is necessary to recognize the efforts put forth by the many sheriffs, jail administrators, state attorneys, public defenders, and members of the judiciary who testified before the ACIR in various forums, and who completed detailed survey instruments and otherwise provided information critical to the development of the report. In much the same vein, gratitude needs to be expressed to the administrators and staff of the 24 pretrial services programs operated by Florida's county governments, who also assisted in the completion of surveys and participated in public hearings and legislative workshops conducted by the ACIR. Special recognition also needs to be awarded to officials in the three counties that served as case studies in the research program. More specifically, the Council would like to recognize the efforts put forth by Ms. Cyndi Morton, Ms. L. Diana Cunningham, and Mr. Nate Caldwell in Alachua County, Mr. Brooks Smith, Mr. Doug Wilkinson, and Chief Judge Thomas Reese in Lee County, and Mr. John DuPree in Volusia County. Also to be acknowledged was the assistance and cooperation granted by officials with the Florida Department of Corrections, who took the time on many occasions to discuss issues with ACIR staff and to respond to requests for data pertaining to jail populations, facility expansions, and capital costs. In particular, the assistance of Ms. Sally Graham, formerly of the Office of Jail Assistance, Mr. Ed Sobach, Chief Jail Inspector, and Ms. Pam Stickle, a staff member in the Department's jail inspections unit, proved most helpful in this regard. Finally, the Council wishes to thank Mr. Allen Henry and Dr. Jolanpa Juszkiewicz of the Pretrial Resource Center in Washington D.C., for their assistance in identifying state-level initiatives designed to help local governments manage the growth in local jail populations while protecting public safety.

Within the ACIR itself, the commitment and efforts of a number of staff members were critical in the publication of this report. Chief among these was Dr. Mary Kay Falconer, Executive Director of the ACIR, whose strong commitment to the completion and publication of the report was necessary to allow staff to devote the extended period of time necessary for its preparation. In addition, the patience and attention to detail exercised by Sandy Brooks and Gaye Danforth Hill also merits recognition. Ms. Brooks and Ms. Hill both assisted in preparing the many tables and charts included in this report, and helped prepare the report for publication. Finally, the survey research skills of Dr. Carmen Warren of the Council staff also proved instrumental in conducting portions of the research that serve as the basis for this report.

INTERGOVERNMENTAL RELATIONS IN LOCAL JAIL FINANCE AND MANAGEMENT IN FLORIDA: A COMPREHENSIVE REPORT

EXECUTIVE SUMMARY

This report summarizes research conducted by the Florida Advisory Council on Intergovernmental Relations addressing a series of issues pertaining to the finance and management of local jails in Florida. Initiated in the Fall of 1989 with a series of public hearings focussing on the extent, consequences, and causes of local jail overcrowding in the state, the study covered the following broad objectives:

1. To identify the causes of overcrowding in Florida's local jails;

2. To identify and evaluate the effectiveness of alternative policies, programs, and procedures available to control the growth in local jail populations in a manner consistent with public safety;

3. To identify the fiscal impact placed on Florida's counties by the requirement that they fund jail construction and operation, and to identify alternative methods of jail finance;

4. To identify and evaluate the key issues pertaining to the privatization of local jails in Florida.

In meeting these objectives, the ultimate goals were to identify and recommend appropriate legislative and non-legislative resolutions to the problems facing the state's counties in jail finance and administration, and to facilitate their development and implementation.

Pursuant to the goals and objectives of the study, the Council embarked upon an ambitious research agenda involving public hearings, legislative workshops, literature reviews, surveys of state and local government officials, and statistical analyses. Since the study's initiation, the Council has issued a series of documents and interim reports that summarize the findings of discrete components of the study. Included among these were "The Extent and Consequences of Jail Overcrowding in Florida," a transcript of a public hearing conducted by the Council in Orlando on October 5, 1989; County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis, (September, 1990); ACIR Interim Report: Current Need For and Status of Pretrial Intervention Procedures in Florida's Criminal Courts (April, 1991); and Privatization As An Option for Constructing and Operating Local Jails In Florida (April, 1993). Portions of the Council's 1991 Interim Report have been updated and are incorporated in Chapters IV and V of this report.

OVERVIEW OF THE REPORT

This final, comprehensive report is organized in 3 major parts. Part 1 establishes the national context by discussing the historical development and functions of the American Jail, and presents a statistical profile of the institution (Chapter I). In addition, the Part discusses the structure of intergovernmental relations operative in the areas of jail finance and administration (also in Chapter I), and suggests how the functional and intergovernmental features of local jails have contributed to the enduring sense of crisis that traditionally has characterized these facilities (Chapter II). After discussing how judicial oversight and state jail standards and inspection programs have worked to improve conditions in many of our nation's jails over the last 30 years, Part 1 closes by discussing the emergent crisis of overcrowding and how the nature of intergovernmental relations in this area have contributed to this crisis (also in Chapter II).

Part 2 of the report initiates a discussion of the finance and management of jails in Florida. In following the general sequence presented in Part 1, Chapter III of the report discusses the functions of Florida's local jails, the locus of responsibility for jail finance and administration, and presents data pertaining to the fiscal impact of jails on the state's county governments. Chapter III also includes a detailed discussion of the intergovernmental context of jail finance and operation in Florida, and identifies several ways in which federal and state courts, the legislature, and the executive branch have impacted the state's local jails. After simulating how various criminal justice entities operating at the county level can impact the size and composition of local jail populations, the Chapter closes by noting that the state's county governments have been largely left to their own devices in attempting to assure that available jail capacity is treated as a scarce and expensive resource, and is used efficiently and effectively by the many entities that influence jail admissions and lengths of stay.

Chapter IV centers on the overcrowding crisis that has characterized Florida's local jails over the last decade. After discussing the historical legacy of the overcrowding problem, the chapter identifies contributing factors and the managerial options available to law enforcement, court system, and corrections agencies for addressing these. Following upon this discussion, Chapter V presents the survey findings that identify the extent to which state attorneys, public defenders, the courts, and local government agencies have adopted the various managerial options identified in Chapter IV. Included in this discussion is a detailed presentation of the current status of pretrial services programs in Florida counties. These programs represent a particularly promising option for managing the growth in local jail populations while protecting public safety.

Although the findings presented in Part 2 suggest that there has been only limited implementation in Florida of the policies, programs, and procedures discussed in Chapters IV and V, several Florida counties have put into place comprehensive programs that have enabled them to effectively manage local jail population growth. Most prominent in this regard have been Lee and Volusia Counties, which recently have reversed rapid rates of jail population growth and jail spending. In addition, Alachua County over the course of the 1980's developed a multi-faceted approach to managing jail population growth that enabled it to avoid the conditions of chronic overcrowding, regulatory intervention, and

massive jail construction that so many other jurisdictions experienced over the last decade. In order to become more familiar with these systems, ACIR staff conducted in-depth case studies of these counties. Part 3 presents the findings of these studies, and informs state and local government officials of the discrete initiatives available to law enforcement, the courts, corrections, and county governments that have proven to be effective in controlling jail population growth in several Florida jurisdictions. In addition, by identifying the underlying factors that facilitated the development and implementation of these initiatives, each of the chapters included in Part 3 highlight the basic policy "infrastructure" underlying the successful jail population management programs that have been implemented in the selected counties.

FINDINGS

The principal findings of the report are summarized below by the Part and Chapter of the report in which they can be found, and the topical area that they concern.

Part 1 A Functional, Institutional, and Intergovernmental Overview of the American Jail

Chapter I

Functions of the American Jail

* The local jail plays a critical role in American federal, state, and local criminal justice systems. The importance of the American jail is attributable to the three central functions it discharges. These functions include the criminal "intake" function, the pretrial detention function, and the correctional function, each of which traces its roots to the "gaol" of medieval England and colonial America.

Profile of the American Jail

* Given their "court support" functions of intake and detaining prisoners awaiting trial, most of the nation's 3,042 counties operate their own jails. To a lesser extent, jails have been operated by municipal governments in large metropolitan areas such as New York City and Baltimore, Maryland. Taken together, over 3,300 local jails were operated by county and municipal governments in 1988.

* In addition to being substantially more numerous than other institutions used to confine persons at various stages of the criminal justice process, local jails also vary considerably in size. Thus, while two-thirds of all local jails held fewer than 50 prisoners in 1988, approximately 10% experienced inmate populations in excess of 250, and several examples of true "mega-jails" exist.

* Local jails also differ from other detentions and corrections facilities in terms of the heterogeneity and length of stay of their populations. Thus, jails often are used to house both juveniles and adults, men and women, and the innocent as well as the serious offender. In terms of lengths of stay in jail, approximately 40% of jail inmates identified in a 1988 census had been in custody for 1 day or less, while 60% had been confined for 4 days or less. Notwithstanding these tendencies, substantial numbers of persons were found to have been held in local jails for periods of time in excess of 6 months, and to a lesser extent, 1 year.

Locus of Functional and Financial Responsibility

* Notwithstanding the 6 states that have state administered jail systems, responsibility for the finance, construction, and operation of local jails generally has been assigned to county government, and county sheriffs currently run the overwhelming majority of the nation's jails. According to the U.S. Department of Justice, the fiscal impact associated with discharging these responsibilities is substantial. In 1988, expenditures made in support of local jails were estimated to exceed $4.5 billion.

* The tradition of assigning responsibility for jail finance and administration to the counties dates back to medieval England, and was operative in the American colonies and early American states as well. In this regard, the historical record clearly indicates that the assignment of county responsibility in this area represented an early form of state mandates on local government.

State and Federal Involvement in Jail Finance and Administration

* Although county governments have been assigned responsibility for jail finance, construction, and operations, the legislative, executive, and judicial branches of state government exert substantial influence over the operation of local jails. This influence has come to be exerted through the enactment of state criminal codes, the establishment of jail standards and inspection programs, the funding of law enforcement and other criminal justice system agencies, and laws and procedural rules pertaining to the issue of pretrial release and detention.

* In addition to state actions, the federal government recently has come to play an important role in this area through federal court rulings on inmate suits alleging unconstitutional conditions of confinement.

* State and federal policies largely influence the number and types of persons who are booked into jail, how long they remain there, and the conditions of confinement to which jail inmates are subjected. In so doing, the actions of state and federal governments have influenced levels of county spending on local jails.

Intergovernmental Influences Over the Size of Local Jail Populations

* Beyond the influence exerted by state legislatures, executive branch agencies, and the federal and state courts, the manner in which state statutes and rules of criminal procedure are applied locally ultimately determine the size of local jail populations through the influence they exert over jail admissions and lengths of stay. In this scheme, the factors influencing jail populations are viewed as going well beyond the rate, incidence, and seriousness of crime committed in local communities, and include the policies and practices of state and local law enforcement agencies, prosecutors, defense counsel, and the judiciary and its administrative support agencies.

* The tendency for agencies operating at the local level to carry out their functions in a fragmented and disjointed manner, their lack of responsibility for financing jail construction and operations, and the absence of a single coordinating authority at either the state or local levels often results in the pursuit of policies and procedures at the local level that are at cross-purposes with the county's interest in making the most effective use of scarce and expensive jail space. As a result of their own limited ability to control growth in the local jail population, county governments often have become subject to litigation stemming from overcrowded facilities, and have had to fund levels of jail construction and operation that they can ill-afford.

Federal and State Aid to Local Jails

* Perhaps in response to growing recognition of the many ways in which federal and state entities impact upon local jails, intergovernmental financial assistance to local governments in this area has become increasingly prominent in recent years.

* While the federal role in financing jail construction and service delivery for the most part was terminated along with the U.S. Law Enforcement Assistance Administration in the late 1970's, state subsidies for local correctional facilities represent one of the most rapidly growing areas of state intergovernmental fiscal assistance. Per diem reimbursements to offset local costs associated with housing state prisoners in local jails represent the most common form of state assistance.

* Because much of the research in this area has focused on state subsidies targeted at offender populations, it is difficult to define precisely the extent to which local jails that house pretrial defendants have benefitted from the expansion of intergovernmental financial assistance. Moreover, many forms of state aid have not been designed to offset existing levels of county jail spending. Instead, they have been intended to encourage local governments to provide a variety of new corrections services to offender populations.

Chapter II

The American Jail In Crisis

* Virtually all of the academic and professional literature addressing the historical development of local jails has cited a variety of problematic conditions characterizing these facilities, and has suggested that public outrage and official condemnation have been as much a part of American jails as "locks, grills, and stocks." Traditionally, these conditions included antiquated, unsafe, and unsanitary facilities; prisoner idleness and neglect; and haphazard administration and untrained personnel.

* These problematic conditions of the American jail continued to exist well into the second half of the 20th Century, despite a series of movements that introduced far-reaching reforms in other types of detentions and corrections facilities. In essence, correctional reform efforts largely by-passed local jails until the emergence of federal court activism in the early 1960's.

Factors Contributing to Jail Crises

* The crises conditions that traditionally have characterized the American jail are traceable to both the functions they perform and the intergovernmental features that impact upon their finance and administration.

* Included among the functional characteristics contributing to crisis conditions in the American jail are their large numbers and small sizes, their changing and heterogenous populations, and an emphasis placed upon detention and incarceration rather than rehabilitation.

* Among the intergovernmental factors most frequently cited as contributing to jail problems is the assignment of financial and functional responsibility to local - usually county - government. Limited county fiscal capacity and the widespread use of patronage at the local government level worked to impede the spread of professionalization in jail staffing and administration.

* A second intergovernmental factor that played a role in maintaining problematic conditions of confinement in local jails was the traditional independence of jails from state and federal authorities. In addition to the "hands-off" doctrine of state and federal courts, state governments had largely failed to establish state jail standards, inspections, and enforcement programs until well into the latter half of the 20th century.

* A third intergovernmental factor contributing to the crises of the American jail involves the incentive structure implicit in the separation of financial responsibility and effective influence over the size and composition of jail populations. Since county governments have been assigned the sole responsibility for funding jails, the numerous and diverse state and local

government agencies that influence jail admissions and lengths of stay often have little incentive to treat local jail space as a scarce and expensive resource. As a result, counties often face a difficult task in assuring that the policies and procedures adhered to by other agencies work to control the rate of growth in the local jail population in a manner consistent with public safety and the interests of justice.

The Emergence of Judicial and Executive Branch Oversight

* Notwithstanding continued problems characterizing the nation's local jails, certain intergovernmental forces have taken shape over the last 30 years that have resulted in substantial improvements in many of these institutions. These forces include increasingly effective oversight and regulation of conditions of confinement in local jails by state and federal courts, and by state-administered jail standards and inspection programs.

* Despite improvements brought about by judicial and state government interventions, less progress has been made in addressing the intergovernmental forces that influence the size and composition of local jail populations. On the one hand, overcrowding in state correctional facilities has spilled over to local jails, with the result that increasing numbers of state prisoners have been held in local jails in recent years. On the other, county governments have achieved only incremental progress in enlisting the cooperation of the multiple entities that influence jail admissions and lengths of stay in order to promote the use of policies, programs, and procedures that can help control local jail population growth while protecting public safety. Taken together, these two forces have resulted in the crisis of local jail overcrowding that continues to the present day.

Part 2 Local Jails in Florida: Intergovernmental Relations and Jail Overcrowding

Chapter III

Functions of Local Jails In Florida

* As is the case nationally, local jails in Florida are integral components of the state's criminal justice system. While the state's local jails perform multiple functions, data collected by the Florida Department of Corrections (DOC) indicate that most jail inmates are awaiting trial or have been sentenced to a term of imprisonment in the facility.

* DOC data indicate that the importance of the pretrial detention role of the state's local jails far exceeds the correctional functions they perform. Thus, the number of pretrial detainees held in Florida's local jails accounted for well over 60% of the statewide jail population for most of the 1986-1991 period, and it has not been uncommon for the pretrial population to represent upwards of 80% of all local jail inmates in individual counties.

Locus of Functional and Financial Responsibility for Local Jails in Florida

* Consistent with Anglo-American traditions and current national patterns, responsibility for the administration and finance of local jails in Florida rests with local government. Under various provisions of Florida Law, county governments have been assigned responsibility for the finance, construction, and operation of local jails in the state. While municipalities clearly are authorized to establish detention facilities, the abolishment of city courts and committing magistrates by the 1973 amendments to Article V of the state constitution led most of the state's city governments to close their jails by the late 1970's.

* County governments have considerable flexibility in establishing administrative arrangements for jail operations. Thus, counties may delegate responsibility for jail administration to the sheriff, another public official, or to a private entity. Despite the existence of these administrative options, the sheriff continues to operate the jail in 54 of the state's 67 counties. In 11 of the remaining jurisdictions, the board of county commissioners operates the jail, while in the remaining 2 counties, operation of the jail has been privatized.

Profile of the Florida Jail

* As of June, 1992, Florida's 67 counties operated 105 local jails. Together, these facilities had a combined inmate population of over 36,000 persons. Over 60% of Florida's jail inmates were pretrial detainees, which represents a significant departure from the national pattern, where just over 50% of the local jail population consists of defendants awaiting trial.

* Reflecting national patterns, Florida's jails vary considerably in size, and range from the 14 bed Dixie County Jail to the 2,189 bed Duval County Main Jail. Less than 3% of the state's local jail inmates were held in small jails (jails with legal capacities of under 100 inmates), while nearly one-third were held in jails designed to hold in excess of 1,000 inmates.

Patterns of Jail Construction and Population Increases In Florida

* The state's counties have substantially increased local jail capacities in recent years, from approximately 21,000 beds in calendar year 1986 to well over 39,000 by mid-1992. Moreover, during the 1981-1991 period, Florida's county governments added well over 21,000 beds to the state's local jail system.

* Parallel with the growth in facility capacity, the population of the state's local jails also has increased significantly in recent years. The number of inmates confined at the local level grew from just over 21,000 in 1986 to nearly 35,000 in 1991, an increase of 65%. Increases in the number of persons held pending trial accounted for more than half this increase.

Fiscal Impact of Local Jails In Florida

* Reflecting the unprecedented expansion of local jail capacities and populations in recent years, the fiscal impact placed upon the state's counties by their responsibilities in this area is substantial, and more than doubled over the latter half of the 1980's. Collectively, Florida counties reported spending approximately $565 million on the construction, operation, and maintenance of local jails in fiscal year 1989.

* Notwithstanding the considerable general purpose state assistance county governments receive, until recently Florida was one of relatively few states where local governments exercised considerable responsibilities in the detentions and corrections area but in which state government did not provide any corrections aid to local government. While the state moved to make certain special revenue sources available to counties to assist them in this area, revenues generated from such sources mostly have been restricted to capital (construction) projects.

* On average, Florida's counties allocated over 20% of their ad valorem revenues to jail construction and operations in fiscal year 1989. Moreover, approximately 17% of the ad valorem revenue capacity of Florida's county governments was used to fund jail capital and operating costs in that year.

* The state's small population counties allocated significantly higher proportions of their ad valorem revenues and ad valorem revenue capacity to fund jail construction and operations in fiscal year 1989 than did mid-sized and large population counties. This suggests that jail financing requirements have come to impose a disproportionate burden on precisely those counties that can least afford to bear it.

Federal Court Oversight of Florida's Local Jails

* By the close of 1992, local jails operated by twenty of the state's 67 counties had been the object of class action suits filed in the federal courts by inmates alleging unconstitutional conditions of confinement. Although many of these suits have become inactive, in those instances where the federal courts have directed that overcrowding and other problematic conditions of confinement be remedied, the consequences for county governments have been serious.

State Regulation of Local Jail Conditions In Florida

* Paralleling national trends, local jails in Florida became subject to a state-administered jail standards and inspection program in 1967. Under the authority granted by the Legislature, the state Department of Corrections (DOC) has promulgated a detailed regulatory code that governs the structural conditions of local jails, and the conditions of confinement within these facilities. In order to assure compliance with the code, DOC conducts regular

inspections of local facilities, and may initiate action in the state courts to compel county governments to remedy substandard jail conditions.

* Although state regulation of local jails in Florida remained relatively innocuous until 1981, under the terms of a consent decree entered into in the landmark Arias v. Wainwright (1979) federal class action suit, DOC has since filed 54 lawsuits against officials in 48 counties alleging violations of departmental standards. As with previous federal court actions, the outcome of this stepped-up enforcement process became manifest in attempts by county governments to build out of overcrowded conditions.

The Impact of State Prison Overcrowding on Local Jails

* Rapid increases in the number of admissions to the state prison system in combination with the operation of various early release mechanisms instituted in order to avoid overcrowding at the state level have resulted in rapid turnover in the state prison system's inmate population since the mid-1980's. This turnover has resulted in the release of large numbers of offenders from the state prison system prior to the expiration of their court-imposed sentences.

* Although there has been no systematic analysis of the impact of early prison releases upon Florida's local jails, many sources suggest that these policies contributed significantly to the increases in local jail populations that became manifest over the latter half of the 1980's. This "spillover" of state prisoners to local jails raises serious questions of equity and accountability as county governments have become subject to increasing jail expenditures and state-initiated litigation seeking to address overcrowding at the local level.

Intergovernmental Influences Over Jail Population Size in Florida

* In addition to imposing mandates pertaining to conditions of confinement within local jails and implementing policies that have forced many facilities to house increasing numbers of state-sentenced offenders, state government impacts local jails by influencing who is admitted to jail and how long they remain there. Among the most prominent influences in this regard is the legislature's enactment of the Florida Criminal Code and other statutory provisions that define the types of behavior for which individuals can be arrested and subject to pretrial detention and sentences of incarceration in local jails.

* Beyond statutory enactments, the manner in which the law is applied and implemented by the variety of state and local entities that operate at the local level in Florida ultimately determines the size of jail populations through the influence it exerts over jail bookings and lengths of stay. Included among such entities are state and local law enforcement agencies, jail booking

officers and administration, defense counsel and the prosecution, the judiciary and clerks of court, and probation agencies.

* Notwithstanding several technical assistance programs that have been offered through the executive and judicial branches of state government, county officials have largely been left to their own devices in attempting to influence the behaviors of the many entities that impact the size of local jail populations. Given the autonomy of many of these agencies, and the absence of state mandates or incentives aimed at developing coordinated action, county officials face an often difficult task in enlisting the cooperation of law enforcement, the courts, and others in order to implement policies, programs, and procedures designed to control growth in the local jail population in a manner consistent with both public safety and the county's ability to fund jail construction and operations.

Chapter IV

Historical Legacy of Local Jail Overcrowding in Florida

* Florida's local jails have long been characterized by substantial levels of overcrowding. As far back as 1980, studies indicated that 26 of the state's 93 local jails experienced overcrowded conditions, with one-half of these having inmate populations in excess of 120% of their rated capacities.

* Despite aggressive capital expansion programs implemented by many counties during the 1980's, unprecedented increases in inmate populations over the 1985-1989 period contributed to the enduring nature of local jail overcrowding in the state. Thus, despite the three-fold increase in system-wide capacity that was achieved over the 1980-1989 period, the level of overcrowding in Florida's local jails was more severe in 1989 than it was in 1980.

* While Florida's counties made substantial progress in reducing the level of system overcrowding in the 1990-1992 period as nearly 10,000 new jail beds were brought on-line, historical patterns suggest that the current surplus of local jail capacity will be a temporary phenomenon.

Jail Overcrowding and Pretrial Detention In Florida

* In light of the significant additions made to the capacity of Florida's local jail system in the 1980's and early 1990's, the problem of local jail overcrowding cannot be attributed to the failure of county governments to expand facility capacity. Instead, jail overcrowding has been caused by the unprecedented increases in inmate populations that became evidenced over the 1980-1990 period.

* The increasing inmate populations that have contributed to local jail overcrowding in Florida are attributable primarily to the large and growing numbers of pretrial detainees held in county jails. Thus, pretrial detainees have long accounted for a majority of the state's local jail population, and the pretrial detention population increased more rapidly than the sentenced population over the 1986-1990 period, when growth in the statewide jail population and the degree of overcrowding were at unprecedented levels. Significantly, increases in the number of pretrial detainees held on misdemeanor charges substantially exceeded growth in the number of defendants held on felony charges during this period.

Factors Contributing to High Rates of Pretrial Detention

* The tendency of Florida's county jails to house disproportionately large numbers of pretrial detainees relative to local jails in other states has long been recognized. In acknowledging this pattern, several studies conducted in the early 1980's questioned the extent to which discretionary policies and procedures adhered to by law enforcement, court system, and corrections agencies in processing criminal cases were responsible for this tendency.

* As a further reflection of the role played by various "policy factors" in contributing to the high rates of pretrial detention in Florida, studies conducted over the 1981-1983 period offered a series of recommendations intended to promote the adoption of managerial initiatives designed to limit the growth in pretrial populations in a manner consistent with public safety. By and large, these recommendations have failed to become reflected in state law or other statewide policy initiatives.

* As the 1980's progressed, a variety of sources consistently stressed that the policies and procedures of various criminal justice agencies operating locally were critical factors contributing to increases in the pretrial detention populations of local jails. In particular, a number of local criminal justice system studies completed by independent research and consulting teams indicate that as a result of ineffective management of jail admissions and lengths of stay, substantial numbers of criminal defendants who pose little risk to public safety have been detained in the state's local jails, in some cases for extended periods of time.

Managerial Options Available for Controlling Growth in Pretrial Detention Populations

* In citing various policies and procedures adhered to by law enforcement, the courts, and other agencies as contributing to high levels of pretrial detention and overcrowding in Florida's county jails, knowledgeable observers often have advocated the development and implementation of specific managerial initiatives in order to remedy these problems. By and large, these options are designed to insure that available jail space is used to detain persons pending trial only when all other means of assuring public safety and appearance at

trial have been exhausted. Taken together, the initiatives present various agencies with a continuum of policies and procedures ranging from law enforcement diversion to alternatives to monetary bail and court delay reduction initiatives.

* Despite the availability of various techniques and approaches for managing growth in the pretrial detention population of local jails, certain barriers exist to their widespread adoption in Florida. Chief among these is the current structure of intergovernmental relations in the criminal justice area, which is commonly viewed as presenting various agencies with few incentives to adopt these. Because municipal law enforcement, prosecutors, public defenders, and the judiciary are not responsible for funding or operating local jails, they may not be willing to allocate the resources necessary to develop and implement such initiatives. Even at the county level, where strong incentives exist for more effective management, a lack of understanding of the forces contributing to the problem of jail overcrowding constrains action. Finally, even where such an understanding is present, enlisting the cooperation of the many independent agencies whose agreement is necessary to move forward on the development and implementation of individual initiatives has proven to be a difficult task.

Chapter V

Implementation Status of Pretrial Management Procedures in Florida

* ACIR survey data suggest that many state attorneys, public defenders, and chief circuit judges tend to view a number of policies and procedures as effective tools for managing the growth in local jail populations. However, implementation of many of such initiatives by these officials remained relatively limited as recently as January, 1991.

* In response to ACIR surveys, officials most often cited resource limitations and excessive caseloads as barriers to more widespread implementation of policies and procedures designed to control the growth in the number of pretrial detainees held in Florida's local jails. In other instances, officials cited the difficulty of securing the cooperation of other agencies, and the absence of legislative authorization as reasons for failing to implement such policies and procedures.

* ACIR survey data also indicate that while many policies, programs, and procedures are available to local governments to help control the incidence and length of pretrial detention in a manner consistent with public safety, implementation of these in Florida has been somewhat limited and lacking in uniformity.

Pretrial Services in Florida Counties

* Over the last three decades, pretrial services programs have emerged as important components in federal, state, and local criminal justice systems. Tracing their roots to the bail reform movement of the 1960's, these programs provide the criminal courts with an institutional capacity to perform pretrial release investigations, and to monitor compliance with conditions of release by defendants who are returned to the community pending trial.

* In Florida, the value of pretrial services programs lies in their ability to compensate for the generalized lack of effective case screening and review by the state attorneys and public defenders in the initial hours and days subsequent to the arrest and jailing of persons accused of criminal acts. In addition, they have provided the courts with a supervised alternative to monetary bail. In this latter capacity, pretrial programs have proven effective in securing the pretrial release of large numbers of criminal defendants who otherwise would have been detained for varying lengths of time due to difficulties encountered in meeting the financial requirements established by bail bondsmen.

* While 24 of the state's counties have established pretrial services agencies and programs, substantial discrepancies exist in terms of resource allocations and other operational features of these. Notwithstanding these distinctions, many of the state's pretrial services programs appear to be "full service" providers as measured by the range of duties and responsibilities that have been assigned to them.

* Information received by the ACIR from a sampling of counties suggests that county expenditures made in support of pretrial services programs can be offset by substantial reductions in county jail costs as a result of the ability of such programs to decrease the incidence and length of pretrial detention.

* According to data gathered from several sources, failure to appear rates for pretrial services programs in Florida are remarkably low, and compare favorably with other methods of release in terms of the their ability to return defendants to court for trial and other required proceedings. These data suggest that, when properly designed and implemented, pretrial services agencies can work to secure the release of large numbers of criminal defendants while minimizing failure to appear rates.

Part 3 Examples of Effective Management of Local Jail Population Growth: The Alachua, Lee, and Volusia County Case Studies

Chapters VI, VII, VIII, & IX

* Despite the findings presented in Part 2, several Florida counties have put into place comprehensive programs that have enabled them to effectively

manage the growth in their local jail populations in a manner consistent with public safety. Most prominent in this regard have been Lee and Volusia Counties, which in recent years have reversed rapid rates of jail population growth and jail spending. In addition, Alachua County over the course of the 1980's developed a multi-faceted approach to managing jail population growth that enabled the county to avoid the conditions of chronic overcrowding, regulatory intervention, and massive jail construction that many other jurisdictions experienced over the last decade.

* Although Alachua, Lee, and Volusia Counties embarked upon their reforms at different points in time and at the behest of different governmental entities, in the end they came to embody remarkably similar policy interventions. Consistent with the advice of national experts that any effective program of managing local jail population growth reflect a "systems approach", the reforms implemented in each county were multi-faceted in nature, and included policies, programs, and procedures implemented by local law enforcement agencies, county governments, corrections, and the prosecution, defense, and the courts.

* In designing and developing various managerial initiatives, officials often were seeking to exert more effective control over the two key determinants of jail population size: admissions to jail, and the average length of stay of jail inmates. To a lesser extent, policies, programs, and procedures were implemented in order to introduce greater efficiencies in the operations of discrete agencies such as state attorney and public defender offices. However, to the extent that these efficiencies tend to expedite the processing of cases in which the defendant remains in jail pending trial, these interventions also have played a role in wider system efforts to control jail population growth.

* Through interviews with key system officials, direct observation, and the review of prepared materials, research efforts identified a number of factors that facilitated the successful reform processes in Alachua, Lee, and Volusia Counties. Included among these were the exercise of county initiative and strong judicial leadership in the reform process, the presence of outside observers who provided technical assistance to county officials, and resource enhancements that were channeled into the operation and evaluation of the local criminal justice system. Finally, in each county, one or more multi-agency forums were used to develop, build consensus on, and monitor the implementation of discrete managerial initiatives.

The accompanying document is intended to serve as a final, comprehensive report that summarizes the findings of research conducted by the ACIR on jail finance and management issues over the period extending from the fall of 1989 through the summer of 1992. Although no recommendations have been developed to accompany the report, portions of the research included herein have been presented to the Council at different points during the study period. In turn, these findings served as the basis for formal

Council recommendations. Included among these was the 1990 action of the Council which recommended that a constitutional amendment be placed before the Florida electorate that would authorize the legislature to impose a one-cent criminal justice sales tax, portions of which would be earmarked to offset county jail expenditures. In addition, the Council in 1991 directed staff to develop legislation that would create a statewide pretrial release system in Florida. This recommendation ultimately became embodied in legislation filed by several Council members in the 1991, 1992, and 1993 legislative sessions. While receiving a considerable amount of attention in legislative committee hearings, legislation containing the Council recommendations was not enacted.

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PART 1
LOCAL JAIL FINANCE AND MANAGMENT: THE NATIONAL CONTEXT

CHAPTER I
THE AMERICAN JAIL: A FUNCTIONAL, INSTITUTIONAL, AND INTERGOVERNMENTAL OVERVIEW

INTRODUCTION

The local jail plays a critical role in American federal, state, and local criminal justice systems. This chapter defines the functions discharged by local jails, briefly describes the historic development of these, and provides a statistical profile of local jails in America today. Finally, the chapter describes the intergovernmental forces that impact upon local jail finance and management. These relations are defined by the assignment of functional and financial responsibility to the local - usually county - level, while considerable influence over the operation of local jails is exerted by other governmental entities that are largely independent of the counties. The chapter closes with a general discussion of how various institutional and intergovernmental features have contributed to enduring crises in the finance and operation of local jails. These crises, in turn, reflect the substantial barriers that exist to the effective, efficient, equitable, and accountable operation of local jails in America.

THE INSTITUTIONAL CONTEXT

Functions of the American Jail

Local jails, which generally are defined as locally administered facilities used to confine primarily adult persons awaiting criminal trial or offenders sentenced by the courts to a term of incarceration of one year or less,[1] are integral components of federal, state, and local criminal justice systems. In this regard, they discharge three vital functions. First, local jails serve as the initial entry point for many persons who become caught up in the criminal justice system. In performing this "intake" function, jails serve to log, identify, and hold newly arrested persons pending their transport to other institutions such as juvenile detention centers, mental health hospitals, state and federal prisons, and the

[1] Specifically excluded from the definition of local jails are facilities used as temporary lockups by local law enforcement agencies that house criminal defendants for less than 48 hours. See United States Advisory Council on Intergovernmental Relations, Jails: Intergovernmental Dimensions to a Local Problem, (Washington, D.C.; 1984); Moynahan, J. M., and E. K. Stewart, The American Jail: Its Development and Growth, (Chicago, Ill.; Nelson-Hall: 1980), p.4.

courts.[2] Second, jails perform a pretrial detention function insofar as they are used to confine persons who have been ordered detained by the court pending trial, or who cannot meet conditions of release established by the court. Finally, local jails perform a "correctional" function insofar as they house guilty misdemeanor and felony offenders who have been sentenced to a term of imprisonment in the jail by the courts. National data indicate that the U.S. jail population is comprised of nearly equal numbers of convicted (48.6%) and unconvicted persons (51.4%).[3]

The intake, pretrial detention, and correctional functions served by local jails trace their roots to medieval England and colonial America, respectively. Both the intake and pretrial detention functions of local jails date as far back as 11th century England, when the concept of wrongdoing as an affront to the state (ie. the king) came to replace the more personalized view under which wrongdoing was considered solely as an affront to, and punishable by, the victim or their family.[4] Under the emergent order, the king's justice was administered by itinerant judges, as well as by constables and sheriffs. Insofar as accused wrongdoers had to be kept secure until the next scheduled magistrate's visit, local jails were established and operated by county sheriffs in order to hold prisoners pending their delivery to the court for trial or other disposition. During the early days of their use, jails for the most part fulfilled only these pretrial detention and "delivery" functions, with relatively few offenders receiving sentences of jail time[5]. To a lesser extent, jails also were used to incarcerate convicted offenders only for purposes of encouraging the payment of fines levied by judges.[6]

The intake and pretrial detention responsibilities discharged by English jails were augmented by the emergence of a second function in the late 18th century - that of long-term confinement of sentenced offenders. The use of incarceration during this period is traceable to reform movements that sought to abolish mutilation and other forms of physical punishment in favor of a sentence of county jail time.[7] Eventually, this ethos became institutionalized in correctional facilities that were distinguishable from jails insofar as they were devoted solely to the incarceration and rehabilitation of convicted offenders.

As with many other features of English governance, the local jail was imported by American colonists in the early 1700's, and these institutions served as the first penal facilities in the colonies. While subject to different developmental patterns across the

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[2]United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Census of Local Jails 1988", (Washington, D.C.; February, 1990), p. 2.

[3]Id., p. 4.

[4]Moynahan & Stewart, The American Jail, pp. 13-14.

[5]Id.

[6]Under this practice, persons would be sent to jail after adjudication, not in lieu of payment, but rather until they could pay their fine and cost.

[7]Moynahan and Stewart, The American Jail, p. 22.

several English colonial areas, the general practice was for the jail to be under the jurisdiction of the sheriff, and for local residents to finance jail construction. In time, municipal jails began to emerge on the scene, which were under the administrative authority of community law enforcement organizations.[8]

Despite the early emphasis placed upon penal functions, the use of imprisonment as a form of punishment in the American colonies was limited by an ethos that placed emphasis upon administering the most direct and least expensive punishment to offenders. Thus, as in England, colonial jails were used primarily to detain criminal defendants who were awaiting trial. As corporal punishment increasingly fell into disfavor in the colonies, local jails were used to imprison persons convicted of petty offenses such as public intoxication and vagrancy, as well as political and religious offenders, and debtors.[9] By the turn of the 19th century, the use of local jails as a post-conviction sanction in America was in full swing, although the confluence of state legislation and local, state, and regional considerations blunted uniform movement in this direction.[10] This diversity continues to exist today, as suggested by statistics that indicate that, even within individual states, the percentage of local jail populations accounted for by sentenced offenders varies widely across jurisdictions.[11]

A Statistical Profile of the American Jail

In most states, jails represent but one of three broad categories of institutions that are used to incarcerate persons at various stages of the criminal justice process. Juvenile detention facilities may be operated by either public or private entities, and are used to hold persons who have been adjudicated on juvenile charges and committed to treatment or custody by the courts, or who are awaiting such adjudication, disposition, or placement.[12] At the other end of the spectrum are prisons, which are correctional institutions operated by the federal or state governments, and are used to confine adults sentenced to a term of

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[8]Id., pp. 26-27.

[9]Id.

[10]Id., pp. 26-27, 41-42.

[11]In Florida, disparities in the proportion of local jail populations accounted for by pretrial detainees can be illustrated by a comparison of the Broward and Orange County jail systems (large counties), and the Hernando and Monroe County Jails (mid-sized population counties). Thus, in August, 1991, approximately 68% of the average daily local jail population in Broward County consisted of pretrial detainees, while the corresponding figure for Orange County was 40%. Similarly, whereas 78% of Monroe County's August, 1991, jail population consisted of pretrial detainees, in Hernando county the pretrial component accounted for only 35% of the average daily population. See Florida Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data Monthly Report, August 1991, (Tallahassee, Florida: September, 1991).

[12]United States Department of Justice, Office of Justice Programs, Juvenile Justice Bulletin, OJJDP Update on Statistics, "Public Juvenile Facilities, Children in Custody, 1989", (Washington, D.C.; January, 1991), p. 10.

incarceration for felony offenses, usually for one year or more.[13] As distinctly local institutions, jails differ from juvenile facilities and prisons not only in terms of the multiple functions they discharge, but also in terms of their sheer numbers, the volume and diversity of prisoners they process, and the length of time persons remain within their custody.

Given their "court support" functions of intake and detaining prisoners awaiting trial, and the tendency for state court systems to deliver services at the county level, most of the nations 3,042 counties operate their own jails.[14] To a lesser extent, jails also are operated by municipal governments in large metropolitan areas such as New York City and Baltimore, Maryland.[15] When county and municipal facilities are considered together, the U.S. Bureau of Justice Statistics estimated that a total of 3,316 local jails were operative in 1988, which represented a slight decrease from the 3,493 jails that were operating 5 years previous[16]. On June 30 of that year, a record total of 343,569 prisoners were confined in these institutions, while jail admissions and releases each approached the 10 million mark over the course of the 1988 calendar year.[17] In contrast to these numbers, a total of 1,066 state and federal prisons were in operation in 1987.[18] While these facilities housed more than twice the number of inmates as did local jails, their 245,000 admissions were outstripped by their local counterparts by a ratio of nearly 40-to-1[19]. By all measures, juvenile facilities are substantially outnumbered by jails, and are used to confine far fewer prisoners.[20]

In addition to being substantially more numerous than other institutions used to confine persons at various stages of the criminal justice process, local jails vary considerably in size. As Table I-1 indicates, while two-thirds of all local jails in 1988 held fewer than 50 prisoners, approximately 10% experienced inmate populations in excess of 250,[21] and several

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[13]Moynahan and Stewart, The American Jail, pp. 10-11.

[14]The overriding exceptions to this general tendency occur in the 6 states in which the state government operates local jails.

[15]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 25-26. It should be noted that the Baltimore City Jail was in the process of being taken over by the state of Maryland at the time of this publication.

[16]United States Department of Justice, Bureau of Justice Statistics, "Census", p. 2.

[17]Id., pp. 4-5.

[18]See The Correctional Yearbook, 1987, (South Salem, New York: Criminal Justice Institute, Inc.; 1987), p. 21; United States Government, Federal Bureau of Prisons, Federal Bureau of Prisons Facilities, 1987, (Washington, D.C.; 1987), p. 3.

[19]United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Prisoners in 1989" (Washington, D.C.; May, 1991).

[20]United States Department of Justice, Office of Justice Programs, "Children in Custody", p. 5.

[21]United States Department of Justice, Bureau of Justice Statistics, "Census", pp. 5-6.

examples of true "mega-jails" such as the Los Angeles County Central jail, the Harris County Detention Center (Houston, Texas), and the Brooklyn House of Detention (New York City) exist.[22] In 1988, approximately one-quarter of local jails experienced populations between 50 and 249 inmates.[23]

Table I-1
Number of Local Jails in the United States by Facility Size, 1988

Average Daily Population	Number of Jails	Percent of Total
Less than 50 inmates	2,222	67%
50-249 inmates	796	24%
More than 250 inmates	298	9%
More than 1000 inmates	51	2%
	3,316	100%

Source: U.S. Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Census of Local Jails, 1988," (February 1990), p. 6.

Table I-2
Jail Inmates in the United States by Age, Sex, and Conviction Status, 1989

Population Group	Number of Inmates	Percent of All Inmates
Adults	393,303	99%
Juvenile	2,250	1%
Male	356,050	90%
Female	37,253	10%
Convicted*	189,012	48%
Unconvicted*	204,291	52%

Note: * Figures pertaining to conviction status include adult inmates only.

Source: U.S. Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Special Report "Profile of Jail Inmates 1989" (April 1991) p. 3.

[22]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 25-26.

[23]United States Department of Justice, Bureau of Justice Statistics, "Census", p. 5-6.

Local jails also differ from juvenile facilities and prisons in terms of the heterogeneity and length of stay of their populations.[24] With respect to the diversity of their inmates, jails often are used to house both juveniles and adults, men and women, and the innocent as well as the serious offender (see Table I-2). Thus, it has often been pointed out that on any given day, a typical local jail can be expected to house persons ranging from the mentally ill who have been arrested on criminal charges and are awaiting transfer to mental health facilities, through persons who have been picked up on public intoxication charges, to convicted felony offenders who have been rearrested due to alleged violations of probation and parole.[25] Also reflective of their intake and pretrial detention functions is the rapid turnover of jail populations as measured by the relatively brief periods of time that most persons remain detained in local jails.[26] As noted in Table I-3, approximately 40% of all persons released from jail during a 1988 jail census period had been in custody for 1 day or less, while 60% had been confined in jail for 4 days or less.[27] Notwithstanding these tendencies, substantial numbers of persons were found to have been held in local jails for periods of time in excess of 6 months, and to a lesser extent, 1 year.[28] On average, offenders sentenced in 1989 to a period of incarceration in a local jail served an average of 5 months, including time they may have been detained in the pretrial phase.[29]

When combined, the large number and diverse size of local jails, and the heterogeneity and rapid turnover of their populations, have created numerous challenges for jail administrators as well as the state agencies that have been assigned oversight responsibilities pertaining to local jails. While many such managerial problems can be considered "internal" insofar as they pertain to the issues of insuring inmate security and providing effective rehabilitative services, they ultimately are traceable to the basic functions performed by jails, and the structure of intergovernmental relations in the criminal justice arena. It is to this structure that attention is next directed.

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[24] While the circumstances of persons confined in juvenile facilities range from allegations of delinquency to being victims of abuse/neglect, by definition such facilities are restricted to individuals who are subject to juvenile court due to their youthful status. Prison populations are even more homogenous to the extent that they are generally used to house adults who have been convicted of felony offenses.

[25] United States Department of Justice, Bureau of Justice Statistics, "Census", p. 2; United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 10-15.

[26] See Jackson, P. G., "The Uses of Jail Confinement in Three Counties", 7 Policy Studies Journal (1979):592-605.

[27] United States Department of Justice, Bureau of Justice Statistics, "Census", p. 5.

[28] Id.

[29] United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Special Report, "Profile of Jail Inmates, 1989", (Washington, D.C.; April, 1991), p 7.

Table I-3
Length of Stay in United States Jails
Prior to Release, 1988

Length of Stay	Number of Inmate Releases	Percent of Total Releases
1 day or less	42,733	39%
2-4 days	24,981	23%
5-7 days	10,249	10%
8-14 days	7,249	7%
15-31 days	8,851	8%
32-182 days	10,992	10%
183-365 days	2,585	2%
366 or more days	787	1%
	108,427	100%

Median Length of Stay - 3 days

Source: U.S. Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Census of Local Jails 1988," (February 1990), p. 5.

INTERGOVERNMENTAL RELATIONS AND THE FINANCE AND MANAGEMENT OF LOCAL JAILS

While county governments most often have been assigned responsibilities relative to the finance, construction, and operation of local jails, their subordinate status relative to state government has made the performance of these functions critically dependant upon laws, policies, and practices of each of the three branches of state government.[30] In addition, the federal government - through the actions of the federal courts - has come to have a critical impact upon the manner in which local jurisdictions discharge their assigned responsibilities in this area. Finally, the manner in which legal directives emanating from legislative, executive branch, and judicial authorities are applied by the law enforcement and court system entities that deliver criminal justice services within individual jurisdictions also influences the discharge of county responsibilities in this area. When considered either separately or combined, these intergovernmental influences affect the size and composition of jail populations, as well as the structural features of, and conditions of confinement within these facilities. Since these impacts ultimately have fiscal ramifications, intergovernmental influences pose serious implications for the ability of local governments

[30]United States Advisory Commission On Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 85 ff.

to discharge their responsibilities pertaining to jails in an effective and efficient manner, and with equity and accountability.

Locus of Functional and Financial Responsibility

Notwithstanding the 6 states which have state administered jail systems,[31] responsibility for the construction and operation of local jails generally has been assigned to county government, and county sheriffs currently run the overwhelming majority of the nation's jails.[32] In discharging these functions, county governments and sheriffs are responsible for performing a wide range of activities ranging from the siting and design of new facilities to providing medical care to inmates and transporting prisoners to and from court. In conjunction with their financial responsibilities and despite recent increases in state financing of local corrections functions, responsibility for the construction and operation of local jails most commonly lies with county governments. Although estimates of the fiscal impact placed upon county governments by their responsibilities in this area vary widely, the United States Department of Justice reported that in 1988 total jail expenditures exceeded $4.5 billion nationwide.[33]

The tradition of assigning responsibility for jail finance and operation to the counties dates back to medieval England, when county sheriffs were charged by the king with confining persons charged with committing offenses against the state in local jails and delivering them to court.[34] This arrangement was operative in the American colonies as well, and was carried forward by state governments subsequent to the adoption of the U.S. Constitution and the establishment of a federal government structure.[35] In this regard, it is clear from the historical record that the assignment of county responsibility for jail construction and operations represented an early form of a state mandate. These mandates extended not only to the construction of jail facilities, but also to structural requirements, equipment, and the care and feeding of prisoners as well. As such, early state-local relations in this area represented precursors to the more recent movement marked by the establishment of comprehensive state regulatory control over the conditions of confinement within, and structural conditions of, local jails. Among the early adopters of state mandates

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[31]The six states that have state administered jail systems are Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont. According to the United States Advisory Commission on Intergovernmental Relations, these states are similar to the extent that they tend to be small in both area and population and tend to have weak or non-existent county government structures. See the Commission's report, Jails: Intergovernmental Dimensions, pp. 120-122.

[32]Kerle, K.E., and Ford, F. R., The State of Our Nation's Jails 1982 (Washington, D.C.; National Sheriffs' Association: 1982), pp. 12-14; United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p. 6.

[33]United States Bureau of the Census, Justice Expenditures and Employment Final Report, 1985, (unpublished document), Table 42.

[34]Moynahan and Stewart, The American Jail, Chapter 1, generally.

[35]Id.

pertaining to local jails were Tennessee (late 1700's), Alabama (1807), Mississippi (1822), and Iowa ((1851).[36]

State and Federal Involvement in Local Jail Finance and Administration

As described in Chart I-1, the legislative, executive, and judicial branches of state government exert substantial influence over the operation of local jails. In recent years, the federal government also has come to play an important role in this area, primarily through actions of the federal courts in response to the filing of inmate suits alleging unconstitutional conditions of confinement. By and large, these influences affect the number and types of persons who are booked into jail, how long they remain there, and the conditions of confinement that they are subject to during incarceration. In so doing, the actions of state and federal governments have influenced levels of county spending on local jails.

State Criminal Codes. While local jails generally receive little mention in state constitutions other than guarantees pertaining to the right to reasonable bail, state legislatures nevertheless impact upon jail finance and operations through the exercise of their authority to legislate on local government matters and to establish and fund state systems of criminal justice.[37] At the most general level, state legislative bodies enact statutes that establish the criminal code of the state and the procedures to be followed by law enforcement, prosecution, and court system officials in processing criminal cases from arrest through case disposition.[38] By and large, these enactments help determine the types of behaviors that can result in arrest and jail booking, the mechanisms and criteria invoked by the courts in making pretrial release and detention determinations, and the types of offenses that carry a sentence of local jail time. Since these factors establish broad parameters governing jail admissions and lengths of stay, they influence the size of local jail populations, and in turn, levels of jail spending by local governments.

Funding Criminal Justice Agency Operations. In addition to impacts arising from the establishment of the state criminal codes, state legislatures can critically impact upon local jail operations through funding policies for various criminal justice system entities. In particular, the allocation of resources to the court system as well as prosecution and public defense agencies can substantially affect the speed at which criminal cases are processed from arrest through adjudication, and hence the lengths of stay in jail for defendants who fail to secure pretrial release. In addition, the failure of state legislatures to keep up with

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[36]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 96-97; Jordan, P. D., "The Close and Stinking Jail" Frontier Law and Order, (Lincoln, Neb.: University of Nebraska Press; 1970), pp. 140-147.

[37]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 85-86.

[38]Id.; also see Embert, P. S., "Correctional Law and Jails: Evolution and Implications for Jail and Lockup Administrators and Supervisors", in Kalinich, D. B., and Klofas, J., Sneaking Inmates Down the Alley: Problems and Prospects in Jail Management, (Springfield, Illinois:Charles C. Thomas;1986) pp. 63-66.

CHART I-1

Intergovernmental Influences Over the Construction and Operation of Local Jails: The Role of State Government and the Federal Courts

Governmental Entity	Action	Policy Implications	Impact on Local Jails
State Legislature	Establish state Criminal Code	Defines types of behavior that can result in arrest, detention, and jail sentences	Influences admissions to jail, and incidence and length of jail sentences.
		Establishes right to bail and other forms of pretrial release.	Influences lengths of stay in jail.
	Establish laws pertaining to criminal procedure.	Establishes standards governing the timing and format of court proceedings.	Influences lengths of stay in jail.
		Establishes standards governing the procedures to be followed by the courts, prosecution, and criminal defense agencies in processing criminal cases.	Influences lengths of stay in jail.
	Fund law enforcement, courts, prosecution, public defenders, and state corrections.	Influences law enforcement capabilities, volume of arrests, case processing capabilities of the court system, level of overcrowding in state corrections system.	Influences volume of arrests and jail admissions. Influences lengths of stay in jail. Influences number of state prisoners held in local jails due to overcrowding in state corrections facilities.
	Establish jail standards and inspection programs.	Provides for the regulation of the structural conditions of, and conditions of confinement within, local jails.	Specify construction and operating standards for local jails. Establish inmate capacities. Require jail closings/new jail construction.
State Executives	Develop, promulgate and enforce jail standards.	Regulates structural conditions of, and conditions of confinement within, local jails.	Specify construction and operating standards for local jails. Establish inmate capacities. Initiate civil suits to enforce state standards.
	Administer state correctional facilities and programs.	Regulates the transfer of state prisoners to and from local jails.	Influence the size of local jail populations.
State and Federal Courts	Promulgate rules of criminal procedure.	Establishes standards governing the timing and format of court proceedings.	Influences lengths of stay in jail.
		Establishes standards governing the procedures to be followed by the courts, prosecution, and criminal defense agencies in processing criminal cases.	Influences lengths of stay in jail.
	Issue rulings on civil suits alleging unconstitutional conditions of confinement in local jails.	Establish and enforce minimum standards of institutional adequacy.	Establish minimum structural and operating standards for local jails. Establish and enforce inmate population capacities.

the demand for state prison space often has lead to the "backing-up" of state prisoners in local jails. According to a 1988 nationwide jail census conducted by the Bureau of Justice Statistics, over 26,000 prisoners, or approximately 8% of all jail inmates, were held in local jails as a result of overcrowding in other, primarily state, institutions.[39]

State Regulation of Local Jails. A third example of the way in which state legislative bodies influence the construction, operation, and finance of local jails is by providing for the promulgation and enforcement of jail standards.[40] Such standards generally specify criteria governing the structural features and conditions of confinement within local jails, and therefore have critical fiscal as well as operational impacts upon local governments. Currently, 25 states have established programs that mandate local compliance with statewide jail standards. In each case, the regulatory scheme provides for either annual or biannual inspections to determine the extent of compliance with the standards.[41]

State Executive Branch Influences. State executive branch influences over local jail finance and management are based on the constitutional authority of governors to see that all laws "are faithfully executed", and from specific responsibilities imposed by general law enactments.[42] Prominent examples of legislatively delegated responsibilities can be found in the development and enforcement of minimum standards of jail construction and operation by state corrections departments pursuant to legislative directive.[43] A second form of executive branch influence over local jail operations has taken the form of orders issued by state corrections officials that no new prisoners be accepted into the state system from county jails. Such orders - which usually occur in the wake of judicial decisions that have found unconstitutional conditions of confinement within state prisons - have the potential to affect county jail operations in two primary ways. First, insofar as they can increase the population of local jails as state prisoners become "backed-up" in local institutions, they can lead to increased operating jail operating costs. Second, these same

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[39]United States Department of Justice, Bureau of Justice Statistics, "Census", p. 7. For a more detailed discussion of the "back-up" problem, see the discussion on pp. 33-35, infra.

[40]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 96-103; also see Rosazza, T. A., and Martin, M. D., "State Standards Programs: State of the Art, Part I", American Jails, (May/June, 1991), p. 40.

[41]Rosazza, T. A., and Martin, M.D., "State Standards Programs: State of the Art Part II", American Jails (July/August 1991), p. 52.

[42]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p. 85.

[43]According to a recent survey, in 19 of the 25 states with mandatory jail standards, the legislature delegated responsibilities relative to the development and enforcement of such standards to an executive branch agency. See Rosazza and Martin, "State Standards Programs: State of the Art, Part I", in American Jails, (May/June, 1991), p. 41.

population increases can lead to overcrowding in local institutions, which can expose local government officials to liability in state and federal courts.[44]

Role of the Courts. Federal and state court involvement in jail finance and administration has been realized most directly through a large body of case law that has established minimum standards pertaining to conditions of confinement.[45] Such involvement has evolved in response to inmate suits alleging unconstitutional conditions of confinement in jails, most often due to facility overcrowding. Inmates have initiated jail suits primarily by invoking constitutional protections against cruel and unusual punishment in the case of sentenced offenders, and on the basis of the due process clause of the U.S. Constitution, which the courts have held to protect criminal defendants from punishment without due process of law.[46] Where the federal courts have invoked their authority to remedy jail conditions that have been found to be unconstitutional, equitable remedies have been available. Such remedies have ranged from the issuance of judicial orders for local governments to undertake jail renovations and changes in staffing patterns, through the release of prisoners from overcrowded jails, to orders closing unsafe and unsanitary facilities.[47]

A second, perhaps less direct manner in which state and federal courts impact upon jail finance and administration pertains to the establishment of timelines and other procedures pertaining to the processing of criminal cases from arrest through adjudication. Thus, through the establishment of rules of criminal procedure, the judiciary in unified state systems[48] can endorse or mandate the implementation of mechanisms such as pretrial services programs and notices-to-appear that can expedite the pretrial release of low-risk criminal defendants. In addition, by specifying time frames and procedures governing the conduct of criminal proceedings, state judicial branches can expedite disposition of those cases in which the criminal defendant fails to secure pretrial release. Finally, the federal

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[44]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 149-150.

[45]United States Department of Justice, National Institute of Justice, American Prisons and Jails, Volume III: Conditions and Costs of Confinement, (Washington, D.C.; 1980), Chapter 1.

[46]See Stewart, C., "Releasing Inmates From State and County Correctional Institutions: The Propriety of Federal Court Release Orders", 64 Texas Law Review (1986), pp. 1165-1207. Under its landmark ruling in Bell v. Wolfish (441 U.S. 520, 1979), the U.S. Supreme Court held that if pretrial detention - or a condition of such detention - is reasonably related to a legitimate, non-punitive governmental objective, it does not amount to punishment. Specifically cited as "legitimate, non-punitive objectives" were the government's interest in insuring a defendant's appearance at trial, and providing for the effective management of a detention facility.

[47]For example, see Mitchell v. Untreiner 421 F.Supp.886 (1976).

[48]Unified state court systems encompass a series of features patterned after a reform program originally articulated by the jurist Roscoe Pound in the early 1900's. One of the key provisions of the reform model called for assigning the state supreme court the authority to establish uniform rules of practice and procedure that would be statewide in effect. As of the late 1970's nearly two-thirds of the states had adopted this reform. See Berkson, L., and Carbon, S., Court Unification: History, Politics and Implementation, (Washington, D.C.: United States Department of Justice, Law Enforcement Assistance Administration; 1978), pp. 9-11.

courts in recent years have passed judgement upon the time limits that must be met by local jurisdictions in conducting probable cause hearings in cases in which a defendant has been detained in a local jail. As with the promulgation of rules of procedure by state courts, such federal court action can impact upon lengths of stay - and thus the size of local jail populations - by either extending or compressing time frames pertaining to the scheduling of pretrial proceedings.[49]

Intergovernmental Influences Over the Size of Local Jail Populations

Beyond the influence exerted by state legislatures, executive branch agencies, and the federal and state courts, the manner in which state statutes and rules of criminal procedure are applied within the criminal justice sub-systems that operate at the local level ultimately determine the size of local jail populations through the influence they exert over jail admissions and lengths of stay.[50] In this scheme, the factors influencing the size and composition of local jail populations are viewed as going well beyond the rate, incidence, and seriousness of crime committed in local communities to include the policies and practices of state and local law enforcement agencies, prosecutors, defense counsel, as well as the judiciary and its administrative support agencies. For example, law enforcement agencies generally dominate the initial decision to arrest and book persons into jail through the discretion exercised by responding officers,[51] while the case processing strategies of prosecution and defense counsel significantly affect the length of time defendants remain detained pending disposition of the case. Ultimately however, it is the pretrial release and sentencing decisions of the courts that have the most direct effects on the length of stay of those persons admitted to jail.[52]

In acknowledging that a variety of state and local agencies operating within individual jurisdictions play a major role in determining the size of local jail populations, the propensity for these agencies to operate in a fragmented and disjointed manner, and without the benefit of having a single agency responsible for the management and operation of the local criminal justice system also has long been recognized.[53] While traceable to the

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[49]For example, see Gerstein v. Pugh, 420 U.S. 103 (1975), and Riverside v. Mclaughlin, et. al (1991 WL 73836 U.S.).

[50]For a comprehensive descriptive treatment of the influence various local criminal justice agencies exert on the size of local jail populations, see Hall, A. Alleviating Jail Crowding: A Systems Perspective, (Washington D.C.: United States Department of Justice, National Institute of Justice; November, 1985).

[51]Bolduc, A. "Jail Overcrowding", 478 Annals of the American Academy of Political and Social Sciences (1985), pp. 47-57.

[52]The literature focusing upon how policies and procedures adhered to by criminal justice system entities operating at the local level impact upon the size and composition of jail populations is voluminous. For a more detailed discussion of this issue, see pp. 35-37.

[53]United States Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, (Washington, D.C.; 1971), pp.5-6, 13-14; Also see Correctional Services Group, Inc., Confinement Facilities Plan for Broward County, Florida, (St. Louis, Missouri; 1988), pp. 1-3 (Summary).

adversarial roles assumed by different entities in dispensing justice in individual cases, and to the fragmentation of responsibilities among multiple agencies that represent different levels and branches of government, this lack of an effective coordinating agency has left the many entities that impact upon local jail populations free to pursue policies and procedures that are at cross-purposes with the county's interest in making the most effective use of scarce and expensive jail space.[54] This tendency is exacerbated by the structure of incentives that exist in this area. Thus, insofar as many of the entities that impact upon jail bookings and lengths of stay bear no responsibility for financing jail construction and operations, they do not have any financial incentives to adopt policies and procedures that economize the use of available jail space. Finally, since many of these entities are independent of county government, counties often are ill-equipped to compel the implementation of policies and procedures designed to control the growth in local jail populations in a manner consistent with both public safety and county abilities to fund jail construction and operation. In the absence of cooperation among the various agencies impacting upon jail admissions and lengths of stay within individual jurisdictions, county governments often have become subject to litigation stemming from overcrowded facilities, and have been put in the position of having to fund levels of jail construction and operation that they can ill-afford.

Emerging Issues: Federal and State Aid to Local Detentions and Corrections

Perhaps in response to the growing recognition of the numerous ways in which federal and state government entities can impact upon the construction and operation of jails, intergovernmental financial assistance to local governments in the area of detentions and corrections has become increasingly important in recent years. While the federal role in financing jail construction and service delivery was limited to the 14 year life span of the Law Enforcement Assistance Administration,[55] federal funds continue to flow in the form of U.S. Marshal Service-administered reimbursements to local jails for federal prisoners held in such facilities. In contrast, state subsidies for local correctional facilities - while a relatively recent phenomena - represent one of the most rapidly growing areas of state intergovernmental assistance.[56] However, insofar as existing studies have focussed upon state subsidies for local facilities and services targeted at offender populations, it is difficult

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[54]Many observers of local criminal justice systems have noted that while adversarial roles must of necessity be assumed by law enforcement, defense, prosecution, and the courts in processing individual cases, a more cooperative and coordinated approach would be advisable in decisions pertaining to the management of the criminal justice system in general, and local jail space in particular. See United States Advisory Commission on Intergovernmental Relations, State Local Relations, Chapter 1, generally.

[55]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 152-155.

[56] National Conference of State Legislatures, State Aid to Local Governments for Corrections Programs, (Denver, Colorado; 1989), p. 1.

to define precisely the extent to which local jails that serve to house pretrial defendants have benefitted from this expansion.[57]

Recent trends in the use of state subsidies for local adult detentions and corrections services are summarized in Table I-4. As noted, subsidy programs could be found in only a handful of states as recently as the mid-1960's, and the experience of these dated only to the 1940's and 1950's.[58] By 1976, 13 states representing a variety of regions and urban-rural circumstances offered subsidies in this area. While the Council of State Governments' study documenting this increase focused on programs designed to provide services to juvenile and adult offenders at the local level, programs were identified in the states of California, Colorado, and Virginia that channeled state assistance to jails that performed both pretrial detention and post-sentence correctional functions. The purposes of these programs ranged from the rather limited one of reimbursing counties for the per diem costs of incarcerating state parole violators in local facilities (California & Georgia), through funding of a work release program at the Denver, Colorado, County Jail, to a comprehensive program designed to underwrite the costs of detaining persons charged with or convicted of state offenses in Virginia's county jails.[59] The study also noted that relatively few subsidy programs were intended to offset current county expenditures made in support of corrections services or facilities, such as expenses incurred at the local level in order to meet state jail standards. Instead, state intergovernmental assistance programs were designed primarily to promote the delivery of additional programmatic services to offender populations.[60]

According to a follow up study in this area, state subsidy programs for local corrections had increased in scope and magnitude by the early 1980's, especially those that were targeted at facility construction and renovation (see Table I-4).[61] Included among the initiatives aimed at subsidizing local jail expenditures were programs in 7 states that were specifically targeted at the construction and renovation of local jails, and programs in 2 other states that provided per diem reimbursements to local governments to offset the costs of housing state prisoners in local jails.[62] The movement towards state assistance to local governments in the corrections area continued through the 1980's at an accelerated pace,

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[57]Id.; Council of State Governments, State Subsidies to Local Corrections: A Summary of Programs, (Lexington, Kentucky; 1977), pp. 1-5.

[58]According to the Council of State Governments, these states included California, Michigan, New York, Pennsylvania, and Virginia. See Council of State Governments, State Subsidies, p. 2.

[59]Council of State Governments, State Subsidies, pp. 16-18, 51-52.

[60]Id., pp. 22-23.

[61]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 105-106.

[62]Id., p. 14

Table I-4
Growth in State Subsidies to Local Government
For Adult Detentions and Corrections Facilities and Programs[1]

Funding Purpose	Number of States With Subsidy Programs Pre-1960	1976	1982	1988
Correctional Institutions[2] and Services for Offender Population	--	12	9	13
Reimbursement of Counties for Housing State Prisoners in Local Facilities	--	2	2	15
Fund Jail Construction and Operating Costs	--	3	9	7
Jailer Training	--	--	--	5
Unclassified	4	--	--	10
Total Number of States With Subsidy Programs	4	13	17	31

[1]Excludes subsidy programs targeted exclusively at juvenile detainees and offenders.
[2]Excludes facilities used solely to detain persons awaiting trial.

Source: Data compiled by the ACIR on the basis of information contained in the following reports: National Conference of State Legislators, State Aid to Local Governments for Corrections Programs, (Denver, Colorado; 1989); United States Advisory Council on Intergovernmental Relations, Jails: Intergovernmental Dimensions of a Local Problem (Washington, D.C.; 1984) pp. 105-106; Council of State Governments, State Subsidies to Local Corrections: A Summary of Programs, (Lexington, Kentucky; 1977).

with state reimbursement programs being the most common form of aid.[63] By the close of the decade, the National Conference of State Legislatures reported that the number of states in which local governments play an important role in the delivery of detentions and corrections services and in which no state aid was provided had decreased to thirteen.

While promising, recent trends in the provision of state assistance to local governments in the area of detentions and corrections have certain limitations. First, and foremost, a significant number of states continue to provide no financial assistance specifically earmarked for local detentions and corrections, despite the exercise of significant responsibilities in this area by local governments. Second, among those states that do provide assistance, many forms of state aid have not been designed to offset existing

[63]National Conference of State Legislatures, State Aid, p. 2

levels of local expenditures on jail facilities and operations; rather it has been intended to encourage local governments to provide a variety of new corrections services to offender populations.[64] Finally, while the most common state subsidy programs seek to offset local costs associated with housing state prisoners in local facilities, little evidence exists to indicate that state aid has been structured in a manner to assist local governments in coping with other dimensions of state influence over the size of local jail populations and the conditions of confinement within these institutions. Given the multiple ways in which the policies and procedures of state entities impact upon jail construction and operation, the continued practice of holding counties financially responsible for aspects of jail construction and operations that are significantly impacted by the policies and procedures adhered to by independent state entities raises serious questions relative to the equity, efficiency, effectiveness, and accountability of intergovernmental relations in this area.

SUMMARY: POLICY IMPLICATIONS

When taken together, the basic functions discharged by American local jails, the diversity in their size and composition, and the intergovernmental influences impacting upon their finance and operation have contributed to an enduring sense of institutional crisis that has been present throughout most of our nation's history. From a functional standpoint, the intake, pretrial detention, and corrections functions result in a tremendous diversity of inmates within local jails. This diversity - and the rapid turnover of substantial percentages of jail inmates - creates problems of classification and inmate management for jail administrators, and places limitations upon the effective delivery of services to local jail populations. Moreover, the fragmentation of authority in such areas as arrest, pretrial release, and criminal sentencing among various state and local entities that bear no operational or financial responsibility for the jail has limited the ability of jail administrators to effectively manage the size and composition of local jail populations. Historically, these limitations gave rise to what have often been cited as "subhuman" conditions of confinement that stem from overcrowded and underfunded jail facilities. Finally, from a purely institutional vantage, the number and diversity of local jails have long been recognized as stymieing the efforts of state officials to achieve comprehensive reforms that would address problematic conditions of confinement in local jails.

A growing awareness of how various functional, institutional, and intergovernmental forces impact upon the operation of local jails also has raised concerns regarding whether the local governments that have been assigned functional and financial responsibilities in this area are sufficiently equipped to discharge these responsibilities in an effective and efficient manner. In addition, the more recent developments of mandatory state jail standards and the oversight of local jails by the federal and state courts - while contributing to effective reform in a number of instances - have raised issues related to equity and accountability insofar as these reforms in many cases have been financed by local governments. It is to a more in-depth discussion of the crises conditions that have historically characterized the American jail, and the functional, institutional, and

[64]Council of State Governments, State Subsidies, p. 22-23.

intergovernmental forces that have given rise to the concerns of efficiency, effectiveness, equity, and accountability, to which attention is next directed.

CHAPTER II
INTERGOVERNMENTAL RELATIONS AND THE AMERICAN JAIL IN CRISIS

INTRODUCTION

Observers often have noted that crisis conditions traditionally have characterized the American jail. One prominent student of the American jail in the 1940's noted that these facilities often are:

> "...{c}onfronted by dir[illegible] iminate mingling of sexes, the presence of children, clea[illegible] ians are fattening on what they have saved in feeding p[illegible] Kangaroo Court", miserable plumbing, and an overwheln[illegible] ect..."[1]

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Despite the observed tend[illegible] nditions of confinement to persist in American jails through [illegible] reform movements, more recent intervention by the federa[illegible] development of state regulatory programs have resulted in r[illegible] twithstanding these achievements however, local jails in the 19[illegible] crisis as a result of overcrowding. While citizen concerns relativ[illegible] ubt played a part in contributing to the jail population increase[illegible] he failure to effectively manage the intergovernmental forces in[illegible] s and lengths of stay also played an important role in this matte[illegible]

JAILS AS THE "CLOACA[illegible]GION" OF AMERICAN CORRECTIONS[2]

Virtually all of the academic and professional literature addressing the historical development of local jails has cited a variety of problematic conditions, and has variously suggested that "... public outrage and official condemnation have been as much a part of American jails as locks, grills, and stocks..."[3], and that these institutions are characterized by the worst living and working conditions in the criminal justice system.[4] Most often cited as problematic were those conditions pertaining to antiquated physical structures that were

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[1]Robinson, L., "The Perennial Jail Problem", 35 Journal of Criminal Law and Criminology (March-April, 1945), p. 369.

[2]The description of local jails as the "cloacal region of American corrections" is attributable to Hans Mattick and Alexander Aikman. See Mattick, H. W., and Aikman, A. B., "The Cloacal Region of American Corrections", 381 Annals of the American Academy of Political and Social Sciences,(1969) pp.109-118.

[3]Wayson, B. L., et. al, Local Jails, (Lexington, Massachusetts: Lexington; 1978), p. 4.

[4]Smith, B. A., "An Historical View of the Multiple Roles of Jails, The Mclean County Jail Between the World Wars", in Kalinich, D. B., and Klofas, J., (eds.) Sneaking Inmates Down the Alley, Problems and Prospects in Jail Management, (Springfield, Illinois: Charles C. Thomas; 1986), pp. 7-22.

unsafe and lacking in proper plumbing, ventilation, and sanitation; the commingling of the guilty and the innocent, the young and the old, and the insane; prisoner idleness and neglect; and haphazard administration and a lack of trained personnel.[5] Moreover, the literature makes clear that such conditions were the rule rather than the exception within American jails through the late 1960's.

The persistence of problematic conditions of confinement within local jails through much of our nation's history occurred despite a series of movements that introduced far-reaching reforms within other types of correctional facilities. This tendency for correctional reforms to by-pass the nation's local jails was observed as early as 1831 when the emergent Auburn and Philadelphia models introduced the concept of the "penitentiary" into American corrections.[6] During the 8th annual International Prison Conference held in the 1870's, it was noted that a "startling inconsistency" existed between the progressive penal reforms that had recently emerged and the persistent conditions that were found within local jails. As part of this conference, foreign delegates conducted inspections of several facilities and found that unsanitary conditions, idleness, corruption, and long periods of pretrial detention characterized local jails.[7]

Similar observations were made again in the first decade of the 20th century, when a series of reformers - in commenting upon the conditions of neglect, indifference, inhumanity, and filth characterizing local jails - noted that many of the same conditions had been observed to exist in the nation's local jails at various times during the 1800's.[8] In the 1930's, the work of the Wikersham Commission culminated in a report that characterized local jails as "..dirty, unhealthy, unsanitary, and ill-fitted to produce either a stabilizing or beneficial effect on inmates...", and concluded that the American jail was the "...most notorious correctional institution in the world...". Similar concerns grew out of the work of the U.S. Attorney General's Conference of Crime, which also culminated its work during the 1930's.[9]

Throughout the 1950's and 1960's, it was made clear that conditions had not changed substantially in many local jails. Thus, the American Correctional Association in 1959 noted

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[5]The official literature describing conditions of confinement within local jails from an historical perspective is voluminous. A sample of official United States government reports addressing this issue would include the Wikersham report (1933); the Report of the Attorney General's Conference on Crime (1934); and the President's Commission on Law Enforcement and the Administration of Justice (1967).

[6]Wayson, et. al. Local Jails, pp. 3-4.

[7]Id.

[8]Mattick, H., "Cloacal Region", p 110.

[9]Wayson, et.al., Local Jails, Chapter 1, generally.

that "... the average jail is characterized by poor administration, poor sanitation standards, idleness, little if any attention to screening and segregation of prisoners, low medical standards, and untrained, disinterested personnel".[10] In 1967, the President's Commission on Law Enforcement and the Administration of Justice reflected upon the relatively unchanging plight of local jails by noting not only the excessive age of existing facilities, but also the failure of many of these to meet even minimum standards of sanitation, living space, and segregation of different ages and types of offenders that had been achieved elsewhere in corrections in recent decades.[11] Finally, in 1974, the National Advisory Committee on Criminal Justice Standards and Goals noted that local jails were "outmoded and archaic", lacked "the most basic comfort", were "totally inadequate for any programs encouraging socialization", and concluded that jails "perpetuate a destructive rather than a reintegrative process".[12]

FACTORS CONTRIBUTING TO JAIL CRISES

The problematic conditions of confinement that traditionally have characterized the nation's local jails generally are viewed as symptomatic of a series of deeper problems that characterize the finance and administration of such facilities. Among the factors most often cited in this regard are several that are traceable to the functions performed by these facilities. Included among these are the large number and small size of many jails, their changing and heterogenous populations, and the emphasis placed upon detention and incarceration rather than rehabilitation. Beyond these functional considerations, observers have also pointed to a series of intergovernmental features, including the assignment of financial and functional responsibility for jails to the local government level, the long-standing autonomy of jails from state and federal regulators, and the traditional lack of emphasis placed upon screening out those persons who do not belong in jail.

Functional Issues

According to some observers, the sheer number and diversity of local jails has overwhelmed reformers attempting to improve conditions of confinement within these institutions.[13] On the one hand, the large number of jails and their geographic dispersion places obstacles in the way of introducing reforms within these institutions on a widespread basis. On the other, since jails differ substantially from one another in terms of their size, the composition of their populations, and their urban-rural setting, actual reforms as well as strategies for achieving these that may be appropriate for one jail may not be appropriate to another. In these ways, the large number and diversity of local jails in

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[10]See Richmond, M. S., "The Jail Blight", 11 Crime and Delinquency (April, 1965), p. 133.

[11]U. S. Presidents Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society, (Washington, D.C. 1967), p. 175.

[12]See Wayson, B. L., Local Jails, p. 5.

[13]Id., p. 6.

America can be viewed as hampering not only the development of jail reforms, but the widespread adoption and implementation of these as well.

The rapid turnover and heterogeneity of local jail populations also has been cited as contributing to the traditionally slow pace of reforms in this area.[14] Thus, the relatively short lengths of stay of many jail inmates places limitations upon the ability of administration to effectively classify prisoners on the basis of such factors as dangerousness and special service or treatment needs. In the absence of such a classification scheme, the frequently cited problem of commingling inmates with diverse backgrounds, behavioral tendencies, and treatment needs becomes inevitable. Rapid turnover and prisoner diversity also place obstacles in the way of providing effective treatment and programing, thereby contributing to idleness and lack of rehabilitation.[15]

The prevalence of an ethos in favor of detention and incarceration as opposed to rehabilitation[16] generally is viewed as contributing to the problems characterizing local jails in two ways. First, it fosters the practice of letting inmates sit idle, which in turn has implications for inmate security and self-improvement. Second, it has limited the development of alternatives to pretrial detention and local jail time as a criminal sanction. In the absence of such alternatives, jail populations increase. According to some observers, jail overcrowding often "spills over" and leads to the deterioration of other aspects of conditions of confinement within the facility.[17] Indeed, a review of scientific literature suggests that overcrowding in correctional institutions has been associated with an increased incidence of inmate violence and other disciplinary infractions, heightened rates of inmate illnesses, increased levels of inmate stress, and elevated levels of inmate mortality in general, and death due to suicide and violence in particular.[18]

Intergovernmental Issues

Turning to the intergovernmental forces contributing to the historical plight of the American jail, several observers have cited the tradition of assigning responsibility for jail finance and operation to local - usually county - governments as a source of the problems characterizing such facilities. Thus, many county governments traditionally have had only limited funds to meet the wide variety of service demands generated by state mandates and citizen preferences. When compounded with public perceptions that jails primarily service the "offenders and rejects of the community", the resource needs of these facilities often

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[14]Richmond, M. S., "The Jail Blight", pp. 134-135.

[15]Id. pp. 133-135; Also see Pogrebin, M., "Scarce Resources and Jail Management", 26 International Journal of Offender Therapy and Comparative Criminology (1982), pp. 263-274.

[16]Mattick and Aikman, "Cloacal Region", p. 111; Richmond, "Jail Blight", p. 132.

[17]Mattick and Aikman, "Cloacal Region", p. 110; Richmond, "Jail Blight", pp. 138-139.

[18]Thornberry, T.P., and Call, J.E., "Constitutional Challenges to Prison Overcrowding: The Scientific Evidence of Harmful Effects", 35 Hastings Law Journal (November, 1983): pp. 319 - 351.

have been placed at the bottom of the list of local priorities.[19] The use of patronage in local government political affairs has also been cited as contributing to problematic jail conditions insofar as it served to impede the spread of professionalization in jail staffing and administration.[20] Indeed, as Table II-1 relates, problems associated with poor jail staffing continued to be a key concern of jail administrators as recently as the early 1980's.[21]

A second intergovernmental factor that played a role in maintaining problematic conditions of confinement within local jails was the traditional independence of jails from state and federal authorities. Thus, prior to the 1970's the federal and state courts exhibited a generalized reluctance to review the constitutionality of conditions of confinement within state and local correctional institutions.[22] Coupled with the absence of state standards, inspection, and enforcement programs, there was an absence of effective oversight of local government service delivery in the area of detentions and

Table II-1
Sheriff and Jail Administrator Perceptions of the Most Serious Problems Facing Local Jails, 1982

Problem	Seriousness Ranking	Percent of Respondents Ranking Among Top 5 Problems
Jail Personnel	1	45%
Antiquated Facilities	2	39%
Overcrowding	3	30%
Inmate Recreational Opportunities	4	26%
Funding	5	21%

Source: Derived from Kenneth E. Kerle and Francis R. Ford, The State of Our Nation's Jails, 1981 (Washington, D.C.: National Sheriffs' Association, 1982), pp. 225-232.

[19]Mattick and Aikman, "Cloacal Region", p. 109; See also Pogrebin, "Scarce Resources", p. 263, ff.

[20]For an early discussion of the traditional lack of professionalization among jail staff, see Matick and Aikman, "Cloacal Region", pp. 111-113. Also, see Richmond, "Jail Blight", p. 134, and Smith, "Historical View", generally.

[21]Kerle, K. E., and Ford, F. R., The State of Our Nation's Jails, 1982 (Washington, D.C.: National Sheriffs' Association, 1982), pp. 225-232.

[22]Embert, P.S., "Correctional Law and Jails: Evolution and Implications for Jail and Lockup Administrators and Supervisors", in Kalinich D.B., and Klofas, Jr., Sneaking Inmates Down the Alley: Problems and Prospects for Jail Management, (Springfield, Illinois: Charles C. Thomas; 1986), pp.66-67.

corrections through early 1960's.[23] When combined with local revenue constraints and the absence of an effective constituency at the local level to support improved conditions within the jail, this absence of intervention by federal and state entities contributed to the generalized insulation of local jails from the numerous waves of reform that periodically have swept other correctional institutions since the late 18th century.

A third intergovernmental factor contributing to the crises of the American jail concerns the incentive structures implicit in the separation of financial responsibility and effective influence over the size and composition of jail populations. Thus, insofar as county governments have been assigned primary responsibility for funding jails, the numerous and diverse state and local government agencies that influence jail admissions and lengths of stay often have little incentive to treat local jail space as a scarce and expensive resource. As a result of this incentive structure, there has been relatively little emphasis placed on screening out of jail those persons who do not necessarily belong there,[24] or in assuring that other effective case management practices are in place in order to speed the processing of detainees who will not receive a sentence that involves incarceration in the local jail. The influx of low risk defendants combined with extended lengths of stay in jail among persons awaiting trial or sentencing increases population pressures on such facilities, which in turn contributes to a generalized deterioration of conditions of confinement within the jail. More recently, overcrowding has increased county government exposure to litigation filed on behalf of inmates alleging unconstitutional conditions of confinement within local jails.

INTERGOVERNMENTAL RELATIONS AND THE EVOLUTION OF CONDITIONS OF CONFINEMENT WITHIN LOCAL JAILS

Notwithstanding continued problems characterizing the conditions of confinement within local jails, a number of forces have emerged since the late 1960's that have resulted in substantial improvements in many of these facilities. By and large, these forces reflect the changing nature of intergovernmental relations in the area of local jail management that has been marked by increasingly effective oversight and regulation of conditions of confinement by the courts and state agencies. However, less progress has been made over the last 30 years in coming to terms with a separate dimension to local jail finance and management: the intergovernmental forces that influence the size and composition of local jail populations. On the one hand, the combination of increases in the rate and incidence of crime, stepped-up law enforcement, and sentencing reforms have contributed to substantial overcrowding in state correctional facilities. These population pressures, in turn, have spilled over to the local level, as manifested by the increasing number of state prisoners held in local jails. On the other hand, only incremental progress has been achieved by county governments in enlisting the cooperation of the multiple entities that influence jail admissions and lengths of stay in order to promote the use of policies,

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[23]United States Advisory Commission On Intergovernmental Relations, Jails: Intergovernmental Dimensions To a Local Problem, (Washington, D.C.; 1984), pp. 96-98.

[24]Mattick and Aikman, "Cloacal Region", p. 110; Richmond, "Jail Blight", pp. 138-139.

programs, and procedures that can help control local jail population growth in a manner consistent with public safety. Taken together, these two forces have resulted in the crisis of local jail overcrowding that continues to the present day.

The Emerging Role of the Federal Courts

The "Hands-Off" Doctrine.[25] For much of the first one hundred and fifty years of our nation's history, state and federal courts did not involve themselves significantly in detentions and corrections matters. This "hands-off" doctrine became subject to rapid change in the 1960's, as the federal courts with increasing frequency expressed a willingness to bring conditions of confinement in jails and prisons under constitutional review. This movement became so pronounced that by the early 1980's, it was estimated that approximately one-fifth of all local jails were parties to pending litigation; in 1988, 12% of the nation's local jails were under court ordered population caps.[26] Through the unprecedented increase in jail construction that it has spurred, increased judicial involvement in this area has contributed to substantial improvements in a number of aspects of local jail conditions.

The roots of the "hands off" doctrine practiced by the courts up to the 1960's are traceable to legal perspectives that were operative at the time of our nation's founding. Through the first half of the 19th century, criminals did not enjoy legal rights and were considered to be slaves of the state.[27] As such, neither accused nor convicted persons who were confined in local jails had reason to expect humane or constitutional treatment.[28] The initial seeds of change in this doctrine were sown in the post-Civil War reconstruction era, when a series of amendments to the U.S. constitution recognized former slaves as persons and expanded constitutional protections against governmental deprivation of rights to all persons. In penology, the emerging reformatory movement provided a profession-based impetus to the notion of humane treatment and rehabilitation in corrections and lead to the establishment of novel correctional institutions such as the state of New York's Elmira facility (1876). Beyond these developments, the United States Civil Rights Act of 1871 authorized the use of civil suits in cases involving the deprivation of constitutionally guaranteed rights.[29]

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[25]See the United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p. 144.

[26]United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Census of Local Jails 1988", (Washington, D.C.; February, 1990), p. 1.

[27]Embert, "Correctional Law and Jails", pp. 66-67.

[28]Id.

[29]Id.

The Emergence of Judicial Activism. Despite the laying of important legal groundwork in the mid-19th Century, the "hands-off" position of the courts remained in effect through most of the 1960's. At that time, and in response to emergent standards of professionalism within the corrections industry and concerns expressed by civil libertarians and prisoner attorneys, the courts began to scrutinize more closely the practices of state and local authorities in the detentions and corrections area.[30] A decided shift in court activism came about in the wake of the 1971 prison crisis in Attica, New York, as judicial intolerance of conditions that threatened the constitutional rights of inmates was expressed with increasing frequency in the federal, and to a lesser extent, the state courts. While jail and prison litigation initially occurred most frequently in the south, by the late 1970's no region of the country had escaped the issuance of judicial orders directing corrections officials to eliminate substandard conditions of confinement that were deemed unconstitutional.[31]

Application of Constitutional Standards to Local Jails. In the numerous federal court decisions that have held conditions of confinement within correctional facilities to be unconstitutional, two separate standards have been applied.[32] For sentenced offenders, jail and prison conditions have been subject to the "Rhodes Doctrine",[33] which applies the protections against cruel and unusual punishment afforded by the 8th Amendment to the United States Constitution. For pretrial detainees, judicial reviews of jail conditions for some time have been governed by Bell v. Wolfish, which generally holds that the constitution protects criminal defendants from being deprived of liberty without due process of law. In general, Bell confirmed that under the due process clause of the U.S. Constitution, a pretrial detainee may not be punished; instead, a finding of guilt in accordance with due process of law must precede any punishment. Under Bell, if a condition or restriction of pretrial detention is reasonably related to a governmental objective such as assuring the presence of a detainee at trial or effectively managing a detention center, it does not, absent a showing of intent to punish, amount to punishment.[34]

In the course of ruling on the constitutionality of specific conditions of confinement, the courts have repeatedly cited overcrowding as the condition that exposes inmates to the most harmful physical and mental effects. In particular, the courts have cited the destructive psychological effects, the infringements on privacy and personal dignity, and the risks to the personal security and health of inmates that are associated with overcrowded

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[30]Id.

[31]United States Department of Justice, National Institute of Justice, American Prisons and Jails, Volume III: Conditions and Costs of Confinement, (Washington, D.C.; 1980), Chapter 1.

[32]Thornberry and Call, "Constitutional Challenges", pp. 315-321; Stewart, C., "Releasing Inmates From State and County Correctional Institutions: The Propriety of Federal Court Release Orders", 64 Texas Law Review (1986), pp. 1166-1169.

[33]See Rhodes v. Chapman 452 U.S. 337 (1981).

[34]Bell v. Wolfish 441 U.S., 520 (1979); See also Stewart, "Releasing Inmates", pp. 1168-1169, and Thornberry and Call "Constitutional Challenges", pp. 316-317.

conditions.[35] These judicial concerns were supported in a review of relevant scientific literature published in 1983. Among other findings, the review indicated that a number of independent research studies found that correctional facility overcrowding is associated with an increased incidence of inmate disciplinary problems and violence, inmate illness complaints, psychiatric commitments, inmate stress, and inmate mortality in general and elevated levels of inmate suicide and violent death in particular.[36]

The specific standards applied by the judiciary in determining constitutionally acceptable population levels for individual jails and prisons have varied on a case-by-case basis, which is reflective of the broader court doctrine that space standards cannot be considered in isolation from other conditions of confinement. Rather, space standards - usually defined in terms of square feet of cell space per inmate - must be viewed in the context of other factors such as the length of stay within the facility, the number of hours that inmates are confined to their cells each day, and the opportunities afforded inmates for physical exercise and recreation.[37] For example, in the Bell decision, the court held that the practice of double bunking inmates in such a way that previously established minimum standards of cell space were violated was not unconstitutional as a matter of law. Rather, such a practice would be deemed unacceptable if the resulting overcrowding was accompanied by confinement practices that caused inmates to endure "genuine deprivation and hardship" over an extended period of time.[38]

Types of Judicial Remedies. Just as the standards applied by the courts in assessing the constitutionality of conditions of confinement within local jails and prisons have varied across jurisdictions, so also have the actions taken by the courts to remedy unlawful overcrowding.[39] This variation is attributable to the broad discretion afforded federal district courts in fashioning equitable remedies in such cases,[40] and can be measured in terms of the extent to which judicial actions "intrude" upon the managerial prerogatives of corrections officials. At one extreme, judicial intervention has taken the form of the "managerial judge", whereby federal courts become intricately involved in the day-to-day management of correctional facilities.[41] At the opposite pole are less intrusive measures such as the issuance of judicial orders directing state and local government officials to formulate plans in order to address unconstitutional conditions of confinement. Such plans usually call for the construction/renovation of detentions and corrections facilities, the

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[35]National Institute of Justice, American Prisons and Jails, Chapter 1.

[36]Thornberry and Call, "Constitutional Challenges", generally.

[37]National Institute of Justice, American Prisons and Jails, Chapter 1.

[38]Bell v. Wolfish, 539-541; Also see Stewart, "Releasing Inmates", p. 1168.

[39]National Institute of Justice, American Prisons and Jails, Chapter 1.

[40]Stewart, "Releasing Inmates", p. 1169.

[41]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p 146-148.

establishment of programs designed to control the growth in jail populations, or a combination of the two.[42] While the propriety of the managerial judge model has been questioned in light of the implications it poses for the separation of powers and exercise of local discretion in the nation's federal system, less intrusive forms of judicial involvement can serve as critical catalysts in placing the issues of more adequate jail funding and administration on local government agendas.[43]

One of the more intrusive forms of intervention that have been invoked by the courts in attempting to address unconstitutional conditions of confinement stemming from overcrowded jails and prisons has been the court order directing corrections officials to limit the admission of new prisoners into, or alternately, requiring the release of inmates from such facilities. Such orders are intended to insure that court-established population capacities are maintained by state and local corrections officials, and had emerged as a managerial tool in a number of state and local jurisdictions by the mid-1980's.[44] While perhaps representing the most direct means of addressing the problem of overcrowding, such judicial directives have been questioned in light of the public safety risks that may correspond to such releases.[45] In addition, federal court orders directed at limiting admissions to state correctional facilities often result in the "backing-up" of state prisoners in local jails, thus exacerbating population pressures on these facilities.[46] Despite these problems and the mixed reviews such orders have received in the appellate courts, analysis suggests that this form of judicial intervention can be a proper and effective means of remedying overcrowded jails and prisons.[47]

Implications for Jail Conditions. Although it is difficult to quantify precisely the impact of judicial intervention on a national scale, it is evident that the courts have had a "profound impact" on local jails.[48] According to the findings of a survey conducted by the National Sheriff's Association, approximately one fifth of all local jails - and nearly one-half of all large jails - were parties to pending litigation involving allegations of unconstitutional conditions of confinement in 1982. Moreover, one-sixth of the nation's jails - and over one-third of all large jails - had become subject to one or more court orders

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[42]United States Department of Justice, National Institute of Justice, American Prisons and Jails, Chapter 1;Price, A. C., et.al., "Judicial Discretion and Jail Overcrowding", 8 Justice System Journal (1983), p. 225-226.

[43]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 146-149; See also Kerle and Ford, State of Our Nation's Jails, pp. 56-57, and Price, et. al., "Judicial Discretion," pp. 233, ff.

[44]Stewart, "Releasing Inmates", generally.

[45]Id., pp. 1181-1183.

[46]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 149-151.

[47]Stewart, "Releasing Inmates", pp. 1178 ff.

[48]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p. 149.

seeking to remedy substandard conditions at that time.[49] A second 1982 survey conducted by the United States Advisory Commission on Intergovernmental Relations and the National Association of Counties found that local jails were under court order in at least 25 states. At that time, the state of Mississippi, with 20 local jails subject to court order, experienced the greatest activity in this regard, followed by Louisiana (17) and Texas (13). More recent data suggest that the incidence of litigation increased substantially as the 1980's progressed. Thus, a recent nationwide survey of jails operating in counties with populations of 50,000 or more found that 62% of all survey respondents reported that they currently were under litigation, while nearly 25% reported that they were under court order to remedy substandard conditions.[50]

State Jail Standards and Inspection Programs

A second major change agent impacting upon conditions of confinement in local jails has been the emergence of state regulatory programs. Coming of age as recently as the 1980's,[51] these programs most often are administered by state corrections departments, and involve the promulgation and enforcement of statewide standards pertaining to the structural conditions of, and conditions of confinement within local jails. As noted in Table II-2, jail standards can address a wide range of facility features extending from cell size to visitation and library privileges. Most often, enforcement of standards is effected through regular inspections of local facilities by state officials in order to determine the extent of local compliance with statewide standards, and the application of sanctions in the event that non-compliance is found. While little systematic evaluation has been undertaken in order to determine the ultimate outcomes stemming from the implementation of these programs, anecdotal evidence suggests that they have made a valuable contribution in improving conditions of confinement within local jails since their inception in the mid-1960's. Currently, it is estimated that 33 states have adopted mandatory or voluntary state jail standards programs.[52]

Despite their widespread adoption, state jail standards and inspection programs are a relatively recent phenomena. Thus, while state mandates pertaining to the structural and operational features of local jails surfaced as early as the late 19th and early 20th centuries,[53] counties traditionally were vested with substantial discretion over such matters.[54] As conditions in local jails became subject to increasing scrutiny and criticism however,

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[49]Kerle and Ford, State of Our Nation's Jails, pp. 43-55.

[50]Charles, M. T., et al., "The State of Jails in America", Federal Probation, (June, 1992), pp. 56-62.

[51]Rosazza, T. A., and Martin, M. D., "State Standards: A Profile of Three Programs, Part III", American Jails (November/December, 1991), p. 69.

[52]Rosazza, T. A., and Martin, M. D., "State Standards Programs: State of the Art, Part I", American Jails, (May/June, 1991), pp. 40-44.

[53]Jordan, P.D., "The Close and Stinking Jail," in Frontier Law and Order, (Lincoln, Nebraska: University of Nebraska Press; 1970), pp. 140-147.

[54]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 96-97.

Table II-2
Issues Addressed By State Jail Standards Programs

Structural Issues	Population/Inmate Regulations	Inmate Rights and Privileges	Staffing Issues
Construction Materials	Juvenile Holding	Food & Medical Services	Staff-Inmate Ratios
Cell Size & Cell Occupancy Limits	Juvenile/Adult Separation	Visitation	Correctional Officer Training & Certification
Day Room Space/Size	Inmate Classification	Telephone Privileges	
Lighting		Indoor/Outdoor Recreation	
Ventilation		Library Privileges	
Temperature			
Plumbing			
Acoustics			

Source: Information compiled by the ACIR on the basis of a review of individual state jail standards programs.

states came under increasing pressure to become involved in such matters. While a number of states responded to these pressures by adopting jail standards programs by the late 1950's and early 1960's, seasoned observers have noted that early jail standards lacked specificity and objectivity, and were difficult to measure. In addition, inspection efforts aimed at assessing and enforcing compliance with standards reportedly were often ineffective or non-existent at this time.[55]

Despite this inauspicious start, the number of state's adopting jail standards programs increased substantially in the 1960's and 1970's.[56] While the impetus for this stepped up rate of adoption to a certain extent came from the successful efforts of corrections officials and employees within state and local government to professionalize the field, the principal pressure emanated from outside sources in response to the increasing frequency and visibility of jail and prison disorders, more frequent inspections by public and private agencies, and media investigations of prison and jail conditions. Perhaps most important in this regard were the actions of federal and state courts, which by this time had demonstrated an increased willingness to bring conditions of confinement under constitutional review.[57] As Table II-3 notes, recent research indicates that state jail standards and inspection programs currently exist in 33 of the 44 states in which jails are

[55]Rosazza and Martin, "State Standards Part I" p. 40.

[56]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, pp. 98-99.

[57]Id. p. 97; Rosazza and Martin, "State Standards Part I" p. 40.

TABLE II-3
State Jail Standards and Inspection Programs, 1991

STATE	STANDARDS PROGRAM	STANDARDS MANDATORY/ VOLUNTARY	STANDARDS CREATED BY LAW	ADMINISTERING ENTITY	FREQUENCY OF INSPECTIONS	SANCTIONS AVAILABLE FOR NON-COMPLIANCE
Alaska	No. Jails are operated by the state.					
Alabama	No response.					
Arizona	No					
Arkansas	Yes	Mandatory	Yes	Finance Dept.	Annual	Yes
California	Yes	Voluntary	Yes	Board of Corrections	Biannual	No
Colorado	No					
Connecticut	No. Jails are operated by the state.					
Delaware	No. Jails are operated by the state.					
Florida	Yes	Mandatory	Yes	Dept. of Corrections	Biannual	Yes
Georgia	Yes	Voluntary	Yes	Community Affairs Dept.	Varies (Program provides mostly technical assistance)	
Hawaii	No. Jails are operated by the state.					
Idaho	Yes	Voluntary	No	Sheriffs' Assn.	Annual	No
Illinois	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Indiana	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Iowa	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Kansas	Yes	Voluntary	Yes	Dept. of Corrections	Annual	No
Kentucky	Yes	Mandatory	Yes	Off. of Comm. Svs.	Biannual	Yes
Louisiana	No response.					
Maine	Yes	Mandatory	Yes	Dept. of Corrections	Every 2 yrs. (6 mo. follow-up)	Yes
Maryland	Yes	Mandatory	Yes	Commission	Annual	Yes
Massachusetts	No response.					
Michigan	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Minnesota	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Mississippi	No response.					
Missouri	No					
Montana	Yes	Voluntary	No	Sheriffs' Assn.	None	No
Nebraska	Yes	Mandatory	Yes	Jail Board	Annual	Yes
Nevada	No response.					
New Hampshire	Yes	Voluntary	No	Assn. of Counties	None	No
New Jersey	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
New Mexico	No					
New York	Yes	Mandatory	Yes	Commission	Annual	Yes
North Carolina	Yes	Mandatory	Yes	Dept. of Human Res.	Biannual	Yes
North Dakota	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Ohio	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Oklahoma	Yes	Mandatory	Yes	State Health Dept.	Annual	Yes
Oregon	Yes	Mandatory	Yes	Dept. of Corrections	Every 2-3 yrs.	No
Pennsylvania	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Rhode Island	No. Jails are operated by the state.					
South Carolina	Yes	Mandatory	Yes	(No other information available)		
South Dakota	No					
Tennessee	Yes	Mandatory	Yes	Corrections Institute	Annual	No
Texas	Yes	Mandatory	Yes	Dept. of Corrections	Annual	Yes
Utah	Yes	Voluntary	No	Sheriff's Assn.	Annual	No
Vermont	No response					
Virginia	Yes	Mandatory	No (Rules)	Board of Corrections	Every 3 yrs.	No
Washington	No					
West Virginia	Yes	Mandatory	Yes	W.Va Supreme Court	Biannual	Yes
Wisconsin	Yes	Mandatory	Yes	Probation and Parole	Annual	Yes
Wyoming	Yes	Voluntary	No	Sheriffs' Assn.	On request	No

Source: Derived from Thomas A. Rosazza and Mark D. Martin, "State Standards Programs: State of the Art," AMERICAN JAILS, (May/June, 1991) p. 41.

operated by local governments. In all but 8 of these states, compliance with statewide standards is mandatory and is assessed through an inspection process administered by state corrections or health departments. In the event violations of state jail standards are found, various sanctions are available to the state. These sanctions range from the authority to order the closure of a facility to seeking injunctive relief through the courts.[58]

In attempting to assess the extent to which state regulation has affected an improvement in local jails, analysts have offered somewhat mixed results. The United States Advisory Commission on Intergovernmental Relations observed that the existence of mandatory statewide jail standards and inspection programs had not per se lead to an upgrading of conditions of confinement in these facilities. While acknowledging that little systematic evaluation research had been undertaken in order to address this issue, the report nevertheless cited several anecdotal examples that suggested that the effectiveness of such programs was "suspect".[59] Although an absence of evaluation research continues to characterize this area, knowledgeable experts in the field more recently suggest that improvements in local jails have been substantial. According to Thomas Rosazza, a leading authority on the development and implementation of state standards and inspection programs, state regulation has produced better and more accountable jail management at the local level, as well as more effective training of jail personnel.[60] Beyond this, recent descriptions of regulatory initiatives in 4 states suggest that substantial success has been achieved in bringing local facilities into compliance with the mandatory and voluntary standards that have been developed and promulgated therein.[61]

THE EMERGING CRISIS: INTERGOVERNMENTAL RELATIONS AND JAIL OVERCROWDING

Magnitude of the Problem

Notwithstanding the marked improvements in conditions of confinement attributed to regulatory intervention by the courts and jail standards and inspection programs, other aspects of the intergovernmental dynamic operating in this area have contributed to the pervasive overcrowding that has come to characterize local jails in recent years. The magnitude of the problems currently confronting the counties in this area is suggested by the most recent census of local jails conducted by the United States Department of Justice. According to the census, the nation's local jail population was 101% of the total rated capacity of these institutions in 1988, which represented a substantial increase from the rate of 85% evidenced in 1983. Moreover, the census indicated that in 1988, 12% of all jails

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[58]Rosazza and Martin, "State Standards Part I" p. 40.

[59]United States Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions, p. 103. See also Wayson, et. al., Local Jails, pp. 21, ff.

[60]ACIR staff interview with Thomas Rosazza, October 17, 1991.

[61]See Rosazza and Martin, "State Standards Part III", generally.

operated under federal or state court orders limiting their inmate populations.[62] Recent data from a national survey of jails indicate that nearly half of all officials responding to relevant survey items reported overcrowding in their facilities, while 90% reported that space inadequacies were a serious concern in their jurisdictions.[63]

Impacts of State Prison System Overcrowding on Local Jails: The "Back-Up" Problem

Chief among the intergovernmental forces contributing to local jail overcrowding in recent years has been the problem of state prisoners being held in local jails. Thus, as state correctional systems became progressively more overcrowded and subject to court-imposed population limits over the course of the 1970's and 1980's, local jails increasingly have been used to contain the "spillover" of sentenced felons resulting from delayed admissions and early release policies. According to U.S. Justice Department data, the number of state prisoners held in local jails as a result of overcrowding in other - primarily state - institutions increased from approximately 8,000 in 1979 to over 26,000 in 1989.[64] By the end of 1990, this problem had been mitigated somewhat, although the numbers of prisoners and jurisdictions involved remained quite substantial. In that year, a total of 17,574 prisoners were reported to have been housed in local jails in 22 states as a result of state prison overcrowding.[65]

In addition to being ill-equipped to handle state-sentenced felony offenders from a security and programmatic standpoint,[66] the burgeoning numbers of state prisoners have contributed to the overcrowding problem characterizing local jails. The relationship between overcrowding at the state and local levels was acknowledged early-on by researchers, who noted in 1978 that those states that were among the first to become subject to court orders to reduce state prison populations also were among those that experienced the greatest jail overcrowding.[67] In acknowledging this linkage, observers remarked upon the irony of the problem facing local governments in this area. Thus, as a result of court orders aimed at addressing overcrowding in state facilities, the nation's

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[62]U.S. Department of Justice, Bureau of Justice Statistics, "Census," p. 1.

[63]Charles, et. al. "The State of Jails," pp. 58-59.

[64]Taft, P.B., "Backed Up In Jail: County Lockups Overflow as Courts Clamp Down on State Prisoners," Corrections Magazine (July, 1979), pp. 26-27; United States Department of Justice, Bureau of Justice Statistics, "Census," p. 7; United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Prisoners in 1989," (Washington, D.C.; May, 1991), p. 5.

[65]United States Department of Justice, Bureau of Justice Statistics, Bureau of Justice Statistics Bulletin, "Prisoners in 1990," (Washington, D.C.: May, 1991), p. 5. Please note that these totals include prisoners held in jails in Vermont, where jail functions are discharged by the state government.

[66]Taft, "Backed Up," pp. 27-28.

[67]United States Department of Justice, National Institute of Justice, American Prisons and Jails, Chapter 3.

local jails soon faced intervention by the same federal courts as a result of population pressures induced by the backup of state prisoners.[68]

It is important to recognize that the unprecedented increases in state prison populations that have contributed to the backup problem are attributable to factors other than increases in the rate and incidence of crime. Chief among these factors were a series of sentencing reforms initiated by state legislatures beginning in the mid-1970's.[69] By and large, these reforms involved a fundamental shift among the states toward the enactment of "determinate" sentencing structures whereby criminal courts have been granted authority to establish fixed sentences that can be reduced only through the award of administrative credits for good behavior. While the movement towards adoption of determinate sentencing policies was motivated by a perceived need to "get tough" on certain categories of crimes and offenders, to promote "truth in sentencing", and to address sentencing disparities across different jurisdictions and geographical areas within individual states,[70] the increased use of these practices is widely viewed as having contributed to the doubling of state prison populations since the late 1970's, during which time declines were being evidenced in most categories of crime.[71] Compounded by the failure of many states to adequately meet the demand for increased prison capacity, these reforms have lead to court-imposed limits on state prison populations, and ultimately, the large-scale backup of state prisoners in local jails.

The problems associated with the increasing spillover of state prisoners into local jails have not gone unnoticed by state and local government officials. Indeed, attempts have been made to address the issue in several different forums. On the one hand, a number of legislative and executive branch study commissions have attempted to document the magnitude of the backup problem and develop solutions thereto.[72] In general, the policy initiatives that have grown out of such endeavors take one of two forms. The first is reflective of the approach taken in Tennessee, and involves state financial assistance to counties in the form of funding for jail construction and/or per diem payments in order to reimburse local governments for the costs associated with housing state prisoners.[73] The

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[68]Taft, "Backed Up in Jail," p. 26.

[69]F. Strasser, "Making Punishment Fit the Crime...and the Prison Budget," Governing, (January 1989), pp. 36-41.

[70]Id.; also see National Conference of State Legislatures, "A Legislator's Blueprint To Achieving Structured Sentencing," (Denver, Co.: National Conference of State Legislatures; 1989).

[71]Strasser, "Making Punishment Fit the Crime."

[72]See State of Tennessee, Select Oversight Committee on Corrections, State and Local Corrections: A Coordinated Strategy for Tennessee, (Nashville, Tennessee; February, 1989); State of Texas, Governor's Criminal Justice Summit, Report of the Texas Criminal Justice Summit, Governor William P. Clements, Jr., (Austin, Texas; 1989); Baiamonte, J., "Louisiana: A Case Study in Policy Adoption Strategies for Prison Overcrowding, 1984-1987" (prepared as a supporting reference document to the National Institute of Corrections-sponsored Special Issue Seminar on Policy Adoption Strategies for Prison Overcrowding; September 20-23, 1987).

[73]For a more detailed discussion of these funding initiatives, see pp. 14-17, supra.

second series of initiatives reflect yet another wave of sentencing reforms that have become embodied in "community corrections" programs and other initiatives that emphasize the use of intermediate sanctions between traditional jails and state correctional institutions. Many of these initiatives contemplate fundamental changes in the division of functional and financial responsibility between state and local governments in the corrections area,[74] and seek to provide institutional and community-based alternatives to local jails in order to handle the spillover from overcrowded state prisons. While the number of state's adopting community corrections programs increased markedly in the late 1970's and early 1980's, their success in addressing the problem of state prisoners backed up in local jails has not been assessed.

In addition to the policy initiatives undertaken by state legislatures, local officials have sought to address the problem of state prisoner back-ups through court action. According to a recent account of such activity, litigation brought by local officials against state governments seeking the removal of state prisoners from local jails has produced various results. Included among these has been the decision of a Texas court that directed the state to make per diem payments to local officials for any state-sentenced felons who are held in a local jail for more than seven days after sentencing, and a Virginia court ruling that ordered the state to remove prisoners from local facilities within 60 days.[75] While providing various forms of relief within individual jurisdictions, these initiatives as yet have failed to address the prisoner backup problem on a national scale.

State and Local Government Management of Local Jail Population Growth

In applying a "systems approach" to the study of local jail overcrowding over the last decade, a number national criminal justice system experts have argued that the manner in which criminal cases are handled from arrest through disposition plays a critical role in determining the size of local jail populations. In essence, these experts look beyond such "environmental" factors as the rate and incidence of crime and instead focus on the individual and collective actions of a wide range of state and local criminal justice system entities as key determinants of the size and composition of a jurisdiction's jail population.[76] Among the actors commonly cited in this regard are law enforcement, prosecutors, defense counsel, pretrial services program staff, jail administrators, probation and parole officers, and judges.[77] For example, discretion over the initial decision of whether to detain an alleged perpetrator of a crime is dominated by law enforcement. Given this influence, any number of law enforcement policies and procedures can be expected to influence the

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[103]National Conference of State Legislatures, State Aid to Local Governments for Corrections Programs, (Denver, Colorado; April, 1989).

[104]Orrick, K., "Community Corrections Legislation: Are Local Needs Being Served?", (Washington, D.C.: National Association of Counties; July, 1988).

[105]See for example, the description of County Criminal Justice Committees in the state of California, in United States Department of Justice, National Institute of Justice, "Jail Construction in California."

magnitude of jail bookings experienced within a given jurisdiction.[78] Some observers have suggested that increasing the number of law enforcement officers operative within a jurisdiction and enhancements in law enforcement technology can lead to increased numbers of crime clearances and arrests, and therefore, admissions to jail.[79] Even without such resource enhancements, law enforcement agencies can exert upward pressure on jail bookings by implementing aggressive arrest policies for offenses that may otherwise be overlooked. Finally, development and implementation of citation-in-lieu-of-arrest procedures by local law enforcement agencies has been cited as a critical ingredient in efforts to regulate jail population growth in individual counties.[80]

In a manner similar to law enforcement agencies, probation and parole officers influence local jail populations by exercising discretion over the use of detainers when confronted with clients who have been arrested.[81] Once the decision to arrest is made, release from detention can be expedited by timely assignment of defense counsel[82] and/or effective intervention by pretrial service agencies.[83] Jail administrators can assist in this process by assuring or otherwise facilitating access to detainees by defense counsel and pretrial services staff, and by employing jail citation procedures designed to release low-risk defendants prior to their first court appearance.[84] Finally, while the most direct influence over pretrial detention is exercised by the court, this decision is influenced significantly by the decisions of arresting officials and the prosecution relative to the charges to be lodged against the defendant and what, if any, conditions should be established for release pending trial.

In cases where the defendant fails to secure pretrial release, the prosecution and the court each exert substantial influence over the length of stay in detention. Thus, the prosecutor can work to insure timely dismissal of charges against a defendant where evidence indicates that the state's case will not hold up.[85] With respect to the court, judges

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[78]See Bolduc, A., "Jail Overcrowding," 478 Annals of the American Academy of Political and Social Science (1984), pp. 47-57; and Hall, A., Relieving Jail Overcrowding: A Systems Perspective, (Washington, D.C.; National Institute of Justice: 1985)

[79]For example, see Carter Goble Associates, Inc., Comprehensive Jail Plan Project, Manatee County, Florida Phase I Interim Report, (Columbia, South Carolina; November, 1987), pp. 10-11.

[80]See Bolduc, "Jail Overcrowding," pp. 47-52, and Hall, Systems Perspective, pp. 11-14.

[81]Cunningham, L.D., Reducing County Jail Inmate Populations: The Alachua County Experience, (Tallahassee, Fl: Florida Department of Corrections, Office of the Inspector General; 1989), pp. 43-44; Bolduc, "Jail Overcrowding," pp. 52, ff.

[82]See Bolduc, A., "Jail Overcrowding," p. 52-54, and Hall, Systems Perspective, p. 31-33.

[83]For a comprehensive description of the factors associated with effective pretrial program operations, see Hall, A., Pretrial Release Program Options, (Washington, D.C.: National Institute of Justice;1984).

[84]See Hall, A., Systems Perspective, pp. 14-17.

[85]Id., pp. 17-21.

working in conjunction with jail administrators or case monitoring staff affiliated with other agencies can work to expedite the disposition of cases in which the defendant is detained.[86] Beyond such judicial "fast-tracking", a number of practices and procedures are available to prosecution, defense, and the courts in order to decrease average lengths of stay by speeding the flow of cases through the system.[87] Finally, prosecutors, county governments, and judges can take steps to develop and utilize a range of sentencing options that do not rely upon incarceration in the local jail.[88]

Although much of the research underlying the "systems perspective" has been based upon observations made in the course of conducting case studies of individual jurisdictions, several recently published reports that employ quantitative analyses suggest that "environmental factors" such as the population of a community and its incidence of crime are not as important as "policy variables" in explaining the size of local jail populations. For example, a recent study involving national population data suggested that while rates of crime significantly impact jail bookings and lengths of stay, general population differences across jurisdictions contributed little to explaining the variation observed in these measures.[89] Beyond this, a recent study of county jail expenditures in Florida using statistical modeling procedures concluded that the policy choices exercised by law enforcement agencies in responding to criminal activity as well as the propensity of other criminal justice system actors to invoke and sustain the incarceration option at the local level were more influential in explaining levels of jail spending than was the rate of reported crime in individual jurisdictions.[90]

Managing Jail Population Growth - An Update

Despite the counsel offered by national experts, available evidence suggests that attempts on the part of state and local governments to better manage the growth in jail populations have been sporadic at best. Thus, despite anecdotal information indicating that an increasing number of counties have benefited from policies, programs, and procedures implemented by agencies that impact jail admissions and lengths of stay,[91] a number of

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[86]See Cunningham, Alachua County Experience, pp. 66-67.

[87]Id. p. 61 ff. Also see Bolduc, A., "Jail Overcrowding," and Hall, A., Systems Perspective, generally.

[88]Id.

[89]Klofas, J., "Measuring Jail Use: A Comparative Analysis of Local Corrections," 27 Journal of Research in Crime and Delinquency (1991), pp. 295-317.

[90]Florida Advisory Council on Intergovernmental Relations, "County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis, (Tallahassee, Fl.; September, 1990).

[91]Examples of jurisdictions that have benefited from the development and implementation of various initiatives designed to reduce jail overcrowding and/or control the rate of growth in the local jail population can be found in both the professional and academic literature. For example, see the numerous examples cited in Hall, Systems Perspective. Also, see the several articles that have appeared in American Jails in recent years that have focussed on policies, programs, and procedures developed in individual jurisdictions, esp. Bryan, W.J., "Jail and Courts: A Cooperative Effort," American Jails, (July/August, 1992), pp. 51-52; McMurray, H.L., and G.P.

more systematic research initiatives indicate that in many states, such initiatives appear to be the exception rather than the rule. A recent comprehensive study focussing on the problem of pretrial detention in the state of Maryland produced a number of findings suggesting that effective management of jail population growth remains in the nascent stages in that state. In this regard, the study reported that major decision makers operating at the local level tended not to view jail capacity as a scarce resource to be managed efficiently. In addition, analysis indicated that criminal case management systems operative at the local level did not compare favorably with national standards, and that a "significant portion" of the state's pretrial detention population was being held in jail as a result of slow case processing. Finally, the report found little uniformity in the use delay reduction techniques by the criminal courts, and noted that little emphasis was being placed upon the development of cooperative solutions to address local jail overcrowding.[92]

In North Carolina, a comprehensive statewide jail study issued by a gubernatorial crime commission in 1988 attributed an overcrowding crisis to growth in both the pretrial and sentenced populations of the state's local jails. In focussing upon the use of management techniques designed to control the growth in the pretrial detention population, the study indicated a number of areas in which law enforcement and court system officials had failed to systematically implement such policies and procedures as notices to appear in lieu of custodial arrest, early assignment of public counsel in cases involving indigent defendants, expedited processing of detention cases, and other techniques. Furthermore, the study attributed a strong reliance upon monetary bail as the chief obstacle to pretrial release in the state's local jail system, and noted that pretrial release practices varied widely in the state.[93] In generating these findings, the study offered a number of recommendations that advocated the development and implementation of a series of policy and managerial initiatives intended to more effectively control the growth in the local jail population.[94]

The findings of the Maryland and North Carolina studies are largely consistent with those produced by studies conducted in other states. In California, for example, county eligibility for state funds targeted for jail construction during the 1980's was tied in part to the presence of local initiatives designed to control jail population growth at the county level. Despite this incentive and the addition of approximately 30,000 local jail beds over

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Wilson, "A Cooperative Venture in Alleviating Jail Overcrowding in Durham, North Carolina," American Jails, (January/February, 1992), pp.32-38; Ward, W.T., "Multnomah County Sheriff's Office Population Release Matrix System," American Jails, (March/April, 1991), pp. 52-54; and Moore, F.T., and M.C. Ford, "A Proactive Approach to Managing Jail Population Growth and Reducing Jail Overcrowding," American Jails, (Fall, 1989), pp. 16-22.

[92]State of Maryland, Governor's Office of Justice Assistance, Pretrial Detention and Release Needs Assessment, Volume I: Alternatives for Reducing the Size of the Pretrial Detention Population, (Baltimore, Md.;October, 1991).

[93]State of North Carolina, Governor's Crime Commission, North Carolina Department of Crime Control and Public Safety, North Carolina Jails in Crisis: A Report to the Governor, (Raleigh, N.C.; September, 1988), pp. 33-44.

[94]Id.

the 1984-1990 period, extensive overcrowding continues to be present in the system. In commenting upon this situation, a National Institute of Justice report spoke to the need for more effective management of jail population growth at the local level.[95] In Ohio, a recent report issued by the Governor's Committee on Prison and Jail Overcrowding cited a need to develop and expand programs designed to reduce the number of non-violent persons admitted to custody in the state's local jails. Among the specific initiatives recommended in this regard were more widespread use of notices to appear in lieu of custodial arrest by local law enforcement agencies, the expansion of alternatives to monetary bail, and greater use of prosecution diversion programs.[96] Finally, recent studies undertaken in Pennsylvania, Tennessee, and Texas generated parallel findings to the extent that they variously suggested unmet needs for automated jail case-management systems, pretrial release and diversion programs, more widespread and uniform use of jail diversion procedures by law enforcement, and bail reform.[97] Beyond citing a need for these specific policies and procedures, the studies in each of these states found a need for the formation of multi-agency jail review and oversight committees at the county level. Such committees would be comprised of representatives of the numerous entities that influence jail admissions and lengths of stay within individual jurisdictions, and would focus their efforts on identifying factors contributing to local jail overcrowding and developing cooperative approaches in order to address these.[98]

The Role of The States

In seeking to provide for the more widespread adoption of comprehensive programs aimed at controlling the growth in local jail populations, an expanded role for the states often has been advocated. Most often, such recommendations contemplate either enabling legislation that clearly provides for local authority to move forward with the development and implementation of specific initiatives, or laws that make the adoption of specific policies, programs, and procedures mandatory at the local level.[99] Alternately, advocates of jail population management programs have cited the importance of - and in some cases the need for - state-level entities that would provide technical or financial assistance to local governments in order to facilitate the development of various initiatives.[100] Underlying

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[95]United States Department of Justice, National Institute of Justice, National Institute of Justice Construction Bulletin, "Jail Construction in California," (Washington, D.C.; August, 1990).

[96]State of Ohio, Governor's Office of Criminal Justice Assistance, Jail Overcrowding in Focus: A Snapshot of Ohio's County Jail Population, (Columbus, Ohio; June, 1989), p. 17.

[97]State of Texas, Texas Criminal Justice Summit, Texas Summit Report; State of Pennsylvania, Pennsylvania Commission on Crime and Delinquency, Prison and Jail Overcrowding Task Force, A Strategy to Alleviate Overcrowding in Pennsylvania's Prisons and Jails, (Harrisburg, Pennsylvania; February, 1985),pp.17-18; State of Tennessee, Select Oversight Committee on Corrections, State and Local Corrections, pp. 18-21, 33.

[98]Id.

[99]Id.

[100]Id. Also, see State of North Carolina, Governor's Crime Commission, Jails in Crisis, pp. 43-44.

these calls for a more active state role has been the recognition that county governments often are ill equipped to move forward in this area on their own accord. Thus, given the independent status of many of the entities that impact upon the size and composition of local jail populations, county governments lack the formal authority to compel these to adopt specific policies and procedures aimed at regulating jail admissions and lengths of stay. Moreover, efforts on the part of county governments to enlist the cooperation of other criminal justice system actors to adopt or cooperate with initiatives such as citation release procedures, bail reform, and expedited case processing often generate political conflicts with the affected entities. Such conflicts can be traced to perceptions that the initiatives at issue variously are inconsistent with the role of the adopting entity or encroach upon their authority.[101] In the case of bail reform efforts and pretrial services programs, policy interventions can be expected to counter resistance insofar as they often are perceived as threats to the viability of a significant entity in the local criminal justice arena - namely bail bondsmen.

With respect to other forms of state intervention, recommendations for provision of state technical assistance often are based on the acknowledgement that many counties lack the expertise necessary to conduct basic research in order to determine how local criminal justice system operations may be contributing to jail overcrowding, and to develop managerial interventions to address the problem. Finally, financial assistance often is viewed as necessary in order to provide start-up funds for program development and implementation. Thus, while many of the managerial interventions designed to control jail population growth and reduce overcrowding have the potential to reduce county jail costs, such savings only can be realized after the initiative has been implemented. In the case of programs that require significant resource allocations such as pretrial services programs and automated criminal justice management information systems, fiscal limitations may pose substantial barriers to program development and implementation.

While no systematic studies have been undertaken of the extent to which states have intervened in order to mandate or facilitate the adoption of specific managerial initiatives at the local level, several models can be identified. Thus, information received from the Pretrial Services Resource Center in Washington, D.C., indicates that several states have adopted legislation authorizing the adoption of pretrial services programs at the local level. Such programs generally perform background investigations on newly arrested persons, make pretrial release and detention recommendations to the court, and supervise defendants who are released to the community pending trial. As such, these programs are widely viewed as critical components of reform efforts aimed at controlling the growth in local jail populations insofar as they provide the court with critical information pertaining to the risks attendant upon the release of individual defendants and allow the court to establish conditions of release that simultaneously are reasonable and help assure public

[101]For example, sheriffs and other law enforcement officials may resist attempts to mandate increased use of citations in lieu of custodial arrest since this would encroach upon their statutory or constitutional authority to arrest and transport alleged perpetrators of crime to jail. Similarly, efforts to garner cooperation on the part of the prosecution and defense in order to expedite the processing of in-jail cases may be resisted on the grounds that reliance upon continuances and requests for discovery are necessary in order to prepare the best case possible.

safety and appearance at trial.[102] Moreover, by providing the court with an institutionalized capacity to supervise the conduct of defendants during the period of their release, pretrial services programs assist the court in monitoring compliance with conditions of release and providing notification of upcoming court proceedings to released defendants. Among the states that have adopted legislation in this area are Kentucky, Delaware, and Rhode Island, which currently have state-wide pretrial services programs, and Oregon, Illinois, and Iowa, where state law explicitly authorizes the establishment of such programs at the local level. Beyond providing for or authorizing the establishment of pretrial services programs, several states have moved to provide financial assistance to pretrial services agencies operating at the local level.[103]

In another area, a number of states have required the formation of multi-agency correctional planning or advisory committees at the local level. Generally comprised of officials representing law enforcement, prosecution, public defense, the judiciary, county government, and other entities that impact local jail populations, such committees are intended to serve several key functions. First, they provide local jurisdictions with an institutional capacity to systematically diagnose local criminal justice system operations as these impact upon the size and composition of local jail populations, and to develop cooperative approaches to resolving jail overcrowding and other local corrections problems. Second, they tend to engage in both short and long term planning in order to better enable local criminal justice system entities to meet emerging facility and programmatic needs. Most often developed as a part of state-wide community corrections programming initiatives,[104] these committees also have been explicitly created to develop alternatives to incarceration in the pretrial and sentencing stages in order to reduce population pressures on local facilities.[105]

In a separate area, a number of states have followed the lead taken by the state of Illinois and the federal government in the mid-1960's in adopting percentage bail legislation.[106] At the most general level, percentage bail allows persons accused of crimes to post a fixed percentage (usually 10%) of the face amount of a monetary bond with the court in order to obtain pretrial release. Where the defendant returns to court as required, the deposit is returned to the individual, at times less a small administrative fee. Thus structured, percentage bail systems are intended to achieve two primary objectives. First, they seek to decrease the number of persons who are detained in local jails due to their

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[102]See Hall, Pretrial Release Program Options, generally.

[103]National Conference of State Legislatures, State Aid to Local Governments for Corrections Programs, (Denver, Colorado; April, 1989).

[104]Orrick, K., "Community Corrections Legislation: Are Local Needs Being Served?", (Washington, D.C.: National Association of Counties; July, 1988).

[105]See for example, the description of County Criminal Justice Committees in the state of California, in United States Department of Justice, National Institute of Justice, "Jail Construction in California."

[106]For a detailed history of the development of percentage bail systems, see Henry, D.A., "Ten Percent Bail," (Washington, D.C.: Pretrial Services Resource Center; January, 1980), pp. 3-6.

inability to post the full bond established by the court, or to satisfy the financial requirements imposed by a bail bondsman. Secondly, percentage bail systems seek to return the pretrial release decision to the judiciary. Under the more traditional bail bonding system, decisions pertaining to the pretrial release of individual defendants in many cases are left to private bail bonding agents once a bond amount has been set by the court.[107]

According to a study published in 1980, nearly one-half of the states had adopted legislation providing for some form of percentage bail.[108] By 1988, this number had increased to 28 states and the District of Columbia, although enabling legislation in the state of Florida has the effect of tying such authorization to the repeal or expiration of specific portions of state law pertaining to independent or "professional" bail bondsmen and licensed limited surety agents who post bonds that are backed by insurance concerns.[109] In general, percentage bail systems currently in operation either require the courts to allow defendants to meet bail by posting a percentage deposit, or provide the court with the option to impose a percentage bail requirement as a condition of pretrial release. Of these two models, the "court option" alternative is more common, with 22 states and the District of Columbia providing the court with discretion in this area. According to a 1988 update, California is the only state that has repealed its percentage bail legislation.[110]

SUMMARY

Long characterized as an institution in crisis, a series of intergovernmental forces have emerged over the last 20 years that have had divergent consequences for the nation's local jails. On the one hand, increasing scrutiny of conditions of confinement by the federal courts and the widespread movement towards adoption of state standards and inspections programs have led to substantial improvements in the conditions of confinement within local jails. On the other, overcrowding in state correctional institutions and the lack of coordinated and effective management of jail admissions and lengths of stay have led to unprecedented increases in local jail populations over the course of the 1980's. These increases, in turn, have contributed to the emergence of overcrowding as the predominant problem afflicting the nation's local jails. Moreover, even the forces of positive change have not been without their downside as county governments have been forced to allocate substantial funds to upgrade conditions of confinement in the face of intervention by the federal judiciary and state regulators.

In this context, the intergovernmental dynamics that have become manifest over the last two decades raise legitimate questions relative to the extent to which local jail functions

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[107]Id., pp. 3-4, 23.

[108]Id. p. 6.

[109]Pretrial Services Resource Center, "Ten Percent Deposit Bail - 1988 Update," (Washington, D.C.; 1988). Also, see Section 73, Chapter 82-173, Laws of Florida.

[110]Id.

and finance are discharged in a manner consistent with the principles of efficiency and effectiveness, as well as with equity and accountability. Thus, the continuing situation whereby county governments have been assigned primary responsibility for financing and operating local jails without having been provided with tools necessary to regulate the behavior of those state and local agencies that influence the size and composition of local jails suggests that many of these entities are not accountable for the financial and operational implications of their actions. Furthermore, as a result of this lack of control and accountability, many of these entities remain free to adhere to policies and procedures that do not necessarily result in the efficient and effective use of available jail capacity. Finally, the large scale back-up of state prisoners at the local level raises serious questions about the extent to which the principle of equity has been realized, particularly in those states that do not reimburse local authorities for the actual costs of housing state-sentenced offenders at the local level. In this scheme, many state governments have been able to shift the costs associated with the care and custody of state prisoners to the counties, thereby enabling them to avoid incurring the large capital expenditures necessary to augment capacity within their own corrections systems.

In the following chapters, attention is directed at describing the institutional and intergovernmental dimensions to jail finance and management in the State of Florida. As will be seen, Florida's local jails have become subject to many of the same intergovernmental forces as their counterpart facilities in other states. In turn, these dynamics have placed an enormous fiscal impact upon Florida's county governments, and have exposed the counties to substantial levels of overcrowding and regulatory intervention by the courts and state executives. Finally, these forces raise the same questions concerning the extent to which the principles of equity, efficiency, and accountability have been achieved in the area of local jail finance and management in Florida as have been raised nationally.

PART 2

LOCAL JAILS IN FLORIDA: INTERGOVERNMENTAL RELATIONS AND JAIL OVERCROWDING

PART 2
LOCAL JAILS IN FLORIDA: INTERGOVERNMENTAL RELATIONS AND JAIL OVERCROWDING

CHAPTER III
INTERGOVERNMENTAL DIMENSIONS TO LOCAL JAIL FINANCE AND MANAGEMENT IN FLORIDA

FUNCTIONS, ADMINISTRATION, AND FINANCE OF LOCAL JAILS IN FLORIDA

Local Jail Functions

As is the case nationally, local jails in Florida are integral components of the state's criminal justice system. In this regard, they perform several important roles. On the one hand, local jails perform a pretrial detention function to the extent that they house criminal defendants awaiting trial. In this sense, jails perform a vital support service to the state's criminal trial courts insofar as they are used to provide secure detention for those defendants who are awaiting trial and are unable to comply with conditions of release established by the court, or who are deemed by the court to represent such a grave risk to the safety of the community that no conditions of release are adequate to protect the public. On the other hand, local jails in Florida provide correctional services insofar as they house guilty misdemeanants and felony offenders who have been sentenced to a term of imprisonment in the jail by the courts. While local jails also function as intake centers for newly arrested persons who are entering the criminal justice system and serve to confine individuals awaiting transport to other facilities and jurisdictions, data collected by the Florida Department of Corrections (DOC) since 1985 indicate that the preponderance of inmates are those who are awaiting trial or who have been sentenced to a period of incarceration to be served in the jail. DOC data also indicate that among these functions, the importance of services provided by local jail facilities in holding defendants pending final action by the courts far exceeds their correctional role. For example, the number of pretrial detainees held in Florida's local jails has accounted for well over 60% of the statewide jail population for most of the 1986-1991 period.[1]

Locus of Functional and Financial Responsibility

In a manner consistent with Anglo-American traditions and current national patterns, responsibility for the administration and finance of local jails in Florida rests at the local level. More specifically, county governments have been assigned responsibility for the finance, construction, and operation of local jails through various provisions of state law. Thus, Chapters 950 and 951, Florida Statutes, and other provisions of Florida law, when taken as a whole, have been interpreted as requiring the counties to provide for the custody

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[1]See discussion on pp. 82-96, infra.

of county prisoners.[2] Moreover, prior to its amendment by the 1982 Legislature, Section 139.09, Florida Statutes, required each county to construct both a jail and a courthouse in the county seat. Although the 1982 amendment deleted the term "jail" from s. 138.09, F.S., the state Attorney General recently has issued an opinion holding that the legislative history surrounding this amendment "clearly indicates that it was the Legislature's intent to remove only the statutory requirement that the county jail be maintained in the county seat", and that there was no evidence that the Legislature intended to eliminate county responsibilities to construct and operate local jails.[3] While municipalities clearly are authorized to establish detention facilities, the abolishment of city courts and committing magistrates that was affected by the 1973 revisions to Article V of the state constitution lead most of the state's city governments to close their jails by the late 1970's. Although many incorporated jurisdictions currently operate holding cells in order to detain newly arrested persons pending their transfer to a county jail, the city of Ft. Lauderdale is the only municipality in the state that currently operates its own jail.

While responsibility for the construction and operation of local jails in Florida clearly rests at the county level, county governments are afforded considerable flexibility in establishing administrative arrangements for the operation of these. Under current law, counties have the discretion to delegate responsibility for jail administration to the sheriff, another public official, or to a private entity.[4] Pursuant to state law, the option of entering into a contract with a private entity for the operation of the jail can only be exercised after the sheriff has been consulted and the county governing body has adopted an ordinance providing for such an arrangement through a majority vote plus one.[5] In addition to these administrative options, two or more counties can enter into an agreement providing for the establishment of a regional jail. Should this option be exercised, supervisory and managerial authority over the facility must be vested in a board consisting of one county commissioner and the sheriff from each participating county. Despite the administrative options provided under current law, the sheriff continues to operate the jail in 54 of the state's 67 counties. In 11 of the remaining 13 jurisdictions, the board of county commissioners operates the jail, while in the remaining 2 counties (Bay and Hernando), the board has contracted with a private firm to operate the facility.

Profile of the Florida Jail

As of June, 1992, Florida's 67 county governments operated 105 local jails with a combined inmate population of 36,109.[6] As is the case nationally, Florida's local jails tend

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[2]State of Florida, Office of the Attorney General, Attorney General Opinion 91-25.

[3]Id., page 3.

[4]See Sections 951.06, 951.061, and 951.062, Florida Statutes.

[5]See section 951.062, Florida Statutes.

[6] State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data Monthly Report, June 1992, (Tallahassee, Florida; June 1992).

to hold prisoners falling into a variety of different categories, including pretrial detainees held on misdemeanor charges, sentenced felons, and persons who have been picked up on immigration law violations. As noted in Tables III-1 and III-2, the bulk of Florida's local jail population consists of persons awaiting trial, who have accounted for approximately 60% of the statewide jail population in each of the last 6 years. This represents a significant departure from the national pattern, where just over 50% of the local jail population consists of pretrial detainees.[7] The importance of this "court support" function is accentuated if other persons who are awaiting processing by the courts are added to the pretrial detainee population. Thus, when inmates who are awaiting sentencing or who are held pending the disposition of technical probation and parole violations are added to the pretrial population, the percentage of local jail inmates who are awaiting court action increases to well over 70%. In contrast, only one in four jail inmates in Florida are serving a criminal sentence handed down by the courts.

Reflecting national patterns, Florida's 105 local jails vary considerably in size, and range from the 14 bed Dixie County Jail to the 2,189 bed Duval County Main Jail. According to DOC data, 7 of the state's 67 counties operated jails with rated inmate capacities of under 25 inmates in June of 1992,[8] while an additional 9 facilities legally can be used to house between 25 and 49 inmates (see Table III-3). In contrast, a half dozen counties operate one or more of Florida's eight "mega jails" housing over 1,000 inmates, and a total of 16 of the state's local jails have been designed to hold in excess of 800 inmates (see Table III-3). As further noted in Table III-3, less than 3% of Florida's local jail inmates were held in small jails (ie. facilities holding with legal capacities of under 100 inmates), while nearly one-third were held in jails designed to hold in excess of 1,000 inmates.

As related in Table III-4, the state's counties have substantially increased local jail capacities in recent years, from a total of 20,769 beds in calendar year 1986 to 36,412 in 1991. Moreover, by June of 1992, the number of beds available in Florida's local jails had increased to 39,211 as county governments continued to bring new beds on line.[9] Indeed, over the 1981-1991 period, Florida's county governments added well over 21,000 beds to the state's local jail system, as the inmate capacity of these institutions increased from approximately 13,000 to current levels. As discussed below, this ambitious capital expansion program came in response to numerous challenges filed in state and federal courts by jail inmates alleging unconstitutional conditions of confinement in jails operated by Florida's county governments. To date, a total of 48 Florida counties have been involved in litigation

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[7]See Table I-2, p. 5, supra.

[8]In Florida, the state Department of Corrections is responsible for certifying the inmate capacity of local jails.

[9]State of Florida, Department of Veteran and Community Affairs, Bureau of Criminal Justice Assistance, A Study of the Current Status of Florida's County Jails, (Tallahassee, Florida; September, 1981), pp. 21-22; State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report, 1991, (Tallahassee, Florida; April, 1991), pp. 9-11; State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data Monthly Report, June, 1992, (Tallahassee, Florida; June, 1992), pp. 4-5.

TABLE III-1
Florida County Jail Populations
by Inmate Category, 1986-1991*

	1986	1987	1988	1989	1990	1991
Sentenced Inmates						
Felony	3,181	3,664	4,129	4,529	5,114	5,926
Misdemeanor	1,910	1,986	2,291	2,562	2,851	3,141
Sub Total	5,091	5,650	6,420	7,091	7,965	9,067
Pretrial Inmantes						
Felony	11,336	13,349	15,923	18,190	17,668	17,548
Misdemeanor	1,636	1,953	2,375	2,823	2,920	3,065
Sub Total	12,972	15,302	18,298	21,013	20,588	20,613
Inmates Awaiting Sentencing						
Felony	541	620	608	649	601	440
Misdemeanor	90	98	92	110	113	57
Sub Total	631	718	700	759	714	497
Other						
Prob. Violations	1,331	1,745	2,204	2,614	2,659	2,801
Parole Violations	53	46	46	31	24	41
Baker/Meyers Act	35	49	46	39	30	30
State Inmates	363	467	434	428	517	480
Undocu. Aliens	15	7	18	50	60	50
Holds For Other Jurisdictions	533	612	807	1,022	1,069	1,187
Sub Total	2,330	2,926	3,555	4,184	4,359	4,589
TOTAL-All Inmates	21,024	24,596	28,973	33,047	33,626	34,766

*Source: ACIR calculations based on data provided by the Florida Department of Corrections, Office of the Inspector General. Totals exclude juvenil inmates classified as "Minors Beyond Staff Control (HRS)".

TABLE III-2
Percent of Florida County Jail Populations
by Inmate Category, 1986-1991*

	1986	1987	1988	1989	1990	1991
Sentenced Inmates						
Felony	15.1%	14.9%	14.3%	13.7%	15.2%	17.1%
Misdemeanor	9.1	8.1	7.9	7.8	8.5	9.0
Sub Total	24.2	23.0	22.2	21.5	23.7	26.1
Pretrial Inmantes						
Felony	53.9%	54.3%	55.0%	55.0%	52.5%	50.5%
Misdemeanor	7.8	7.9	8.2	8.5	8.7	8.8
Sub Total	61.7	62.2	63.2	63.6	61.2	59.3
Inmates Awaiting Sentencing						
Felony	2.6%	2.5%	2.1%	2.0%	1.8%	1.3%
Misdemeanor	.4	.4	.3	.3	.3	.1
Sub Total	3.0	2.9	2.4	2.3	2.1	1.4
Other						
Prob. Violations	6.3%	7.1%	7.6%	7.9%	7.9%	8.1%
Parole Violations	.3	.2	.2	.1	.1	.1
Baker/Meyers Act	.2	.2	.2	.2	.1	.1
State Inmates	1.7	1.9	1.5	1.3	1.5	1.4
Undocu. Aliens	.1	.1	.1	.2	.2	.1
Holds For Other Jurisdictions	2.5	2.5	2.8	3.1	3.2	3.4
Sub Total	11.1	11.9	12.3	12.7	13.0	13.2
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

*Source: ACIR calculations based on data provided by the Florida Department of Corrections, Office of the Inspector General. Totals exclude juvenile inmates classified as "Minors Beyond Staff Control (HRS)".
Totals and Subtotals may not add up due to rounding.

TABLE III-3
Local Jails in Florida:
Facility Capacities and Inmate Populations, June 1992

Facility Capacity*	Number of Jails	Number of Inmates	% of Total Inmates
1 - 24	7	102	<0.5%
25 - 49	9	248	0.7%
50 - 99	8	508	1.4%
100 - 299	39	5,710	15.8%
300 - 499	14	4,385	12.2%
500 - 799	12	6,827	18.9%
800 - 999	8	6,563	18.2%
1,000 or more	8	11,676	32.4%
Total:	105	36,019	100%

Source: ACIR calculations made on the basis of contained in Florida Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data Monthly Report, June, 1992, (Tallahassee, Florida; July, 1992)

Note: Facility capacity based on number of jail beds certified by the Florida Department of Corrections, Office of the Inspector General.

TABLE III-4
Local Jail Capacity and
Average Daily Population in Florida,
1986 - 1991

Year	Statewide Jail Capacity*	Average Daily Population
1986	20,769	21,036
1987	22,232	24,602
1988	26,989	28,977
1989	30,676	33,050
1990	33,413	33,628
1991	36,412	34,766

Source: Jail population data provided by Florida Department of Corrections, Office of the Inspector General.

Note: *Jail capacity based on number of jail beds certified by the Florida Department of Corrections, Office of the Inspector General

initiated by DOC in the state courts, and nearly a third have been parties to litigation filed in the Federal courts.[10] While the plaintiffs filing these suits have cited a number of conditions of confinement as problematic, the most frequent charge has related to overcrowded facilities. In either instance, the corrective actions most often required of the counties have involved extensive renovation of existing facilities, temporary additions of new jail beds, or the construction of new facilities.[11]

In parallel with the growth evidenced in facility capacity, the population of the state's local jails also has increased significantly in recent years. Thus, the number of inmates confined at the local level grew from just over 21,000 in 1986 to nearly 35,000 in 1991, an increase of 65%, with increases in the number of persons held pending trial accounting for more than half of this increase (see Table III-1, p. 47). As noted in Table III-1, the greatest growth evidenced during this period occurred during the 1986-1989 period, when county jail populations on average increased by over 60%, largely as a result of substantial increases in the number of pretrial detainees and probation violators held at the local level. In addition to the growth evidenced in these population components, the number of sentenced offenders and prisoners held for other jurisdictions also evidenced significant increases over the 1986-1991 interim.

Fiscal Impact of Local Jails

Reflecting the unprecedented expansion of local jail capacities and populations in recent years, the fiscal impact placed upon the state's counties by their responsibility to fund jail construction and operations is substantial, and more than doubled over the latter half of the 1980's.[12] As Chart III-1 indicates, Florida counties reported spending approximately $565 million on the construction, operation, and maintenance of local jails in fiscal year 1988-1989, which represented an increase of 25% over 1987-1988 expenditure levels, and a 110% increase over the level of expenditures evidenced in fiscal year 1983-1984. Furthermore, growth in local jail spending substantially outstripped increases in county populations and total county spending over the 1984-1989 period. As a result, per capita jail expenditures grew from approximately $20 per county resident in 1984 to $37 per capita in 1989 (see Chart III-1). Moreover, jail spending as a proportion of total county expenditures increased from 6% in fiscal year 1983-1984 to approximately 10% in fiscal year 1988-1989 (see Chart III-2).

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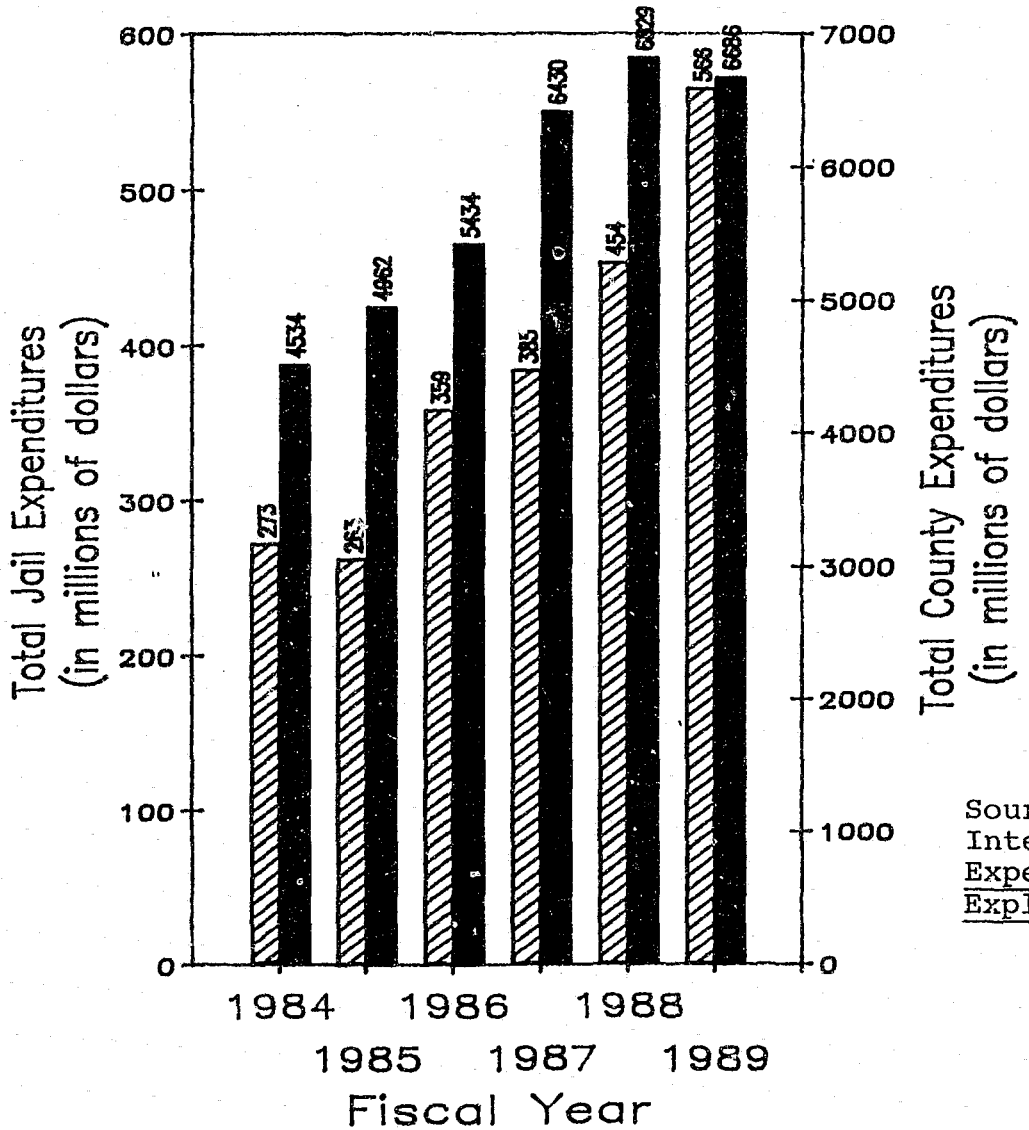
[10]State of Florida, Department of Corrections, Office of the Inspector General, Bureau of Jail Inspections, State Lawsuits, (Tallahassee, Florida; September, 1992); State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report, 1991, (Tallahassee, Florida; April, 1992), pp. 25-26; State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report, 1988, (Tallahassee, Florida; April, 1989), pp. 55-56.

[11]State of Florida, Department of Corrections, Office of the Inspector General, Annual Report, 1988, pp. 53-54.

[12]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis, (Tallahassee, Florida; September, 1990), pp. 14-29.

Chart III-2

Growth In County Jail Expenditures Versus Total County Expenditures FY 1984 - 1989



Source: Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis (September, 1990).

Notwithstanding the considerable general purpose state assistance county governments receive, Florida as recently as 1989 was cited as one of relatively few states where local governments bear considerable functional responsibility in the detentions and corrections area but in which state government did not provide any corrections aid to local governments.[13] For this reason, Florida's county governments by and large have been forced to meet their financial obligations relative to local jails from county ad valorem and other general revenue sources. While the state in the recent past has taken steps to make certain special tax sources available to the counties in order to assist them in this area, revenues generated from such sources traditionally have been restricted to offsetting the capital costs of jail construction. Included among these sources was a 1 cent Criminal Justice Facilities Tax, which was authorized for the 12 month period extending from January through December 1985,[14] and the 1987 Local Government Infrastructure Surtax, which can be levied at the rate of either one half or a full cent for up to 15 years.[15] While representing needed additions to the criminal justice-related revenue base of participating counties, the prohibition against using revenues generated by these sources for operating expenses of local jails has forced county governments to fund the greatest portion of jail expenses out of general revenue sources. Thus, data indicate that over the 1984-1989 period, jail operating costs accounted for nearly 80% of total annual county jail expenditures.[16] Although the state legislature in 1992 took steps to authorize small population counties to use the proceeds from the infrastructure surtax to meet jail operating costs, this option was not extended to other Florida counties.[17]

While data suggest that the impact placed upon county ad valorem revenues by local jail spending has been substantial, it is also clear that many of the state's county governments have been able to absorb increasing costs through increases in assessed valuation and millage rates. As indicated by the shaded bars in Chart III-3, jail spending on average accounted for approximately 21% of county ad valorem revenue in fiscal year 1989, which represented a relatively small increase over the percentage evidenced in fiscal 1984.[18] The primary exception to this pattern of stability was found in the state's small

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[13]See discussion on pp. 14-17, supra. Although Florida has enacted and funded a community corrections program that provides for state funds to be used for local correctional programs since the publication of the NCSL study, such funds may not be used to meet county jail expenses other than those associated with the "enhancement of programs" offered within the jail. (See Section 4, Chapter 91-225, Laws of Florida).

[14]Chapter 83-355, Laws of Florida.

[15]Chapter 87-239, Laws of Florida, as codified in Section 212.055(2), Florida Statutes.

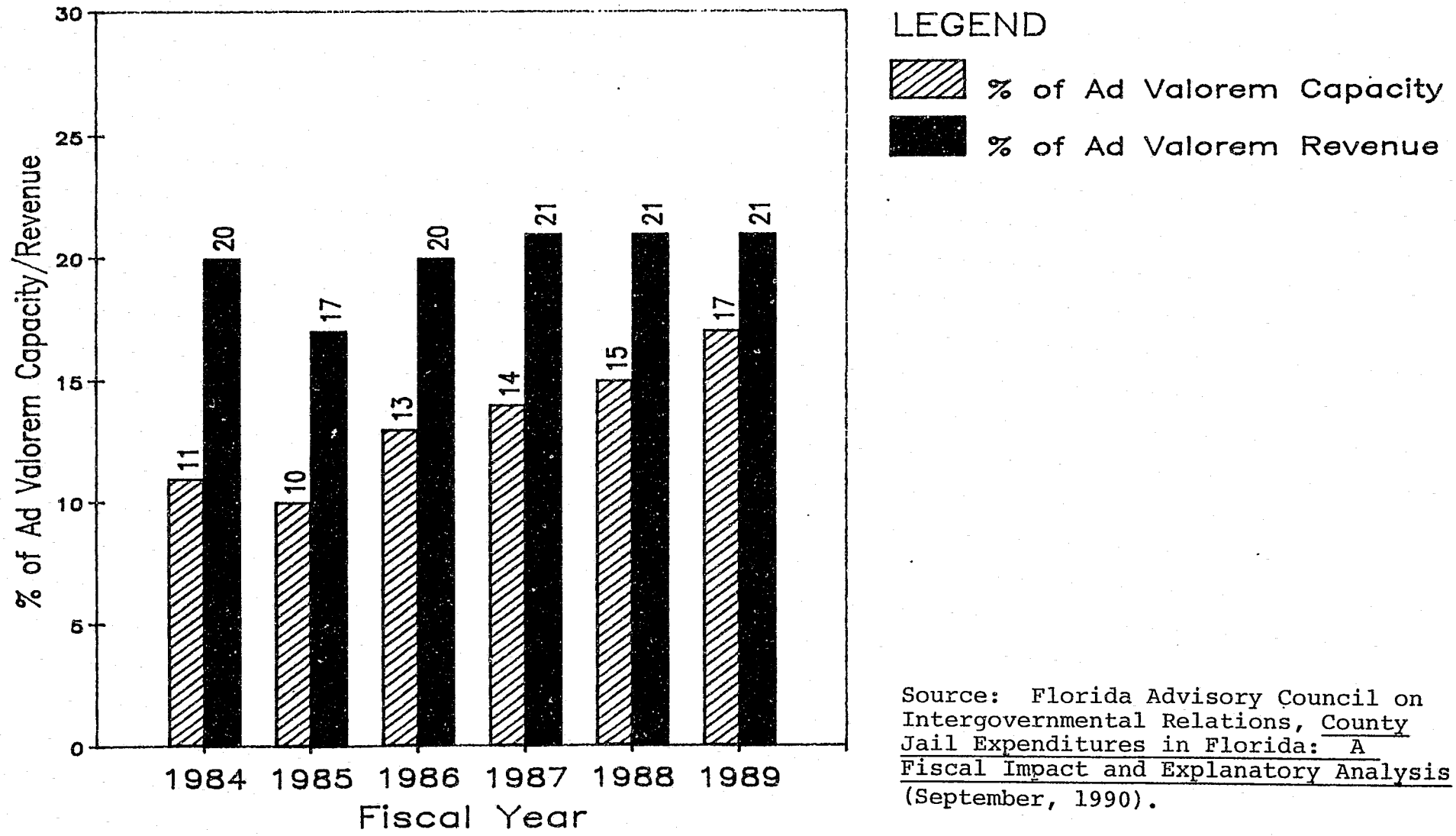
[16]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures, pp. 17-19.

[17]See Chapter 92-309, Laws of Florida.

[18]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures, pp. 30-33.

Chart III-3

Comparison of Total County Jail Expenditures As a Percent of County Ad Valorem Revenue Versus Ad Valorem Revenue Capacity FY 1984 - 1989



Source: Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis (September, 1990).

population counties,[19] which on average increased the percentage of property tax revenues going to jail financing from approximately 16% in 1984 to over 23% in 1989 (see Chart III-4). Insofar as many observers would argue that small counties have fewer non-ad valorem revenue options available to them than do more populous counties, data suggest that jail financing requirements have come to impose a disproportionate burden on the ad valorem revenues of precisely those counties that can least afford to bear this burden.[20] In recognition of the difficulties faced by small counties in this and other areas, the 1992 Florida Legislature adopted legislation that has the effect of authorizing these counties to use Local Infrastructure Surtax revenues for meeting jail operating costs. In addition, small counties were authorized to adopt an additional sales surtax of up to 1%, the proceeds of which may be used to operate jails and other public services.[21]

For a number of reasons, measuring jail expenditures against county ad valorem revenues represents an incomplete assessment of the ability of county governments to finance local jails in Florida. For one, ad valorem revenues change through time in response to changes in total county taxable value and local millage rates. In this way, the relative stability found to exist in county jail spending when it is expressed as a percent of ad valorem revenue may reflect the fact that county governments have increased property tax rates in order to compensate for increasing costs in this and other areas. In a related manner, measuring expenditures against current revenues fails to take into account a county's "revenue potential", or its ability to absorb increasing costs by millage rate increases. Rather, it merely captures the proportion of current year revenues allocated to a given activity. As an alternative indicator of the ability of counties to continue to fund jail costs out of own-source revenues, an "ad valorem capacity" measure has been developed. Very simply, this measure is taken by calculating how much revenue could be generated by a county if its millage rate was set at the constitutionally imposed 10 mill cap.[22]

As indicated by the diagonally hatched bars presented in Chart III-3, total county jail spending on average accounted for approximately 17% of county ad valorem revenue capacity in fiscal year 1989. Moreover, in contrast with the ad valorem revenue-based measure, this percentage increased significantly over the 1984-1989 period, with the largest increases being evidenced after fiscal year 1985. Overall, fiscal year 1989 jail expenditures expressed as a percent of ad valorem capacity represented an increase of nearly 60% over the corresponding percentage evidenced in fiscal year 1984. When taking differences in county population into consideration, it again becomes clear that responsibilities relative to jail finance have come to have a disproportionate impact on the small counties. As shown in Chart III-5, 1989 jail expenditures in the small counties represented nearly 22% of ad valorem revenue potential, a figure that is more than 50% above that evidenced in

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[19]Small population counties generally are defined as those with populations under 50,000.

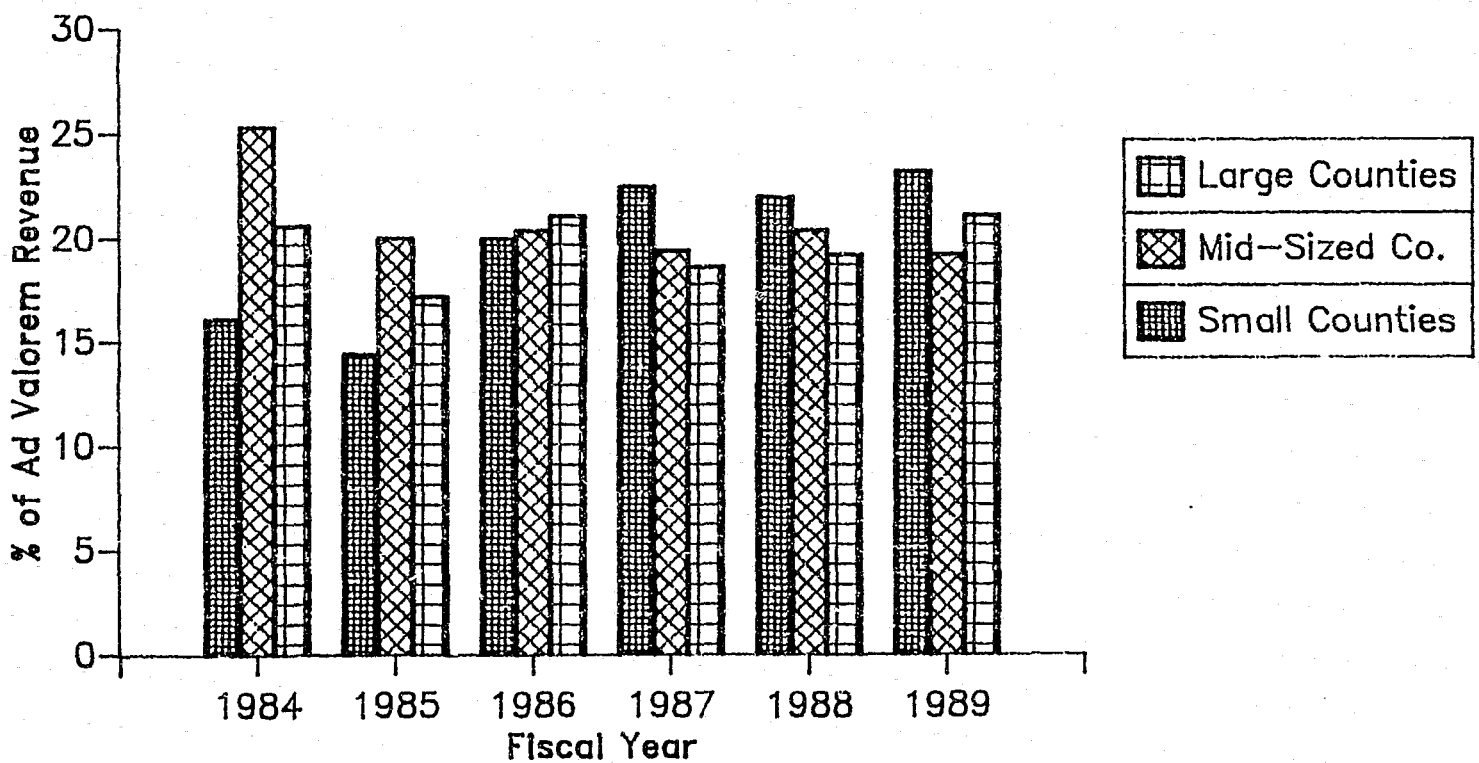
[20]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida, pp. 30-33.

[21]Chapter 92-309, Laws of Florida.

[22]The precise calculation of ad valorem capacity involved multiplying Florida Department of Revenue actual dollar estimates of county taxable values for real, personal, and centrally assessed property by .001.

Chart III-4

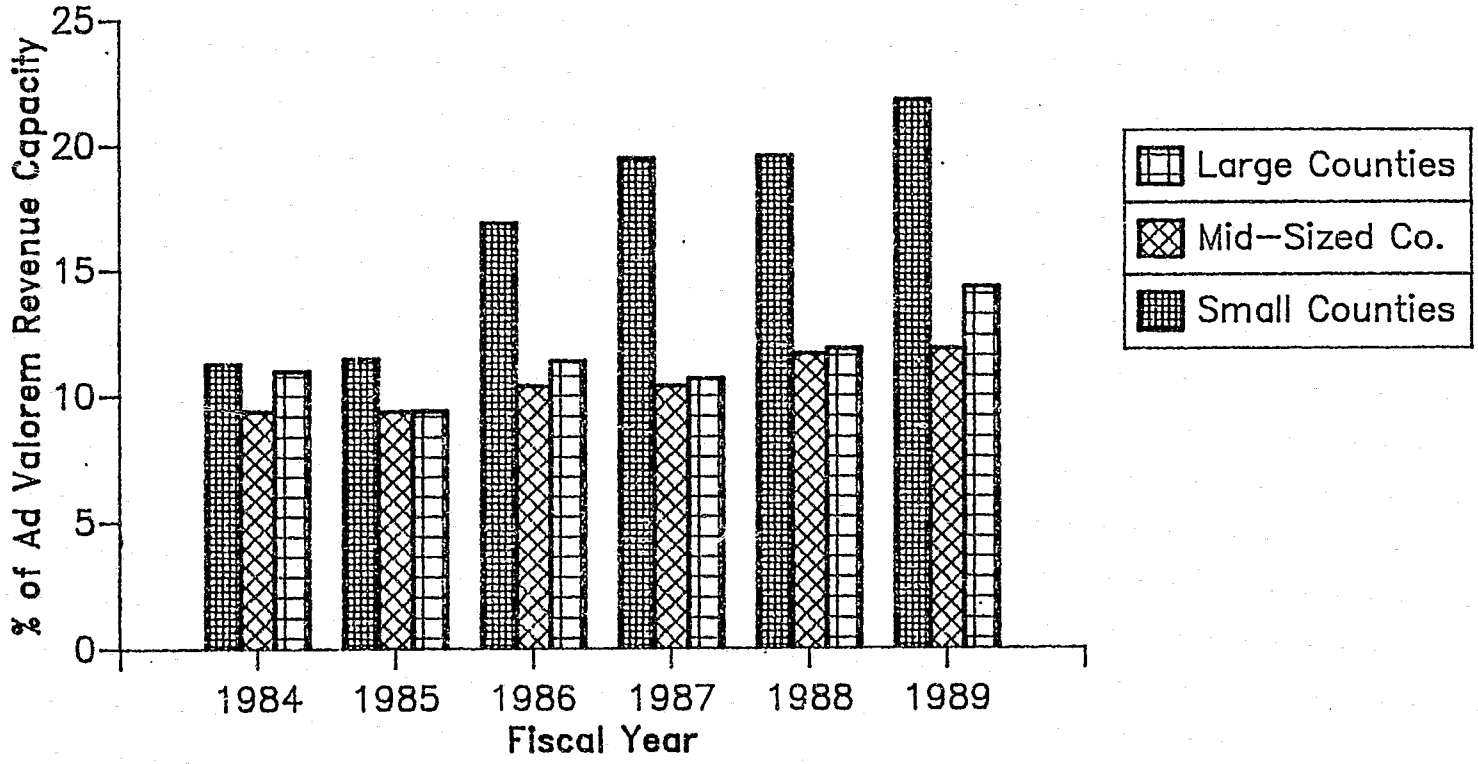
Average Total County Jail Expenditures As a Percent of County Ad Valorem Revenue by County Population FY 1984-1989



Source: Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis (September, 1990)

Chart III-5

Average Total County Jail Expenditures As a Percent of County Ad Valorem Capacity by County Population FY 1984-1989



Source: Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis (September, 1990).

large population counties and nearly twice as great as that in mid-sized counties. As indicated, this can be attributed to the approximate doubling in the average proportion of ad valorem capacity that has been allocated to the jail by the small counties in the fiscal year 1986-1989 period. In contrast, the corresponding increase in mid-sized and large population counties was approximately 14% and 34%, respectively.

INTERGOVERNMENTAL INFLUENCES IN JAIL FINANCE AND ADMINISTRATION IN FLORIDA

In attempting to discharge their assigned responsibilities of financing and operating local jails, Florida's county governments are influenced substantially by both federal and state governments, as well as the variety of state and local government agencies that serve as components of local criminal justice systems. Thus, the conditions of confinement within Florida's local jails along with those in other states have become subject to increased scrutiny by the federal courts since the 1970's. Acting under the guise of the 8th Amendment's protections against cruel and unusual punishment and the 14th Amendment's due process clause, federal courts variously have sought to remedy "unconstitutional conditions of confinement" through a variety of directives targeted at county government officials. Beyond these federal influences, Florida's local jails have been impacted by the policies and practices of state and local government agencies in several ways. First and most generally, the state has adopted a criminal code that defines the types of behavior for which persons can be subject to arrest, pretrial detention, and sentences of incarceration in the local jail. Secondly, state government has enacted and sought to enforce various mandates concerning conditions of confinement within, and the structural conditions of, local jails, which in turn has resulted in ambitious capital expansion programs in the state's local jails. Third, as with other states, Florida's local jails have been affected by overcrowding in the state correctional system. Finally, the manner in which the state's criminal code has been applied by the various state, county, and municipal agencies that discharge criminal justice responsibilities at the local level in Florida exerts critical influence over the size and composition of county jail populations. As such, the policies and procedures adhered to by state and local entities in processing cases from arrest through sentencing and disposition ultimately influence the financial and administrative arrangements necessary to support local jail populations.

Role of the Federal Courts

According to data published by DOC, local jails operated by twenty of the state's 67 counties have been the object of class action suits initiated in the federal courts by inmates alleging unconstitutional conditions of confinement (see Table III-5). Although many of these suits have become inactive, in those instances where the federal courts have taken an active role in directing that overcrowding and other problematic conditions be addressed, the consequences for the local government have been serious. Thus, after extensive findings of fact, the United States District Court for the Northern District of Florida ordered local officials to undertake a comprehensive series of steps to upgrade conditions of confinement in the Escambia County jail. Included among the aspects of jail operations addressed by the order were those pertaining to inmate care and cell upkeep, a reduction in the inmate population in the form of a population cap, jail discipline, and

Table III-5
Florida Jails Under Federal Lawsuit:
Counties Having Open Cases in Federal Courts
1987-1991

Counties With Populations Under 50,000

Jackson	Suwannee	Wakulla

Counties With Populations Between 50,000 & 100,000

Highlands*	Monroe*	Santa Rosa*

Counties With Populations Between 100,000 & 200,000

Martin*	Okaloosa*	St. Lucie*

Counties With Populations Between 200,000 & 400,000

Escambia*	Lee*	Volusia*

Counties With Populations Between 400,000 & 1,000,000

Brevard*	Orange*	Pinellas*
Duval*	Palm Beach*	Polk*

Counties With Populations Over 1 Million

Broward*	Dade*

* Denotes counties with open cases as of December, 1991.

Source: ACIR tabulations made on basis of information contained in the following reports: Florida Department of Corrections, Office of Jail Assistance, The Current Status of Florida's County Jails, Volume III, (Tallahassee, Florida; 1987), pp. 21-22; Florida Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report, (Tallahasseee, Florida; various years).

inmate medical treatment.[23] Perhaps more seriously, the federal District Court for the Middle District of Florida, upon finding that local officials were in violation of a preliminary injunction to take steps to address "constitutionally offensive practices," contemplated closing the Duval County jail in 1975.[24] More recently, federal court intervention in Orange County has resulted in the issuance of a strict "Population Control Release Order" that mandates the early release of large numbers of misdemeanor defendants,[25] while in Broward County, the board of county commissioners since 1985 has been subject to a $1000 fine for each day that a court-imposed population limit is exceeded in the Broward County Jail system.[26]

State Regulation of Local Jail Conditions

Paralleling national trends, local jails in Florida are subject to a state-administered jail standards and inspection program. The basis for imposing statewide minimum requirements on local jails was established in 1967 with the enactment of Section 951.23, Florida Statutes.[27] This section established a regulatory mechanism to insure that such facilities would meet certain structural and operational requirements, and that the conditions of confinement within local jails meet minimum standards of decency. Pursuant to these provisions, the Florida Department of Corrections (DOC), has promulgated Chapter 33-8 of the Florida Administrative Code, which establishes standards relating to the construction, operation, and internal conditions of local jails. In order to insure that standards are met, DOC has implemented an inspection and enforcement process that involves semi-annual inspections of each of the state's 105 county jail facilities. Among the enforcement powers available to DOC is an authorization to file suit in state court seeking an injunction prohibiting the confinement of prisoners in local jails that fail to meet its standards and requirements.

Despite the 1967 legislative provisions, state regulation of local jails in Florida remained relatively innocuous for nearly a decade, and it was not until the late 1970's and early 1980's that the full force of state mandates in this area began to be felt by Florida county governments. At that time, and in response to the flurry of federal suits, significant attention was drawn to the issue of DOC enforcement of facility standards. State action eventually was galvanized by the filing of the inmate suit Arias v. Wainwright (1979),[28] in which DOC was named as the sole defendant for failing to discharge its regulatory

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[23]See Mitchel v. Untreiner, 421 F.Supp. 886(1976).

[24]See Miller v. Carson, 401 F.Supp. 835 (1975).

[25]Case Number 80-340, United States District Court for the Middle District of Florida, Orlando Division (1980).

[26]Carruthers v. Navarro, Case No. 76-6086 CIVWNH, United States District Court for the Southern District of Florida (1976).

[27]Chapter 67-17, Laws of Florida.

[28]Case Number TCA 79-0792 (Northern District of Florida).

responsibilities as provided for by s. 951.23, F.S. As a result of this failure, plaintiffs argued that they had become subject to cruel and unusual punishment through such conditions as overcrowded facilities, unsanitary conditions, and poor medical care. As part of a consent agreement filed in federal court in 1981, DOC specified that it would implement the regulatory system of inspections and enforcement provided for by the legislature. It was in response to Arias that DOC in fact revised its standards for local jails and embarked upon a more rigorous series of inspections than that which had been undertaken previously.

The stepped-up enforcement program implemented by DOC in 1981 resulted in the first of what would eventually become 54 lawsuits filed against county officials in 48 jurisdictions alleging violations of departmental standards, particularly in the areas of facility overcrowding and inmate security. With few exceptions, these suits resulted in consent decrees between state and local officials in which county governments agreed to address the violations. As with previous federal court actions, the outcome of this stepped-up enforcement became manifest in attempts by county governments to build out of the overcrowded conditions characterizing their facilities and to otherwise meet DOC standards of institutional adequacy. This trend had become sufficiently pronounced by 1982 for the Florida Advisory Council on Intergovernmental Relations to note that whereas state mandates concerning local jails had remained largely unenforced through the mid-1970's, by the early 1980's they had become among the most expensive state mandates placed upon county governments.[29]

As noted in Table III-6, the counties that have been the target of DOC-initiated suits span all population sizes, and include Florida's smallest as well as largest population counties. Of particular note however, is the frequency with which small counties have been the target of DOC suits. Thus, nearly two-thirds of the state's counties with populations under 50,000 have had suits initiated in state circuit court on the basis of DOC findings that various conditions of confinement in the local jail failed to meet criteria specified in Chapter 33-8. While many of these suits are no longer active, they generally have resulted in consent decrees that call for the county to upgrade conditions in existing facilities either through renovation or new jail construction. The significance of this pattern lies in the varying ability of county governments to finance the local jail improvements sought by state regulators. Thus, many of the state's small counties are characterized by a limited ad valorem tax base and low per capita personal income relative to larger population counties,[30] which in turn limit their ability to absorb the capital expenditures and increased operating costs that are associated with jail renovation and new jail construction. Combined with the absence of direct state aid to offset the detentions and corrections responsibilities of the counties, these patterns raise serious concerns relative to the equity of this aspect of the intergovernmental structure that links Florida's state and county governments in the area of local jail management and finance.

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[29]Florida Advisory Council on Intergovernmental Relations, State and Local Relations in Law Enforcement, (Tallahassee, Florida: May, 1982).

[30]Florida Advisory Council on Intergovernmental Relations, Florida's Small Counties: A Profile of Service Demands and Revenues (Report-In Brief), (Tallahassee, Florida; March 1991), pp. 5-6, 16-17.

Table III-6
Florida Department of Corrections
Jail Regulatory Activity: Counties Subject to State-Initiated Lawsuits 1981-1991

Counties With Populations Under 50,000

Bradford	Gulf	Lafayette	Sumter
Columbia	Hardee*	Levy	Taylor
Dixie*	Holmes	Liberty	Union
Franklin	Jackson*	Madison*	Wakulla
Gadsden	Jefferson*	Nassau	Washington

Counties With Populations Between 50,000 & 100,000

Citrus	Indian River	Putnam	Santa Rosa
Highlands	Monroe*	St. Johns	

Counties With Populations Between 100,000 & 200,000

Alachua*	Leon*	Osceola	Seminole
Bay	Martin	St. Lucie	

Counties With Populations Between 200,000 & 400,000

Lake	Manatee	Pasco	Volusia
Lee			

Counties With Populations Between 400,000 & 1,000,000

Brevard	Hillsborough*	Palm Beach*	Polk*
Duval	Orange*	Pinellas	

Counties With Populations Over 1 Million

Broward*	Dade*

* Denotes counties with open cases as of December, 1991.

Source: ACIR tabulations made on basis of information contained in the following reports: Florida Department of Community Affairs, Bureau of Criminal Justice Assistance, Division of Public Safety Planning and Assistance, The Current Status of Florida's County Jails, 1981 verus 1983, (Tallahassee, Florida; 1983), pp.42, 58; Florida Department of Corrections, Office of Jail Assistance, The Current Status of Florida's County Jails, Volume III, (Tallahassee, Florida; 1987), pp. 21-22; Florida Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report, (Tallahassee, Florida; various years).

The Role of Overcrowding in the State Prison System

Unlike conditions that have come to exist in many other states, local jails in Florida have not encountered the traditional "backup" problem whereby large numbers of state prisoners are held at the local level due to the inability of overcrowded state correctional facilities to accept more inmates. However, policy initiatives implemented in order to keep the inmate population of state correctional facilities within its legal limits in the face of unprecedented growth in admissions have had "spillover effects" on the state's local jails. More specifically, many local officials argue that by establishing a series of population control initiatives that have emphasized the early release of inmates from the state correctional system, Florida's counties have become responsible for providing for the custody and care of large numbers of former state inmates who have been rearrested on new criminal charges during the time that they would have been incarcerated in a state correctional facility had they not been released prior to serving their court-imposed sentences. Ultimately, it is alleged that this situation has contributed to the growth in local jail populations and jail expenditures experienced by many of the state's counties in recent years.

As is the case with many other states, Florida experienced "massive population demands" upon its state correctional system throughout the 1980's as prison admissions increased from approximately 11,000 in fiscal year 1980-1981 to well over 43,000 in 1989-1990 (see Table III-7). In order to cope with these increases and maintain compliance with federal court edicts pertaining to prison overcrowding,[31] state officials employed a two-pronged strategy. On the one hand, the Florida legislature over the four year period ending in October, 1990, funded an aggressive capital expansion program that provided for the addition of over 28,000 beds to the state system. As noted in Table III-7, the new capacity that has been brought on line to-date under this program has permitted the state prison population to increase by nearly 14,000 inmates through fiscal year 1990-1991. Augmenting this construction program have been a number of population control initiatives that have been authorized by law. By and large, these mechanisms have been release-oriented to the extent that they attempt to make room for newly admitted offenders by expediting the release of current inmates.[32] While the several release mechanisms that have been invoked initially emphasized awarding time-served credits to certain categories of prison inmates once the state institutional population reached a certain percentage of its legal capacity, more recent population control mechanisms have provided an institutional capacity to systematically screen eligible inmates for early release based upon the public safety risks attendant upon their return to the community.

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[31]Under the partial settlement of the 1972 class action suit Costello v. Duggar reached in 1980, state officials agreed to maintain the inmate population of state correctional institutions within 133% of design capacity. See State of Florida, Senate Committee on Corrections, Probation, and Parole, Briefing Package, (Tallahassee, Florida; November 20, 1990), pp. 1-2.

[32]State of Florida, Senate Committee on Corrections, Probation, and Parole, Briefing Package, p. 8.

The rapid increase in the number of admissions to the state correctional system combined with the operation of various early release mechanisms have resulted in massive turnover in the state prison system's inmate population as state officials have struggled to maintain compliance with federal court settlements. As indicated by Table III-7, the annual rate of turnover in the state system increased from approximately 50% in 1980-1981 to 102% in fiscal year 1989-1990. This turnover has resulted in the release of large numbers of offenders from the state prison system prior to the expiration of their court-imposed sentences. Reflective of the emphasis placed upon early release mechanisms, state prison inmates have come to serve progressively smaller percentages of their court-imposed sentences in recent years. Thus, prior to the implementation of administrative gain time provisions early in 1987,[33] state prison inmates were released from the system after having served on average 53% of their court-imposed sentences. By June of 1991, this figure had fallen to approximately 34%.[34] In addition to threatening to compromise the integrity of Florida's criminal sentencing practices, this situation has limited the ability of prison administrators to provide the bulk of the state's prison population with meaningful participation in educational and rehabilitative programing. As a result, the ability of the state system to control the behavior of offenders through program involvement and rehabilitation has been seriously compromised.[35]

Although there has been no systematic analysis of the impact that early prison releases have had upon local jails, a number of sources suggest that these policies have contributed significantly to the rapid increases in local jail populations that became manifest over the latter half of the 1980's. Thus, as a result of the limitations that early release policies place upon the ability of the state corrections system to rehabilitate offenders or thwart their opportunities to commit additional crimes by removing them from society for extended periods of time, many former inmates are rearrested by law enforcement on new criminal charges soon after they have been released from the state system. Given their status as convicted felony offenders, relatively stringent conditions of pretrial release tend to be set by the courts in these cases, so that many of these offenders remain detained in local jails pending trial. As a number of observers have remarked, these forces have led to a situation where many offenders end up being detained in a local facility during the time in which they would have been incarcerated in a state facility had they not turned back into the community as a result of the operation of emergency release mechanisms.

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[33]Under this early release mechanism, the Legislature authorized the Secretary of the Department of Corrections to grant certain categories of inmates up to 60 days in additional gain time for every month that the person was sentenced to serve in the state system. Such action was authorized only after the governor certified that the capacity of the state system exceeded 98% of its legal capacity. See Chapter 87-2, Laws of Florida. In 1988, the Legislature replaced administrative gain time provisions with provisional release credits, which operated in a similar fashion.

[34]State of Florida, Senate Committee on Corrections, Probation, and Parole, Briefing Package, p. 8

[35]State of Florida, Senate Committee on Corrections, Probation, and Parole, Briefing Package, pp.8-10.

In a study published by the Orlando Sentinel in 1989, a large number of cases were identified in which persons were accused of committing violent crimes during the time at which they would have been incarcerated in the state system had they not been released under various early release policies.[36] Beyond this, extensive testimony taken by a subcommittee of the ACIR in January, 1990 suggested that overcrowding within the state system and early release policies were among the primary factors contributing to local jail population increases and jail overcrowding within individual counties. In many instances, witnesses appearing before the committee cited cases in which offenders had been picked up by local law enforcement on new criminal charges and were detained in the county jail during the period of time in which the they would have been incarcerated in the state system had they not been subject to early release.[37] Moreover, a study of arrest and jail booking records in Brevard county over a 9 day period in January, 1990, indicated that a total of 24 offenders who had recently been released from the state system under various emergency release provisions had been booked into local jail facilities and were being held on 91 counts of criminal behavior, many of which involved serious felony offenses that normally would require substantial monetary bond for release. Finally, a complaint filed in the state circuit court by many of the state's sheriffs in 1989 argued that thousands of offenders who were released from state correctional institutions under one or more early release mechanisms have been arrested for criminal acts committed during the period of time they would have been in prison had their sentences not been reduced through the application of administrative gain time, provisional release credits, and other release mechanisms. The complaint further alleged that many such offenders have been detained pending trial because their release would pose a continuing risk to the community, which in turn contributed to the substantial overcrowding in many of the state's local jails.[38]

In addition to contributing to the "recirculation" of large numbers of felony offenders through the state's local jails, overcrowding in the state corrections system and early release mechanisms have impacted the jails by leading the courts to modify their sentencing behaviors. Thus, faced with the likelihood that offenders will serve only a small fraction of their court imposed sentence if sent to a state prison, anecdotal information suggests that members of the judiciary have increased their reliance upon the local jail as an incarcerative option for convicted felons in recent years. DOC data supports these observations insofar as they indicate that on a daily average basis, the number of felony offenders serving a sentence in the state's local jails nearly doubled over the 1986-1991 period, from just over 3,000 to approximately 6,000 (see Table III-1, p. 47). It should be

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[36]For example, see "When the Bad Guys Go Free in Florida", Orlando Sentinel, August 13, 1989, p. 1; "Eight Taps and Computer Decides Who Gets Out", Orlando Sentinel, August 14, 1989, p. 1; "Serving Life Sentence On the Installment Plan", Orlando Sentinel, August 15, 1989, p. 1; "The Irony: Getting Tougher on Crime Forces the Bad Guys Out", Orlando Sentinel, August 15, 1989, p. 1.

[37]See the testimony of Chief Joe Gerwens of the Ft. Lauderdale Police Department, Ms. Yvette Delancy-Parker, Assistant to the Brevard County Administrator, and the Honorable Charlie Wells, Manatee County Sheriff, at the January 25, 1990, meeting of the Florida Advisory Council on Intergovernmental Relations, Subcommittee on Article V Financing, in Orlando, Florida.

[38]Wells, et. al. v. Dugger, Case Number 89-4546, Circuit Court for the Second Judicial Circuit of Florida (Leon County), 1989.

noted that this tendency has occurred despite the intent of the legislature that felony offenders be punished by incarceration in a state correctional facility [see Section 775.08, Florida Statutes (1991)]. Insofar as a statewide system of intermediate, community-based sanctions would provide the courts with a continuum of sanctions between state prison, probation, and county jail time, observers have noted that such a system would have the potential to decrease judicial reliance upon county jails as a sentencing option for felony offenders.

The spillover of state prisoners to local jails as a result of the early release policies implemented by state corrections officials raises serious questions of equity and accountability as county governments have become subject to increasing jail expenditures and state-initiated litigation seeking to mitigate jail overcrowding. Thus, in the absence of direct state aid in order to offset the local fiscal impact of jail construction and operations, many Florida counties have been forced to allocate local revenues to the custody and care of prisoners who many local officials view to be the responsibility of the state. Moreover, as alleged in the sheriffs' 1989 suit against the state Department of Corrections, the large numbers of early releases held in severely impacted counties have lead to the initiation of suits against local officials in these counties by the Department of Corrections acting under the provisions of the consent degree entered into in the Arias case. In addition to imposing costs on the local government in the areas of attorneys fees and other expenses associated with responding to litigation, the sheriffs' suit alleges that such litigation has forced county governments to expand facility capacity at significant cost to local taxpayers.

Intergovernmental Influences Over the Size and Composition of Local Jail Populations

In addition to imposing mandates pertaining to conditions of confinement and implementing state prison release policies that have forced many local jails to house increasing numbers of state-sentenced offenders, state government impacts the counties in the discharge of their responsibilities relative to local jails by influencing who is admitted to jail and how long they remain there. Thus the legislature, under its general authority to establish a state criminal justice system, has promulgated the Florida Criminal Code and other statutory provisions that define not only the types of behavior for which individuals may become subject to arrest, but to pretrial detention and sentences of incarceration in local jails as well. Beyond these statutory enactments, the manner in which the law is applied and implemented by the variety of state and local entities that comprise the criminal justice sub-systems that operate at the local level in Florida ultimately determine the size of jail populations through their influence over jail bookings and lengths of stay. Included among such entities are state and local law enforcement agencies, jail booking officers and administration, defense counsel and the prosecution, the judiciary and clerks of court, and probation agencies. In addition, county governing bodies can influence the size of local jail populations through the decisions they make concerning the number of jail beds that will be provided for locally, and through the discretionary programs that they choose to fund in the areas of pretrial services, inmate rehabilitation, and alternatives to incarceration.

Florida's Criminal Code and Related Statutes

Florida's criminal code helps influence the size and composition of local jail populations by defining the types of behaviors for which individuals are subject to arrest and an initial period of pretrial detention. As a number of officials have acknowledged in recent years, the Florida Statutes criminalize a wide variety of behaviors, that range from such relatively minor offenses as hunting or fishing without a license[39] and diving without a flag,[40] to violent felony offenses such as murder, rape, and armed robbery. The significance of this variation lies in the discretion it affords to law enforcement officers and other officials to arrest and detain persons who have been alleged to have committed relatively minor criminal offenses. As a number of analyses suggest, such discretion often has resulted in the arrest and detention of many individuals who have been picked up on charges that ordinarily would not be considered a threat to the safety of any one person or the community. Particularly prominent in this regard has been the allocation of substantial jail capacity to detain persons charged with criminal traffic offenses that do not involve the operation of a motor vehicle under the influence of alcohol or drugs.[41] That such tendencies have become manifest at a time of severe overcrowding in the state's local jails and rising county jail expenditures is indicative of the difficulties many county governments face in influencing other criminal justice system actors to treat local jail capacity as a scarce and expensive resource.

Once the decision has been made to arrest and detain a person accused of committing a criminal act, state law governing the issues of pretrial release and detention becomes relevant. In the area of pretrial release and detention, the Florida Constitution and a series of statutory enactments have created a presumption for non-monetary release for most criminal defendants.[42] Despite this expression however, no comprehensive set of policies and procedures has been codified in Florida law in order to give force to this presumption. Taking the Federal Bail Reform Act of 1984[43] and existing legislation and related rules of procedure in the District of Columbia and the state of Kentucky[44] as models, such legislation normally would endorse and authorize a wide range of non-

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[39]Section 372.57, Florida Statutes.

[40]Section 861.065, Florida Statutes.

[41]Florida Advisory Council on Intergovernmental Relations, "Examples of the Current Utilization of Jail Space in Florida Counties: An Analysis of Broward County First Appearance Hearing Logs" (Tallahassee Fl.: unpublished document;1992); Institute for Law and Policy Planning, Comprehensive Analysis of Palm Beach County's Criminal Justice System and Services Related to Crime, Report I: Description and Findings, (Berkeley, California; February, 1990), pp. III-8, ff.

[42]See Article I, Section 14, Florida Constitution, and Section 904.0476, Florida Statutes.

[43]United States Government, Chapter I, Title II of Public Law 98-473 (Comprehensive Crime Control Act of 1984).

[44]See Section IV., Rules 4.0 - 4.58, Kentucky Rules of Criminal Procedure.

monetary conditions of pretrial release, and would provide for the establishment of pretrial services agencies that would be responsible for gathering, verifying, and presenting to the court information relevant to the pretrial release decision. In addition, such a statute would establish detailed and formal procedures to be adhered to by the court system in making and reviewing decisions relative to the pretrial release or detention of individual defendants. Finally, the legislation would make reference to the issuance of notices to appear in lieu of arrest by law enforcement officers under certain circumstances in misdemeanor cases.

In contrast to such model legislation, Florida law currently is tied strongly to monetary-based forms of pretrial release,[45] and does not explicitly provide for the establishment of pretrial services agencies by county governments, the courts, or other criminal justice system entities. By design, such agencies perform background investigations on newly arrested defendants and make recommendations to the court on the conditions of release that are likely to provide sufficient surety that public safety and the integrity of the judicial process will not be compromised by the release of individual defendants pending trial. Indeed, Florida's legislature has repeatedly rejected attempts to reform existing practices that place emphasis upon monetary bond as the predominant mechanism for awarding pretrial release, despite numerous analyses that suggest that this reliance imposes significant costs upon the counties as a result of the difficulty many low-risk criminal defendants encounter in posting even moderate amounts of bail.[46] While current provisions found in Chapters 903 and 907, Florida Statutes, do contain provisions relative to pretrial release and detention hearings and determinations by the courts, they do not represent an integrated series of policies and procedures governing such matters. Furthermore, with respect to the presumption for pretrial release on non-monetary conditions, existing statutory provisions found in Chapters 903 and 907 are not as rigorous in their directives to the court as are provisions pertaining to pretrial detention. Perhaps as a result of this lack of specificity and integration, many of the state's criminal judges continue to place primary emphasis upon monetary bond in making pretrial release decisions.

In addition to specifying the types of behavior that can result in arrest and jail booking, the state's criminal code specifies the penalties that can be invoked by the courts upon a finding of guilt. In the current sentencing scheme provided for by Florida law, the state legislature has expressed its intent that felony offenders who are sentenced to a term of incarceration serve their time in the state correctional system, while county jails are intended to be reserved for persons found guilty of misdemeanor offenses.[47] However, in the face of the massive early releases from the state prison system in recent years and the significant reductions in court-imposed sentences that have been affected by these, local officials in a number of jurisdictions report that judges in many cases are sentencing felons to jail time in order to achieve greater surety of punishment. This tendency seems to be borne out by statewide data, which indicates that the number of felony offenders serving sentences in local jails nearly doubled over the 1986-1989 period, from just over 3,000 in

[45]See Chapter 903, Florida Statutes.

[46]For a more detailed discussion of this issue, see pp. 88-96, infra.

[47]See Sections 775.08, 775.081, and 775.082, Florida Statutes, generally.

1986 to nearly 6,000 in 1991. In contrast, the number of misdemeanor offenders serving time at the local level increased at the more modest rate of 64% over this period.[48] Moreover, available data applicable to individual jurisdictions confirm that substantial portions of felony convictions often result in sentences of local jail time. For example, a recent analysis indicated that over 60% of all guilty felony dispositions in Palm Beach County in 1991 resulted in a sentence of county jail time, which represented a significant increase from the 49% figure posted for 1990. During this same two-year period, the percentage of felony offenders sentenced to state prison by the circuit court in Palm Beach County declined from 17.8% to 12.8%.[49]

State and Local Agency Influences Over Jail Admissions and Lengths of Stay: A Simulation

As is the case in other states, the manner in which Florida's criminal code and related statutes are applied by the various entities that discharge criminal justice responsibilities at the local level plays a critical role in determining the size and composition of local jail populations. In Florida, these entities include state, county, and municipal law enforcement agencies, jail administration, clerks of court, the judiciary, state attorneys and public defenders, county governing bodies, and state and local probation agencies. In general, these entities help determine the size and composition of local jail populations by the influence they exert over jail admissions and lengths of stay. While a number of managerial initiatives can be taken by these entities in order to help reduce the demand for jail space in a manner consistent with both public safety and the integrity of the judicial process, Florida is similar to other states in the sense that these entities are independent of one and other, and no single entity has been explicitly granted the authority to compel the implementation of such initiatives. Moreover, given that these entities also do not share responsibility for financing or operating local jails, the state's county governments often are alone in having strong incentives to manage the growth in local jail populations in a manner consistent with both public safety and their own ability to fund jail construction and operations.

In order to illustrate the impact various agencies can have upon the size and composition of local jail populations, the following simulation has been developed. It has been organized around the key steps in the criminal case-processing continuum, and attempts to depict how various entities that combine to form the criminal justice sub-systems operating at the county level in Florida influence jail admissions and lengths of stay. The process begins with law enforcement officers confronting a person who has been alleged to have committed a crime, and proceeds to jail booking, screening for pretrial release, first appearance, arraignment and trial, and sentencing and disposition. At the outset, it is important to recognize that the simulation is not intended to identify each of the myriad ways in which various criminal justice system entities influence the size and composition of local jail populations. Instead, by identifying several of the ways that various

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[48]See Table III-1, p. 47, supra.

[49]Palm Beach County Criminal Justice Commission, The Florida Community Corrections Partnership Act: A Comprehensive County Correctional Plan for Palm Beach County, 1992-97, (West Palm Beach, Florida; forthcoming).

actors affect decisions relative to jail bookings and lengths of stay, it seeks to demonstrate that, in the absence of a substantial degree of cooperation on the part of these agencies, Florida's counties can be expected to encounter difficulty in assuring that local jail capacity is managed efficiently and effectively.

The Hypothetical Offense. The simulation begins with a hypothetical offense which involves a 35 year old male who is observed to present an altered state lottery ticket by a retail store owner. Under state law, commission of such an act is a third degree felony offense punishable by up to 5 years in prison and/or a fine of up to $5000.[50] The simulation further specifies that the alleged perpetrator has lived in the county all his life, has a wife and child, is unemployed, and has no significant criminal history. In moving through the simulation, it is important to acknowledge that the offense at issue can be substituted for any number of other offenses for which the costs associated with jail construction and operation make pretrial detention a questionable option. Examples of such offenses include petty theft, operating a motor vehicle with no valid drivers' license, and failure of a probationer to pay monthly cost of supervision fees.

Law Enforcement Response. When responding to the store owner's call, the local law enforcement officer can do one of two things. Under the traditional law enforcement response, the accused can be taken into custody and transported to the county jail for booking. Alternately, the responding officer can take the person into custody and question him relative to his place of residence and any other ties he may have to the local community. Simultaneously, the arresting officer can run a criminal history records check in order to determine if there are any outstanding warrants against the accused. If there are not, and he is satisfied that the individual has properly identified himself and has sufficient ties to the local community, the officer could elect to release the accused and issue him a citation that specifies the date upon which the defendant must appear in court to answer to the charge.

While the authority of law enforcement officers to issue citations or notices to appear in lieu of jail booking currently is not addressed in the Florida Statutes,[51] such authority is conferred by Rule 3.125 of the Florida Rules of Criminal Procedure in cases involving misdemeanor offenses or local ordinance violations. In most cases however, the ability of arresting officers to invoke this option either in misdemeanor or felony cases is predicated upon the local law enforcement agency adopting formal policies and procedures authorizing the use of notices to appear and establishing guidelines governing their use. In the present case, the absence of formal policies and procedures authorizing the issuance of notices to appear in non-violent, third degree felony cases such as the one presented here affords the officer no choice but to arrest the individual and transport him to jail for booking. Thus, the simulation has helped identify an initial policy and procedure that, if practiced by local law enforcement, can have a tangible effect on the population of the local jail.

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[50]See Section 24.117, Florida Statutes.

[51]However, Section 901.28, Florida Statutes, does make reference to notices to appear issued by law enforcement agencies in the context of making lawful searches of persons accused of criminal acts.

Jail Booking. If it is assumed that the local law enforcement agency has not adopted any policies and procedures pertaining to the issuance of notices to appear and that the arresting officer has transported the defendant to jail, a number of options are available to jail booking officers and other actors in order to divert the accused from an initial period of pretrial detention pending first appearance. First, where authorized by jail administration, booking staff may issue a jail citation to the arrestee, which works in much the same way as the law enforcement citation and also is explicitly endorsed by the State of Florida's Rules of Criminal Procedure.[52] Absent such authorization and any of several other procedures designed to expedite the pretrial release decision, the defendant normally must be bound over to the jail pending first appearance before a judicial officer.

A second procedure that can be implemented at jail booking in order to expedite pretrial release is for the county government to establish and fund a pretrial services program. In the general case, these programs are responsible for interviewing defendants in order to assess the public safety and failure to appear risks associated with granting a defendant pretrial release. Beyond these responsibilities however, pretrial programs may be granted authority by the judiciary to release defendants prior to the first appearance hearing if certain conditions are met. Thus, where the county has established such a program, funds it at a level sufficient to enable staff to interview defendants at the point of jail booking, and the program has been authorized by the chief judge to exercise direct release authority, the defendant may be able to secure release at the point of jail booking in the absence of citation release and without the necessity of posting monetary bond. Given the nature of the offense at issue, the ability of the defendant to demonstrate local ties in the form of lifelong residence in the community and having a family in the area, and the fact that he has no violent criminal history, it is likely that defendant at focus would meet criteria for release at jail booking by pretrial services staff.

Absent a properly funded pretrial program that has been delegated direct release authority by the judiciary, the defendant may nevertheless be able to secure release at jail booking through yet another procedure. Thus, where the chief circuit judge has authorized the use of a master bond schedule, the defendant may not have to wait 24 hours in order to have a bond established by a first appearance judge. Instead, the bond schedule - by specifying different bond amounts for different offenses - allows jail staff to release a defendant upon the posting of the requisite bail amount by either the defendant or a bail bondsman. Given that the defendant in the case at issue is unemployed and has been charged with a third degree felony offense for which bond amounts in excess of $1,000 are common, it is likely that he will remained detained pending first appearance even where a master bond schedule has been issued by the court.

Early Case Screening by the Prosecution and Defense. Assuming that the defendant at focus remains detained pending first appearance as a result of his failure to secure

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[52]See Rule 3.125(c), Florida Rules of Criminal Procedure.

release at or shortly after jail booking, the willingness and ability of the offices of the state attorney and public defender to take certain actions during the first 24 hours of detention can effect the defendant's ability to secure pretrial release at first appearance. First, the state attorney's office may have established an intake unit or intake procedures whereby attorneys or investigative staff are present at the booking process to review charges brought against the defendant by the arresting officer. The chief objective of such screening is to eliminate or reduce charges in weak cases. These decisions can be expected to influence the pretrial release and detention determination of the first appearance judge insofar as conditions of release tend to become progressively more stringent as the seriousness of the criminal charges lodged against a defendant increases.

Although the eyewitness statement of the store owner noted on the arrest form filed at jail booking makes it unlikely that early case screening and review by the state attorney's office will result in the reduction or dismissal of the criminal charge in the present case, certain policies and procedures are available to the public defender at or shortly after jail booking that can expedite the release of the defendant from jail once he is brought before the court. Included among these are the assignment of counsel, making initial contact with the defendant, and beginning case review prior to first appearance. In the absence of such procedures, the defendant very often lacks an advocate for reasonable bail amounts or other forms of pretrial release, and thus is more likely to have his length of stay in jail extended beyond the first appearance hearing.

First Appearance. Assuming that none of the above policies and procedures have been implemented by jail staff, county government, the judiciary, or the state attorney and public defender, the defendant at focus can be expected to remain in jail at least until his first appearance before a judicial officer, which by rule must occur within 24 hours of jail booking.[53] At first appearance, the discretionary decisions of a number of officials will impact upon how long the defendant remains in jail after this juncture.

Of critical importance at first appearance is whether the judiciary actively supports the pretrial release of defendants either on their own recognizance and other forms of non-financial release, or relies primarily upon monetary bail. The significance of such support lies in the tendency for monetary bail to exclude many defendants from qualifying for release outright, and to delay the release of other defendants who require time to raise funds in an amount sufficient to post bail or pay a bondsman's fee.[54] Given that the accused is unemployed and has family obligations, he is more likely to secure early pretrial release where the judiciary supports and has provided for policies and procedures endorsing one or more alternatives to traditional monetary bail than where the judiciary remains tied to cash bail or surety bonds.

Where the county has established and adequately funded a pretrial release program, program staff can present the judiciary with information concerning the defendant's lack of

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[53]See Rule 3.130, Florida Rules of Criminal Procedure.

[54]For a more detailed discussion of this point, see pp. 89-90 and pp. 93-96, infra.

a significant criminal record, his strong ties to the community, and on this basis suggest to the court that there is a low probability that his release would result in a failure to appear or would threaten the safety of the community. Additionally, where the county has provided the pretrial services program with sufficient resources to enable staff to supervise the defendant upon his return to the community, the judiciary may be more willing to release the defendant than otherwise would have been the case. Such supervision provides the court with an institutional capability to monitor compliance with conditions of release. In addition, pretrial staff often use defendant contacts to verify and remind the releasee of upcoming court appearances, thereby reducing the likelihood of an inadvertent failure to appear and revocation of release.

Where the state attorney and public defender have implemented the early case screening and review procedures that have been previously described, they will tend to be more prepared to participate in an adversarial first appearance he ring, whereby both the prosecution and the defense respectively present the presiding judicial officer with rationales for and against early case disposition and pretrial release. In the absence of such participation, and where the county has not implemented a pretrial services program, the information available to the court will tend to be dominated by the arresting officer's report, which often has no information pertaining to the background and criminal history of the defendant. As a number of Florida judges have testified, the court is less likely to agree to recognizance or other forms of non-monetary release under such circumstances. In a similar manner, the implementation of early case screening and review procedures enhances the ability of the prosecution and defense to reach a plea agreement at first appearance. Provided that such an agreement does not involve a sentence of jail time, this could result in the early release of the defendant from jail.

Bail Review. Assuming that the county has not established a pretrial services program, that the defendant's case is not disposed of through a plea agreement or dismissal at first appearance, and that the first appearance court has to rely solely upon information contained in the arrest form, the first appearance hearing is likely to result in a monetary bond being placed upon him. Again assuming the defendant lacks the ability to raise enough funds to satisfy a cash bail or pay a bondsman's fee, he is likely to remain in jail pending arraignment or an adversarial preliminary hearing, whichever occurs first.[55] However, by conducting one or more bail review hearings prior to arraignment, the judiciary can review any new information about the defendant that is relevant to the pretrial release decision, and on the basis of this information, either lower his bail amount or release him on non-monetary conditions. Given the defendant's strong community ties and lack of a significant criminal history, presentation of such information to the court in the forum of a bail review hearing would substantially increase the likelihood of his securing pretrial release prior to arraignment or the preliminary hearing.

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[55] Under Rule 3.133(b), of the Florida Rules of Criminal Procedure, any in-custody defendant has a right to an adversarial preliminary hearing within 21 days of arrest if formal charges have not been filed against him by the state attorney.

In light of the time it takes to draw up, present, and schedule individual motions for bond reduction hearings, substantial time often can be expected to lapse between first appearance and the conduct of a bond reduction hearing for the defendant. One procedure available to the state's trial courts in order to address this problem is to regularly conduct mass bail review hearings whereby all defendants who are in jail are brought before the court for bail reconsideration. As practiced in a number of Florida counties, such hearings are scheduled on a weekly or more frequent basis, and do not require the defense to enter motions petitioning the court for bail review on a case-by-case basis.

Arraignment and Trial. Assuming that no bond reduction hearings are held, and that an information is filed in a timely manner by the state attorney, the defendant at focus is likely to remain detained at least until arraignment, which normally is scheduled for between two to three weeks following arrest. It is during this interim, as well as the period of time between arraignment and trial, that a series of policies and procedures can be implemented at the discretion of the prosecution, defense, and judiciary in order to expedite the flow of the defendant's case through the system. These policies and procedures are often termed "court delay reduction" techniques, and have been implemented successfully in a number of jurisdictions both in Florida and in other states.[56]

Assuming that court and other officials have not implemented one or more of these techniques in the jurisdiction at issue and that a plea of guilt is not forwarded to the court prior to trial, a substantial period of time can be expected to lapse between arraignment and trial. Thus, unless waived by the prosecution or defense, Florida's speedy trial rule requires felony defendants to be brought to trial within 175 days of arrest.[57] Provided that the accused continues to be unsuccessful in raising sufficient funds to post bail, he will remain detained during this time.

Sentencing. Assuming that the defendant's case results in a guilty disposition either through a plea or a trial, he can expect to remain detained pending the issuance of a sentence by the court. While the non-violent nature of the offense at issue and the defendant's lack of a significant criminal history make it likely that he will receive a non-jail sanction, several entities can take affirmative steps to expedite the sentencing decision of the court, and thereby reduce the amount of time the offender remains in jail subsequent to an adjudication of guilt. In particular, a number of policies and procedures can be invoked by the clerk of the court and other officials in order to speed the flow of paperwork that is relevant to the sentencing decision. For example, where the trial clerk makes sentencing score sheets and other paperwork relevant to the sentencing decision available to the court at the time a plea or finding of guilt is made, the court may be able to avoid scheduling a subsequent hearing for the purpose of sentencing. Alternately, where the court desires a presentence investigation (PSI) prior to issuing a sentence, probation officials can take a number of steps to expedite their completion. Included among these

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[56]For a more detailed description of various delay reduction techniques available to the courts, see the discussion on p. 101, infra.

[57]See Rule 3.191, Florida Rules of Criminal Procedure.

is preparation of the PSI prior to the court proceeding at which a guilty plea is accepted, and establishing short turn-around times in the event that PSI's are ordered by the court at the time a plea is taken or a trial is concluded. In the absence of these and other efficiency measures, the offender may remain detained for a significant period of time in the county jail, thus tying up scarce and expensive jail space.

Probation. Assuming that the offender eventually is released from jail on a sentence of probation, the likelihood of a return to jail during the period of supervision is influenced by the policies and procedures followed by probation offices. Thus, should the offender fail to keep up with cost of supervision payments, probation officials generally have the authority to "violate" the offender and seek a warrant for his arrest. As an alternative however, the probation officer can elect not to violate the offender and instead attempt to work with the client - and perhaps assist him - in seeking employment that will enable him to satisfy his financial obligation to the court. Even in cases where the decision is made to arrest the offender on a "technical" violation of probation,[58] the probation agency can implement policies and procedures that limit the use of detainers that require the defendant to remain in jail pending the disposition of the violation of probation charge. Again, in the absence of policies and procedures designed to avoid the automatic re-arrest and detention of persons who fail to comply with various technical aspects of probation, the offender may end up being detained for a substantial period of time awaiting necessary court hearings.

Summary. As suggested by this simulation, the size and composition of county jail populations in Florida - as is the case with their counterparts in other states - can be influenced substantially by the intergovernmental context within which they operate.[59] In this sense, jails "do not operate in a vacuum", but rather are critically impacted by policies and procedures adhered to by the various agencies that are involved with processing criminal cases from arrest through disposition.[60] Ultimately, these forces influence not only the rate of growth in local jail populations, but also the resources committed to jail construction and operations by the state's counties.

The Role of State Government in Managing Local Jail Population Growth

In light of the significant fiscal impact placed upon county governments by their responsibilities to finance and provide for the operation of local jails in Florida, county officials have strong incentives to assure that available jail capacity is treated as a scarce and expensive resource and is used efficiently and effectively. In this regard however,

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[58]In general, "technical" violations of probation refer to the failure of an offender to meet the requirements set up by the probation agency during the period of supervision. In addition to the failure to pay monthly cost of supervision fees, other technical violations of probation include the failure of an offender to maintain scheduled contacts with supervising officers, failure to submit to urinalysis, and failure to maintain enrollment in educational or rehabilitative programs.

[59]Embert, P.S., "Correctional Law and Jails: Evolution and Implications for Jail and Lockup Administrators and Supervisors", in Kalinich, D.B., and Klofas, J., Sneaking Inmates Down the Alley: Problems and Prospects in Jail Management, (Springfield, Illinois: Charles C. Thomas; 1986), pp.77-78.

[60]Id.

Florida's counties largely have been left to their own devices. Thus, while the state's circuit chief judges are charged under the State Supreme Court's rules of judicial administration to periodically review the status of county jail inmates and to develop plans for the "efficient and proper" operation of the courts,[61] recent proposals to vest the judiciary with formal responsibilities to assure efficient use of local jail capacity have failed to receive sufficient support.[62] In a second area, although the Legislature in 1988 mandated that each county establish a multi-agency "correctional planning committee" comprised of representatives of many of the entities that influence the size and composition of the local jail population, subsequent amendments weakened these committees by relaxing the requirement that they convene on a monthly basis[63] and that they solely focus on issues pertaining to the local jail.[64] Additionally, although a number of studies have made recommendations aimed at decreasing judicial reliance upon monetary bail and otherwise providing for alternatives to pretrial detention and incarceration as a sentencing option,[65] legislative initiatives in these areas have been characterized by a widespread lack of success.[66]

While the legislature as yet has not formally established a managerial structure to promote the efficient and effective use of local jail space, several programs have been funded through the executive and judicial branches of state government that have provided technical assistance to local officials. Thus in the early-to-mid 1980's, the state Department

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[61]See Rule 2.050, Florida Rules of Judicial Administration.

[62]See Peters, J.A., and Bist, M.P., "Discussion Paper: Reduced Jail Overcrowding By Amendment to the Rules of Judicial Administration", position paper submitted to the Rules Committee of the Florida Bar, July 13, 1988.

[63]See Section 90, Chapter 88-122, Laws of Florida.

[64]Under the 1992 amendments to Section 951.26, Florida Statutes, "county correctional planning committees" are to be redesignated as county "public safety coordinating councils". While these councils will continue to be responsible for addressing a variety of issues pertaining local jail population growth, their planning functions have been expanded beyond the issue of local jail construction needs to include public safety construction needs in general. See Section 35, Chapter 92-310, Laws of Florida.

[65]Examples of such studies include the following: The Florida Supreme Court, Racial and Ethnic Bias Study Commission, Where the Injured Fly for Justice: Reforming Practices Which Impede the Dispensation of Justice to Minorities in Florida, (Tallahassee, Florida; December, 1991), pp. 20-28; State of Florida, Office of the Governor, Governor-elect Lawton Chiles' Task Force on Criminal Justice, Final Report, (Tallahassee, Florida; February, 1991); State of Florida, Governor's Task Force on Criminal Justice System Reform, Final Recommendations: Reforming the Florida Criminal Justice System, (Tallahassee, Florida; 1982), pp. 16-26.

[66]Examples of past legislative initiatives that have proposed bail reform and other initiatives designed to decrease the incidence of pretrial detention in Florida include a flurry of bills introduced in the early-to-mid 1970's that would have provided for mandatory pretrial release investigations within a few days subsequent to arrest (see HB 1057 {1971}, HB 4270{1972}, HB 85 {1973}, HB 712 {1975}, for example); a series of bills that would have required the establishment of pretrial services agencies in each of the state's 20 judicial circuits (for example, see SB 1005 {1987} and SB 31 {1988}, and SB 1205 {1992}); and the various initiatives that have been proposed over the last 20 years that would have required the courts to emphasize alternatives to monetary bail in setting conditions of release on individual defendants (see HB 4270 {1972}, SB 286 {1974}, HB 964 {1976}, and SB's 1005 {1987} and 31 {1988}, for example).

of Community Affairs conducted a number of local criminal justice system studies that focussed on the use of local jail space within individual counties. In general, these studies attempted to bring to the attention of local officials the various factors contributing to overcrowding as well as alternatives for addressing these factors. In the latter half of the 1980's, the state Department of Corrections used federal grant monies to establish the Office of Jail Assistance within Office of the Inspector General. Designed to provide technical and managerial assistance to local officials in a variety of problem areas, this program was terminated when federal funds were discontinued. Finally, the Florida Supreme Court, through the Office of the State Courts Administrator, has lent technical assistance to the counties in a variety of areas relevant to jail population control. Included among these are the establishment of criminal justice management information systems, court delay reduction initiatives, and various prosecution diversion programs. In addition, the State Courts Administrator has served both to secure and channel federal grant monies to the local level in order to assist in the development and implementation of managerial initiatives in these and other areas.

SUMMARY

In carrying out their assigned responsibilities in the areas of jail finance and management, Florida's county governments appear to conform to the traditional intergovernmental model under which counties are viewed as administrative arms of the state. Thus, local jails provide a critical service to the state's courts to the extent that the largest component of their population consists of persons who are awaiting some form of judicial action. Moreover, in recent years county jails increasingly have been used to handle the overflow of felony offenders from the crowded state prison system. Although the problems experienced by Florida's counties in this area are somewhat different from the "back-up" phenomenon found in other states, it nevertheless is clear that, through the early release policies invoked by state corrections officials and the compensatory sentencing practices of the criminal courts, large numbers of convicted offenders are being held in local jails during the time in which they otherwise would have been serving a sentence of incarceration in a state facility. Yet another indicator of counties acting as administrative arms of the state in this area is reflected by the regulatory scheme authorized by the legislature in 1967 and aggressively invoked in the wake of the Arias case. Thus, in establishing the jail standards and inspections program currently administered by the Department of Corrections, Florida state government has expressed a strong interest in the quality of detentions and corrections services delivered at the county level.

In being called upon to serve as administrative arms of the state in this area, serious questions can be raised concerning the extent to which Florida's counties have been provided with tools adequate to the tasks that they face. On the one hand, counties have been forced to comply with emergent state regulatory standards and unprecedented increases in their inmate populations without the benefit of direct state aid to offset the local fiscal impact of these forces. As county jail expenditures have come to consume an increasing share of the ad valorem capacity of many jurisdictions, local officials in many instances have found that they lack sufficient revenue flexibility to fund other mandated and discretionary services. Moreover, in a number of instances, county governments have been forced to acknowledge that while the capital costs associated with new jail construction can

be financed through the proceeds of special tax sources made available by the legislature, own-source revenues would not be sufficient meet the operational costs of the new facility.

In a second key area, Florida's counties appear to have been largely left to their own devices in attempting to manage the growth in local jail populations. Thus, the state's criminal code and related procedural guidelines vest substantial discretion over decisions pertaining to arrest, detention, and sentencing to the various agencies that combine to form the criminal justice subsystems that operate at the county level in Florida. Notwithstanding the several technical assistance programs that have been offered through the executive and judicial branches of state government, county officials generally have been forced to take the initiative in identifying the system factors contributing to the unprecedented increases in local jail populations, and to fashion interventions designed to address these. Given the autonomy of many of the entities that affect jail admissions and lengths of stay and the absence of state mandates or incentives aimed at developing coordinated solutions in this area, county officials who seek to address jail population growth have been faced with the often difficult task of enlisting the cooperation of law enforcement, court system, and other agencies to adopt policies and procedures that are designed to control local jail population growth in a manner consistent with both public safety and the county's ability to fund jail construction and operations.

In the next chapter, attention is focussed on how various intergovernmental forces operative in the area of jail finance and management have contributed to the overcrowding crisis that emerged as the most serious issue facing Florida's local jails in the 1980's and early 1990's.

CHAPTER IV
FLORIDA JAILS IN CRISIS:
JAIL OVERCROWDING AND INTERGOVERNMENTAL RELATIONS

LOCAL JAIL OVERCROWDING IN FLORIDA: THE HISTORICAL LEGACY

Florida's local jails have long been characterized by substantial levels of overcrowding. As far back as 1980, jail inspection reports completed by the Florida Department of Corrections (DOC) cited overcrowding as a "direct obstacle" to the achievement of "humane and constitutional" conditions of confinement within the state's local jails,[1] and a study commissioned by the Florida Council on Criminal Justice reported that 26 of the state's 93 local jails experienced inmate populations in excess of their rated capacities in that year. Moreover, available evidence indicates that the level of overcrowding in these facilities was quite substantial, with one half experiencing inmate populations in excess of 120% of their rated capacities.[2] Paralleling these findings, a 1981 report prepared by the Department of Community Affairs (DCA) concluded that - on the basis of benchmarks suggesting that the "optimum use" of local jail space fell between 40% and 60% of capacity[3] - Florida's local jails as a whole were overcrowded, with well over one-half of all facilities experiencing inmate populations in excess of this criterion.[4] The seriousness of the overcrowding problem at this early juncture also is suggested by litigation filed in the federal courts alleging unconstitutional conditions of confinement at the local level. Thus, overcrowding reportedly was a factor in each of the 11 federal court suits that had been filed against the state's counties by 1981, and in seven of these cases, the court responded by placing a population limit on the facilities at issue.[5] That such conditions were relatively enduring was suggested by a 1983 DCA update, which concluded that "...overcrowding presently overshadows all other operational issues..." affecting the state's local jails. The report further indicated that the problem had "increased dramatically" since

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[1]State of Florida, Florida Council on Criminal Justice, A Study of the Current Status of Florida's County Jails, (Tallahassee, Florida; September, 1991), p. 21.

[2]State of Florida, Florida Council on Criminal Justice, Recommendations, Strategies, and Alternatives for Funding Local Jail Functions (Tallahassee, Florida: Division of Public Safety Planning and Assistance, Bureau of Criminal Justice Assistance, Florida Department of Community Affairs; 1980), pp. 4, 18.

[3]For a number of reasons, efficient administration of local jails normally requires that inmate populations remain at a level below maximum rated capacities. Reasons cited by the 1981 DCA report include day-to-day fluctuations in jail populations and admissions, and facility maintenance requirements.

[4]State of Florida, Florida Council on Criminal Justice, Current Status, (1981), pp. 20-22.

[5]State of Florida, Council on Criminal Justice, Recommendations and Strategies, pp. 4, 18.

1981, with overcrowding affecting 66 of the 102 facilities operating in the state.[6]

Despite the aggressive capital expansion programs implemented by many counties over the course of the 1980's, the unprecedented increases in inmate populations that followed these expansions in the 1985-1989 period contributed to the enduring nature of the jail overcrowding problem.[7] Thus, despite the three-fold increase in system-wide capacity that was achieved over the 1980-1989 period, the level of overcrowding in the state's county jails was more severe in 1989 than in 1981. According DOC data, 49 of the 107 county jails operating in the state in 1989 experienced inmate populations above their rated capacities, with 17 of these suffering overcrowding levels in excess of 25%.[8] Indeed, although the state's counties increased local jail capacity from approximately 20,700 beds in 1986 to nearly 30,700 in 1989, the number of counties operating one or more jails with inmate populations in excess of their rated capacities remained relatively unchanged over this period (see Table IV-1). Moreover, nearly identical numbers of counties operated jails with inmate populations in excess of 150% of rated capacity in 1989 as did so in 1986 (see Table IV-1). While substantial progress in reducing the level of system overcrowding was achieved in the 1990-1992 period as Florida's county governments brought nearly 10,000 new jail beds on-line, historical patterns suggest that the current surplus of local jail capacity will be a temporary phenomena.[9]

FACTORS CONTRIBUTING TO JAIL OVERCROWDING

Jail Overcrowding and Pretrial Detention

In light of the significant additions made to the capacity of Florida's local jail system over the course of the 1980's and early 1990's, it is clear that the widespread overcrowding characterizing these facilities cannot be attributed to the failure of county governments to augment facility capacity. Rather, the problem of local jail overcrowding in Florida can be traced largely to the unprecedented increases in inmate populations that became evidenced over the 1980-1990 period.[10] In turn, these increases can be attributed primarily to the large and growing numbers of pretrial detainees held in the state's county jails. Thus, pretrial detainees long have accounted for a majority of the state's local jail population, and

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[6]State of Florida, Department of Community Affairs, Bureau of Criminal Justice Assistance, Division of Public Safety Planning and Assistance, The Current Status of Florida's County Jails 1981 versus 1983, (Tallahassee, Florida; 1983), pp. 18-23.

[7]For a more detailed discussion of the dynamics of local jail population growth and increases to the state's local jail capacity, see pp. 45-51, supra.

[8]State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities: Annual Report 1989, (Tallahassee, Florida; February, 1990), pp. 8-11.

[9]As of August, 1992, the total inmate capacity of the state's county jail system exceeded 39,700. State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data, Monthly Report August, 1992, Tallahassee, Florida; September, 1992), pp. 6-8.

[10]For a more detailed discussion of these increases, see the discussion on pp. 45-51, supra.

TABLE IV - 1
Local Jail Overcrowding in Florida: Counties Operating One or More Jails with Inmate Populations in Excess of Rated Capacities: 1986 - 1991

1986

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Duval	Alachua	Dade	Brevard
Gadsden	Bay	Levy	Columbia
Hernando	Broward	Manatee	Dade
Sarasota	Citrus	Orange	Hillsborough
	Indian River	St. Lucie	Lake
	Lee	Seminole	Sumter
	Madison		Volusia
	Marion		
	Monroe		
	Okeechobee		
	Palm Beach		
	Pasco		
	Pinellas		
	Polk		
	Putnam		
	St. Johns		
	Taylor		

1987

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Hernando	Broward	Alachua	Brevard
	Citrus	Lee	Columbia
	Duval	Madison	Dade
	Gadsden	Orange	Hillsborough
	Indian River	Palm Beach	Lake
	Leon	Pasco	Manatee
	Levy		Monroe
	Marion		Polk
	Nassau		St. Lucie
	Pinellas		Sumter
	Putnam		Volusia

1988

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Columbia	Alachua	Bradford	Dade
Okaloosa	Broward	Citrus	Duval
Palm Beach	Lee	Gadsden	Hillsborough
	Marion	Lake	Manatee
	Wakulla	Leon	Monroe
		Madison	Orange
		Nassau	Pinellas
		Pasco	
		Polk	
		Sumter	
		Volusia	

1989

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Collier	Alachua	Duval	Bradford
Jackson	Bay	Hillsborough	Citrus
	Brevard	Martin	Dade
	Broward	Monroe	Gadsden
	Franklin	Pasco	Manatee
	Holmes	Polk	Orange
	Indian River		
	Lake		
	Lee		
	Madison		
	Marion		
	Nassau		
	Okaloosa		
	Palm Beach		
	Pinellas		
	Volusia		
	Wakulla		

1990

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Alachua	Broward	Duval	Dade
Brevard	Jefferson	Hillsborough	Monroe
Flagler	Manatee	Lake	Orange
Madison	Marion	Pasco	
Pinellas	Martin	Polk	
Sumter	Okaloosa		
Suwannee	Wakulla		

1991

1 - 5% Over Capacity	6 - 25% Over Capacity	25 - 50% Over Capacity	50% + Over Capacity
Broward	Citrus	Pasco	Dade
Manatee	Hillsborough		Orange
Palm Beach	Jefferson		
Pinellas	Madison		
	Monroe		
	Okaloosa		
	Polk		
	Suwannee		

Source: Florida Dept. of Corrections, Office of the Inspector General, "County Detention Facilities Annual Report," (Tallahassee, FL; various years.)

traditionally have dwarfed by substantial margins the number of persons falling into other inmate categories.[11] In 1991, approximately 60% of the state's jail population consisted of persons awaiting trial, while another 8% consisted of persons awaiting the disposition of violation of probation charges.[12] Moreover, it has not been uncommon for pretrial detainees to represent upwards of 80% of the local jail population in individual counties.[13] While the overall percentage of pretrial defendants held in county jails has remained relatively stable in recent years, the pretrial detention population increased more rapidly than the sentenced population over the 1986-1990 period, when growth in the statewide jail population and levels of overcrowding were at unprecedented levels.[14] Significantly, increases in the number of pretrial detainees held on misdemeanor charges (79%) substantially outstripped corresponding growth in the number of defendants held on felony charges (56%) over this period.[15]

Factors Contributing to Florida's High Rates of Pretrial Detention

The tendency of Florida's county jails to house disproportionately large numbers of pretrial detainees relative to local jails in other state's has long been recognized. In acknowledging this pattern, several studies completed in the early 1980's variously questioned the extent to which the discretionary policies and procedures adhered to by law enforcement, court system, and corrections agencies in processing criminal cases from arrest through disposition may explain this tendency.[16] Although addressed at a relatively high level of generality, this perspective was consistent with the increasingly widespread understanding that growth in local jail populations - and in particular, the pretrial component of these populations - is attributable more to a variety of "policy factors" than to increases in the rate and incidence of crime.[17] As such, these early studies represented the first initiatives in Florida that focussed on how the collective actions of a wide variety of criminal justice system actors influence decisions relative to who is booked into jail as well as their lengths of stay in these facilities.

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[11]For a more detailed discussion of the components of Florida's local jail population, see the discussion on pp. 45-46, supra.

[12]State of Florida, Department of Corrections, County Detention Facilities Annual Report, 1991(Tallahassee, Florida; March 1992), p.3.

[13]According to DOC data, the number of pretrial detainees exceeded 80% of the average daily jail population for the month of December, 1990, in Alachua, Collier, and Columbia Counties. In Bay and Pinellas, the pretrial detention population represented approximately 80% of the average daily jail population for that month. See State of Florida, Department of Corrections, Office of the Inspector General, County Detention Facilities Daily Inmate Population Data Monthly Report, December, 1990, (Tallahassee, Florida; January, 1991), pp. 6-8.

[14]For a detailed presentation of the components of local jail populations over the 1986-1991 period, see Tables III-1 and III-2, pp. 47-48, supra.

[15]Id.

[16]State of Florida, Department of Community Affairs, Current Status of County Jails, (1981), pp. 18-20.

[17]For a overview of this perspective, see pp. 13-14, supra.

As a further reflection of the early acknowledgement that Florida's relatively large pretrial detention population may have been attributable to the influence that case processing procedures exert on jail admissions and lengths of stay, these early studies offered a series of recommendations intended to promote the adoption of managerial initiatives designed to limit the growth in local jail populations in a manner consistent with both public safety and the efficient and effective use of local jail space. Thus, a 1981 study of local jails commissioned by the Florida Council on Criminal Justice recommended that alternatives to incarceration in the pretrial stage be developed in the state in order to address high rates of pretrial detention in both felony and misdemeanor cases.[18] A second report prepared in the early 1980's that addressed funding and other issues pertaining to local jails issued a number of recommendations in this area. Included among these were recommendations aimed at developing alternatives to incarceration in the pretrial stage and expediting the processing of cases in which the defendant remains detained in jail while awaiting trial. Significantly, the report recommended that state financial assistance be targeted at both these objectives.[19]

In addition to the recommendations arising out of the work of the Criminal Justice Council, the Governor's Task Force on Criminal Justice System Reform in 1982 advocated a series of changes to Florida law that - while intended to address inequities associated with the use of monetary-based forms of pretrial release - would have enabled the state's criminal courts to better manage the growth in local jail populations. More specifically, the Task Force recommended that a statewide pretrial release and detention system be created that would expedite the release from jail of those persons whose return to the community pending trial would not compromise public safety or the integrity of the judicial process. Among the various recommendations offered in this regard were the following:

1. The Florida statutes and rules of criminal procedure should be revised in order to create a presumption in favor of pretrial release on non-monetary conditions for most criminal defendants;

2. A percentage bail system should be created in Florida;

3. The state's criminal courts should delegate release authority to appointed magistrates, pretrial services agencies, or an existing state agency in order to insure the presence of a release authority on a 24 hour basis;

4. Pretrial service authorities should be established in Florida in order to conduct pretrial release investigations, monitor compliance with conditions of release, remind defendants of upcoming court dates, and exercise direct release authority under guidelines established by the

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[18]State of Florida, Department of Community Affairs, Current Status of County Jails, (1981), pp. 18-20, 116.

[19]State of Florida, Florida Council on Criminal Justice, Recommendations, Strategies, and Alternatives for Funding Local Jail Functions, (Tallahassee, Florida: Department of Community Affairs, Division of Public Safety Planning and Assistance; 1982).

court;

5. A 60 day speedy trial rule should be established for defendants who are ordered detained by the court pending trial.[20]

Beyond these recommendations, the Task Force advocated a series of statutory changes that would change the status of local ordinance violations from misdemeanor offenses to infractions in order to limit instances in which persons charged with such violations are incarcerated in local jails.[21] In addition, the group recommended that the state provide limited forms of financial assistance to local jails. With respect to the provision of assistance in the area of jail construction and renovation costs, however, the Task Force recommended that state aid be tied to the establishment of a pretrial services agency in the county.[22]

The Impact of Case Processing Procedures and Practices on Pretrial Detention Populations

Despite the recommendations offered by various groups in the 1980-1982 period, Florida's pretrial detention population continued to expand throughout the 1980's. Moreover, as the decade progressed, evidence from a variety of sources consistently stressed that the policies and procedures adhered to by the various agencies discharging criminal justice system responsibilities at the local level were critical factors contributing to these increases. Thus, results of a multivariate statistical analysis published by the Florida Advisory Council on Intergovernmental Relations in 1990 suggested that the policy choices exercised by law enforcement agencies and the propensity of other local criminal justice system actors to invoke and sustain the incarceration option were more influential in explaining differences in jail populations and spending across the counties than was the rate of crime occurring within individual jurisdictions.[23] Buttressing this finding was presentation of additional data indicating that jail population increases at the county level substantially outstripped growth in the number of arrests and other measures of law enforcement activity over the latter half of the 1980's. Thus, in contrast to an average increase of 15% in the rate of reported crime and a 18% increase in the number of arrests occurring within individual jurisdictions, county jail populations nearly doubled over the 1985-1989 period (see Table IV-2).[24]

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[20]State of Florida, Governor's Task Force on Criminal Justice System Reform, Final Recommendations: Reforming the Florida Criminal Justice System, (Tallahassee, Florida; 1982), pp. 16-26.

[21]Governor's Task Force, Final Recommendations, (1982) p. 37.

[22]Governor's Task Force, Final Report, p.50.

[23]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures In Florida: A Fiscal Impact and Explanatory Analysis, (Tallahassee, Florida; September, 1990), p. 43 ff.

[24]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures, pp. 67-69.

Relying in part on the Council's work, the Racial and Ethnic Bias Study Commission of the Florida Supreme Court in late 1991 issued a report that documented the existence of certain case processing factors that contribute to the problem of pretrial detention in the state's local jails.[25] Thus, the report concluded that the presumption for pretrial release on non-monetary conditions provided for by the provisions of Article I, Section 14 of the Florida Constitution, and various provisions of statutory and procedural law[26] "is not-being effectuated" to the extent that the courts continue to rely upon traditional bail as a condition for granting a defendant pretrial release.[27] In discussing the implications this tendency poses for county jail populations, the report noted that "current bail policies and practices force many minorities to remain in jail prior to trial by virtue of their inability to post even a minimal bond".[28] Beyond this, the Commission's report noted that existing pretrial services programs in the state - which often are designed to provide the court with an institutional capacity to effectuate alternatives to monetary bail - vary greatly in terms of their functions and funding levels, and are not linked with one an other in a "state-endorsed" system. In this regard, the Commission noted that, even within individual jurisdictions that are served by such programs, court officials often are unfamiliar with them.[29]

Beyond these aggregate findings, a number of local criminal justice system studies completed by independent research teams have suggested that underlying the high rates of pretrial detention in Florida is a tendency towards inappropriate use of available jail capacity. More specifically, these studies indicate that as a result of ineffective management of jail admissions and lengths of stay within individual jurisdictions, substantial numbers of criminal defendants whose release would pose little risk to public safety or the integrity of the judicial process have been detained in Florida's local jails, in some cases for extended periods of time. The following represents a detailed summary of the findings generated by several of these reports:

1. **Many defendants charged with relatively minor offenses that ordinarily would not carry a sentence of incarceration have been detained pending trial for extended periods of time in a number of Florida county jails:**

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[25]State of Florida, Florida Supreme Court, Racial and Ethnic Bias Study Commission, Where the Injured Fly for Justice: Reforming Practices Which Impede the Dispensation of Justice to Minorities in Florida, (Tallahassee, Florida: December, 1991).

[26]While the Florida Constitution guarantees most criminal defendants the right to pretrial release on "reasonable conditions" (see Article 1, Section 14), Section 907.041, Florida Statutes, and Rule 3.131(b) of the Florida Rules of Criminal Procedure, explicitly provide that there is a presumption in favor of release on "non-monetary conditions" for any defendant who is granted pretrial release.

[27]State of Florida, Florida Supreme Court, Where the Injured Fly, pp. 20-28.

[28]Id., p. 22.

[29]Id., pp. 21-22.

a. According to a 1990 consultant's report, one half of all misdemeanor defendants detained before trial in the Volusia county jail system had been there for more than 30 days;[30]

b. According to a 1988 report prepared by the Volusia County Department of Corrections, 71% of the Volusia county jail population consisted of persons charged with a 3rd degree felony or less serious offenses, and another 9% were charged with technical violations of probation (VOP's). 3rd degree felony defendants had an average length of stay (ALS) of 53 days, while misdemeanor defendants had an ALS of 18 days. Among misdemeanor defendants, 25% had been booked on public order/nuisance offenses (ALS of 15 days), and nearly 20% had been charged with criminal traffic offenses (ALS of 14 days). Among VOP detainees, 20% were on misdemeanor probation (ALS of 23 days);[31]

c. In Leon county, a consultant reported in 1987 that "many violations of probation charges appear to result from an inability to pay costs of supervision, fines, court costs, restitution, or costs of drug/alcohol testing". While Florida law prohibits the courts from sentencing such persons to jail time due to their inability to satisfy such financial obligations, offenders do spend time incarcerated pending the disposition of the alleged violation.[32]

2. **Many misdemeanor and felony defendants have been detained in local jails for extended periods of time on relatively low monetary bonds:**

a. In Collier County, a 1991 study reported that substantial numbers of low risk defendants had been detained in the county jail system for extended periods of time on relatively low bonds;[33]

b. In Broward county, first appearance hearing logs for October, 1991, indicate that many misdemeanor arrests result in jail booking and an

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[30]Edelstein, C. D., Volusia County Court Case Assignment and Pretrial Detention Study, Phase II Report, (Volusia County, Florida; 1990), p. 9.

[31]Volusia County, Florida, Department of Corrections, "Analysis of DOC Non-Sentenced Population and Possibilities for Diversion Efforts" (unpublished 1988 report), p. 8, Table 1.

[32]Institute for Law and Policy Planning, Leon County Phase I Report, Causes of Jail Overcrowding in Leon County, Florida, (Berkeley, California; November, 1987), pp. 55-56.

[33]Correctional Services Group, Inc., Integrative Corrections Strategic Development Plan, (St. Louis, Missouri; 1991), p. V-15.

initial period of detention due to the failure of defendants to post bonds as low as $25 and $100 prior to first appearance;[34]

c. In Escambia county, a 1984 report prepared by the Department of Community Affairs (DCA) noted that the average bond of misdemeanor defendants who failed to secure pretrial release prior to case disposition was $256.[35]

3. **In several counties, many defendants whose charges eventually were dropped by the prosecution were detained in local jails for extended periods of time awaiting disposition of their cases:**

a. In Collier County, consultants reported in 1991 that a significant number of jail beds were taken up by defendants whose charges ultimately were dropped by the prosecution. For example, in the second quarter of 1990, 108 defendants whose charges eventually were dropped were detained for a combined total of 700 days in the Collier county jail system prior to bonding out.[36] During the first quarter of 1990, 55 defendants who eventually bonded out and whose charges ultimately were dropped by the prosecution spent between 5 and 14 days in jail before their release.[37] In reporting these findings, the consultant report noted that they underestimate the problem because they focus solely upon those defendants who secured their release by posting a monetary bond. If those detainees who failed to secure pretrial release had been included in the analysis, the impact would have been much greater;[38]

b. In 1990, a Palm Beach County consultant reported an average length of stay of 90 days among felony defendants who failed to secure pretrial release and whose charges eventually were dropped by the

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[34]Florida Advisory Council On Intergovernmental Relations, "Examples of the Current Utilization of Local Jail Space in Florida: An Analysis of Broward County First Appearance Hearing Logs" (Tallahassee Florida: unpublished discussion paper; November, 1991).

[35]State of Florida, Department of Community Affairs, Bureau of Criminal Justice Assistance, Division of Public Safety Planning and Assistance, Local Correctional Assistance Project, Escambia County, (Tallahassee, Florida; June 1984) pp. 46-48.

[36]Correctional Services Group, Inc., Integrative Plan, pp. II-23 - II-26.

[37] Id. Appendix B.

[38]Id. p. II-23.

prosecution. For an equivalent group of misdemeanor defendants, an average length of stay of 10 days was reported;[39]

c. In Volusia county, a consultant reported in 1990 that one third of all defendants who were released from the local jail after being detained for between 61 and 120 days were released after prosecution dropped charges;[40]

d. In Broward County, a research team in 1988 reported that pretrial defendants whose cases eventually were dropped by the prosecution on average spent approximately 20 days in jail prior to the state attorney's decision to drop charges; approximately 350 defendants spent an average of 19 days in jail awaiting trial on charges that eventually were dropped by the prosecution. According to the report, delays on the part of the state attorney's office in identifying those cases that were too weak to effectively prosecute were attributable to late receipt of police reports. In some cases, these delays appeared to be intentional in order to insure that the defendant remained detained longer than would otherwise have been the case;[41]

e. The 1987 Leon county consultant's study found that among a sample of 106 felony cases in which the defendant failed to secure pretrial release, only 52% were disposed of as felonies; 10% were reduced to misdemeanors, while 37% were dropped by the prosecution;[42]

f. The 1984 DCA Escambia County study found that the average length of stay for misdemeanor defendants who failed to secure pretrial release and whose charges were dropped by the prosecution was 20 days. Moreover, one half of all misdemeanor defendants who failed to secure pretrial release and whose charges ultimately were dismissed by the prosecution remained detained for between 61 and 90 days subsequent to arraignment;[43]

g. With respect to felony cases, the Escambia county study reported that felony defendants who failed to secure pretrial release and whose cases

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[39]Institute for Law and Policy Planning, Comprehensive Analysis of Palm Beach County's Criminal Justice System and Services Related to Crime, Phase I Report, Description and Findings, (Berkeley, California; February, 1990), pp.III-12, III-13.

[40]Edelstein, Volusia County Phase II Report, p. 8-9.

[41]Correctional Services Group, Inc., Confinement Facilities Plan for Broward County, Florida, (St. Louis, Missouri; 1988), pp. 1-11 - 1-12.

[42]Institute for Law and Policy Planning, Leon County,pp. 67, 71.

[43]State of Florida, Department of Community Affairs, Escambia County, p. 55.

eventually were dismissed/or dropped by the prosecution on average were detained for 46 days in the county jail. Moreover, one half of all felony defendants who failed to secure pretrial release and whose charges were dropped by the prosecution were detained for 85 days or more.[44] Finally, the Escambia County study reported that nearly one-half of all felony defendants who failed to secure pretrial release and whose charges ultimately were dropped by the prosecution remained detained for 90 days or more subsequent to arraignment.[45]

4. **In several counties, there has been a heavy reliance upon the use of "time served" sentences by judges in misdemeanor cases in which the defendant failed to secure pretrial release. This represents a questionable use of jail space insofar as many of these offenders under ordinary circumstances would have been sentenced to a term of probation or some other non-incarceration alternative:**

   a. In Palm Beach county, a consultant reported in 1990 that 94% of all misdemeanants who failed to secure pretrial release were sentenced to time served after having been detained for an average of 9 days.[46] Among the highest lengths of stay within this group of defendants were those held on misdemeanor VOP charges (ALS of 21 days), non-DUI traffic charges (ALS of 12 days), failures to appear (ALS of 12 days), and drug use (ALS of 10 days);[47]

   b. The same Palm Beach county consultant reported that significant numbers of felony defendants who failed to secure pretrial release were sentenced to time served upon a finding of guilt. On average, these persons were detained for 72 days prior to sentencing by the court;[48]

   c. According to a 1990 consultant's report, one-third of all defendants released from the Volusia County Jail System were released on time-served sentences. In one-fourth of these, the inmate served between 60 and 328 days prior to sentencing. Many such defendants were held on relatively low monetary bonds of under $3,000;[49]

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[44]Id. pp. 69, 74.

[45]Id., p. 55.

[46]Institute for Law and Policy Planning, Palm Beach County, pp. III-12, III-13.

[47]Id., pp. III-23, III-25.

[48]Id. pp. III-12, III-13.

[49]Edelstein, Volusia County Phase II Report, pp. 8-9.

d. In Leon county, a 1987 consultant's report documented that "few persons actually serve their sentence at the post sentence stage. Most serve their time pretrial".[50]

5. **In at least two jurisdictions, substantial jail space has been allocated to defendants charged with relatively minor offenses who nevertheless failed to appear in court to face their current charges. Many such "failures to appear" (FTA's) reportedly did not represent "willful and knowing" flight to avoid prosecution; rather they were attributable to systemic failures to notify released defendants of pending court dates or to "client errors":**

a. The Palm Beach county consultant reported in 1990 that substantial jail space was allocated to persons booked on FTA charges where the original charge was a misdemeanor. Less than half of the misdemeanor FTA defendants were released pretrial on the FTA charge, and they had an ALS of nearly 7 days prior to their release.[51] Over one half of the FTA's were originally booked on a vehicle code violation, while approximately 10% each were booked on retail theft and trespass, loitering, and prowling charges. In fact, the consultant reported that nearly 100 beds in the Palm Beach County Jail System were allocated to housing FTA's who initially faced misdemeanor traffic charges.[52] In this case, the high incidence of FTAs may have been attributable to the ongoing practice of the local criminal justice system to place full responsibility on the defendant for making scheduled court appearances once a notice to appear has been issued;[53]

b. The 1987 Leon county study identified a number of "system errors" as contributing to FTA's. Among these was the failure of the court to record the payment of traffic fines, and the failure of jail staff to release defendants for purposes of attending a scheduled court appearance because the judge had not authorized such release. [54]

6. **In a number of counties, an excessive reliance upon monetary bond was cited as a key factor contributing to population pressures placed upon local jail facilities insofar as many criminal defendants lack the ability to post even modest bail amounts with the court:**

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[50]Institute for Law and Policy Planning, Leon County Report, p. 68.

[51]Institute for Law and Policy Planning, Palm Beach County, pp. III-8, III-9.

[52]Id., pp. III-16, III-17.

[53]For example, see the discussion in Id., p. III-58.

[54]Institute for Law and Policy Planning, Leon County Report, p. 55.

a. In Broward county, reliance upon monetary bond as the primary form of securing pretrial release results in the detention of large numbers of misdemeanor defendants who are charged with offenses that pose only limited risks to public safety. Thus, over a 10 day period in October, 1991, 350 persons charged with misdemeanor offenses were booked into the county jail system and detained for up to 48 hours prior to first appearance. Approximately 15% of these defendants were detained for up to 48 hours prior to first appearance on bonds of $25 or less, while fully one third were detained on bonds of $100 dollars or less. Among the entire group of defendant's falling into the sample, only 6% had been arrested on misdemeanor charges involving violence;[55]

b. In Collier county, consultants in 1991 cited an overreliance upon monetary bond, and noted that this overreliance resulted in the failure of many defendants who represent marginal public safety risks to secure pretrial release. In addition, the reliance upon bail as the primary form of pretrial release resulted in delays in the release of many defendants who ultimately secured release by posting bond;[56]

c. According to the 1990 consultant's report, half of all releases from the Volusia County Jail System were on cash or bail bond, while only 14% were on non-financial release. In reporting these findings, the consultant noted that the incidence of non-financial release was "far below" national patterns;[57]

d. In Leon county, the consultant in 1987 noted that 57% of all misdemeanor releases identified in a booking sample were secured through posting a bond, usually a bail bond, and recommended that alternatives to financial release be expanded in order to reduce population pressures on the local jail;[58]

e. According to the 1984 DCA Escambia County study, 37% of misdemeanor defendants were released by posting a cash or bail bond with a median value of $256, while 39% of felony defendants were released by posting bonds with a median value of $1500. In citing these figures, the study took note of the few alternatives to monetary

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[55]Florida Advisory Council on Intergovernmental Relations, "An Analysis of First Appearance Hearing Logs in Broward County".

[56]Correctional Services Group, Inc. Integrative Plan, p. II-2.

[57]Edelstein, Volusia County Phase II Report, p. 6.

[58]Institute for Law and Policy Planning, Leon County Report, pp. 36-37.

bond that existed in Escambia county, which up to that point had been characterized by chronic jail overcrowding.[59]

7. **In several counties, a tendency towards limited and non-uniform use of notices to appear by local law enforcement has been observed:**

   a. In Brevard County, knowledgeable sources indicate that local law enforcement agencies use notices to appear in lieu of arrest and jail booking infrequently. This seems to be borne out by data indicating over the 12 month period extending from October, 1990 through September, 1991, over 8000 persons were booked into the Brevard county jail system on misdemeanor charges.

   b. In Pinellas county, monthly arrest data provided to ACIR staff by Sheriff's office officials indicate that less than one quarter of all misdemeanor arrests were diverted from jail booking through the issuance of notices to appear over a 2 month period during the summer of 1991;

   c. In Palm Beach county in 1990, substantial inconsistencies were found in the policies adopted by municipal law enforcement agencies pertaining to the use of notices to appear in lieu of jail booking;[60]

   d. A 1990 Volusia county study took note of inconsistencies in the use of notices to appear by various municipal law enforcement agencies operating within the county. Thus, City of Deland law enforcement officers issued approximately 2 notices to appear for every custodial arrest, while in Daytona Beach, arrests resulting in jail booking outnumbered the issuance of notices to appear by a ratio of over 3 to 1.[61]

8. **In several counties, the reliance of the courts upon monetary bond has been observed to result in delays in the release of criminal defendants who eventually secure their release by posting a bail bond.**

   a. In Collier county, a 1991 consultant's study reported that reliance upon monetary bond as the primary means for securing pretrial release resulted in delays in the release of many defendants who ultimately secured pretrial release. Thus, of those persons who were detained on bonds of under $1000, less than half were able to secure pretrial

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[59]State of Florida, Department of Community Affairs, Escambia County Report, pp. 46-48.

[60]Institute for Law and Policy Planning, Palm Beach County, pp. III-48, III-52.

[61]Edelstein, Volusia County Phase II Report, p. 11.

release within 4 days of admission. Additionally, more than half of all defendants detained on bonds of less than $1000 remained detained for more than 30 days, while 40% remained detained for more than 60 days;[62]

b. In Volusia county, a consultant team reported in 1987 that excessive reliance upon bail bonds imposed costs upon the county insofar as defendants who eventually secured their release by posting a bail bond occupied scarce jail space until bail could be raised;[63]

c. The Leon county consultant reported in 1987 that 54% of all felony defendants in a jail tracking sample secured pretrial release by posting a bond. Obtaining a bond from a bail bondsman, however, was found to have required a significant amount of time,[64] and was a contributing factor to the high average length of stay found among the jail population;[65]

d. The same Leon county consultant reported that 57% of all misdemeanor defendants detained in the Leon county jail secured pretrial release by posting a monetary bond, and that for these persons, the ALS was higher than for other forms of release (2.33 days vs. 1.53 days). In contrast, the county pretrial release program was reported to affect releases "rapidly".[66]

MANAGERIAL OPTIONS FOR CONTROLLING GROWTH IN PRETRIAL DETENTION POPULATIONS

In citing various policies and procedures adhered to by law enforcement, court system, and other agencies as contributing to high levels of pretrial detention and overcrowding in Florida county jails, research teams often have advocated the development and implementation of specific initiatives to remedy these problems. By and large, these alternative policies, programs, and procedures are designed to insure that available jail space is used to detain persons pending trial only when all other means of assuring public

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[62]Correctional Services Group, Inc., Integrative Plan, Appendix B.

[63]The EMT Group, Inc., Volusia County, Florida: Recommendations for Improvement of Criminal Justice Processes, (Sacramento, California; 1987), p. 17.

[64]On average, these felony defendants remained detained for 11 days prior to posting a bond with the court.

[65]Institute for Law and Policy Planning, Leon County Report, pp. 35-36.

[66] According to the report, the pretrial program accounted for 17% of all misdemeanor releases, and defendants released through this program on average remained detained for 0.74 days prior to securing their release. See Institute for Law and Policy Planning, Leon County Report, pp. 36-37

safety and appearance at trial have been exhausted. While many examples exist of the ways in which various criminal justice agencies can work to more properly manage the size of a jail's pretrial detention population, these can be organized along several distinct dimensions under which various policies and procedures fall.[67] These management dimensions are summarized in Chart IV-1, and range from law enforcement diversionary practices to jail case monitoring and management systems that can be developed and implemented by county governments. Taken together, these dimensions present law enforcement, county, and court system officials with a continuum of policies and procedures that can help insure that the incidence and length of pretrial detention is minimized in a manner consistent with public safety. Each of these managerial dimensions are summarized below.

Summary of Managerial Dimensions

Law Enforcement Diversionary Procedures. As Chart IV-1 notes, the first management dimension focusses on law enforcement, and the extent to which local law enforcement agencies employ policies and procedures in order to systematically divert minor offenders and special populations such as alcohol, drug abuse, and mental health cases from the local jail. With respect to minor criminal offenses, the most common diversionary procedure is the issuance of a notice to appear by the arresting officer in lieu of jail booking. Thus, where the accused presents proper identification and evidence of ties to the community, and the officer is able to ascertain that the defendant is not wanted on any outstanding criminal charges and does not pose a threat to himself or to others, the officer can issue a notice that details the time and place where the accused must appear to answer the criminal charge. Policies and procedures providing for the mandatory issuance of notices to appear under certain circumstances have been endorsed by a wide variety of groups, including the National Prosecuting Attorneys Association, the American Bar Association, and the National Association of Pretrial Services Agencies. In addition, this diversionary procedure is endorsed by Rule 3.125 of the Florida Rules of Criminal Procedure. Where notices to appear are employed systematically by local law enforcement, the number of jail admissions can be expected to be lower than in jurisdictions in which such diversionary procedures have not been implemented.

Prompt Bail Setting. A second managerial dimension involves policies and procedures pertaining to prompt bail setting by the courts. By providing for a bail schedule that can be applied at jail booking, extending judicial coverage for bail setting to nights

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[67]The following discussion of various aspects to managing local jail population growth is based upon an extensive review of professional and academic literature that has been published in the last decade. For a sampling of such literature, see: Office of the Inspector General, Florida Department of Corrections, Reducing County Jail Inmate Populations: The Alachua County Florida Experience, (Tallahassee, Florida; 1989); Embert, P.S., "Correctional Law and Jails: Evolution and Implications for Jail and Lockup Administrators and Supervisors", in Kalinich. D.B., and Klofas, J., Sneaking Inmates Down the Alley, (Springfield, Ill.; Charles C. Thomas: 1986); Bolduc, A., "Jail Overcrowding", 478 Annals of the American Academy of Political and Social Science (1985); Hall, A., Alleviating Jail Overcrowding: A Systems Perspective, (Washington, D.C.; National Institute of Justice: 1985); U.S. Advisory Commission on Intergovernmental Relations, Jails: Intergovernmental Dimensions of a Local Problem, (Washington, D.C.; 1984); Finn, P., "Judicial Responses to Jail Overcrowding", 67 Judicature (1984); Price, A.C. et. al., "Judicial Discretion and Jail Overcrowding", 8 Justice System Journal (1983).

CHART IV-1
Alternative Policies and Procedures Available for Controlling the Incidence and Length of Pretrial Detention in County Jails: A Summary of Managerial Dimensions

DIMENSION	DESCRIPTION OF POLICIES AND PROCEDURES	IMPLEMENTING AGENCIES
Diversion of New Arrestees from Jail	Notices to Appear	Law Enforcement
Prompt Bail Setting	Bail Schedule	Judiciary
	Night/Weekend Coverage for Bail Setting	Judiciary
	Authorizing Law Enforcement/Jail Staff to Accept Bail	Judiciary
Pretrial Release Investigations	Interviewing Defendants, Verifying Information, Making Recommendations to the Court	Pretrial Services
Support For Alternatives to Monetary Bail	Notices to Appear	Law Enforcement, State Attorney, Public Defender, Judiciary
	Recognizance Release	State Attorney, Public Defender, Judiciary
	Supervised Release	State Attorney, Public Defender, Pretrial Services, Judiciary
	Conditional Release	State Attorney, Public Defender, Pretrial Services, Judiciary
Early Case Screening (procedures conducted within 24 hours of arrest)	Pre-Arrest Warrant Screening	State Attorney
	Screening Charges at Jail Booking	State Attorney
	Making Charging Decisions Within 72 Hours of Arrest	State Attorney
	Indigency Screening	Public Defender
	Assignment of Counsel	Public Defender
	Making Initial Defendant Contact	Public Defender
	Beginning Plea Negotiations	Public Defender
Review of Release Conditions	Bond Reduction Hearings	Public Defender, Pretrial Services, Judiciary
Expedited Processing of Detention Cases	Consolidation of Multiple Charges	State Attorneys

CHART IV-1, Continued

DIMENSION	DESCRIPTION OF POLICIES AND PROCEDURES	IMPLEMENTING AGENCIES
Expedited Processing, cont'd.	Pretrial Conferences Following First Appearance	State Attorney, Public Defender, Judiciary
	Priority Handling of Detention Cases	State Attorney, Public
Court Delay Reduction	Automatic Discovery	State Attorney, Public Defender
	Decreased Use of Continuances	State Attorney, Public Defender, Judiciary
	Adversarial First Appearances	State Attorney, Public
	"Fast Tracking" Jail Cases	Judiciary
Jail Case Review	Jail Case Monitors	Sheriffs, County Government Pretrial Services
	Jail Case Managers	County Government
	Criminal Justice Management Information Systems	County Government

and weekends, and authorizing law enforcement officers and jail staff to accept bail, the courts can facilitate the release of certain defendants prior to first appearance. Conversely, in the absence of such policies and mechanisms, all criminal defendants who have been booked into jail can be expected to remain detained at least until their first appearance before a judicial officer, which may be as long as a full 24 hours subsequent to their arrest.

Pretrial Release Investigations and Supervision. The existence of an institutional capacity to perform pretrial release investigations and supervise released defendants also can enhance the capacity of county government and the courts to manage the size of the pretrial detention population. Pretrial release investigations normally involve interviews with defendants who have been newly booked into jail in order to ascertain community ties, employment status, financial condition, and other factors that are relevant to the release decision. Subsequent to the defendant interview, the information is verified and a report and recommendation is made to the court at first appearance relative to the conditions of release that can reasonably be expected to assure the defendant's appearance at trial and the safety of the community. Most commonly, these investigations are performed by pretrial services agencies that are housed under the courts or as a separate agency of the county government. In many cases, agency staff can also serve to supervise defendants during their period of release in order to monitor compliance with conditions of release and assure appearance at trial.

Support for Alternatives to Monetary Bail. A fourth dimension to effective pretrial management involves the support given to non-monetary forms of pretrial release by the prosecution, defense counsel, and the courts. Where support is present for release mechanisms such as recognizance release, and conditional or supervised release, many defendants who otherwise would remain detained as a result of their inability to post cash bail or pay a bondsman's fee may be able to secure pretrial release. Conversely, an over-reliance upon monetary bail has been shown to result in extended periods of detention of large numbers of criminal defendants, including defendants facing misdemeanor charges.

Early Case Screening and Review. A fifth management dimension focusses on early screening and review procedures implemented by prosecution, public defense counsel, and pretrial services agencies for cases that result in jail booking. Thus, prosecution review of new charges at jail booking can lead to early dismissal or a reduction of charges against a defendant where evidence indicates that the original charge contained in the arresting officer's report will not hold up. Similarly, where public defense agencies assign counsel, make initial contact with the defendant, and initiate case review and investigation within the first 24 hours after arrest, there is an increased likelihood that the defendant will have an advocate for the establishment of reasonable conditions of release at the first appearance hearing. When both the prosecution and defense channel resources into such activities, early plea agreements also may be reached, which may lead to the imposition of sentences by the court that do not involve jail time.

Review of Release Conditions. The sixth series of policies and procedures available for effectively managing the size of a local jail's pretrial detention population concerns the systematic review of release conditions by pretrial services agencies and the courts subsequent to first appearance. Such review, which normally takes place in the forum of

a bond reduction hearing, often is necessitated by the lack of relevant information pertaining to the defendant at first appearance, and the reluctance of the court to establish non-monetary conditions of release in the absence of such information. As information concerning the defendant's community ties, employment, financial resources, past conduct, and any record of failing to appear at criminal proceedings becomes known to defense counsel and pretrial services, release can be expedited by bringing such information before the court and requesting a relaxation of the conditions of release established at the first appearance. Given the difficulty of calendaring individual cases before the court for a reconsideration of release conditions as more information becomes available on the defendant, a most expeditious way of conducting such review is the regular scheduling of mass bond reduction hearings by the courts. During such hearings, the court reconsiders previously established conditions of release for those defendants who remain detained as a result of the failure to meet such conditions.

Expedited Processing of Detention Cases. A seventh managerial dimension focusses upon the rate with which detention cases are processed by the court system. One procedure available to expedite the processing of criminal cases involves the prosecution's consolidation of multiple charges lodged against a defendant into one case. Where such consolidation occurs, the period of pretrial detention can be terminated upon the resolution of a single case. Conversely, in the absence of such procedures, the length of detention may be extended pending resolution of the other charges. Other procedures available for expediting detention cases include holding pretrial conferences with the prosecution, defense, and the trial judge in order to reduce charges in weak cases, or to speed the process of plea negotiations. Finally, both the prosecution and defense, in general, can work to marshal resources in order to achieve a speedy resolution of those cases that result in the pretrial detention of a defendant.

Court Delay Reduction. An eighth management dimension pertains to the more general area of court delay reduction, which can involve a range of procedures designed to speed the processing of cases through the court system. One such procedure involves automatic discovery, whereby the state attorney and public defender agree to share discovery-related information without the necessity of submitting discovery requests on an individual case-by-case basis. A second policy which may be initiated by the prosecution and defense, but which ultimately can be enforced by the court, involves limiting the frequency and extent of case continuances. A third procedure that has been shown to be effective in speeding the resolution of criminal cases is the conduct of adversarial first appearances, in which both the prosecutor and defense counsel are present and work to achieve a plea agreement, charge reduction, or case dismissal. Finally, the court can build into its calendaring system procedures that provide for the "fast tracking" of jail cases.

Jail Case Review. A final series of policies and procedures that can assist in controlling the incidence and length of pretrial detention focusses on the infrastructure necessary for the provision of many of those that previously have been identified - namely, the capacity to systematically review the status of persons who remain detained after first appearance. By and large these policies and procedures are established by county officials and provide information that is critical to the county's ability to manage growth in its jail population. The first such procedure, detention case monitoring, involves the assignment

of staff who are responsible for tracking the court status of all pretrial defendants who remain in jail in order to insure that cases are processed expeditiously and that the length of pretrial detention is not extended through oversight or inattention on the part of the courts, defense, or prosecution. Most commonly, jail staff are assigned to this function.

A second procedure in this area involves the establishment by the county government of a coordinated case management system that identifies and attempts to overcome delays in the processing of criminal cases in which the defendant remains in jail after first appearance. While similar to the case monitoring function, case management is considered distinct insofar as it involves actively working with the prosecution, defense, and the courts in order to insure that the progress of a case through the system is kept on track. Finally, the existence of a jurisdiction-wide criminal justice management information system that uses computer technology to generate statistical reports that identify the impact of various criminal justice system agencies and process on the jail population can also have a tangible effect on the size of the pretrial detention population. These systems do so by assisting in the identification of factors that result in increases in the incidence or length of pretrial detention that are not warranted by the legitimate concerns of failure to appear and public safety.

Barriers to Effective Management of the Incidence and Length of Pretrial Detention

Despite the wide range of managerial policies and procedures available to law enforcement, court system, and county government officials in order to control the incidence and length of pretrial detention, certain barriers to their widespread adoption exist. Chief among these is the current structure of intergovernmental relations in the criminal justice arena, which is commonly viewed as presenting the agencies at issue with few incentives for effective implementation of such alternatives. Thus, insofar as municipal law enforcement, prosecutors, public counsel agencies, and the judiciary are not responsible for funding or operating local jails, they may not be willing to allocate the resources necessary to develop and implement various policies and procedures designed to permit more effective management of jail population growth. Even at the county level, where substantial incentives exist, effective policy development and implementation is predicated on a working knowledge of how various "policy factors" can contribute to increases in the pretrial detention population of local jails above and beyond what ordinarily would occur based upon population growth and increases in the rate and incidence of crime. Finally, even where such an understanding is present, opposition from those criminal justice agencies whose cooperation is necessary in order to provide for effective implementation of various policies and procedures may dissuade elected county officials from moving forward with these. Given these barriers, it is perhaps not surprising that existing research suggests that many of the policies and procedures available for controlling the growth in pretrial detention populations have not been implemented in the jurisdictions studied.

SUMMARY

Notwithstanding an ambitious construction program that more than tripled the state's local jail capacity over the 1980's, Florida's local jails were subject to substantial levels of overcrowding for most of the past decade. The unprecedented increases in inmate

populations that contributed to this crisis were largely driven by increases in the number of pretrial detainees held in county jails. Moreover, despite the recommendations of statewide study groups that were issued at the outset of the decade, available evidence suggests that the problem of pretrial detention in Florida may be traceable to the policies, procedures, and practices adhered to by the various entities that impact upon jail admissions and lengths of stay within individual counties. More specifically, a series of studies focussing on jail overcrowding in individual counties have identified a number of policies and procedures that were operative in these jurisdictions that had the effect of detaining substantial numbers of criminal defendants whose pretrial release would not substantially compromise either public safety or the ability of the courts to secure the presence of the defendant at trial and other court proceedings. Taken together, these findings suggest that available jail capacity within individual jurisdictions is not being used in an efficient or effective manner. Moreover, given the fact that many of the agencies responsible for following these policies and procedures are independent of county government, these patterns of jail use suggest that the principles of equity and accountability in the area of local jail finance and management in Florida have not been achieved.

Although the findings of existing research initiatives generally have been consistent to the extent that they identified a common set of problematic tendencies associated with the processing of cases within the jurisdictions at issue, the number of counties for which such studies are available is limited. Moreover, a number of years have elapsed since several of the research initiatives were completed, and few updates are available to gauge the extent to which steps have been taken to remedy problems that have been identified. Given these information gaps, it would be inappropriate to conclude that the patterns that were identified are applicable to the state as a whole. In order to more definitively assess the current status of pretrial population management in Florida, a more systematic and up-to-date analysis is required. It is to such an analysis that attention is directed in the following chapters of this report.

CHAPTER V
CURRENT SUPPORT FOR AND IMPLEMENTATION STATUS OF PRETRIAL MANAGEMENT PROCEDURES IN FLORIDA COUNTIES AND JUDICIAL CIRCUITS

INTRODUCTION

Beyond the findings generated by independent research initiatives undertaken in individual Florida counties, very little information has been available concerning the implementation status of various policies and procedures designed to permit more effective management of local jail population growth from a statewide perspective. In light of this paucity of information, and given that many of the findings gleaned from various research reports are at least several years old, the staff of the Advisory Council on Intergovernmental Relations conducted a series of mail and telephone surveys of key county and criminal justice system officials during the late fall and winter months of 1991. In general, these surveys sought to identify the extent to which various policies, programs, and procedures available to law enforcement, court system, and county government officials in order to control the growth in the number of pretrial detainees have been implemented in the state's counties and judicial circuits. In addition to these survey efforts, ACIR staff conducted a series of telephone interviews with pretrial services program administrators in the Fall of 1992, in order to gather updated information pertaining to the operational status of such programs in Florida. This chapter summarizes the findings of this survey work, and discusses the implications these pose for the principles of efficiency, effectiveness, and accountability in the area of jail finance and management in Florida.

ACIR SURVEYS OF THE STATE ATTORNEYS, PUBLIC DEFENDERS, AND CHIEF CIRCUIT JUDGES

The Survey Process

During the months of January and February, 1991, ACIR staff conducted a mail survey of the state's public defenders, state attorneys, and circuit chief judges. The objectives of these surveys included the following:

1. To identify the extent to which key criminal justice policy-makers operating at the local level in Florida tend to view as effective a series of policies and procedures aimed at limiting local jail population growth in a manner consistent with public safety;

2. To determine whether these policies and procedures have been implemented in the respective circuits, the year they initially were established, and the frequency with which they are applied;

3. To identify the barriers that exist to more widespread implementation of these policies and procedures, and the steps that could be taken by Florida's state

and local governments in order to assist in overcoming these barriers.

Completed surveys were received from a total of 15 of the 20 state attorneys and public defenders, respectively, for a response rate of 75%. The corresponding response rate for the survey of chief judges was 55%, with 11 of the state's 20 chief judges returning completed surveys to the ACIR's offices. The following represents an overview of the survey results, which are summarized in Tables V-1 through V-12 and Charts V-1 through V-3.

Survey Findings

Support for and Implementation of Early Case Screening Procedures by State Attorneys and Public Defenders. While the state attorneys tended to view pre-arrest warrant screening as an effective jail population management technique, procedures such as screening new criminal charges at jail booking and making final charging decisions within 72 hours of arrest tended to be viewed as less effective (see Chart V-1). Consistent with this pattern, almost all of the state attorneys responding to the ACIR survey reported that they attempt to systematically screen warrants prior to arrest, and that this procedure is followed almost always (see Table V-1). In contrast, only 2 state attorneys stated that they attempt to screen new charges at jail booking, while only 1 reported that their office attempts to make final charging decisions within 72 hours or arrest (see Table V-1). The chief reasons cited for failing to implement these procedures relate to constraints imposed by excessive caseloads and failure to receive law enforcement reports in a timely manner.

In contrast with the state attorneys, the public defenders responding to the ACIR survey tended to view a number of early case screening procedures as effective or very effective in limiting jail population growth in a manner consistent with public safety (see Chart V-2). Despite this, there existed only limited implementation of these procedures. Thus, as Table V-2 relates, very few of the responding public defenders reported that they attempt to conduct indigency screenings or initiate plea negotiations within 24 hours of jail booking, while slightly more than half reported that they attempt to assign counsel, make initial contact with the defendant, or begin case review and investigation within this time frame. Most often, resource limitations and excessive caseloads were cited as the chief barriers limiting more widespread implementation of these procedures.

Finally, while a number of the state attorneys and public defenders responding to the ACIR survey noted that establishment of an intake unit in order to institutionalize the early case screening procedures detailed in Tables V-1 and V-2 would permit more effective management of local jail population growth, such units had been established by just over one-half of the responding state attorneys and just under half of the responding public defenders (see Table V-3).

Support for and Implementation of Prompt Bail Setting Procedures by the Court. As depicted in Chart V-3, the circuit chief judges responding to the survey tended to view a number of procedures providing for prompt bail setting to be effective in managing growth

CHART V-1
State Attorney Perspectives Towards Various Pretrial Jail Population Management Techniques

The following represent the summary findings of a January 1991 Advisory Council on Intergovernmental Relations mail survey of the state attorneys. The purpose of the survey was to gather information concerning various strategies, techniques, and programs available to the state attorneys in order to manage the growth in local jail populations in a manner consistent with public safety.

Completed questionnaires were received from 15 of the 20 state attorneys, for a response rate of 75%. Based upon responses to various survey items, the following findings were generated:

* State attorney perspectives relative to the effectiveness of several early case screening procedures in permitting more effective management of jail population growth tends to be ambiguous.

  Whereas pre-arrest warrant screening is viewed as an effective technique by two-thirds of survey respondents, policies and procedures calling for making charging decisions within 72 hours of arrest and screening new charges at jail booking tend to be viewed as less than effective.

* The state attorneys tend to view a number of procedures aimed at expedited processing of cases in which the defendant fails to secure pretrial release to be effective in managing growth in local jail populations. Among the specific policies viewed as effective in this regard are the following:

  a. consolidation of multiple charges arising out of the same event;

  b. consolidation of additional charges found subsequent to arrest;

  c. holding pretrial conferences with the judge and defense counsel after first appearance in order to speed plea negotiations;

  d. singling out detention cases for expedited case processing.

* The state attorneys tend to view such court delay reduction procedures as automatic discovery procedures and decreased use of continuances as effective in managing growth in local jail populations. Of the two, decreased use of continuances received the most widespread support in this regard.

* Strong support exists among the state attorneys for the use of law enforcement notices to appear, recognizance release, and non-monetary conditional release in misdemeanor cases, and with the exception of notices to appear, in third degree felony cases.

* Little support exists among the state attorneys for various alternatives to monetary bail in cases involving 2nd degree felony and more serious offenses.

TABLE V-1
Implementation Status of State Attorney Early Case Screening Procedures as of January 1991

Judicial Circuit	Pre-Arrest Warrant Screenings			Screening New Charges at Jail Booking			Making Charging Decisions Within 72 Hours of Jail Booking		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	--	--	No	--	--	No	--	--
2nd	Yes	1980	Almost Always	No	--	--	No	--	--
3rd	Yes	--	1/2 the Time	No	--	--	No	--	--
4th	--	--	--	--	--	--	--	--	--
5th	Yes	--	Almost Always	No	--	--	No	--	--
6th	Yes	1972	Almost Always	No	--	--	No	--	--
7th	Yes	1989	Almost Always	Yes	1988	Almost Always	Yes	1989	More than 1/2 Time
8th	Yes	--	--	No	--	--	No	--	--
9th	--	--	--	--	--	--	--	--	--
10th	Yes	1987	Almost Always	No	--	--	No	--	--
11th	Yes	1978	Almost Always	No	--	--	No	--	--
12th	--	--	--	--	--	--	--	--	--
13th	Yes	1985	Almost Always	No	--	--	No	--	--
14th	--	--	--	--	--	--	--	--	--
15th	Yes	1973	Almost Always	Yes	1973	Almost Always	No	--	--
16th	No	--	--	No	--	--	No	--	--
17th	Yes	1976	More than 1/2 Time	No	--	--	No	--	--
18th	Yes	1985	Less than 1/2 Time	No	--	--	No	--	--
19th	--	--	--	--	--	--	--	--	--
20th	Yes	--	Almost Always	No	--	--	No	--	--

Source: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the state attorneys.

CHART V-2
Public Defender Perspectives Towards Various Pretrial Jail Population Management Techniques

The following represent the summary findings of a January 1991 Advisory Council on Intergovernmental Relations mail survey of the public defenders. The purpose of the survey was to gather information concerning various strategies, techniques, and programs available to the public defenders in order to manage the growth in local jail populations in a manner consistent with public safety.

Completed questionnaires were received from 15 of the 20 public defenders, for a response rate of 75%. Based upon responses to various survey items, the following findings were generated:

* The state's public defenders tend to view a number of early case screening procedures to be effective or very effective in managing the growth in local jail populations in a manner consistent with public safety. Among these are the following:

    a. assigning counsel within 24 hours of arrest and jail booking;

    b. making initial client contact within 24 hours of arrest and jail booking;

    c. beginning case review and investigation within 24 hours of arrest and jail booking;

    d. beginning plea negotiations within 24 hours of arrest and jail booking.

* The public defenders also tend to view several procedures designed to expedite the processing of cases in which the defendant fails to secure pretrial release to be effective in managing jail population growth. Among the specific procedures viewed to be effective were the following:

    a. holding joint conferences with the prosecution after first appearance in order to eliminate or downgrade charges in marginal cases;

    b. holding pretrial conferences with the judge and state attorney following first appearance in order to speed plea negotiations.

* The scheduling of bond reduction hearings at regular intervals in cases in which the defendant fails to post bond at first appearance is widely viewed to be an effective technique for controlling jail population growth by the public defenders.

* The public defenders tend to view several court delay reduction procedures as effective tools for managing growth in local jail populations. Included among these procedures are automatic discovery, decreased use of continuances, and to a lesser extent, adversarial first appearances.

* Substantial support exists among the public defenders for recognizance release, and conditional and supervised release as alternatives to traditional monetary bail in misdemeanor and 3rd degree felony cases. While public defenders also tend to advocate these release options in second and first degree felony cases, they do so with much less frequency.

TABLE V-2
Implementation Status of Public Defender Early Case Screening Policies as of January 1991: Procedures Conducted Within 24 Hours of Arrest and Jail Booking

Judicial Circuit	Conducting Indigency Screening			Assignment of Counsel			Making Initial Defendant Contact		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	Yes	N/A	Almost Always	No	–	–	Yes	N/A	Almost Always
2nd	No	–	–	No	–	–	No	–	–
3rd	Yes	1980	Almost Always	Yes	1980	Almost Always	Yes	1980	Almost Always
4th	No	–	–	Yes	N/A	Almost Always	No	–	–
5th	–	–	–	–	–	–	–	–	–
6th	No	–	–	Yes	1980	Almost Always	Yes	1965	Almost Always
7th	Yes	N/A	Almost Always	Yes	N/A	Almost Always	Yes	N/A	Almost Always
8th	No	–	–	Yes	1973	More than 1/2 Time	Yes	1973	1/2 the Time
9th	No	–	–	No	–	–	No	–	–
10th	–	–	–	–	–	–	–	–	–
11th	No	–	–	No	–	–	Yes	N/A	Almost Always
12th	Yes	–	Almost Always	Yes	1989	Almost Always	Yes	1977	Almost Always
13th	–	–	–	–	–	–	–	–	–
14th	No	–	–	No	–	–	No	–	–
15th	Yes	1981	Almost Always	Yes	1981	Almost Always	Yes	1981	Almost Always
16th	No	–	–	Yes	1984	Almost Always	Yes	1984	More than 1/2 Tim
17th	–	–	–	–	–	–	–	–	–
18th	No	–	–	Yes	1981	Almost Always	Yes	1981	Almost Always
19th	–	–	–	–	–	–	–	–	–
20th	Yes	N/A	More than 1/2 Time	No	–	–	No	–	–

TABLE V-2 - continued

Judicial Circuit	Begins Case Review and Investigation			Begins Plea Negotiations		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	–	–	No	–	–
2nd	No	–	–	No	–	–
3rd	Yes	1980	Almost Always	No	–	–
4th	No	–	–	No	–	–
5th	–	–	–	–	–	–
6th	Yes	1965	1/2 the Time	No	–	–
7th	Yes	N/A	Almost Always	Yes	N/A	Less than 1/2 Time
8th	Yes	1973	1/2 the Time	Yes	1973	Almost Never
9th	No	–	–	No	–	–
10th	–	–	–	–	–	–
11th	No	–	–	No	–	–
12th	Yes	1989	Almost Always	No	–	–
13th	No	–	–	–	–	–
14th	No	–	–	–	–	–
15th	Yes	1981	Almost Always	Yes	1981	Almost Always
16th	Yes	1984	1/2 the Time	No	–	–
17th	No	–	–	No	–	–
18th	Yes	1981	More than 1/2 Time	No	–	–
19th	–	–	–	No	–	–
20th	No	–	–	No	–	–

Source: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the public defenders.

TABLE V-3
Implementation Status of State Attorney and Public Defender Intake Units as of January 1991

Circuit	State Attorney Intake Unit Implemented	Year Implemented	Public Defender Intake Unit Implemented	Year Implemented
1	No	--	Yes	1976
2	Yes	N/A	No	--
3	No	--	No	--
4	--	--	Yes	1972
5	No	--	--	--
6	No	--	Yes	1990
7	Yes	1989	Yes	N/A
8	No	--	Yes	1987
9	--	--	No	--
10	Yes	1987	--	--
11	Yes	1978	No	--
12	--	--	No	--
13	Yes	1985	--	--
14	--	--	No	--
15	Yes	1973	Yes	1981
16	No	--	No	--
17	Yes	N/A	--	--
18	Yes	1985	No	--
19	--	--	--	--
20	Yes	1988	Yes	N/A
Total Implemented	9		7	

Source: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of January 1991 surveys of the state attorneys or public defenders.
As used for purposes of this table, state attorney intake units refer to distinct entities within the office of the state attorney that have been assigned responsibilities such as pre-arrest warrant screening, screening new charges at jail booking, and determination of charging decisions within 72 hours of jail booking. In contrast, public defender intake units represent distinct entities within the office of the public defender that discharge responsibilities such as indigency screening, initial defendant contact, and initial case review.

CHART V-3
Circuit Chief Judge Perspectives Towards Various Pretrial Jail Population Management Techniques

The following represent the summary findings of a January 1991 Advisory Council on Intergovernmental Relations mail survey of the circuit chief judges. The purpose of the survey was to gather information concerning various strategies, techniques, and programs available to the courts in order to manage the growth in local jail populations in a manner consistent with public safety.

Completed questionnaires were received from 11 of the 20 circuit chief judges, for a response rate of 55%. Based upon responses to various survey items, the following findings were generated:

* The circuit chief judges responding to the survey tend to view a number of procedures providing for prompt bail setting to be effective or very effective in managing the growth in local jail populations in a manner consistent with public safety. Among the specific procedures viewed as effective are the following:

    a. regular calendaring of mass bond reduction hearings;
    b. establishment of a bail schedule that is applied by jail booking staff;
    c. extending judicial coverage for bail setting to nights and weekends;
    d. authorization for law enforcement/jail staff to accept bail at booking.

* Chief judges responding to the survey tend to view a number of pretrial release procedures and options as effective in managing growth in local jail populations. Among these are the following:

    a. accepting percentage bail;
    b. use of notices to appear by local law enforcement;
    c. use of non-financial release options for special populations;
    d. recognizance release;
    e. supervised conditional release;
    f. judicial authorization for pretrial services agencies to release criminal defendants under certain circumstances without an individual case-by-case review by a judicial officer.

* The chief judges responding to the survey also view a number of court delay reduction procedures to be effective in managing the growth in local jail populations. Among these procedures are the following:

    a. special case review procedures for jail cases;
    b. procedures for reducing delays between adjudication and sentencing;
    c. procedures limiting the frequency and length of continuances;
    d. automatic discovery procedures;
    e. singling out jail cases for expedited processing by the court.

* Widespread support exists among the chief judges responding to the ACIR survey for notices to appear, recognizance release, and supervised and unsupervised conditional release in misdemeanor and, with the exception of notices to appear, in 3rd degree felony cases.

* Substantially less support exists among the responding chief judges for these release alternatives in 2nd degree felony cases, and widespread disapproval exists in cases involving first degree felony offenses.

in local jail populations. Moreover, all eleven of the chief judges reported that they had adopted procedures providing for the establishment of a bail schedule, and nearly all had authorized law enforcement officers or jail staff to accept bail at the point of jail booking (Table V-4). In addition, 5 respondents reported that they had taken steps to provide judicial coverage for bail setting on nights and weekends. Despite these positive findings, the relatively low response rate of the chief judges survey does not permit a definitive conclusion to be advanced relative to the frequency with which these procedures have been implemented statewide.

Support for and Implementation of Mass Bond Reduction Hearings. Mass bond reduction hearings represent a procedure whereby the court regularly schedules, on a weekly or more frequent basis, hearings to reconsider the bond established at first appearance for all defendants who have failed to make bail. As related in Charts V-2 and V-3, both the public defenders and chief judges responding to the survey tended to view such hearings as an effective tool for managing jail population growth. Despite this support however, the implementation of procedures for conducting regularly scheduled bond reduction hearings was limited. Thus, Table V-5 relates that less than half of the public defender respondents reported that they systematically attempt to schedule bond reduction hearings at regular intervals. Moreover, in a number of cases in which attempts to schedule such hearings were made, the practice was not followed all or most of the time. Finally, Table V-6 indicates that only 6 of the 11 chief judges responding to the ACIR survey reported that mass bond reduction procedures had been implemented. Reasons given by public defenders for failing to seek bond reduction hearings on a regular basis ranged from inadequate resources to the refusal of the courts to calendar such hearings in a timely manner.

Support for and Implementation of Alternatives to Traditional Monetary Bail. As indicated in Chart V-3, the chief judges responding to the ACIR survey tended to regard a number of alternatives to traditional monetary bail to be effective tools for managing growth in local jail populations. Included among these alternatives are percentage bail; use of notices to appear by law enforcement; non-financial release options for special populations such as alcohol, drug abuse, and mental health-related arrestees; recognizance release; and supervised or non-supervised conditional release. As the data summarized in Charts V-1, V-2, and V-3 respectively relate, substantial support existed among the state attorneys, public defenders, and the responding chief judges for the use of notices to appear, recognizance release, and supervised or unsupervised conditional release in misdemeanor, and with the exception of notices to appear, in 3rd degree felony cases. These charts further indicate that substantially less support existed for these release alternatives in 2nd degree and more serious felony cases.

The data in Table V-7 indicate that, in a manner consistent with their overall high level of support for these alternatives to monetary bail, the judiciary in a number of circuits has taken steps to authorize the use of several of these. The chief exceptions to this

TABLE V-4
Implementation Status of Prompt/Expedited Bail Setting Procedures by the State Courts: January, 1991

	Establishment of a Bail Schedule		Providing Judicial Coverage for Bail Setting on Nights/Weekends		Authorizing Law Enforcement/Jail Staff to Accept Bail at Booking	
	Procedure Established	Year Established	Procedure Established	Year Established	Procedure Established	Year Established
1st	--	--	--	--	--	--
2nd	--	--	--	--	--	--
3rd	Yes	N/A	Yes	N/A	Yes	N/A
4th	Yes	N/A	Yes	N/A	Yes	N/A
5th	Yes	N/A	Yes	N/A	Yes	N/A
6th	Yes	1982	Yes	N/A	Yes	1982
7th	--	--	--	--	--	--
8th	Yes	N/A	No	--	Yes	N/A
9th	Yes	1985	No	--	Yes	1985
10th	Yes	N/A	No	--	Yes	N/A
11th	Yes	1980	Yes	1980	Yes	1980
12th	--	--	--	--	--	--
13th	Yes	1982	No	N/A	No	N/A
14th	--	--	--	--	--	--
15th	--	--	--	--	--	--
16th	--	--	--	--	--	--
17th	--	--	--	--	--	--
18th	--	--	--	--	--	--
19th	Yes	N/A	No	--	Yes	N/A
20th	Yes	1990	No	--	Yes	N/A

Source: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the circuit chief judges.

TABLE V-5
Use of Procedures for the Regular Scheduling of Bond Reduction Hearings By Florida Public Defenders by Type of Offense: January 1991

Judicial Circuit	Misdemeanor Cases			Third Degree Felony Cases			2nd Degree Felony Cases		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	–	–	No	–	–	No	–	–
2nd	No	–	–	No	–	–	No	–	–
3rd	Yes	1980	Almost Always	Yes	1980	Almost Always	Yes	1980	Almost Always
4th	No	–	–	No	–	–	No	–	–
5th	–	–	–	–	–	–	–	–	–
6th	Yes	1980	Almost Always	Yes	1980	Almost Always	Yes	1980	Almost Always
7th	No	–	–	No	–	–	No	–	–
8th	Yes	1963	Almost Always	Yes	1963	Almost Always	Yes	1963	Almost Always
9th	No	–	–	No	–	–	No	–	–
10th	–	–	–	–	–	–	–	–	–
11th	Yes	N/A	–	No	–	–	No	–	–
12th	Yes	1977	Almost Always	Yes	1977	More than 1/2 Time	Yes	1977	More than 1/2 Time
13th	–	–	–	–	–	–	–	–	–
14th	No	–	–	No	–	–	No	–	–
15th	Yes	1972	Almost Always	Yes	1972	Almost Always	Yes	1972	Almost Always
16th	No	–	–	Yes	1984	1/2 the Time	Yes	1984	1/2 the Time
17th	–	–	–	–	–	–	–	–	–
18th	Yes	1984	N/A	Yes	1984	N/A	Yes	1984	N/A
19th	–	–	–	–	–	–	–	–	–
20th	Yes	N/A	More than 1/2 Time	Yes	N/A	More than 1/2 Time	Yes	N/A	More than 1/2 Tim.

TABLE V-5 - continued

Judicial Circuit	First Degree Felony Cases			Capital Felony Cases		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	–	–	No	–	–
2nd	No	–	–	No	–	–
3rd	Yes	1980	Almost Always	Yes	1980	Almost Always
4th	No	–	–	No	–	–
5th	No	–	–	No	–	–
6th	Yes	1980	Almost Always	Yes	1980	1/2 the Time
7th	No	–	–	No	–	–
8th	Yes	1963	Almost Always	Yes	1963	Almost Always
9th	No	–	–	No	–	–
10th	–	–	–	–	–	–
11th	No	–	–	No	–	–
12th	No	–	–	No	–	–
13th	–	–	–	–	–	–
14th	No	–	–	No	–	–
15th	Yes	1972	Almost Always	No	–	–
16th	Yes	1984	Less than 1/2 Time	No	–	–
17th	–	–	–	–	–	–
18th	Yes	1984	N/A	Yes	1984	N/A
19th	–	–	–	–	–	–
20th	Yes	N/A	1/2 the Time	No	–	–

Source: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the public defenders.

TABLE V-6
Implementation Status of Mass Bond Reduction Hearings in the Criminal Courts: January, 1991

JUDICIAL CIRCUIT	HEARINGS IMPLEMENTED	YEAR IMPLEMENTED
1st	--	--
2nd	--	--
3rd	No	--
4th	No	--
5th	Yes	N/A
6th	Yes	N/A
7th	--	--
8th	Yes	1989
9th	Yes	N/A
10th	No	--
11th	Yes	1980
12th	--	--
13th	Yes	1982
14th	--	--
15th	--	--
16th	--	--
17th	--	--
18th	--	--
19th	No	--
20th	No	--

Note: Data compiled by the Florida ACIR on the basis of mail surveys completed by the circuit chief judges in January 1991. Mass bond reduction hearings represent procedures whereby the court regularly calendars specific times for conducting hearings during which the bond established at first appearance for all defendants who failed to make bail is reconsidered.

TABLE V-7
Authorization of Pretrial Release Procedures by the Criminal Courts as of January 1991

Judicial Circuit	Law Enforcement Notice to Appear		Percentage Bail		Non-Financial Release for Special Populations such as Drug Abuse/Mental Health	
	Authorized	Year	Authorized	Year	Authorized	Year
1st	--	--	--	--	--	--
2nd	--	--	--	--	--	--
3rd	No	--	No	--	No	--
4th	Yes	N/A	No	--	Yes	N/A
5th	Yes	1983	No	--	No	--
6th	Yes	1979	No	--	Yes	N/A
7th	--	--	--	--	--	--
8th	N/A	N/A	No	--	No	--
9th	Yes	1970	No	--	No	--
10th	Yes	N/A	No	--	Yes	N/A
11th	Yes	1986	No	--	Yes	1980
12th	--	--	--	--	--	--
13th	Yes	N/A	No	--	No	--
14th	--	--	--	--	--	--
15th	--	--	--	--	--	--
16th	--	--	--	--	--	--
17th	--	--	--	--	--	--
18th	--	--	--	--	--	--
19th	N/A	--	No	--	No	--
20th	Yes	1989	No	--	Yes	N/A

TABLE V-7 - continued

Judicial Circuit	Release on Own Recognizance		Conditional or Supervised Non-Financial Release		Delegation of Released Authority to Pretrial Services Staff in Certain Cases	
	Authorized	Year	Authorized	Year	Authorized	Year
1st	--	--	--	--	--	--
2nd	--	--	--	--	--	--
3rd	Yes	N/A	No	--	No	--
4th	Yes	N/A	Yes	N/A	No	--
5th	Yes	N/A	No	--	Yes	1991
6th	Yes	N/A	Yes	N/A	No	--
7th	--	--	--	--	--	--
8th	Yes	1980	N/A	N/A	No	--
9th	Yes	1973	Yes	1975	Yes	1980
10th	Yes	N/A	Yes	N/A	No	--
11th	Yes	1980	Yes	1980	Yes	1983
12th	--	--	--	--	--	--
13th	Yes	1982	Yes	1985	No	--
14th	--	--	--	--	--	--
15th	--	--	--	--	--	--
16th	--	--	--	--	--	--
17th	--	--	--	--	--	--
18th	--	--	--	--	--	--
19th	Yes	1980	N/A	--	No	--
20th	Yes	N/A	Yes	N/A	No	--

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the circuit chief judges. As used herin, the term "authorization" refers to formal judicial action undertaken at the circuit level to authorize the establishment of one or more of the release options specified.

tendency concern percentage bail, which has no statutory basis under current law,[1] and the allocation of direct release authority to pretrial services programs. Such direct authority, which other ACIR survey data indicate is currently exercised in at least 12 Florida counties, generally permits pretrial services programs to release certain types of criminal defendants without the necessity of securing judicial approval on a case-by-case basis.

Procedures for Expedited Processing of Detention Cases by State Attorneys and Public Defenders. As noted in Chart V-1, state attorneys responding to the ACIR survey tended to view a number of procedures aimed at expediting the processing of cases in which the defendant fails to secure pretrial release to be effective in managing growth in local jail populations. Moreover, as Table V-8 relates, a substantial number of state attorneys reported that they systematically attempt to follow procedures such as charge consolidation and holding post-first appearance conferences with the trial judge and defense counsel in order to expedite plea agreements. Moreover, Table V-8 also relates that these procedures were followed with substantial frequency. To a lesser extent, the state attorneys reported that they successfully follow procedures designed to give priority handling to detention cases. The most frequently cited barriers to more widespread implementation of these procedures include excessive workloads, delays in getting access to police reports, and calendaring difficulties.

While the public defenders responding to the ACIR survey were similar to the state attorneys in the sense that they tended to view certain case-expediting procedures as effective in managing jail population growth (see Chart V-2), implementation of such procedures is more limited. Thus, as noted in Table V-9, only 6 public defenders reported that they hold joint conferences with the prosecution prior to arraignment with great frequency; such conferences have been cited as useful in eliminating or otherwise downgrading charges in weak cases. Similarly, only 4 public defenders reported that they regularly hold pretrial conferences with the state attorney and judge in order to speed plea negotiations. By and large, resource limitations in light of current caseload levels were cited as the chief barriers to more widespread implementation of these procedures. To a lesser extent, public defender respondents cited a lack of necessary cooperation on the part of the court and prosecution to hold such conferences.

Support for and Implementation of Court Delay Reduction Procedures. The state attorneys and public defenders responding to the ACIR survey tended to view such court delay reduction procedures as automatic discovery and decreased use of continuances as effective in permitting more effective management of jail population growth (see Charts V-1 and V-2). Beyond this, responding chief judges endorsed both these and several other procedures designed to speed the flow of criminal cases through the court system. Included among the other procedures receiving such an endorsement were special review procedures for detention cases and procedures for reducing the time between adjudication and sentencing (see Chart V-3).

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[1]Under the provisions of Section 903.105, Florida Statutes, the use of 10% deposit bail is referenced by Florida law. Pursuant to Chapter 82-175, Laws of Florida, however, s. 903.105, F.S., becomes effective only upon the repeal or sunset of chapter 648, Florida Statutes. Ch. 648, F.S., which was reenacted by the 1990 Florida Legislature, establishes policies and procedures for the regulation of the bail bond industry.

TABLE V-8
Implementation Status of Procedures for Expedited Processing of Detention Cases by State Attorneys as of January 1991

Judicial Circuit	Consolidation of Multiple Charges Arising Out of Same Event			Consolidation of Additional Charges Found Subsequent to Arrest			Scheduling Pretrial Conferences With Judges and Defense Following First Appearance			Priority Handling of Detention Cases		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	Yes	1980	More than 1/2 Time	Yes	1980	More than 1/2 Time	Yes	1980	More than 1/2 Time	Yes	1980	More than 1/2 Time
2nd	No	--	--	No	--	--	No	--	--	Yes	1980	Almost Always
3rd	Yes	N/A	Almost Always	Yes	N/A	Almost Always	Yes	N/A	Almost Always	Yes	N/A	Less than 1/2 Time
4th	--	--	--	--	--	--	--	--	--	--	--	--
5th	Yes	N/A	Almost Always	Yes	N/A	Almost Always	No	--	--	No	--	--
6th	Yes	1972	More than 1/2 Time	Yes	1972	More than 1/2 Time	Yes	1981	Almost Always	Yes	N/A	More than 1/2 Time
7th	Yes	1984	Almost Always	Yes	1989	Almost Always	Yes	1989	Almost Always	Yes	1990	Almost Always
8th	Yes	1980	Almost Always	Yes	N/A	More than 1/2 Time	Yes	N/A	Almost Never	--	--	--
9th	--	--	--	--	--	--	--	--	--	--	--	--
10th	Yes	1975	Almost Always	Yes	1975	Almost Always	Yes	1975	Almost Alwyas	No	--	--
11th	Yes	N/A	Almost Always	Yes	N/A	Almost Always	Yes	N/A	Less than 1/2 Time	Yes	N/A	Less than 1/2 Time
12th	--	--	--	--	--	--	--	--	--	--	--	--
13th	Yes	1985	Almost Always	Yes	1985	Almost Always	Yes	1985	More than 1/2 Time	Yes	1985	Almost Always
14th	--	--	--	--	--	--	--	--	--	--	--	--
15th	Yes	1973	Almost Always	Yes	1973	Almost Always	Yes	N/A	More than 1/2 Time	No	--	--
16th	Yes	1980	Almost Always	Yes	1976	Almost Always	Yes	1980	Almost Never	No	--	--
17th	Yes	1976	Almost Always	Yes	1976	Almost Always	Yes	1980	Almost Always	Yes	N/A	More than 1/2 Time
18th	No	--	--	No	--	--	No	--	--	Yes	N/A	More than 1/2 TIme
19th	--	--	--	--	--	--	--	--	--	--	--	--
20th	Yes	N/A	Almost Always	Yes	N/A	More than 1/2 Time	Yes	N/A	1/2 the Time	No	--	--

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the state attorneys.

TABLE V-9
Implementation Status of Procedures for Expedited Processing of Detention Cases by Public Defenders as of January 1991: Procedures Conducted After First Appearance But Before Arraignment

Judicial Circuit	Holding Joint Conferences With Prosecution to Eliminate/Downgrade Marginal Cases			Scheduling Pretrial Conferences With Judge and State Attorney to Speed Plea Process		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	--	--	No	--	--
2nd	No	--	--	No	--	--
3rd	Yes	--	Almost Always	No	--	--
4th	No	--	--	No	--	--
5th	--	--	--	--	--	--
6th	No	--	--	No	--	--
7th	Yes	N/A	More than 1/2 Time	No	--	--
8th	No	--	--	No	--	--
9th	Yes	N/A	1/2 the Time	Yes	N/A	About 1/2 the Time
10th	--	--	--	--	--	--
11th	No	--	--	No	--	--
12th	Yes	1977	Almost Never	Yes	1977	Less Than 1/2 Time
13th	--	--	--	--	--	--
14th	No	--	--	No	--	--
15th	Yes	1981	Almost Always	Yes	1981	Almost Always
16th	No	--	--	No	--	--
17th	--	--	--	--	--	--
18th	No	--	--	No	--	--
19th	--	--	--	--	--	--
20th	Yes	N/A	Less than 1/2 Time	Yes	N/A	1/2 the Time

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the public defenders.

Despite the high effectiveness ratings given to various court delay reduction procedures, the implementation of these by court system officials appears to have been rather limited at the time of the ACIR survey efforts. Thus, just over half the state attorneys responding to the ACIR survey reported that they had adopted automatic discovery procedures, or that they had established policies and procedures promoting decreased use of continuances (see Table V-10). While the public defenders reported adopting automatic discovery procedures with similar frequency, substantially fewer acknowledged having adopted policies designed to limit the incidence and length of continuances (see Table V-11). In explaining the absence of policies and procedures in this area, several public defenders noted that in many instances, continuances are necessary and unavoidable.

In contrast with the state attorneys and public defenders, a substantial proportion of the chief judges responding to the ACIR survey reported having adopted certain court delay reduction procedures. Included among these are procedures providing for the special review of pretrial detention cases and procedures aimed at reducing delays between adjudication and sentencing (see Table V-12). The relatively few chief judges and public defenders who reported adopting policies and procedures providing for adversarial first appearances may be attributable to the perception that such proceedings are not permissible under the current rules of criminal procedure. Beyond this, the public defenders tended to emphasize that current workloads limit their ability to channel the necessary resources into adversarial first appearance proceedings.

Summary

To summarize, data suggest that while state attorneys, public defenders, and responding circuit chief judges tended to view a number of policies and procedures as effective tools for managing growth in local jail populations in a manner consistent with public safety, the implementation of many of these was limited at the time of the ACIR surveys. Often, officials cited resource limitations and excessive caseloads as barriers to more full implementation; in other instances, the difficulty of securing the cooperation of other agencies has been cited. In a number of instances, survey respondents cited the need for legislative authorization of many of the managerial policies and procedures at issue, along with the provision of sufficient resources to assure the effective implementation of these.

ACIR SURVEYS OF COUNTY OFFICIALS

The Survey Process

In addition to the numerous and significant ways that the state attorneys, public defenders, and the courts can impact the pretrial component of local jail populations, a number of policies, programs, and procedures also are available to county and municipal governments in order to limit the growth in the number of pretrial detainees housed within local jails in a manner consistent with public safety. In order to determine the status of such policies and procedures in Florida, the ACIR in the late fall and early winter of 1990

TABLE V-10
Implementation Status of Court Delay Reduction Procedures By State Attorneys as of January 1991

Judicial Circuit	Automatic Discovery Procedures			Decreased Use of Continuances		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	No	–	–	Yes	N/A	Less than 1/2 Time
2nd	No	–	–	No	–	–
3rd	No	–	–	Yes	1980	More than 1/2 Time
4th	–	–	–	–	–	–
5th	No	–	–	N/A	–	–
6th	Yes	N/A	Almost Always	Yes	N/A	Less than 1/2 Time
7th	Yes	1989	More than 1/2 Time	Yes	1989	Almost Always
8th	Yes	1989	Almost Always	No	–	–
9th	–	–	–	–	–	–
10th	No	–	–	Yes	1985	1/2 the Time
11th	–	–	–	Yes	–	Less than 1/2 Time
12th	–	–	–	–	–	–
13th	Yes	1985	Almost Always	No	–	–
14th	–	–	–	–	–	–
15th	Yes	1973	Almost Always	Yes	1973	Almost Always
16th	Yes	1985	Almost Always	N/A	–	–
17th	Yes	1985	Almost Always	Yes	1976	More than 1/2 Time
18th	No	–	–	No	–	–
19th	–	–	–	–	–	–
20th	Yes	N/A	Almost Always	No	–	–

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the state attorneys. Automatic discovery procedures involve an agreement between the state attorney and public defender to share discovery-related information without the necessity of submitting discovery requests on an individual, case-by-case basis. As practiced in one Florida judicial circuit, automatic discovery is provided for through the transmittal of a single demand for discovery by the public defender to the state attorney for all felony cases for the ensuing calendar year. In making such a demand, the office of the publi defender recognizes its reciprocal responsibility to provide the state with discovery-related information.

TABLE V-11
Implementation Status of Court Delay Reduction Procedures By Public Defenders as of January 1991

Judicial Circuit	Automatic Discovery Procedures			Decreased Use of Continuances			Adversarial First Ap arances		
	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use	Implemented	Year	Frequency of Use
1st	Yes	1976	Almost Always	No	–	–	No	–	–
2nd	No	–	–	No	–	–	No	–	–
3rd	Yes	1989	Almost Always	Yes	1989	Almost Always	No	–	–
4th	No	–	–	No	–	–	No	–	–
5th	–	–	–	–	–	–	–	–	–
6th	Yes	1980	Almost Always	Yes	1980	More than 1/2 Time	No	–	–
7th	Yes	1990	N/A	No	–	–	Yes	N/A	Almost Always
8th	Yes	1981	Almost Always	No	–	–	No	–	–
9th	No	–	–	No	–	–	No	–	–
10th	–	–	–	–	–	–	–	–	–
11th	Yes	N/A	Almost Always	Yes	N/A	Almost Always	No	–	–
12th	No	–	–	No	–	–	No	–	–
13th	–	–	–	–	–	–	–	–	–
14th	No	–	–	No	–	–	No	–	–
15th	Yes	1972	Almost Always	Yes	1972	More than 1/2 Time	Yes	1972	1/2 the Time
16th	Yes	1984	Almost Always	Yes	1984	1/2 the Time	No	–	–
17th	–	–	–	–	–	–	–	–	–
18th	No	–	–	No	–	–	No	–	–
19th	–	–	–	–	–	–	–	–	–
20th	Yes	1969	Almost Always	No	–	–	Yes	1990	Almost Always

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the public defenders. Automatic discovery procedures involve an agreement between the state attorney and public defender to share discovery-related information without the necessity of submitting discovery requests on an individual, case-by-case basis. As practiced in one Florida judicial circuit, automatic discovery is provided for through the transmittal of a single demand for discovery by the public defender to the state attorney for all felony cases for the ensuing calendar year. In making such a demand, the office of the public defender recognizes its reciprocal responsibility to provide the state with discovery-related information.

TABLE V-12
Authorization Status of Court Delay Reduction Procedures by the Criminal Courts as of January 1991

Judicial Circuit	Special Case Review Procedures for Pretrial Detention Cases			Rules/Procedures for Reducing Delays Between Adjudication & Sentencing			Adversarial First Appearances		
	Authorized	Year	Frequency of Use	Authorized	Year	Frequency of Use	Authorized	Year	Frequency of Use
1st	–	–	–	–	–	–	–	–	–
2nd	–	–	–	–	–	–	–	–	–
3rd	Yes	N/A	Less than 1/2 Time	Yes	N/A	Almost Always	No	–	–
4th	No	–	–	Yes	N/A	Almost Always	No	–	–
5th	Yes	1986	1/2 the Time	Yes	N/A	More than 1/2 Time	No	–	–
6th	Yes	N/A	Less than 1/2 Time	Yes	N/A	Almost Always	No	–	–
7th	–	–	–	–	–	–	–	–	–
8th	Yes	1987	Almost Always	Yes	N/A	Almost Always	No	–	–
9th	Yes	1970	1/2 the Time	Yes	1973	Almost Always	No	–	–
10th	No	–	–	Yes	N/A	Almost Always	No	–	–
11th	Yes	1981	More than 1/2 Time	Yes	1985	Almost Always	Yes	1985	Almost Always
12th	–	–	–	–	–	–	–	–	–
13th	Yes	1986	N/A	No	–	–	No	–	–
14th	–	–	–	–	–	–	–	–	–
15th	–	–	–	–	–	–	–	–	–
16th	–	–	–	–	–	–	–	–	–
17th	–	–	–	–	–	–	–	–	–
18th	–	–	–	–	–	–	–	–	–
19th	Yes	1986	Almost Always	Yes	N/A	Almost Always	No	–	–
20th	Yes	1990	Almost Always	Yes	1988	Almost Always	Yes	1990	1/2 the Time

TABLE V-12 - continued

Judicial Circuit	Rules or Procedures Limiting Extent & Frequency of Continuances			Rules Providing for Automatic Discovery Procedures			Procedures Providing for "Fast Tracking" of Jail Cases		
	Authorized	Year	Frequency of Use	Authorized	Year	Frequency of Use	Authorized	Year	Frequency of Use
1st	–	–	–	–	–	–	–	–	–
2nd	–	–	–	–	–	–	–	–	–
3rd	Yes	N/A	More than 1/2 Time	No	–	–	No	–	–
4th	No	–	–	No	–	–	No	–	–
5th	Yes	N/A	Don't know	No	–	–	No	–	–
6th	No	–	–	Yes	N/A	Almost Always	No	–	–
7th	–	–	–	Yes	N/A	Almost Always	No	–	–
8th	No	–	–	No	–	–	No	–	–
9th	Yes	N/A	More than 1/2 Time	Yes	N/A	Almost Always	Yes	N/A	Almost Always
10th	Yes	N/A	Almost Always	No	–	–	N/A	–	–
11th	No	–	–	Yes	N/A	Almost Always	Yes	N/A	More than 1/2 Time
12th	–	–	–	–	–	–	–	–	–
13th	Yes	1986	N/A	No	–	–	Yes	1986	N/A
14th	–	–	–	–	–	–	–	–	–
15th	–	–	–	–	–	–	–	–	–
16th	–	–	–	–	–	–	–	–	–
17th	–	–	–	–	–	–	–	–	–
18th	–	–	–	–	–	–	–	–	–
19th	No	–	–	No	–	–	No	–	–
20th	No	–	–	Yes	1989	Almost Always	No	–	–

Note: Information compiled by the Florida Advisory Council on Intergovernmental Relations on the basis of a January 1991 survey of the circuit chief judges. Automatic discovery procedures involve an agreement between the state attorney and public defender to share discovery-related information without the necessity of submitting discovery requests on an individual, case-by-case basis. As practiced in one Florida judicial circuit, automatic discovery is provided for through the transmittal of a single demand for discovery by the public defender to the state attorney for all felony cases for the ensuing calendar year. In making such a demand, the office of the public defender recognizes its reciprocal responsibility to provide the state with discovery-related information.

undertook two detailed surveys of county officials. The first of these involved telephone interviews with a variety of county officials who potentially were knowledgeable of the extent to which the county and the municipal governments in their area had implemented a range of procedures that have been demonstrated to be effective tools for managing the size of the pretrial detention population within local jails. The questions directed at these officials focussed primarily upon whether specific policies and procedures had been implemented, and the year of their implementation. Responses from 66 of the state's 67 counties were received by the ACIR, for a response rate of 99%.

The second survey focussed on existing pretrial services programs funded by Florida's county governments. A total of 16 of the 24 programs currently in existence responded to the questionnaire, for a response rate of approximately 67%. Augmenting these responses were surveys of the remaining programs, which were completed by telephone. Among the issues addressed by the surveys were those pertaining to organizational location, duties and functions performed, budgetary and staffing levels, and the point at which the programs initially interview defendants as part of the pretrial release investigation process.

Survey Findings

Use of Notices to Appear in Lieu of Jail Booking by Local Law Enforcement. According to data presented in Table V-13, notices to appear (NTA's) were used by local law enforcement agencies in 55 of the state's 67 counties as of January, 1991. While NTA's had been in effect for some time in several counties, the overwhelming majority of counties reported that such procedures had been adopted since 1986. This suggests that the adoption of NTA's may be a response to the strains placed upon local jail capacities by increasing numbers of pretrial detainees held in county jails over this period.

Despite the widespread adoption of NTA's, substantial inconsistency existed in terms of the number of local law enforcement agencies operating within individual counties that had adopted the procedure. Thus, while Table V-13 indicates that the most prevalent practice was for all local law enforcement agencies to issue NTA's in lieu of jail booking, in 12 counties the procedure had been adopted by the sheriff only, while in 2 other counties the sheriff and a limited number of municipal law enforcement agencies issued NTA's. This lack of uniform adoption is also apparent when consideration is given to the types of offenses for which NTA's were issued. As related in Table V-13, these offense categories ranged from criminal traffic and selected other misdemeanor offenses to all misdemeanor and some felony offenses.

Use of Case Monitors by Jail Administrators. According to the ACIR survey of county officials, jail administrators in 30 of the state's 67 counties reportedly employed staff to perform the function of jail case monitoring at the time of the survey (see Table V-14). Close inspection of the data presented in Table V-14 indicates that detention case monitors were employed in a number of small and mid-sized population jurisdictions, as well as in many of the more metropolitan counties. Significantly, several of the state's largest population counties, such as Dade, Duval, and Palm Beach Counties reported that the jail administrator did not employ jail case monitors at the time of the ACIR survey.

TABLE V-13
Use of Notices to Appear by Local Law Enforcement Agencies In Florida Counties: January 1991

COUNTY	NOTICES TO APPEAR CURRENTLY IN USE	YEAR OF INITIAL USE	AGENCIES USING	APPLICABLE OFFENSES
Alachua	Yes	N/A	Sheriff only	All Misdemeanors
Baker	Yes	1990	Sheriff only	Some Misdemeanors
Bay	Yes	1986	All	All Non-Violent Misdemeanors
Bradford	No	--	--	--
Brevard	Yes	1986	All	Some Misdemeanors
Broward	Yes	N/A	Sheriff & Some Municipal	Some Misdemeanors
Calhoun	Yes	1981	Sheriff & Some Municipal	Some Misdemeanors
Charlotte	Yes	1981	All	All Misdemeanors
Citrus	No	--	--	--
Clay	Yes	N/A	All	Some Misdemeanors
Collier	Yes	1987	All	Some Misdemeanors
Columbia	No	--	--	--
Dade	Yes	1978	All	Criminal Traffic & Selected Misdemeanors
DeSoto	Yes	1974	All	Some Misdemeanors
Dixie	Yes	1988	All	All Misdemeanors
Duval	Yes	1986	Sheriff only	Some Misdemeanors
Escambia	Yes	1989	All	All Misdemeanors & Some Felonies
Flagler	--	--	--	--
Franklin	Yes	1979	All	Some Misdemeanors
Gadsden	Yes	1967	All	Some Misdemeanors
Gilchrist	Yes	N/A	Sheriff only	Some Misdemeanors
Glades	No	--	--	--
Gulf	Yes	1989	Sheriff only	All Misdemeanors
Hamilton	No	--	--	--
Hardee	Yes	1989	All	All Misdemeanors
Hendry	Yes	1986	Sheriff only	All Misdemeanors
Hernando	Yes	1985	All	Some Misdemeanors
Highlands	Yes	1985	All	Some Misdemeanors
Hillsborough	Yes	1983	All	Some Misdemeanors
Holmes	Yes	N/A	Sheriff only	All Misdemeanors
Indian River	No	--	--	--
Jackson	Yes	1973	All	All Misdemeanors
Jefferson	Yes	1971	All	Some Misdemeanors
Lafayette	Yes	N/A	All	Some Misdemeanors
Lake	Yes	1985	All	Varies by Dept.
Lee	Yes	1985	All	Some Misdemeanors

TABLE V-13, CONTINUED

COUNTY	NOTICES TO APPEAR CURRENTLY IN USE	YEAR OF INITIAL USE	AGENCIES USING	APPLICABLE OFFENSES
Leon	Yes	N/A	All	Some Misdemeanors
Levy	No	–	–	–
Liberty	Yes	1989	Sheriff only	All Misdemeanors
Madison	No	–	–	–
Manatee	Yes	1988	All	All Misdemeanors
Marion	Yes	1986	All	All Misdemeanors
Martin	Yes	1990	All	All Misdemeanors
Monroe	Yes	1990	All	N/A
Nassau	Yes	N/A	Sheriff only	All Misdemeanors
Okaloosa	No	–	–	–
Okeechobee	Yes	1988	All	All Misdemeanors, Some Felonies
Orange	Yes	1988	All	N/A
Osceola	Yes	1987	All	Some Misdemeanors
Palm Beach	Yes	1976	All	All Misdemeanors
Pasco	Yes	N/A	All Municipal only	N/A
Pinellas	Yes	1981	All	All Misdemeanors
Polk	Yes	1985	Yes	All Misdemeanors, Some Felonies
Putnam	No	–	–	–
St. Johns	Yes	1986	Sheriff only	All Misdemeanors
St. Lucie	Yes	1983	All	Some Misdemeanors
Santa Rosa	Yes	1978	All	All Misdemeanors
Sarasota	Yes	1986	All	All Misdemeanors
Seminole	Yes	1988	All	All Misdemeanors
Sumter	No	–	–	–
Suwannee	Yes	1988	All	All Misdemeanors
Taylor	Yes	1989	All	All Misdemeanors, Some Felonies
Union	Yes	1981	Sheriff only	All Misdemeanors
Volusia	Yes	1988	All	All Misdemeanors, Some Felonies
Wakulla	Yes	1981	Sheriff only	All Misdemeanors, Some Felonies
Walton	Yes	1981	All	All Misdemeanors
Washington	Yes	1977	All	All Misdemeanors
TOTAL:	55			

Note: Data compiled by the Florida ACIR on the basis of interviews with county officials conducted in the fall of 1990.
Notices to appear are written orders issued by law enforcement officers that, in lieu of arrest, require a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

TABLE V-14
Use of Detention Case Monitors by Jail Administrators in Florida Counties: January 1991

COUNTY	CURRENTLY USE CASE MONITORS	YEAR FIRST USED
Alachua	NO	-
Baker	NO	-
Bay	-	-
Bradford	YES	1989
Brevard	YES	N/A
Broward	YES	1979
Calhoun	YES	1985
Charlotte	NO	-
Citrus	NO	-
Clay	NO	-
Collier	YES	1989
Columbia	NO	-
Dade	NO	-
DeSoto	NO	-
Dixie	NO	-
Duval	NO	-
Escambia	YES	1989
Flagler	-	-
Franklin	NO	-
Gadsden	NO	-
Gilchrist	YES	N/A
Glades	NO	-
Gulf	YES	1989
Hamilton	NO	-
Hardee	NO	-
Hendry	NO	-
Hernando	YES	1989
Highlands	YES	1986
Hillsborough	YES	N/A
Holmes	NO	-
Indian River	NO	-
Jackson	NO	-
Jefferson	NO	-
Lafayette	NO	-
Lake	NO	-
Lee	NO	-

Table V-14 - continued

COUNTY	CURRENTLY USE CASE MONITORS	YEAR FIRST USED
Leon	NO	-
Levy	NO	-
Liberty	NO	-
Madison	NO	-
Manatee	YES	1990
Marion	NO	-
Martin	YES	1989
Monroe	YES	1987
Nassau	YES	1989
Okaloosa	NO	-
Okeechobee	YES	1987
Orange	YES	N/A
Osceola	YES	1987
Palm Beach	NO	-
Pasco	YES	1984
Pinellas	YES	1983
Polk	YES	1981
Putnam	YES	1989
St. Johns	YES	1984
St. Lucie	YES	1990
Santa Rosa	NO	-
Sarasota	YES	1986
Seminole	YES	1990
Sumter	YES	1981
Suwannee	YES	1989
Taylor	NO	-
Union	NO	-
Volusia	YES	1981
Wakulla	YES	1988
Walton	NO	-
Washington	NO	-
Total Counties Using:	30	

Note: Compiled by the Florida ACIR on the basis of interviews with county officials conducted in the fall of 1990.
Detention case monitors are responsible for tracking the court status of all pretrial defendants who remain in jail in order to insure that cases are processed expeditiously and that the length of pretrial detention is not extended through oversight or inattention on the part of the court, the defense, or the prosecution.

Use of Jail Case Management and Criminal Justice Information Systems By Florida Counties. As with jail case monitors, the use of jail case management and criminal justice management information systems is non-uniform across the state's counties. Thus, the data in Table V-15 indicate that 32 of the state's counties had implemented jail case management systems at the time of the ACIR survey, while 29 counties used automated criminal justice management information systems. Again, such systems had been implemented in small, mid-sized, and large population counties, while a number of large population counties continued to lack one or both such systems at the time of the ACIR survey.

Pretrial Services in Florida Counties: An Overview

Over the course of the last three decades, pretrial services agencies and programs have emerged as critical components of federal, state, and local criminal justice systems. Tracing their roots to the bail reform movement of the 1960's, these programs provide the criminal courts with an institutional capacity to perform pretrial release investigations and to monitor compliance with conditions of release on the part of defendants who are returned to the community pending trial. In more recent years, pretrial programs have come to be recognized as critical to the ability of county governments and the courts to manage the size of local jail populations in a manner that is consistent with both public safety and the limited ability of local governments to fund jail construction and operations. This section provides an overview of pretrial services agencies and programs in Florida's counties in terms of their implementation status, functions, and key operational features.

Functions of Pretrial Services Programs in Florida

In Florida, the value posed by pretrial services agencies is attributable to the two key functions they perform. First, pretrial services agencies have the potential to compensate for the generalized lack of effective case screening and review by the state attorney and public defender in the initial hours and days subsequent to the arrest and jailing of criminal defendants.[2] As such, these agencies play a critical role in increasing the quantity, quality, and timeliness of information available to the first appearance judge, who is responsible for determining the conditions under which a defendant can secure release from jail pending trial. In the absence of such investigations, the courts often are ill-equipped to evaluate the public safety and failure to appear risks associated with the release of individual criminal defendants. The lack of accurate information at this critical juncture can contribute to one of two outcomes: judicial reluctance to release defendants who otherwise would be returned to the community pending trial were more information available to the court, and higher rates of criminal activity and failures to appear among those defendants who are released on the basis of inadequate information.

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[2] Hall, A., et. al., Pretrial Release Program Options, (Washington D.C.: National Institute of Justice; June, 1984), pp. 2-7.

TABLE V-15
Implementation Status of Jail Case Management and Criminal Justice Information Systems in Florida Counties: January 1991

COUNTY	IMPLEMENTED CASE MANAGEMENT SYSTEM	YEAR IMPLEMENTED	IMPLEMENTED MANAGEMENT INFORMATION SYSTEM	YEAR IMPLEMENTED
Alachua	YES	1989	YES	1972
Baker	NO	-	YES	1990
Bay	N/A	-	N/A	-
Bradford	YES	1990	NO	-
Brevard	YES	1990	YES	1986
Broward	NO	-	NO	-
Calhoun	NO	-	NO	-
Charlotte	YES	1986	YES	1990
Citrus	NO	-	YES	1989
Clay	NO	-	NO	-
Collier	NO	-	N/A	-
Columbia	NO	-	YES	1990
Dade	NO	-	YES	1976
DeSoto	NO	-	NO	-
Dixie	YES	1989	NO	-
Duval	YES	1981	YES	1990
Escambia	YES	1989	NO	-
Flagler	N/A	-	N/A	-
Franklin	NO	-	YES	1989
Gadsden	YES	1989	YES	1989
Gilchrist	YES	-	YES	1990
Glades	NO	-	YES	1990
Gulf	YES	1990	YES	-
Hamilton	NO	-	NO	-
Hardee	NO	-	NO	-
Hendry	NO	-	NO	-
Hernando	YES	1989	NO	-
Highlands	YES	1989	YES	1991
Hillsborough	YES	1983	YES	1974
Holmes	NO	-	YES	1990
Indian River	NO	-	NO	-
Jackson	YES	1989	NO	-
Jefferson	NO	-	NO	-
Lafayette	NO	-	NO	-
Lake	NO	-	NO	-
Lee	YES	1990	NO	-

Table V-15 - continued

COUNTY	IMPLEMENTED CASE MANAGEMENT SYSTEM	YEAR IMPLEMENTED	IMPLEMENTED MANAGEMENT INFORMATION SYSTEM	YEAR IMPLEMENTED
Leon	YES	1987	YES	1984
Levy	NO	-	NO	-
Liberty	NO	-	NO	-
Madison	NO	-	NO	-
Manatee	YES	1990	NO	-
Marion	NO	-	NO	-
Martin	YES	N/A	NO	-
Monroe	YES	1986	NO	-
Nassau	YES	N/A	NO	-
Okaloosa	NO	-	NO	-
Okeechobee	NO	-	NO	-
Orange	YES	1989	NO	-
Osceola	NO	-	YES	1986
Palm Beach	NO	-	NO	-
Pasco	YES	1989	YES	1979
Pinellas	YES	1990	YES	1985
Polk	YES	1981	YES	1991
Putnam	NO	-	NO	-
St. Johns	NO	-	YES	1984
St. Lucie	YES	1985	YES	1990
Santa Rosa	YES	1990	N/A	-
Sarasota	YES	1989	YES	1990
Seminole	NO	-	YES	1989
Sumter	NO	-	N/A	-
Suwannee	YES	1988	YES	1989
Taylor	NO	-	N/A	-
Union	YES	1990	YES	1988
Volusia	YES	1988	YES	1985
Wakulla	NO	-	NO	-
Walton	YES	1981	YES	1989
Washington	YES	1988	NO	-
TOTAL:	32		29	

Note: Compiled by the Florida ACIR on the basis of interviews with county officials conducted in the fall of 1990.
Jail case management systems attempt to systematically identify and overcome delays in processing criminal cases in which the defendant fails to secure pretrial release. Criminal justice management information systems represent computer-based technologies that identify the impact of various agencies and processes on the jail population.

Beyond their role in conducting pretrial release investigations for the courts, pretrial services agencies have provided the courts with a supervised alternative to monetary bail. In this capacity, they have proven effective in securing the pretrial release of large numbers of criminal defendants who otherwise would have been detained for varying lengths of time due to difficulties encountered in meeting the financial requirements established by bail bondsmen. In providing such an alternative, a number of Florida's criminal judges have observed that the supervisory component of pretrial programs enables the court to manage the behavior of criminal defendants in the pretrial stage without tying up scarce and expensive jail space. Among the tools frequently used by pretrial services programs in this regard are drug testing, breath analysis, and residence, employment, and victim contact monitoring.[3] Taken together, these mechanisms enable pretrial services staff to assess the extent to which defendants comply with conditions of release imposed by the court in order to insure public safety and appearance at trial.

Current Status of Pretrial Services in Florida Counties

Implementation Status of Pretrial Services Programs in Florida Counties. According to ACIR survey data, 24 of the state's 67 counties have implemented pretrial services programs. While Table V-16 indicates that a number of these programs trace their roots to the late 1970's and early 1980's, for the most part they are a relatively recent phenomena in Florida. As such, the accelerated pace of their adoption may reflect the jail overcrowding problem confronting many of the state's counties in recent years. Faced with a finite ability to finance the construction and operation of new jail facilities, an increasing number of county governments have recognized that they cannot afford to detain, pending trial, all persons who are booked into jail by local law enforcement agencies. It is in the context of such an understanding that a number of counties have turned to programs that perform pretrial release investigations and supervision in order to provide the courts with information pertaining to the risks posed by the release of newly arrested criminal defendants and to monitor their compliance with conditions of release upon their return to the community.

Administrative Location of Pretrial Services Programs. As the data in Table V-16 indicate, Florida's pretrial services programs/agencies most often are organized under the administrative authority of the circuit or county courts, or the sheriff. To a lesser extent, they are housed under county probation or as separate agencies of county government. Respondents to the ACIR survey of pretrial services programs expressed a strong preference that pretrial services be housed under the circuit courts or as separate county entities independent of the sheriff or probation. Specific reasons cited for these preferred locations include the need for such programs to have ready access to, and credibility with, the judiciary, and the need to be independent of law enforcement in order to function effectively and avoid conflicts of interest. According to program staff, conflicts of interest often arise when the same entity that is responsible for arresting persons plays a role in providing for their release.

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[3] Florida Advisory Council on Intergovernmental Relations, "1991 ACIR Public Hearings on Proposed Pretrial Legislation: Summary of Testimony", (Tallahassee, Florida; August, 1991).

TABLE V-16

Florida Counties Currently Operating Pretrial Services Agencies, December, 1992

County	Year Established	Administrative Location
Alachua	1984	County Department of Court Services
Bay	1990	Circuit Court
Brevard	1985	County Administrator
Broward	1979	Sheriff
Collier	1990	Sheriff
Dade	1978	County Department of Corrections
Escambia	1987	County Probation
Hillsborough	1975	Sheriff
Jackson	1981	County Probation
Lee	1987	Circuit Court
Leon	1986	County
Manatee	1986	County Probation
Marion	1991	Sheriff
Monroe	1988	Circuit Court
Orange	1981	County Division of Corrections
Osceola	1989	Circuit Court
Palm Beach	1992	Circuit Court
Pasco	1977	Sheriff
Pinellas	1981	Sheriff
Polk	1981	Circuit Court
Santa Rosa	1991	County Court
Seminole	1981	Sheriff
Volusia	1988	Circuit Court
Wakulla	1989	County Probation

Source: Data compiled by the Florida ACIR through a December 1990 telephone survey of county government officials and January 1991 and Fall 1992, surveys of pretrial services agencies and programs.

Staffing and Funding Levels for Pretrial Services Agencies. In addition to the uneven record of adoption of pretrial services programs by Florida counties, ACIR survey data indicate wide disparities in funding and staffing levels, even when population differences among the counties are taken into account (see Table V-17). Among small population counties, Monroe and Santa Rosa Counties offer the starkest contrasts, with a budget differential that approaches $300,000 (see Table V-17). Among the mid-sized population group, such differences become more marked, as noted by a comparison between the well funded programs in Alachua, Leon, and Volusia Counties on the one hand, and the Collier, Marion, and Escambia programs on the other. Finally, budgetary and staffing differences also exist among programs operating in the state's largest population counties, as evidenced by a comparison between the Pinellas and Hillsborough programs and the Dade and Broward County agencies. Taken together, these comparisons suggest that several of Florida's pretrial services programs may be underfunded.

Program Duties and Responsibilities. While pretrial services programs at a minimum must perform such "core activities" as interviewing detained defendants, verifying information obtained in the interview, and submitting release reports to appropriate judicial officers, a number of other duties are viewed as critical to the functioning of a full service program.[4] These additional duties include the following:

1. supervising defendants who have secured pretrial release as directed by the court;

2. interviewing defendants immediately upon release in order to review upcoming court dates and other relevant issues;

3. notifying defendants of pending court dates as these dates approach;

4. operating case tracking systems that provide information to the judiciary, the state attorney, and defense counsel regarding the detention status of individual defendants.

These additional duties and responsibilities are highly recommended by pretrial services experts insofar as they enhance the ability of such programs to present the court with a wider range of information, and help maintain failure to appear rates at manageable levels.

Recent research indicates that despite frequent resource limitations, a large majority of Florida's pretrial services programs are "full service" programs insofar as they discharge all or nearly all of these responsibilities (see Table V-18). In addition, in a number of instances pretrial services programs have been directed by the court to, with the approval of the county governing body, exercise direct release authority whereby the program releases certain defendants without securing prior case-by-case approval of individual judges (see

[4]See Hall, A. Pretrial Release Program Options, pp. 79-89.

TABLE V-17
Staffing and Funding Levels for County Pretrial Services Programs: Fiscal Year 1990

Small Population Counties:

County	1990 County Population	Annual Budget	Number of Professional Staff
Jackson[1]	41,375	$ N/A	1
Monroe	78,024	329,715	7
Santa Rosa	81,608	46,000	1
Wakulla[1]	16,919	N/A	N/A

Mid-Sized Population Counties:

County	1990 County Population	Annual Budget	Number of Professional Staff
Alachua	181,596	$ 400,411	12
Bay	126,994	58,000	1
Collier	152,099	30,000	1
Leon	192,493	350,000	12
Manatee	211,707	93,000	4
Marion	194,833	26,000	1
Osceola	107,728	31,353	1
Escambia	262,798	141,000	4
Lee	335,113	N/A	10
Brevard	398,978	284,755	8
Pasco	281,131	80,000	3
Polk	405,382	250,000	8
Seminole	287,529	N/A	4
Volusia	370,712	580,000	14

Large Population Counties:

County	1990 County Population	Annual Budget	Number of Professional Staff
Broward	1,255,488	$ N/A	11
Dade	1,937,094	2,637,000	62
Hillsborough[2]	834,054	N/A	N/A
Orange	677,491	646,920	12
Palm Beach[3]	863,518	425,000	10
Pinellas	851,659	546,470	14

SOURCE: Program budgetary and staffing data based on January 1991 and Fall 1992 ACIR surveys of pretrial servi programs operated by Florida counties.

Notes: [1] In Jackson and Wakulla Counties, county probation staff are responsible for supervising released defendants the direction of the court and with performing other duties assigned to the program.

[2] According to local officials, jail classification staff absorb the duties related to the Hillsborough County pretri services program. As such there are no "dedicated" staff assigned to this program exclusively.

[3] Budgetary and staffing data for Palm Beach County are for the local fiscal year 1991-1992.

Table V-18
Duties and Responsibilities of Pretrial Services Agencies
Operated by Florida Counties: 1991-1992

	Interviewing Defendants	Verifying Information	Making Recommendations to Court	Exercising Release Authority	Supervising Released Defendants	Interviewing Defendants After Release	Notifying Defendants of Court Dates	Operating Case Tracking Systems	Providing Social Serv. Referrals	Indigency Screening
Alachua	yes	yes	yes	no	yes	yes	no	no	yes	yes
Bay	yes	yes	yes	no	yes	yes	yes	no	yes	no
Brevard	yes	yes	yes	yes	yes	no	no	yes	yes	no
Broward	yes	yes	yes	no	yes	yes	yes	yes	no	no
Collier	yes	yes	yes	no	no	yes	no	no	no	no
Dade	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Escambia	yes	yes	yes	yes	yes	yes	N/A	yes	yes	no
Hillsborough	yes	yes	yes	no	no	no	no	no	no	no
Jackson	no	no	no	no	yes	yes	no	yes	yes	no
Lee	yes	yes	yes	no	yes	yes	yes	yes	yes	yes
Leon	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Manatee	yes	yes	yes	no	yes	yes	yes	yes	yes	no
Marion	yes	yes	yes	yes	yes	yes	yes	no	no	no
Monroe	yes	yes	yes	no	yes	yes	yes	yes	yes	no
Orange	yes	yes	yes	yes	yes	no	yes	no	yes	no
Osceola	yes	yes	yes	yes	yes	no	yes	yes	yes	no
Palm Beach	yes	yes	no	no	no	yes	yes	no	no	yes
Pasco	yes	yes	yes	yes	yes	yes	no	no	yes	no
Pinellas	yes	yes	yes	no	yes	no	yes	yes	yes	no
Polk	yes	yes	yes	yes	yes	yes	yes	no	yes	no
Santa Rosa	yes	yes	yes	yes	yes	yes	no	no	yes	no
Seminole	yes	yes	no	yes	yes	yes	no	yes	no	yes
Volusia	yes	yes	yes	yes	yes	yes	yes	yes	yes	no
Wakulla	yes	yes	yes	no	yes	yes	yes	no	yes	N/A

Source: Data based on January 1991 and Fall 1992 ACIR surveys of pretrial services programs operated by Florida counties.

Table V-19). Thus, data indicate that one half of the pretrial programs in Florida reported that they exercise this authority (see Table V-18).

Initial Intervention Point for Conducting Pretrial Release Investigations. Much of the academic and professional literature concerning pretrial services programs advises that the initial interview with defendants be conducted as close to the time of jail booking as possible.[5] Early case intervention is recommended for several reasons, the chief among which is that it makes it possible for pretrial staff to make reports and recommendations relative to the release of individual defendants at or before first appearance. Despite this recommendation, existing literature does acknowledge that intervening at jail booking may result in an inefficient allocation of scarce program resources insofar as pretrial would be put in the position of interviewing many defendants who may be able to post bond as established either by a bond schedule or by the first appearance judge. According to this perspective, pretrial services programs should focus only on those individuals who are not able to secure release through the more traditional method of posting monetary bond.[6]

On the basis of ACIR survey data, it appears that many of the state's existing pretrial services programs are attempting to strike a balance between early case intervention and the need to make the most efficient use of scarce resources. Thus, the most common intervention point cited by survey respondents is after jail booking but prior to first appearance, while less than one-quarter noted that they attempt to intervene at the point at which the defendant is booked into jail (see Table V-20). In addition, five respondents stated that they conduct pretrial investigations only after the first appearance hearing. In one such county, investigations are conducted only at the direction of the court, and are focussed upon those defendants that failed to post bond or who did not readily qualify for recognizance release as determined by the first appearance judge.

Target Populations. The issue of which defendants to target for conducting pretrial release investigations is critical to effective program operation. In the context of limited resources, one would expect pretrial services agencies to focus only on those defendants who fail to secure their release through other mechanisms such as law enforcement notices-to-appear and the posting of monetary bail. In addition, resource levels also may dictate a focus on less serious offenses, given the greater likelihood that the court will release defendants charged with these in the absence of a surety.

Despite the limited resources experienced by many pretrial programs in the state, survey data indicate that a relatively wide "net" is used to define the defendant populations that are targeted for pretrial release investigations in Florida. Thus, Table V-21 notes that many programs attempt to conduct investigations on all defendants regardless of the seriousness of the criminal charge that is involved. To a lesser extent, there also is a tendency to focus on defendants charged with less serious, non-violent offenses. Thus, a number of programs focus their investigative efforts on misdemeanor and 3rd degree felony

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[5]Id., pp. 65-66.

[6] Id., pp. 65-67.

TABLE V-19
Florida Pretrial Services Programs Exercising Direct Release Authority and Defendant Populations Eligible for Direct Release, December, 1992

County	Targeted Population*
Brevard	Non-Violent Misdemeanor, Traffic Misdemeanor, and Violations of Probation
Dade	Second and Third Degree Felony Offenses (non-violent)
Escambia	All Misdemeanor and 3rd Degree Felony Offenses
Leon	Misdemeanor and Non-Violent Second Degree Felony Offenses
Marion	Third Degree Felony Offenses
Orange	All Misdemeanor, 3rd Degree Felony, and 2nd Degree Felony Offenses
Osceola	All Offenses Except Capital and Life Felonies
Pasco	Misdemeanor and Traffic Offenses (non-FTA); Felony Offenses With Bonds of $2,500 or less
Polk	All Misdemeanor Offenses, Non-Violent Felony Offenses, Certain Violent Felony Offenses
Santa Rosa	Third Degree Felony and Misdemeanor Offenses (excludes domestic battery)
Seminole	Certain Misdemeanor Offenses
Volusia	Misdemeanor Offenses

Source: All data are based on January 1991 and Fall 1992 ACIR surveys of pretrial services programs operated by Florida counties.

Note: * "Target populations" refer to those offense categories for which the pretrial services agency/program exercises direct release authority.

TABLE V-20

Initial Intervention Points Used by Pretrial Services Programs Operating in Florida Counties, December 1992

	Point for Conducting Initial Defendant Interviews		
	During Jail Booking	After Jail Booking But Prior to lst Appearance	After First Appearance
ALACHUA		X	
BAY			X
BREVARD	X	X	
BROWARD	X	X	X
COLLIER		X	
DADE		X	
ESCAMBIA		X	X
HILLSBOROUGH		X	
JACKSON(1)			X
LEE		X	X
LEON	X		
MANATEE			X
MARION		X	X
MONROE		X	
ORANGE	X	X	X
OSCEOLA	X	X	X
PALM BEACH		X	
PINELLAS			X
POLK		X	
SANTA ROSA		X	X
SEMINOLE			X
VOLUSIA		X	
WAKULLA		X	X

Source: Data compiled by the Florida ACIR on the basis of January 1991 and Fall 1992 surveys of pretrial services programs operated by county governments.

Note: (1) The program in Jackson County does not conduct defendant interviews or other investigative work on criminal defendants prior to their release by the court. Instead, it supervises defendants and monitors compliance with conditions of release established by the courts while a defendant is on pretrial release.

TABLE V-21
Populations Targeted for Pretrial Release Investigations and Reports By Florida Pretrial Services Programs: December, 1992

County	Targeted Population*
Alachua	All Offenses
Bay	All misdemeanor and 3rd Degree Felony; 2nd Degree Felony Property Offenses
Brevard	All Offenses Except Capital Felony
Broward	Misdemeanor Battery; Misdemeanor DUI; All 3rd Degree Felony; Non-Violent Second Degree Felony
Collier	All Misdemeanor and 3rd Degree Felony
Dade	All Bondable Felonies
Escambia	All Misdemeanor and 3rd Degree Felony
Hillsborough	All Misdemeanor and 3rd and 2nd Degree Felony
Jackson	Program does not provide background investigations or release recommendations to the court.
Lee	All Offenses
Leon	All Offenses
Manatee	All Misdemeanor; VOP's; Felony Drug Possession
Marion	All Non-Violent 3rd Degree Felony and Misdemeanor; Local Ordinance Violations
Monroe	All Offenses
Orange	All Misdemeanor, 3rd Degree Felony, and 2nd Degree Felony
Osceola	All Offenses
Palm Beach	All Offenses (provision of release investigation reports only)
Pasco	NA
Pinellas	All Misdemeanor, 3rd Degree Felony, and 2nd Degree Felony; Some 1st Degree Felony
Polk	All Offenses
Santa Rosa	All Offenses
Seminole	All Offenses except murder and attempted murder
Volusia	All Misdemeanor and 3rd Degree Felony; Felony Drug Possession
Wakulla	NA

Source: All data are based on January 1991 and Fall 1992 ACIR surveys of pretrial services programs operated by Florida counties.

Note: * "Target populations" refer to those offense categories for which the pretrial services agency/program regularly interviews and makes release recommendations to the courts.

cases, and defendants charged with non-violent and felony drug possession offenses (see Table V-21).

Release Recommendations to the Court. In order to be effective in providing for the release of criminal defendants, pretrial services agencies must have a variety of release options available to them in making recommendations to the court. These release options generally fall along the following continuum:

1. own recognizance release;

2. release conditioned upon the defendant's agreeing to engage in, or refrain from certain activities;

3. supervised release, whereby the defendant agrees to report to pretrial services, a law enforcement, or a court system agency at specified intervals during the release period;

4. third party release, where the court releases the defendant to the custody of a third party (eg. family, mental health program);

5. bail, or the release of a defendant that is secured by a sum of money posted with the court either by the defendant, a commercial bail bondsman, or another surety.

According to ACIR survey data, existing pretrial services programs in Florida counties tend to invoke a wide range of release mechanisms in making recommendations to the courts. Among the most common forms of release affected by such programs are own recognizance and supervised release (see Table V-22). Quite often, defendants who are granted supervised release are released under the supervision of pretrial services.

Program Outcomes: Jail Cost Avoidance. Information received by the ACIR from a sampling of counties suggests that county expenditures made in support of pretrial services programs can be offset by substantial reductions in county jail costs that result from the ability of such programs to decrease the incidence and length of pretrial detention. Indeed, Table V-23 indicates that reductions in jail expenditures reported by several pretrial services programs substantially exceeded program funding levels, thereby resulting in a net cost savings to the host counties.

Program Failure to Appear Rates. In theory, pretrial services agencies can help reduce the incidence of failures to appear (FTA's) in a number of ways. First, by increasing the quality and quantity of defendant-relevant information available to the court at first appearance, such agencies enhance the ability of presiding judicial officers to assess FTA risks and set conditions of release accordingly. Second, many pretrial services agencies conduct defendant interviews immediately upon release in order to explain and review subsequent court hearings and dates. Third, most "full service" pretrial services programs provide the judge with release options that involve some level of supervision. By requiring the defendant to maintain some form of contact with pretrial staff on a regular basis, the

TABLE V-22
Release Recommendation Made to the Criminal Courts By Florida Pretrial Services Programs: December, 1992

County	Release Recommendations Made
Alachua	Own Recognizance, Unsupervised Conditional, Supervised, Monetary Bail
Bay	Supervised
Brevard	Own Recognizance, Unsupervised Conditional, Supervised, Third Party Custody, Monetary Bail
Broward	Unsupervised Conditional, Supervised
Collier	Own Recognizance, Supervised, Monetary Bail
Dade	Supervised, Third Party Custody
Escambia	Own Recognizance, Unsupervised Conditional, Supervised, Third Party Custody
Hillsborough	Own Recognizance
Jackson	Program does not make release recommendations to the court. Rather it supervises released defendants when directed to do so by the courts.
Lee	Own Recognizance, Supervised, Monetary Bail
Leon	Own Recognizance, Unsupervised Conditional, Supervised, Third Party Custody
Manatee	Supervised, Third Party Custody, Monetary Bail
Marion	Supervised
Monroe	Own Recognizance, Unsupervised Conditional, Supervised, Third Party Custody, Monetary Bail
Orange	Own Recognizance, Unsupervised Conditional, Supervised
Osceola	Own Recognizance, Supervised
Palm Beach	None - Program only provides background information to court.
Pasco	Own Recognizance, Supervised
Pinellas	Supervised
Polk	Unsupervised Conditional, Supervised, Third Party Custody, Monetary Bail
Santa Rosa	Own Recognizance, Unsupervised Conditional, Supervised, Third Party Custody, Monetary Bail
Seminole	Program does not make release recommendations to the court.
Volusia	Own Recognizance, Unsupervised Conditional, Supervised
Wakulla	NA

Source: All data are based on January 1991 and Fall 1992 ACIR surveys of pretrial services programs operated by Florida counties.

TABLE V-23
Comparison of Pretrial Services Program Funding Levels and Jail Cost Avoidance Attributable to Program Releases: Fiscal Year 1990[1]

County	Program Budget	Jail Cost Avoidance[2]
Brevard	$284,755	$2,302,731
Escambia	$141,000	$4,658,395
Pinellas[3]	$546,470	$18,338,874
Polk[4]	$250,000	$443,047
Volusia[5]	$580,000	$1,500,000

[1]Program Budgetary data are based on a Florida Advisory Council on Intergovernmental Relations survey of pretrial services programs undertaken in January, 1991. Jail cost avoidance data based upon savings estimates reported to ACIR by individual programs.

[2]Jail cost avoidance estimates generally are calculated using the following methodology. First, the total number of jail days "saved" is calculated by multiplying the number of defendants released to the supervision of pretrial services by the length of time that elapsed between such release and case disposition. Second, the total number of jail days saved is multiplied by the average daily cost of housing a prisoner in the county jail.

[3]Jail expenditure savings estimated for calendar year 1990.

[4]Jail cost estimate is for March, 1991, and is based on the number of days that defendants under the supervision of the program spent on pretrial release during that month

[5]Jail expenditure savings estimated on the basis of the return of $1,500,000 to the board of county commissioners by the Volusia County Department of Corrections at the close of fiscal year 1990.

defendant's whereabouts can be tracked and court dates can be verified. As noted in Table V-18 (see p. 140), many of the state's existing pretrial services programs currently conduct post-release interviews with defendants and supervise releasees at the direction of the court.

While no questions concerning FTA rates were included in the ACIR survey of existing pretrial services programs in Florida, separate inquiry was made into this matter. As related in Table V-24, FTA rates of Florida programs are remarkably low, and range from 4.1% (Bay County) to 7.9% (Pinellas County), and 14.3% (Manatee County). Such data suggest that, when properly designed and implemented, pretrial services agencies can work to secure the release of large numbers of criminal defendants while minimizing FTA rates.

The FTA data presented in Table V-24 suggest that the supervised release options offered by pretrial services programs in Florida compare favorably with other methods of release in terms of their ability to return defendants to court. Thus, while no systematic study of the failure to appear rates associated with alternative release mechanisms has been undertaken to-date in Florida, national data indicate that defendants released on monetary bonds and recognizance release miss schedule court appearances with greater frequency than do defendants on supervised release in the counties that are included in Table V-24. Thus, the United States Department of Justice estimated that the failure to appear rate for felony surety bond releases in 1988 was 20%, while felony defendants who secured their release by posting a full cash bond with the court evidenced an FTA rate of 26%. Significantly, the Department estimated that more than one-quarter of surety bond failures to appear remained fugitives from justice for more than one year subsequent to their missed court appearance.[7]

Summary

ACIR survey data indicate that while a number of policies, programs, and procedures are available to local governments that potentially can enhance the ability of counties to control the incidence and length of pretrial detention in a manner consistent with public safety, implementation of these has been somewhat limited and lacking in uniformity. Thus, while notices to appear currently are in use in the great majority of Florida counties, substantial discrepancies exist in the extent to which such procedures are used by all local law enforcement agencies operating within the respective counties, and in terms of the offenses for which these are issued. Similarly, substantially less than one-half of the state's counties have implemented jail case monitoring, case management, or automated criminal justice information systems. Finally while 24 counties have established pretrial services programs, substantial discrepancies exist in resource allocations to these. Such disparities - which indicate that a number of pretrial programs are under-funded relative to programs in counties of similar size - occur despite data suggesting that the cost of such programs are more than offset by the savings these programs help realize in jail costs. Notwithstanding

[7]United States Department of Justice, Bureau of Justice Statistics, "Felony Defendants in Large Urban Counties, 1988", (Washington, D.C.; 1990).

TABLE V-24
Reported Failure to Appear Rates for Selected Pretrial Services Programs Operating in Florida Counties, 1990[1]

County	Year	Number of Defendants[2]	Number of FTA's[3]	FTA Rate
Bay	1990	789	32	4.1%
Brevard	1990	5,121	N/A	4.3%
Dade	1990	22,587	1,043	4.6%
Escambia[4]	1987-1990	6,428	372	5.8%
Leon[4]	1990	3,374	192	5.1%
Manatee	1990	1,564	224	14.3%
Monroe	1991	1,044	167	16.0%
Orange	1990	1,328	128	9.6%
Pinellas[4]	1990	5,463	433	7.9%
Polk[5]	1990	3,716	496	13.3%
Volusia	1990	1,761	99	6.1%

[1] With the exception of Dade County, data was compiled by ACIR on basis of information reported by individual pretrial services programs. Dade County data was supplied by the Florida Supreme Court, Office of the State Courts Administrator.

[2]Total number of defendants released to the supervision of pretrial services during 1990, unless noted other wise.

[3]Number of defendants for whom a capias or bench warrant was issued due to failure to appear in court while under the supervision of pretrial services, unless otherwise noted.

[4]Excludes defendants for whom a capias was issued and later withdrawn when the defendant subsequently appeared in court upon their own will and the original failure to appear was the result of improper notification or an inadvertent defendant error.

[5]FTA data based upon the number of defendants on active supervision of pretrial services during 1990.

these distinctions, many of the state's pretrial services programs appear to be "full service" providers as measured by the range of duties and responsibilities they discharge. This suggests that despite the questions that have been raised relative to resource levels and administrative location, many of the state's pretrial services programs have been designed to provide the courts not only with timely information relevant to the release decision, but with a variety of procedures to help limit failures to appear and threats to public safety as well.

SUMMARY AND CONCLUSIONS

The findings generated by ACIR surveys of court system and county officials are summarized in Chart V-4. By and large, these findings indicate that, while support exists for a number of policies, programs, and procedures designed to permit more effective management of the number of pretrial detainees housed within county jails, implementation of these has been relatively limited. This limited implementation record exists despite data suggesting that pretrial detainees represent the single largest population component of the state's county jails, that the number of pretrial detainees has increased more rapidly than the number of sentenced inmates in recent years, and that many of the state's county governments have only a limited capacity to meet the expenditure requirements imposed by these population increases. Clearly, the juxtaposition of ACIR survey findings with existing jail population and expenditure data suggests that a critical gap exists between what needs to be done to more effectively manage available jail capacity in the state and what is being done presently by those entities that directly influence the size of local jail populations.

While resource constraints placed upon the state attorneys, public defenders, and criminal courts no doubt have played a role in limiting the implementation of many of the policies and procedures discussed here, other factors may be more important. Chief among these is that many of the criminal justice system entities that exert influence over the size of the pretrial detention population of local jails often lack incentives to treat available jail beds as a scarce resource. Thus, insofar as any savings in jail costs stemming from the conduct of early case screening procedures and mass bond reduction hearings will not be shared with the state attorneys, public defenders, and criminal courts, these entities cannot be expected to make the resource allocations necessary to implement these on a systematic basis. Beyond this, a lack of understanding of the forces contributing to jail population increases and of the efficacy of alternative techniques available for controlling such growth may contribute to the limited implementation of these by those entities that have the incentive to do so, that is, Florida's county governments. In addition, the intergovernmental dynamic that is inherent in the development and implementation of criminal justice policy at the state and local levels - a dynamic defined by the need to secure the agreement and cooperation of a wide variety of state and local government officials in order to provide for policy innovations - often limits the willingness of county governments to initiate one or more of these policies in the face of opposition from other affected entities.

The limited implementation of policies and procedures available for managing growth in the pretrial detention population of local jails together with an understanding of the forces contributing to the problem of local jail overcrowding suggest the need for state

CHART V-4

Summary Findings: Officials' Perspectives Toward, and the Implementation Status of, Policies and Procedures Available for Managing Growth in the Pretrial Detention Populations of Local Jails in Florida, January, 1991

Policies/Procedures	Perspectives	Implementation Status
I. State Attorneys		
a. Early Case Screenings Procedures	Somewhat Effective	Little
b. Support for Alternatives to Money Bail	Strong Support in Less Serious Cases	N/A
c. Expedited Processing of Detention Cases	Effective	Substantial
d. Court Delay Reduction	Effective	Some, w/Frequent Gaps
II. Public Defenders		
a. Early Case Screening	Effective	Some, w/Frequent Gaps
b. Support for Alternatives to Money Bail	Strong Support in Less Serious Cases	Some, w/Frequent Gaps
c. Expedited Processing of Detention Cases	Effective	Little
d. Systematic Review of Release Status/Conditions	Effective	Some, w/Frequent Gaps
e. Court Delay Reduction	Effective	Little
III. Chief Judges/Criminal Courts		
a. Support for Alternatives to Money Bail	Strong Support in Less Serious Cases	Substantial
b. Prompt Bail Setting Procedures	Effective	Substantial
c. Systematic Review of Release Status/Conditions	Effective	Little
d. Court Delay Reduction	Effective	Some, w/Frequent Gaps
IV. Law Enforcement		
a. Diversion of New Arrestees from Jail	N/A	Substantial, w/Frequent Inconsistencies
V. County Government		
a. Pretrial Release Investigations	N/A	Some, w/Frequent Gaps and Substantial Disparities
b. Jail Case Review	N/A	Some, w/Frequent Gaps

action in this area. While any such action needs to take into account the already serious resource constraints that the state attorneys, public defenders, and criminal courts face, several interventions can be implemented at the local level that may generate a net cost savings for the host government. Chief among these are the use of detention case monitors, jail case management systems, and criminal justice management information systems by the counties. Perhaps most promising of all, however, are pretrial release services programs, which have a demonstrated ability to realize savings in jail expenditures that far exceed program operating costs. In seeking to provide for more widespread and effective operation of these however, statewide legislation should acknowledge the need for educating local officials and the intergovernmental dynamics that often works against the initiation of these at the local level.

PART 3

EXAMPLES OF EFFECTIVE MANAGEMENT OF LOCAL JAIL POPULATION GROWTH: THE ALACHUA, LEE, AND VOLUSIA COUNTY CASE STUDIES

PART 3
EXAMPLES OF EFFECTIVE MANAGEMENT OF LOCAL JAIL POPULATION GROWTH: THE ALACHUA, LEE, AND VOLUSIA COUNTY CASE STUDIES

CHAPTER VI
THE ALACHUA, LEE, AND VOLUSIA COUNTY CASE STUDIES: AN OVERVIEW

INTRODUCTION

Despite the research findings presented in Chapters IV and V of this report, several Florida counties have put into place comprehensive programs that have enabled them to effectively manage the growth in their local jail populations in a manner consistent with public safety. Most prominent in this regard have been Lee and Volusia Counties, which in recent years have reversed rapid rates of jail population growth and jail spending. In addition, Alachua County over the course of the 1980's developed a multi-faceted approach to managing jail population growth that enabled it to avoid the conditions of chronic overcrowding, regulatory intervention, and massive jail construction that so many other jurisdictions experienced over the last decade. In describing these systems, this Part of the report brings to the attention of state and local government officials the discrete initiatives available to law enforcement, the courts, corrections, and county governments that have proven to be effective in controlling jail population growth in several Florida jurisdictions. In addition, by identifying the underlying factors that facilitated the development and implementation of these initiatives, the Part brings to the attention of public officials the basic policy "infrastructure" underlying the successful jail population management programs that have been implemented in the counties at focus.

METHODOLOGY

Case Selection

The three jurisdictions chosen for study were selected primarily on the basis of their unique successes in controlling growth in their local jail populations. Thus, Lee and Volusia Counties recently reversed unprecedented rates of local jail population growth that had been evidenced over the course of the early-to-mid 1980's, while Alachua County managed to limit the growth in its local jail population to rates that were substantially below statewide averages over the full decade of the 1980's. In addition, these successes were not attributable to noticeable declines in the rate or incidence of crime. Rather, they were the result of the development and implementation of a comprehensive series of policies and procedures designed to influence the manner in which the various agencies that exercise criminal justice system responsibilities within each county process criminal cases from arrest through disposition. Thus, in each county, a multi-faceted approach to managing the growth in the local jail population was put together that emphasized diversion from jail of persons

charged with minor, non-violent offenses, more efficient case processing by the courts, prosecution, and defense, and to a lesser extent, increased use of alternatives to jail in the sentencing and correctional stages of the criminal justice process. Preceding the development and implementation of the various policy reforms in each county was work conducted by relatively neutral, third-party observers that involved extensive study of local criminal justice system operations. By and large, these efforts were instrumental in bringing to the attention of county and other key officials the substantial impacts that discretionary policies and procedures adhered to by law enforcement, court system, and other entities were having on the size of the local jail population. In Lee and Volusia Counties, specific efforts helped inform local officials of the extent to which these policies and procedures accounted for the unprecedented rates of growth in the local jail population that set the stage for many of the reforms that ultimately were implemented.

A final factor considered in selecting the several counties for study pertained to the timing of the reform process. Thus, while Alachua County has long been recognized as a leader in developing innovative approaches to managing local jail population growth, Volusia County officials began grappling with the problem only after 1985, while Lee County launched its program late in 1988. The significance of the timing issue relates to the ability of researchers to identify the underlying factors that have permitted or otherwise facilitated the process of reform in each county. Thus, given normal patterns of staff turnover, officials in those jurisdictions that have more recently embarked upon the process of reform can be expected to have greater recall of key events and processes than officials where the seeds of reform were planted in the more distant past. Perhaps more importantly, by selecting a sample of counties that vary according to the timing of the reform process, the research design can more effectively control for changes in socio-economic, cultural, legal, and other "environmental" issues that can reasonably be expected to influence the form and outcomes of various managerial interventions. In this sense, if a common set of initiatives and underlying preconditions are found to characterize each of the counties selected for study, researchers can conclude with greater confidence that these were not solely a product of the time at which they were implemented.

Research Method

A variety of research methods and materials were used in conducting the case studies that are presented in this Part.[1] For each case, the research initiative began with a review of reports prepared by independent consultants that described the basic organization of the local criminal justice system, the dynamics of local jail population growth, and the factors accounting for such growth. Augmenting this "written record" were a series of Florida Department of Corrections' reports that contained information pertaining to the capacity and average daily population of the local jail facilities operative in each county. Also common to each case study was extensive reliance upon a series of surveys completed by

[1]Upon identifying Alachua, Lee, and Volusia Counties as potential candidates for study, ACIR staff contacted the Chairperson of the Board of County Commissioners in each jurisdiction in order to request permission to include the county in the Council's endeavor, and to request cooperation in the gathering of information pertaining to local jail population management initiatives. In each case, permission was graciously granted, and cooperation was pledged.

key county and court system officials that served as the basis for the findings reported in Part 3 this report.[2] By and large, these surveys were designed to assess the implementation status in each county of various policies and procedures designed to manage jail population growth. In addition to relying upon these materials, site visits were made to each county, during which ACIR staff interviewed key officials, observed relevant meetings and court proceedings, and collected various secondary research materials such as jail booking forms, administrative orders, and pretrial release screening forms. Also in each case, researchers relied upon empirical data pertaining to trends in local jail population growth and narrative descriptions of specific policy interventions that were made available by state and local officials in each jurisdiction. Finally, the research relied upon the testimony offered by various officials before several committees of the Florida Legislature over the 1991-1992 period. Included among these were a series of public hearings conducted by the ACIR on proposed pretrial release and detention legislation during July and August of 1991.

Facilitating the research process in each county were strategically placed officials who served as resource persons for ACIR staff. In Alachua County, Ms. Cyndi Morton, Assistant Director of the Alachua County Department of Criminal Justice Services, and her predecessor, Ms. Diana Cunningham, fulfilled this role. In Lee and Volusia Counties the respective contact persons were Mr. Brooks Smith, who serves as the Jail Population Manager for Lee County, and Mr. John Dupree, who is the Director of the Volusia County Department of Judicial Services. While each of these officials supplied ACIR staff with extensive documentation pertaining to the reform process in each jurisdiction, each also played a somewhat different role in the research effort. With respect to Alachua County, Ms. Morton prepared an extensive, 30 page document that described in detail many of the managerial initiatives implemented in Alachua County over the course of the 1980's, which included a variety of budgetary, workload, and outcome data pertaining to these. In Lee County, Mr. Smith served in an "ombudsman" role by relaying key information to ACIR staff, setting up interviews with key officials, and coordinating site visits. In Volusia County, Mr. Dupree submitted to an intensive interview process over a 2-day period, in which he made available to ACIR staff his knowledge and understanding of the reform process that unfolded in Volusia County in the latter half of the 1980's.

SUMMARY FINDINGS: DIMENSIONS OF REFORM

Although the several counties included in the analysis embarked upon their reforms at different points in time and at the behest of different governmental entities, in the end they came to embody remarkably similar policy interventions. Consistent with the counsel offered by national experts that any effective program of managing local jail population growth reflect a "systems approach",[3] the reforms implemented in each county were multi-

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[2]More specifically, completed surveys received from the circuit Chief Judges, State Attorneys, Public Defenders, county pretrial services programs, and county administrators were used as research materials.

[3]Hall, A. Alleviating Jail Overcrowding: A Systems Perspective, (Washington, D.C.: National Institute of Justice; 1985).

faceted in nature, and included policies, programs, and procedures implemented by local law enforcement agencies, county governments, corrections agencies, and the prosecution, defense, and the courts. In designing and developing various managerial interventions in this area, officials in many instances were seeking to exert more effective control over the two key determinants of jail population size: admissions to jail, and average lengths of stay. To a lesser extent, policies, programs, and procedures were implemented that were intended to introduce efficiencies in the operations of discrete agencies such as state attorney and public defender offices; however, to the extent that these efficiencies tend to expedite the processing of cases in which the defendant remains in jail pending trial, these interventions also were treated as components of wider system initiatives designed to manage the growth in local jail populations. The following represents a summary of the policies, programs, and procedures that the several counties participating as case studies shared in common.

Jail Diversion

In each of the counties studied, various policies, programs, and procedures have been implemented in order to divert from jail persons charged with minor criminal offenses and arrestees suffering from mental health conditions. As summarized in Table VI-1, these efforts by and large involve widespread use of notices to appear in lieu of custodial arrest for persons charged with misdemeanor offenses that do not involve violence, and institutional alternatives to jail booking for public intoxicants and arrestees suffering from mental health conditions. In developing and otherwise providing for these, each county has sought to conserve existing jail space for persons who need to be detained in order to protect public safety, and to direct criminal defendants with specific substance abuse and mental health treatment needs to more appropriate and effective institutional settings from the outset of their initial contact with the criminal justice system.

Use of Notices to Appear in Lieu of Custodial Arrest. In each jurisdiction studied, a number of policies and procedures have been put into place in order to divert certain categories of criminal defendants from jail, either by avoiding the jail booking process outright or by providing for the release of defendants from jail after booking but prior to first appearance. Central to these efforts have been the adoption of policies that either require or encourage the issuance of notices to appear in lieu of arrest and jail booking in cases involving non-violent misdemeanor and local ordinance violation charges (see Table VI-1). In Alachua County, the Gainesville Police Department has adopted a policy requiring law enforcement officers to issue a notice to appear to any adult arrested for a misdemeanor, criminal traffic, or local ordinance violation unless certain criteria are met, and the Sheriff's Office has adopted a policy encouraging the issuance of notices to appear in lieu of custodial arrest in such cases. In Lee County, the Circuit Chief Judge has issued an administrative order encouraging more widespread use of notices to appear that requires arresting officers to secure supervisory approval before transporting persons accused of misdemeanor or city ordinance violations to jail. Finally, while law enforcement agencies

TABLE VI-1
Policies and Procedures Pertaining to Use of Jail Diversion
in Alachua, Lee, and Volusia Counties

Procedure	Implementing Agency	Applicable Policy
Notice to Appear	Alachua County: Gainesville Police	Formal Departmental Policy Requiring Use in All Misdemeanor and Local Ordinance Violations
	Alachua County: Sheriff's Office	Departmental Policy Encourages use in All Misdemeanor and and Local Ordinance Violation Cases
	Lee County: Municipal Police Departments, Lee County Sheriff's Department	Judicial Order Requiring Use in the Absence of Supervisory Approval to Detain in Misdemeanor and Local Ordinance Cases
	Volusia County: Volusia County Department of Corrections	Departmental Policy Assesses $25 Booking Fee Against Arresting Agencies in Local Ordinance Cases
Diversion of Public Inebriates	Alachua County: Board of County Commissioners	Funds Secure Detox Facility
	Volusia County: Board of County Commissioners	Funds Secure Detox Facility Located Adjacent to Jail
Diversion of Mental Health Cases	Alachua County: Board of County Commissioners	Funds Area Mental Health Evaulation and Treatment Facilities

operating in Volusia County vary considerably in terms of their use of notices to appear, the county's assessment of a $25 fee against arresting agencies whenever a person charged with a violation of a municipal ordinance is booked into jail has resulted in the diversion of large numbers of local ordinance violators from jail booking and an initial period of pretrial detention.

Diversion of Public Inebriates and Mental Health Cases. Central to any endeavors aimed at diverting from jail public inebriates and arrestees suffering from mental health problems is the availability of secure treatment facilities that provide law enforcement with an alternative to jail booking. In Alachua County, the Board of County Commissioners since the early 1980's has contracted with a private provider who operates a detox facility, and has contributed funding to area mental health evaluation and treatment facilities. With respect to both population groups, local law enforcement agencies traditionally have been cooperative in diverting new arrestees from jail, provided that the accused does not pose a threat of physical violence to themselves or others. In Volusia County, a detoxification center jointly funded by the county and the state Department of Health and Rehabilitative Services has been located adjacent to the jail for purposes of providing law enforcement officers with an alternative to jail booking in cases involving public intoxication. However, criminal defendants who have mental health problems continue to be housed in the Volusia County jail system due to a shortage of institutional alternatives that could provide for the custodial evaluation and care of such persons. This situation is mirrored in Lee County, although recent capital expansion plans provide for the construction and operation of a forensic facility as part of a new jail.

Detention Case Management and the Role of Criminal Justice Management Information Systems

In each of the counties studied, aggressive systems have been implemented in order to track the flow of criminal cases in which the defendant remains detained in jail in order to assure that case disposition is not delayed due to oversight or other scheduling problems, and that defendants are brought back before the courts for a reconsideration of bail where additional information relevant to the pretrial release decision becomes available (see Table VI-2). In Alachua and Volusia Counties, staff assigned to the pretrial services program routinely track the flow of in-jail cases through the system, and work with the prosecution, defense, and the courts in order to overcome delays and expedite case disposition. In Lee County, a formal "jail population manager" has been funded by the county in order to provide similar services. Finally, in Alachua and Lee Counties, pretrial services program staff regularly review detention cases in order to determine if additional information has become available that may lead the court to alter the conditions of release imposed by the court at first appearance. In Lee County, pretrial services staff present any such information to the court on a case-by-case basis, while in Alachua County "mass" bond reduction hearings are held in open court several times per week in order to afford the courts a "second look" at those defendants who fail to secure pretrial release at or shortly following first appearance.

Critical to the proper functioning of detention case management and monitoring efforts undertaken in the three counties studied has been the existence of criminal justice

TABLE VI-2
Use of Detention Case Monitoring and
Management Initiatives in Alachua, Lee, and Volusia Counties

Procedure	Implementing Agency	Applicable Policy
Detention Case	Pretrial Services in Alachua & Volusia Counties Jail Population Manager, Lee County	Track Flow of In-Jail Cases, Work with Court System Monitoring Officials to Overcome Delays and Speed Processing of In-Jail Cases
Bail Review	Alachua County: Pretrial Services	Review In-Jail Cases and Present Additional Information to Court that is relevant to Pretrial Release Decision; Staff Bond Reduction Hearings
	Lee County: Pretrial Services	Review In-Jail Cases and Present Additional Information to Court on a Case-by-Case Basis.
Maintain Criminal Justice Management Information System (CJIS)	Alachua County: Board of County Commissioners	Fund CJIS System and its Successor, on Offender-Based Tracking Justice System
	Lee County: Clerk of Court; Sheriff	Fund and Operate Management Information Systems that Contain Detailed Court-Scheduling and Other Defendant-Related Data.
	Volusia County: Board of County Commissioners	Funds CJIS System

management information systems (CJIS) (see Table VI-2). In general, such systems represent automated data bases that contain information pertaining to the criminal history, detention status, and court processing of individual criminal defendants. While responsibility for CJIS operation and administration is spread among several agencies in each county, in each case the system is relied upon by pretrial services and other staff to track the flow of in-jail cases in order to identify bottlenecks and other factors contributing to delays in case processing. Despite the utility they yield in this regard, each county currently is in the process of revamping CJIS operations in order to address weaknesses in the system and to make it more useful for jail population management and case monitoring activities.

Role of Jail Administration

In each of the counties studied, jail administration has taken a number of steps in order to facilitate wider system efforts to control the growth in the inmate population. In large part, these steps involve providing pretrial services agency staff and defense counsel with ready access to detained defendants, and providing jail census data to key officials responsible for monitoring the dynamics of jail population growth and with performing the functions of detention case management and monitoring. With respect to the access issue, pretrial services staff in each county have been provided with rooms in the jail where defendant interviews are conducted,[4] and jail administration in both Lee and Volusia Counties have been provided office space where pretrial staff run criminal history record checks and prepare paperwork. According to local officials, such facilities help program staff avoid time-consuming searches for pretrial detainees in cell block areas, and permit quicker verification of information gathered in the defendant interview process. Beyond this, jail administration provides key information on inmate populations in each county that facilitate jail case monitoring and management on the part of the prosecution, defense, pretrial services, and the courts.

State Attorney and Public Defender Initiatives

While the extent of state attorney and public defender involvement in the reform process undertaken in the several counties under study has varied somewhat, in each case the prosecution and defense have taken steps to implement specific policies and procedures in this area (see Tables VI-3 and VI-4). Thus, the state attorneys in Alachua, Lee, and Volusia Counties each have established intake units and other early case screening and review procedures in order to speed-up the process of arriving at accurate charging decisions and to insure that charges lodged by arresting officers at jail booking are reduced or dismissed outright in a timely fashion in weak cases. These initiatives have been cited by national criminal justice system experts as valuable insofar as defendants who face more serious criminal charges generally have more stringent conditions imposed upon their release by the courts. In addition, each office regularly singles out in-jail cases for expedited processing, and the State Attorney in Alachua County participates in early pretrial conferences with the public defender and the court in order to speed the plea negotiation

[4]In Alachua County, pretrial services staff share interview rooms with the Public Defender's Office.

TABLE VI-3
Managing Pretrial Jail Populations: State Attorney Initiatives in Alachua, Lee, and Volusia Counties

Procedure	Implementing Agency	Applicable Policy
Intake Unit	State Attorney Offices in Alachua, Lee, & Volusia Counties	Initiate Early Case Screening and Review in Order to Assure More Accurate Charging
Expedited Processing of Detention Cases	State Attorney Offices in Alachua, Lee, & Volusia Counties	Avoiding Inadvertent Delays in Processing In-Jail Cases
Participate In Pretrial Conferences With Defense & Trail Judge	State Attorney Offices in Alachua & Lee Counties	Take Steps to Identify and Reduce or Drop Charges in Weak Cases Early On In the Process
Automatic Discovery	State Attorney Offices in Alachua & Volusia Counties	Established Agreements With Public Defender's Office Whereby Discovery-Related Information Is Shared Without the necessity of Filing Discovery Motions on a Case-By-Basis.

TABLE VI-4
Managing Pretrial Jail Populations: Public Defender Initiatives in Alachua, Lee, and Volusia Counties

Procedure	Implementing Agency	Applicable Policy
Early Case Screening and Review	Public Defender Offices in Lee & Volusia Counties	Assign Counsel & Initiate Defendant Contact Within 24 Hours of Arrest and Jail Booking
	Public Defender's Office in Alachua County	Assign Investigator to Make Initial Contact With Defendants Who Fail to Secure Release After First Appearance
Participate in Pretrial Conferences With Prosecution and Trial Judge	Public Defender Offices in Alachua, Lee & Volusia Counties	Attempt to Speed Plea Negotiation Process and Expedite Case Disposition
Automatic Discovery	Public Defender Offices in Alachua & Volusia Counties	Established Agreements With State Attorney's Office whereby Discovery-Related Information Is Shared Without the Necessity of Filing Discovery-Related Motions on a Case-By-Case Basis.

process and to identify and "weed out" marginal or weak cases. While little data is available to evaluate the impact these policies and procedures have had upon the size of local jail populations, each of the implemented initiatives are viewed as critical to jail population management programs insofar as they hold the potential to help decrease lengths of stay in jail for those defendants who fail to secure pretrial release at or shortly after the first appearance hearing.

Among the specific policies and procedures implemented by the public defender offices in the counties studied are those designed to promote early case screening and review by defense counsel. Thus, the public defender offices in Lee and Volusia counties report that they attempt to assign counsel and make initial contact with criminal defendants within 24 hours of arrest and jail booking, a practice which has been cited by national criminal justice system experts as critical insofar as it enhances the ability of counsel to effectively advocate for pretrial release or case dismissal at the first appearance hearing. While resource constraints have limited the ability of the Public Defender's Office in Alachua County to follow similar policies in recent years, since 1990 an investigator has been assigned to make contact with defendants who fail to secure release subsequent to first appearance in order to develop background information for bond reduction motions. In other areas, the Alachua Office by informal policy attempts to focus attention on securing pretrial release or early case disposition for in-jail cases, and assistant public defenders in each of the counties under study regularly participate in early conferences with the prosecution and trial judges in order to speed the plea negotiation process and to otherwise expedite case disposition. Finally, the Public Defender's Office in Alachua County has been instrumental in the development and implementation of mass bond reduction hearings. These hearings currently are held three times per week in order to afford the court an opportunity to reconsider the conditions of release imposed upon in-jail defendants. In Lee County, assistant public defenders also regularly petition the court for such hearings in misdemeanor and third and second degree felony cases.

In addition to exercising individual initiative in implementing various policies and procedures intended to speed the processing of criminal cases by their offices, the state attorneys and public defenders in each of the counties studied have cooperated with each other in order to decrease court delays associated with the discovery process. Thus, in Alachua and Volusia Counties, so-called "automatic discovery" procedures have been implemented by mutual agreement whereby the state attorney and public defender have agreed to share discovery related information without the necessity of filing motions with the court on a case-by-case basis. In Lee County, the State Attorney and Public Defender in conjunction with Court Administration have been involved in revamping the automated local criminal justice information system in a manner that will provide for expedited discovery procedures. As with other efforts taken to reduce court delays and expedite the processing of cases in which the defendant remains in jail prior to case disposition, reforms in the area of discovery proceedings have assisted wider local efforts to control the growth in local jail populations by reducing lengths of stay in jail.

Pretrial Services

Central to the comprehensive approaches to jail population management developed in each county has been the establishment of a full service pretrial services agency. Funded by the Board of County Commissioners and variously organized for administrative purposes under the judiciary (Lee and Volusia Counties) and county administration (Alachua County), these units have been designed to perform a wide range of services for the courts and other criminal justice system entities operating at the local level. Included among these services are conducting pretrial release investigations for the court, exercising various levels of supervision over released defendants, conducting indigency screening, discharging jail case monitoring and management responsibilities, and staffing first appearance and bond reduction hearings held in open court. As such, these agencies fulfill a critical role in managing the flow of cases from arrest and jail booking through disposition.

Pretrial Release Investigations. Among the most important of the functions performed by the pretrial services agencies operating in Alachua, Lee, and Volusia Counties are conducting pretrial release investigations for the court prior to a defendant's first appearance hearing. Thus, in each county pretrial services' staff interview defendants soon after arrest and jail booking in order to gather information pertaining to their ties to the community, their financial and employment background, and criminal history. Supplemented by calls to family members and other references where available, and with criminal history records, this information is provided to the court either prior to (Alachua County) or at first appearance (Lee and Volusia Counties). Along with such information, a recommendation is made to the court pertaining to the pretrial release or detention of the defendant. In offering such counsel to the court, pretrial services generally recommends that a defendant either be released or detained pending subsequent court proceedings, and identifies the conditions of release that should be imposed upon the defendant in order to assure appearance at trial and protect public safety.

In offering pretrial release reports and recommendations to the court, the pretrial services agencies studied seek to increase the quantity, quality, and timeliness of information available to the court at the point at which the initial pretrial release and detention decision is made. Such information serves two central purposes. First, in the absence of such information, the courts would be ill-equipped to evaluate the public safety and failure to appear risks that would be attendant upon the release of individual criminal defendants. As a number of officials in each county have testified, lack of information pertaining to the background of defendants tends to result in greater judicial reluctance to release those who otherwise could be safely returned to the community pending trial, which in turn tends to result in the increased use of jail space to detain relatively low-risk defendants. Second, greater information on the background of defendants at first appearance - particularly information pertaining to criminal history - has made judges more willing to dispose of minor criminal cases at that juncture. In addition to avoiding additional jail time for those defendants who ordinarily would not receive a sentence of incarceration upon being found guilty by the court, early case dispositions provide critical caseload relief to the courts, prosecution, and public defense agencies.

Supervision of Released Defenders. A second critical function performed by pretrial services agencies pertains to the supervision of criminal defendants who are released by the court pending trial. Thus, in each of the counties studied, the judiciary releases large numbers of criminal defendants to the supervision of pretrial services at first appearance, and levels of supervision vary from fielding weekly call-ins to conducting home visits and coordinating urinalysis. Common to all levels of supervision administered by the agencies under study are efforts to remind released defendants of the time and location of upcoming court hearings, continuous monitoring of residence and employment status, and compliance with other conditions of release imposed by the court. In discharging these responsibilities, pretrial services offer the courts a supervised alternative to monetary bail, and also help manage the behavior of defendants during pretrial release as it relates to appearance in court and other conditions of release imposed by the court.

Other Services. In addition to conducting pretrial release investigations for the court and supervising released defendants, the pretrial agencies serving Alachua, Lee, and Volusia Counties provide a number of other managerial services. These services variously include conducting indigency screening for the court prior to first appearance (Lee County), running criminal history record checks for the defense and prosecution (Alachua County), operating case-tracking systems whereby information pertaining to the case status of detained defendants is provided to the court, prosecution, and public defender's office (Volusia County), and facilitating the diversion from jail of defendants with mental health and substance abuse treatment needs (Alachua County). Moreover, in each of the counties studied, pretrial staff follow-up on in-jail cases in order to see if any additional information on the defendant's background has become available that may lead the court to alter the conditions of release established at first appearance. Where such additional information becomes available, pretrial services staff present it to the court either directly (Lee and Volusia Counties), or to defense counsel with a recommendation that a bond reduction hearing be sought (Alachua County).

Program Performance Measures. Workload measures made available by agency officials indicate that the programs studied have been characterized by substantial increases in their investigative and supervisory workloads in recent years, and highly favorable evaluations of agency performance have been offered by members of the judiciary in each of the jurisdictions at focus. While no quantifiable information pertaining to program performance was available for Alachua County, data for Lee and Volusia Counties indicate that the pretrial services agencies operating in these jurisdictions have been successful in returning to court the vast majority of defendants released under their supervision. Thus, Lee County officials reported a 1991 program failure to appear rate of approximately 10%, which declined to approximately 7.6% over the first three quarters of fiscal year 1992. In Volusia County, the pretrial services program reported a 1991 failure to appear rate of 10%, while only 3.2% of the defendants assigned to the more intensive community confinement program failed to appear in court as required.[5]

[5]For both Lee and Volusia Counties, failure to appear rates take into account only those defendants who have been released by the court to the supervision of the pretrial services agency.

Judicial Initiatives

In each of the counties studied, the judiciary has been a key force in the development and implementation of criminal justice system reforms designed to permit more effective management of local jail population growth. Beyond exerting leadership and otherwise serving as catalysts for reforms that eventually were developed by others, the circuit and county criminal courts in each jurisdiction have instituted policies and procedures aimed at promoting more effective management of existing jail capacity. Such policies and procedures range from expediting bail setting and review to vertical case management procedures and support for alternatives to incarceration in criminal sentencing (see Table VI-5). The following represents a brief overview of the policies and procedures implemented by the courts in the several counties studied.

· *Expedited Pretrial Release.* As a number of local criminal justice system studies have indicated, a key factor contributing to population pressures placed upon local jail facilities are the delays many defendants encounter in securing pretrial release.[6] Through the implementation of various policies and procedures, the criminal courts in Alachua, Lee, and Volusia Counties have taken steps in order to reduce such delays by expediting the process of bail setting and pretrial release. Among the specific steps taken in this regard have been revisions to existing master bond schedules in order to simplify their application and provide for more reasonable bail (Lee County), and delegating direct release authority to pretrial services staff (Volusia County). In addition, jail staff in Alachua County have been authorized to accept bail at the point of booking, and the judiciary in Lee County has authorized municipal law enforcement agencies to accept bail at police stationhouses in lieu of transporting defendants to jail for booking purposes. Finally, the Circuit Chief Judge in Lee County has issued an administrative order designed to encourage more uniform and widespread use of notices to appear in misdemeanor and local ordinance violation cases.

Adversarial First Appearance Hearings. In a particularly innovative procedure, the courts in Lee and Volusia Counties have restructured first appearance hearings in order to increase the incidence with which cases are disposed of at this initial juncture. As implemented in Lee County, first appearance hearings take on several of the characteristics of an adversarial hearing, with active involvement of prosecution, defense, and pretrial services staff. In Volusia County, the judiciary in cooperation with the state attorney and public defender place substantial emphasis upon identifying defendants who can reasonably be diverted from further penetration of the criminal justice system. As a result of these procedures, the number of defendants whose cases are resolved at first appearance increased more than ten-fold soon after implementation, to an annualized figure of 2,200. As in the case of the various bail review procedures discussed below, the information provided to the court and made available to the prosecution and defense by pretrial services investigators has played a critical role in the success of the Lee and Volusia County initiatives in this area.

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[6]See discussion on pp. 88-96, supra.

TABLE VI-5
Managing Pretrial Jail Populations: Judicial Initiatives in Alachua, Lee, and Volusia Counties

Procedure	Implementing Agency	Applicable Policy
Expediting Pretrial Release	Alachua County Judiciary	Authorize Law Enforcement to Accept Bail at Point of Jail Booking
	Lee County Judiciary	Revised Master Bond Schedule Authorize Law Enforcement to Accept Bail at Police Stationhouse Issued Administrative Order Encouraging More Widespread Use of Notices to Appear
	Volusia County Judiciary	Authorize Pretrial Services Staff to Release Certain Defendants Prior to First Appearance (Direct Release Authority) Issue Master Bond Schedule
Adversarial First Appearance Hearings	Judiciary, Pretrial Services, Prosecution, and Defense in Lee & Volusia Counties	Identify Defendants Who Can Be Diverted from Further Penetration of Case-Processing System, and Accept Pleas and Issue Sentences at First Appearance Where Appropriate
Bail Review	Alachua County Judiciary	Hold Regularly Scheduled Mass Bond Reduction Hearings Three Times Per Week
	Lee County Judiciary	Review Additional Information Gathered by Court Investigations Staff Subsequent to First Appearance and Reduce Bonds Where Appropriate
	Volusia County Judiciary	Conduct Daily "Jail Arraignments" Whereby the Court Reviews the Case Status of Defendents Who Remain Detained for Between 3 & 5 Days After First Appearance
Court Delay Reduction	Alachua County Judiciary	Jail Case Review By Pretrial Services Staff Reducing Delays Between Adjudication and Sentencing

Table VI-5, continued

Procedure	Implementing Agency	Applicable Policy
Court Delay, cont'd.	Lee County Judiciary	Jail Case Review By Court Investigation's Staff Vertical Case Assignment Expedited Assignment of Outside Counsel in Public Defender Conflict of Interest Cases Expedited Sentencing and Prisoner Transfer Procedures Expedited Processing of Violation of Probation Cases
	Volusia County Judiciary	Established a "Blind Filing" Case Assignment System Established a Weekly versus Daily First Appearance Rotation System Encourage Limiting the Use of Case Continuances By the Prosecution and Defense

Bail Review. In each of the counties studied, the judiciary has implemented policies and procedures in order to assure that defendants who fail to secure pretrial release are brought back before the court for a reconsideration of the conditions of release established at first appearance. In large part, these procedures are intended to provide the courts with a systematic means of considering new information that bears on the issues of pretrial release and case disposition so that defendants do not remain in jail for extended periods of time between first appearance and trial. In Alachua County, mass bond reduction hearings are held three times per week, at which time the court reconsiders the conditions of release imposed upon large numbers of defendants who remain detained in jail. In Volusia County, "second look" proceedings take the form of daily jail arraignments whereby defendants who have been detained for between 3 and 5 days subsequent to first appearance are brought back before a judge so that the court can identify those who may qualify for early case disposition, reductions in bond, or release to the supervision of pretrial services. Finally, in Lee County, pretrial services staff regularly review the status of in-jail defendants in order to determine whether circumstances that impact upon pretrial release and detention decisions have changed since first appearance. Where information suggests that circumstances have changed, or where relevant information is generated that was not available to the first appearance judge, the information is provided to the court. As is the case in Lee County, pretrial services is instrumental to the "second look" procedures implemented in Alachua and Volusia Counties. Thus, program staff continually seek to update information on the background and criminal history of in-jail defendants and bring such additional information to the attention of appropriate officials.

Court Delay Reduction. Beyond the discrete policies and procedures implemented in order to expedite the pretrial release and bail review processes and to increase the utility of first appearance hearings, the judiciary in the several counties studied has taken a number of steps to reduce delays in the processing of criminal cases by the courts. These "court delay reduction" initiatives are wide ranging, and extend from a "blind filing" calendaring system in Volusia to expedited sentencing procedures in Alachua and Lee Counties. By increasing the speed and efficiency with which cases are processed by the criminal courts, these various initiates help control the demand for local jail space by decreasing the length of stay in jail for those defendants who remain detained during the pendency of their cases.

Other Initiatives

In addition to the initiatives discussed above, the reform processes undertaken in Alachua, Lee, and Volusia Counties variously have involved other endeavors undertaken by state and local agencies discharging criminal justice system responsibilities in the jurisdictions at focus. Examples of these initiatives range from the willingness of the courts to invoke alternatives to incarceration in the sentencing stage of the process (Alachua County), to endeavors by the Clerk of Court to expedite the processing of paperwork in order to reduce delays in case processing (Lee County). Underlying the development and implementation of each of these policies and procedures has been the common objective of either controlling jail admissions or lengths of stay. Each of these endeavors is treated in greater detail in the accompanying chapters.

COMMON ELEMENTS IN THE PROCESS OF REFORM: FACTORS CONTRIBUTING TO SUCCESSFUL MANAGEMENT OF LOCAL JAIL POPULATION GROWTH

One of the central objectives underlying the case study approach undertaken in this Part was to identify the underlying factors that facilitated the successful reform processes in each of the counties at focus. Through interviews with key system officials, direct observation, and the review of prepared materials, research efforts identified a number of such factors that were present in each of the jurisdictions. As summarized in Table VI-6, these factors included the exercise of strong leadership by the judiciary and other officials in the reform process, the presence of outside observers who provided technical assistance to county officials, and the existence of multi-agency forums that were used to develop and reach consensus upon discrete managerial interventions. In addition, an institutional capacity to continuously monitor the reform process and evaluate its impact upon the local jail population was present in each of the counties studied, as were resource enhancements that were channeled into the operation and evaluation of the local criminal justice system. Finally, of critical importance to the reform process in each county was the presence of officials who possessed the ability to exercise the political skills necessary to identify commonalities of interest among various system actors. In turn, these shared incentives provided a motivational basis for the adoption of specific initiatives that held the potential to provide for more effective management of local jail population growth. While each of the contributing factors are discussed in detail in subsequent chapters, the following represents a brief overview of these.

The Leadership Factor

Narratives of the reform processes undertaken in each of the counties studied indicate that the willingness of one or more strategically placed officials to exert leadership in grappling with local jail population growth and the corresponding problem of jail overcrowding was critical to the success of these initiatives. While it is clear that a number of officials exerted leadership in the development and implementation of initiatives within their own domains, it is clear that the provision of system-wide leadership by the Chief Circuit Judge acting either alone or in concert with county administration was critical to successful reform in each case. Thus, the leadership exercised by Chief Judge Chester Chance in Alachua County from the mid-1980's on was critical in keeping together the reform process begun by county administration earlier in the decade, and in expanding its scope as the decade progressed. Augmenting Judge Chance's leadership were professional staff serving the Board of County Commissioners who played a key role in injecting various innovations into the system and exercising the political skills necessary to move other officials in the direction of accepting various managerial initiatives. Similarly, the Chief Judge for the 20th judicial circuit, Thomas Reese, assumed the preeminent leadership role in Lee County, although his efforts in this regard were augmented by the initiative exercised by the Court Administrator early on in the reform process. Finally, a combination of judicial and county government leadership played a pivotal role in getting various initiatives off the ground at the outset of the reform process in Volusia County. Unlike Alachua and Lee Counties, however, early judicial leadership in Volusia County was exercised not so

TABLE VI-6
Factors Contributing to Successful
Implementation of Jail Population Management Initiatives

Strong Leadership
- a. Chief Circuit Judge (Alachua & Lee Counties)
- b. Administrative Circuit Judge (Volusia County)
- c. County Administration (Alachua & Volusia Counties)

Outside Observers
- a. Consultants Hired by County Administration (Lee & Volusia Counties)
- b. Citizen Advisory Groups (Alachua County)

Institutional Capacity to Monitor Jail Population Growth and Implementation of Reforms
- a. County Department of Court Services/Division of Court Alternatives (Alachua County)
- b. Jail Population Manager (Lee County)
- c. County Department of Judicial Services (Volusia County)

Multi-Agency Forums
- a. Criminal Justice Coordinating Council/Oversight Jail Population Review Committee (Alachua County)
- b. County Correctional Planning Committee (Lee County)
- c. Criminal Justice Task Force (Volusia County)

Resource Enhancements
- a. Funding Innovative Programs, Computer-Based Management Technologies; Hiring Outside Consultants (Alachua, Lee, Volusia Counties)

Political Skills
- a. Recognizing Shared Incentives Among Different System Actors (Alachua, Lee, and Volusia Counties)

much by the chief circuit judge as by Judge Eddie Sanders, who served as the Administrative Circuit Judge for Volusia County.

In attempting to explain the exercise of effective leadership by officials occupying key positions in the judicial hierarchy, it must be acknowledged that the Florida Rules of Judicial Administration impose certain duties and responsibilities upon the circuit chief judge in the area of jail population management. Thus, Rule 2.050 requires the chief judge to conduct "periodic" reviews of the status of county jail inmates, and to "develop an administrative plan for the efficient and proper administration of all courts" within the circuit. Given the impacts that court system operations have on the size and composition of the local jail population, many of the initiatives undertaken by the courts in the areas of pretrial release, adversarial first appearance, and court delay reduction fall under the official purview of the chief judge and the administrative office of the courts. Beyond this, knowledgeable observers in the counties studied noted that many other officials view the judiciary as playing a neutral role in a system normally characterized by adversarial relationships among various actors. In this scheme, the chief judge in particular is treated with deference and often is looked to for systemwide leadership.

In order to understand why county government in each of the jurisdictions studied moved to actively tackle and exert leadership in addressing the problem of local jail population growth, a number of factors should be considered. First and foremost, it is clear that as the entity of government that must finance jail construction and operations, the Board of County Commissioners has strong incentives to promote more effective management of local jail capacity. Beyond this circumstance - which is shared by all counties in the state - the several case studies make clear that certain other forces present in the counties at focus led county officials to take a leadership role in this area. In Alachua County, progressive administrators and professional criminal justice system planners in county government provided motivation and expertise for a proactive approach to dealing with the problem of local jail overcrowding. In turn, this approach resulted in the introduction of a series of innovations and efficiency measures that were designed to control the growth in the local jail population. In contrast to the Alachua model, the administration in Volusia County agitated for reform only after an ambitious construction program failed to address local jail overcrowding. In this scheme, the failure of the "buildout" solution lead county officials to look elsewhere in order to slow the unprecedented rates of jail population growth that lead to facility overcrowding. Finally, knowledgeable observers in Lee County note that the buildout solution was never seriously considered by local officials. In this sense, Lee County may have benefitted from the difficulties experienced by many Florida counties in the 1980's, whereby substantial expansions in local jail capacity were followed by overcrowding within a few short months of the opening of new facilities.

The Role of Outside Consultants

In addition to the presence of system-wide leadership and county initiative, a second factor that contributed to the successful programs of reform implemented in each of the counties was the presence of outside observers. Realized in the form of outside consultants or citizen watchdog groups, these observers served to provide technical assistance to county

governments in their attempts to identify the systemic causes of local jail population growth and to devise solutions that would address these causes. In Alachua County, a citizen advisory group attached to the county Department of Corrections planted the initial seeds for aggressive county involvement in this area in the early 1980's. Comprised of citizens and a number of local criminal justice system professionals, this advisory group began to study, analyze, and document agency operations, which ultimately resulted in proposals for specific actions to be taken by the county and other criminal justice system entities. In Lee and Volusia Counties, the services of nationally recognized experts on local jail overcrowding were retained by the county governing bodies in order to assist in the diagnosis of system inefficiencies and to establish agendas of reform. In Lee County, the Board of County Commissioners continues to contract with a consultant in order to provide continuity in monitoring the progress of various reform initiatives and to promote continued involvement in the process by key system actors.

Beyond lending technical assistance to the counties, it is clear that outside observers fulfilled other important functions in the reform processes. Of most importance in this regard is the ability of consultants and citizen groups to diagnose system problems and establish reform agendas in a manner that insulates incumbent office holders from political conflict. Thus, knowledgeable observers in Alachua County have noted that, in educating the public, county officials, and other system actors on the nature of the problems confronting the county in this area, the citizen advisory group took on the task of identifying system inefficiencies in a manner that county officials may have been reluctant to, since to do so would have engendered conflict with powerful criminal justice system officials whose operations may have been cast in a less than favorable light. Similarly, the National Institute of Justice consultant initially retained by the Lee County government in 1988 reportedly has served a parallel function in the ongoing reform process implemented in that county.

Institutional Factors

In each of the counties studied, the county governing body has seen fit to establish and fund an institutional capacity in order to continuously monitor jail population growth, to identify systemic factors contributing to such growth, and to develop solutions to emerging problems. In Alachua County, this capacity has taken the form of the Department of Court Services and its successor, the Division of Court Alternatives within the county's Department of Criminal Justice Services. In addition to administering a variety of programs designed to reduce the demand for jail beds, agency staff have been formally assigned to detention case monitoring and management duties, and traditionally have worked on the development and implementation of innovations designed to more effectively control the growth in the local jail population. In Lee County, the Board of County Commissioners has funded a position within the court administrator's office that is responsible for various jail population management duties. Finally, the Volusia County Council established the Department of Judicial Services in 1988, which has been designed to develop and coordinate the county's various jail population management programs and to continuously monitor the progress of reforms in this area. Underlying the creation and ongoing operation of these efforts has been an understanding in each county that the process of controlling jail population growth is an ongoing one that requires vigilant oversight and

attention in order to maintain forward progress.

Multiple-Agency Forums

In addition to sharing commonalities in the areas of strong judicial leadership, county initiative, and outside expertise, many of the managerial interventions that have been implemented in Alachua, Lee, and Volusia Counties were developed through official multi-agency forums. In Alachua County, a local Criminal Justice Coordinating Council was formed in 1986 under the leadership of the Chief Judge. Consisting of the heads of virtually all agencies whose operations affect the size and composition of the local jail population, this body focused upon identifying and resolving inter-agency problems that were hindering the efficient and effective operation of the criminal justice system. A second group, the Oversight Jail Population Review Committee, was created through an administrative order of the Chief Judge in 1987 in order to identify systemic problems contributing to jail overcrowding and to propose short and long-term solutions to these. In Volusia County, a succession of multi-agency forums proved instrumental in the process of reform. Beginning with the Volusia County Criminal Justice Task Force in 1985, these working groups have convened on a regular basis throughout the process of reform in order to discus criminal justice system problems and develop solutions to these. Finally, the Lee County Correctional Planning Committee (CPC), after being established in 1988 pursuant to a state mandate, has facilitated the active involvement and cooperation of each of the agencies that combine to form the local criminal justice system. According to forum participants, this body has helped to overcome adversarial relationships among different system actors by providing a structured forum for identifying and resolving mutual problems. Currently, the CPC's work is directed at monitoring trends in jail population growth, identifying factors contributing to such growth, and building consensus on various managerial interventions designed to address these factors.

Underlying the formation and ongoing operation of the various working groups that have been convened in Alachua, Lee, and Volusia Counties has been the understanding that a truly "system approach" is necessary in order to effectively address local jail overcrowding and the increases in inmate populations driving this problem. As national experts on the problem have recognized, responsibility for jail population levels is shared by the many local agencies that become involved in processing criminal defendants from arrest through case disposition, and many of these agencies have overlapping functions and interdependencies that must be addressed simultaneously in order to achieve progress in this area. Thus, notwithstanding the presence of strong judicial leadership, county initiative, and other catalysts of effective reform, some means of providing for the joint involvement of a wide range of local criminal justice system agencies in the reform process must be realized. In the counties at study, such joint involvement was provided through a series of ad-hoc and statutorily mandated multi-agency decision-making forums.

Resource Enhancements

In attempting to identify the full range of antecedent factors that facilitated successful reforms in the counties at focus, due attention must be given to the role that resource enhancements played in this area. Thus, each of the counties studied saw fit to

channel scarce resources into various system improvements which, while imposing costs over the short run, held out the potential to affect substantial savings to the county over the longer term through better management of jail population growth. For example, each of the jurisdictions at focus allocated substantial funds to develop, bring on line, and improve their criminal justice information systems and pretrial services programs. Moreover, each county spent considerable sums on the acquisition/retention of outside consultants in order to diagnose system inefficiencies and design a plan to correct these. Finally, each county has funded an institutional capacity for monitoring the growth in the local jail population, and identifying factors contributing to such growth. Augmenting the willingness of county government to incur expenses in these areas was the allocation of resources by the judiciary and other key officials who sought to introduce new management approaches, technologies, and programs into the operation of their own offices. Examples of these resource allocations include the court delay reduction project initiated by the judiciary in Alachua County, and the court's willingness to schedule mass bond reduction hearings 3 times per week.

In acknowledging the importance that available funds play in allowing county governments and other criminal justice system entities to develop and implement policies, programs, and procedures designed to permit more effective management of jail population growth, it should be stressed that a number of the reform initiatives were funded through intergovernmental revenue and technical assistance programs. Thus, Alachua County used U.S. Law Enforcement Assistance Administration funds to initiate its pretrial services program in the early 1980's, and Lee County secured the services of a series of consulting teams in the late 1980's under programs funded by the federal government. The significance of intergovernmental revenues in local reform initiatives lays in the inevitable lags that occur between the implementation of discrete initiatives and their outcomes. Thus, while county government can expect to experience cost savings in the form of lower jail construction and operating costs from many of the managerial initiatives covered in this chapter, these savings can only be realized after resources have been allocated to program startup. Given the fiscal constraints many of the state's counties traditionally have experienced, federal and state government funding assistance can play a critical role in affording county officials the opportunity to initiate cost-saving reforms that they otherwise would not be able to implement as a result of the lack of program startup funds.

Recognizing Common Incentive Structures

Although the multiplicity of agencies involved in the administration of criminal justice at the local level and their adversarial tendencies often have led observers to frequently characterize the criminal justice system as a "non-system",[7] national experts in recent years have drawn attention to the common interest that many agencies have to effectively address the problem of local jail overcrowding.[8] At the most general level, this

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[7]United States Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, (Washington, D.C.; 1971), p. 13

[8]Hall, A., Relieving Jail Overcrowding, pp. 3-4.

shared interest is based on the desire of most officials to avoid the specter of wholesale releases of violent offenders from overcrowded facilities, as well as the ability of overcrowded jails to impair the performance of different agencies. For example, overcrowded facilities place constraints upon judges, prosecutors, and probation officials insofar as their ability to detain individuals who need to be removed from the community may become limited due to a lack of jail space.[9] Beyond common incentives to avoid local jail overcrowding, it also must be recognized that a number of the managerial initiatives discussed in this Part hold the potential to decrease lengths of stay in jail by achieving greater efficiencies in the case processing system. In this sense, certain policies, programs, and procedures that can help control the growth in local jail populations also can generate caseload savings for the courts, prosecution, and defense. Examples of such mutually beneficial policy options include adversarial first appearances that increase the number of cases disposed at first appearance, and prosecution intake units, which can help identify and weed out weak cases before they begin to clutter court and state attorney calendars.

One of the basic - if at times indirect - observations made in the course of conducting the several case studies concerns the extent to which common incentive structures contributed to the development of successful reform initiates. On the one hand, the common interest of the judiciary and county government in avoiding state and federal court intervention in Lee County led to a close partnership between Court Administration and the Board of County Commissioners in the development of initiatives such as the creation of a pretrial services program and the position of jail population manager in the Court Administrator's office. Similarly, Volusia County officials who were involved in the initial efforts to develop a more proactive approach to jail population management reportedly recognized early on that a cadre of judges serving in the Volusia County courts understood the need for and mechanics of effective jail population management. As discussed in Chapter IX, this recognition of similar interests eventually led to close working relationships between members of the bench and county officials in the development of various reform initiatives.

In addition to the "adhesive" effect of discovering shared interests in the need to control growth in the local jail population, a number of discrete policies and procedures were adopted not because the implementing agency was primarily concerned with addressing local jail overcrowding, but rather because the initiative served the agency's purpose of achieving greater operational efficiency. This process was most evident in Alachua County, where impetus for the adoption of initiatives in many instances was provided in part by the concerted efforts of county officials to identify policies and procedures that simultaneously would benefit both the implementing agency as well as the county's jail population control endeavors. Thus, Alachua County Department of Court Alternatives' staff worked closely with the State Attorney's office on the concept of an intake unit, and with both the State Attorney and Public Defender on automatic discovery procedures. In both instances, these initiatives held out the potential to introduce greater efficiencies in the operation of these offices while at the same time helping to speed the processing of in-jail cases. In a similar fashion, the ongoing multi-agency efforts to revamp

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[9]Id.

CJIS operations in Lee County have been predicated on the understanding that agencies such as the prosecution and defense will experience efficiency gains from the new and improved system, as will the county through the improved case-tracking capabilities of the new system.

PRESENTATION OF FINDINGS

The chapters that follow present the findings and results of the Alachua, Lee, and Volusia County case studies. In each instance, the chapters begin with a brief introduction followed by a description of the organization of the local criminal justice system within each county. Following this, attention is focussed on highlighting the dynamics of local jail population growth over the course of the 1980's, and detailed comparisons of each county's jail population and underlying growth rate with other Florida counties are offered. In the case of Alachua County, this discussion centers on the relatively low rate of growth evidenced in the jail population in relation to other counties, while in the case of Lee and Volusia Counties, attention is focussed on the factors that were found to have contributed to the relatively high rates of jail population growth experienced by these jurisdictions. After providing these contextual overviews, each chapter describes in detail the nature of the policy interventions that have been developed and implemented in the respective counties in order to effectively manage available jail capacity. In general, this discussion is organized in a manner consistent with the manner in which criminal cases are processed by the local criminal justice system. Thus, attention initially is directed at law enforcement policies and procedures that provide for the diversion of newly arrested persons from jail, and continues through descriptions of jail case management systems, state attorney and public defender initiatives, and case processing by the judiciary. Finally, where warranted, attention is directed at any policies, programs, and procedures established by the courts, county governments, and probation offices that affect jail admissions and lengths of stay involving persons who have been found guilty of a criminal offense. Each chapter concludes with a discussion of the outcomes of the reforms implemented in the county, and the factors that contributed to and facilitated the development of the reform process.

CHAPTER VII
THE ALACHUA COUNTY CASE STUDY: A COMPREHENSIVE APPROACH TO CONTROLLING JAIL POPULATION GROWTH

ABSTRACT

This chapter describes the comprehensive program for controlling local jail population growth that has been implemented in Alachua County since the early 1980's. After briefly describing the organization of the local criminal justice system, the chapter takes note of the substantial successes achieved by Alachua County in limiting the growth in its local jail population and jail spending in recent years, and draws comparisons between Alachua and neighboring and similar-sized Florida counties in this regard. After providing this broad overview, the chapter discusses in detail the management initiatives undertaken by law enforcement, county administration, and various court system and corrections agencies that have been designed to control the growth in the local jail population in a manner consistent with public safety. Finally, attention is directed at identifying the underlying factors that facilitated the development and implementation of these initiatives in Alachua County.

BACKGROUND

Organization of the Alachua County Criminal Justice System

Alachua County is the most populous of the 6 counties comprising Florida's 8th Judicial Circuit. At the "front-end" or law enforcement end of the criminal justice system, the county is served by an elected Sheriff, and eight municipal and several state law enforcement agencies. These agencies range from the City of Gainesville Police Department to the Florida Highway Patrol and the state Division of Beverage Control. Among these, the Alachua County Sheriff and the Gainesville police traditionally have accounted for more than three-quarters of all arrests occurring in the county. Once placed under custodial arrest, criminal defendants are transported to the Alachua County Detention Center for purposes of making positive identification and to await the probable cause and pretrial release determinations of the court. Under current procedures operative in Alachua County, persons who are booked into jail on misdemeanor or local ordinance violation charges can secure release prior to first appearance by posting a bond established pursuant to a misdemeanor bond schedule. In rare circumstances, defendants may be ordered released by a duty judge without having to appear before the court in a first appearance proceeding.

Those persons who fail to meet conditions of release imposed by the court at first appearance, or who are ordered detained during the pendency of their case, most often are housed in the Alachua County Detention Center, which currently has a rated capacity of approximately 500 beds. Alternately, pretrial detainees may be transferred to a county

work-release facility which has a 30 bed capacity,[1] nearly one-third of which is assigned to house pretrial detainees. Unlike current practices in most Florida counties, responsibilities pertaining to the operation of the local jail and work release center do not reside with the Sheriff. Instead, the jail has been administered by the county manager since 1973. Over the 1973-1991 period, responsibility for the jail was vested in the Alachua County Department of Corrections (ACDOC), which served as a line agency of county government, and whose director reported to the county manager. As a result of a 1991 reorganization, jail administration responsibilities have been assigned to the Corrections Division of the newly created Department of Criminal Justice Services (DCJS).

Criminal court-related responsibilities in Alachua County are vested in the criminal divisions of the Circuit and County Court, a State Attorney and Public Defender who are elected circuit-wide, and the Alachua County Clerk of Court, who performs various record keeping and ministerial duties for the courts. Other criminal justice system responsibilities are exercised by a felony probation office administered by the Florida Department of Corrections, and a misdemeanor probation office housed within the Division of Court Alternatives (DCA) of DCJS. Initially created in 1983 as a department organized under the county manager, DCA provides a full range of pre- and post-trial services to the criminal courts of Alachua County, including pretrial release investigations and alternative sentencing services. In addition to these administrative responsibilities, DCA has served in a policy development role in identifying and proposing alternatives to incarceration for both pretrial and sentenced offender populations. As such, the unit has played a critical role in the development and implementation of the comprehensive program of jail population management that was put into place in Alachua County over the decade of the 1980's.

A Tradition of Effective Management of Local Jail Population Growth

During a time when local jails in the state of Florida were subject to unprecedented increases in inmate populations and county governments were doubling and even tripling their resource commitments to jail construction and operations, Alachua County enjoyed singular success in controlling growth in its local jail population and jail spending. Thus, while Florida's county jail populations, on average, doubled over the 1985-1989 period, growth in the average daily jail population for Alachua County increased at less than one half this rate.[2] Moreover, while statewide county jail expenditures increased by 115% over the 1985-1989 period, jail spending in Alachua County increased at the lower rate of 80%.

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[1] In April, 1992, the work release facility was relocated on property that currently contains the Alachua County Detention Center. According to local officials, its 30 bed capacity is included in the 528 bed rated capacity of the Detention Center.

[2]Data pertaining to the average daily population of Florida's local jails are available from annual reports published by the Florida Department of Corrections. According to calculations made by the Florida Advisory Council on Intergovernmental Relations, county jail populations, on average, increased by 98% over the 1985-1989 period. The corresponding rate of increase for Alachua county was 48%. See the Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis, (Tallahassee, Florida; September 1990), pp. 14-29.

As a result of this slower rate of growth, jail spending as a percent of the ad valorem revenue capacity of the Alachua County government increased only 3% over the course of this 5 year period.[3] In contrast, Florida counties on average allocated approximately 60% more of their ad valorem revenue capacity to jail construction and operations in 1989 than they did in 1985. Patterns of growth in Alachua County's jail population, facility capacity, and spending are presented in Table AC-1.

The successes experienced by Alachua County in controlling the rate of growth in its local jail population are accentuated when comparisons are drawn with similar-sized and neighboring counties. As Tables AC-2, AC-3, and AC-4 demonstrate, Alachua County, with few exceptions, maintained a lower incarceration rate[4] than similar-sized counties over the 1986-1989 period, despite the fact that it experienced significantly higher rates of crime and arrests. While its neighboring counties tend to have experienced lower incarceration rates over this period, these counties are overwhelmingly rural and have crime and arrest rates substantially lower than those experienced by Alachua County. Moreover, Alachua County traditionally has had a much larger law enforcement presence than its neighboring and similar-sized counties as measured by the number of sworn law enforcement officers per county population. Criminal justice experts view law enforcement resources as a key factor influencing the size of local jail populations insofar as jurisdictions with more law enforcement officers on patrol will tend to have higher rates of arrests and jail bookings than jurisdictions with more limited law enforcement officers.[5] Finally, Table AC-5 indicates that Alachua County experienced a substantially lower rate of growth in its incarceration rate over the 1986-1989 period than similar-sized and neighboring counties, despite evidencing a significantly higher rate of growth in total arrests.

The ability of Alachua County to effectively control the growth in its local jail population is attributable to the development and implementation of a series of initiatives that, when taken together, represent a systematic and comprehensive program of jail population management. Reflecting the many and varied forces that influence jail admissions and lengths of stay, these managerial initiatives include strong support for alternatives to traditional monetary bail, court delay reduction initiatives, and alternative sentencing practices. Given the multi-faceted nature of the Alachua County approach, the leadership and cooperation of many key officials has been a critical ingredient to the success of these initiatives. The following represents a detailed description of the Alachua County approach to managing local jail population growth. Following this, attention is focussed on several of the underlying forces and conditions that provided impetus to, or

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[3]For a detailed discussion of the growth in county jail expenditures in Florida, see Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida, pp. 14-29.

[4]Local incarceration rates are measures that represent the average daily population of the local jail as a percentage of total county population. County population figures used in these calculations reflect official state estimates, and include inmates and patients residing in institutions operated by the Federal Government, and the Florida Departments of Corrections and Rehabilitative Services.

[5]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures In Florida, pp 45-51.

TABLE AC-1

Jail Population, Rated Facility Capacity, and County Jail Expenditures for Alachua County, 1985-1991

Year	Average Daily Jail Population	Rated Jail Capacity*	Total County Jail Expenditures	Jail Expenditures As A Percent of Ad Valorem Revenues
1985	294	N/A	$4,260,728	25%
1986	322	265	5,379,042	28%
1987	336	254	5,809,104	26%
1988	389	372	6,752,857	26%
1989	438	401	7,707,658	29%
1990	488	497	N/A	N/A
1991	498	547	N/A	N/A

Source: Jail population and rated capacity data provided by the Florida Department of Corrections, County Detention Facilities: Annual Report, various years (Tallahassee, Florida: Department of Corrections). Jail Expenditure data provided by the Alachua County Office of Management and Budget.

Note: * Rated facility capacity based on average monthly capacity over the calendar year at issue.

Table AC-2
Comparison of Alachua County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1986

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Alachua	176,090	322	1.8	9,937.5	20.6	35.8	56.4	21.1	2.5	6.5
Similar Sized Counties										
Collier	120,695	271	2.3	6,103.0	11.2	38.8	50.0	22.3	2.3	8.1
Lake	130,079	192	1.5	4,588.7	10.8	17.3	28.1	30.4	1.7	6.2
Leon	171,890	316	1.8	8,880.1	21.2	37.0	58.2	24.4	2.7	5.9
Marion	166,606	419	2.5	6,423.5	15.7	38.1	53.8	34.0	1.5	12.5
Okaloosa	142,714	237	1.7	3,602.3	11.6	35.0	46.6	23.7	1.4	6.2
Neighboring Counties										
Bradford	23,476	14	0.6	4,093.5	11.3	30.2	41.6	29.7	0.9	6.8
Columbia	40,417	71	1.8	4,968.2	20.6	28.6	49.2	42.4	1.6	14.4
Gilchrist	7,070	20	2.8	3,705.8	6.9	41.9	48.8	20.2	1.3	27.5
Levy	23,205	18	0.8	3,619.9	11.3	30.8	42.1	33.5	1.6	18.5
Putnam	58,480	98	1.7	6,503.1	12.7	21.3	34.0	26.1	1.5	9.0
Union	10,571	6	0.6	662.2	4.3	27.2	31.4	62.9	0.7	11.3
Large Population Counties										
Broward	1,149,100	1,718	1.5	8,247.4	13.6	43.1	56.7	22.1	2.4	13.5
Dade	1,776,099	3,320	1.9	12,000.3	24.2	37.0	61.1	18.1	2.6	3.8
Statewide Average	173,997	314	1.7	5,150.5	13.1	40.1	53.2	28.4	1.8	14.4

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table AC-3
Comparison of Alachua County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1987

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Alachua	179,715	336	1.9	9,637.5	20.4	34.1	54.5	27.3	2.5	8.7
					Similar Sized Counties					
Collier	126,631	333	2.6	6,624.0	12.6	45.9	58.5	24.1	2.7	10.9
Lake	137,138	215	1.6	4,611.4	10.7	20.3	31.0	32.2	1.8	7.4
Leon	176,470	391	2.2	10,048.2	21.9	55.9	77.9	44.6	2.7	8.4
Marion	174,614	469	2.7	7,177.5	17.7	42.0	59.7	43.2	1.5	13.4
Okaloosa	149,033	233	1.6	3,576.4	10.5	30.5	41.0	30.6	1.3	6.2
					Neighboring Counties					
Bradford	24,120	19	0.8	3,984.2	7.7	28.4	36.2	30.8	1.0	9.0
Columbia	41,506	78	1.8	5,163.1	24.2	32.3	56.5	45.1	2.3	17.0
Gilchrist	7,098	20	2.8	3,578.5	7.6	38.5	46.1	16.5	1.3	29.0
Levy	23,879	14	0.6	3,752.3	11.5	38.2	49.8	43.4	1.8	24.2
Putnam	62,476	127	2.0	6,501.7	14.1	26.3	40.4	38.4	1.5	9.8
Union	10,722	15	1.4	811.4	5.5	21.9	27.4	56.3	0.6	12.6
					Large Population Counties					
Broward	1,180,895	2,096	1.8	8,478.9	15.2	42.6	57.8	27.9	2.3	13.3
Dade	1,802,427	3,821	2.1	12,523.1	20.7	44.8	65.6	21.0	2.6	7.2
Statewide Average	179,790	367	2.0	5,338.5	14.2	42.9	57.1	36.8	1.8	16.9

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table AG-4
Comparison of Alachua County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures *
1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Alachua	186,772	438	2.3	9,452.2	19.2	47.1	66.3	21.1	2.6	7.1
Similar Sized Counties										
Collier	144,721	502	3.5	6,920.2	8.6	40.3	48.8	21.4	2.6	6.5
Lake	146,333	272	1.9	5,191.6	9.6	22.6	32.2	25.5	2.0	6.5
Leon	192,578	473	2.5	9,773.7	21.1	41.1	62.2	32.0	2.9	6.3
Marion	190,742	659	3.5	7,753.4	14.8	37.9	52.7	42.6	1.5	5.9
Okaloosa	157,517	270	1.7	3,668.8	10.2	29.5	39.7	26.4	1.2	5.4
Neighboring Counties										
Bradford	24,804	32	1.3	4,991.1	15.3	29.3	44.6	27.3	1.0	4.4
Columbia	43,533	161	3.7	4,130.6	15.4	40.0	55.3	36.4	1.6	10.0
Gilchrist	7,709	22	2.8	13.0	8.7	31.0	39.7	100.0	1.4	16.2
Levy	25,182	79	3.1	4,368.2	9.4	29.2	38.6	25.6	1.8	10.6
Putnam	62,828	182	2.9	8,712.7	13.2	14.3	27.5	30.1	1.7	3.1
Union	10,474	22	2.1	887.9	4.7	16.7	21.4	61.3	0.7	4.7
Large Population Counties										
Broward	1,242,448	3,055	2.5	8,738.2	13.5	34.9	48.4	21.8	2.6	6.0
Dade	1,873,078	5,162	2.8	13,970.1	24.4	49.9	74.3	18.9	2.7	2.7
Statewide Average	191,005	493	2.5	5,304.4	12.0	35.9	47.9	31.1	1.9	9.2

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table AC-5
Comparison of Alachua County to Similar-Sized and Neighboring Counties
In Terms of Percentage Change in Jail Population, Crime, and Law Enforcement Measures
1986 - 1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Number of Part 1 Arrests	Number of Part 2 Arrests	Total Number of Arrests	Number of Crimes Cleared	Number of Law Enforcement Officers	Number of Non-County Resident Arrests
Alachua	6.1%	36.0%	28.2%	-4.9%	-1.1%	39.7%	24.8%	1.0%	7.6%	-8.1%
Similar Sized Counties										
Collier	19.9%	85.2%	54.5%	13.4%	-7.6%	24.5%	17.3%	30.7%	36.3%	-18.6%
Lake	12.5	41.7	25.9	13.1	0.4	46.9	29.0	6.9	31.8	-8.3
Leon	12.0	49.7	33.6	10.1	11.5	24.6	19.8	61.7	22.2	-0.5
Marion	14.5	57.3	37.4	20.7	8.2	13.8	12.2	73.0	15.0	-51.4
Okaloosa	10.4	13.9	3.2	1.9	-3.0	-7.1	-6.1	25.2	2.1	3.9
Neighboring Counties										
Bradford	5.7%	128.6%	116.3%	21.9%	42.9%	2.4%	13.4%	18.6%	23.8%	-39.9%
Columbia	7.8	126.8	110.4	-16.9	-19.8	50.7	21.1	-23.1	4.6	-35.6
Gilchrist	9.0	10.0	0.9	-99.7	36.7	-19.3	-11.3	-98.1	22.2	-27.4
Levy	8.5	338.9	304.4	20.7	-10.3	2.9	-0.6	0.2	23.7	-37.4
Putnam	7.4	85.7	72.9	34.0	11.7	-27.9	-13.1	65.9	16.7	-57.1
Union	-0.9	266.7	270.1	34.1	8.9	-39.0	-32.5	29.6	0.0	-39.4
Large Population Counties										
Broward	8.1%	77.8%	64.5%	5.6%	6.8%	-12.4%	-7.8%	13.2%	16.0%	-48.0%
Dade	5.5	55.5	47.4	16.4	6.1	42.4	28.0	28.0	8.9	-41.5
Statewide Average	10.8%	71.8%	55.5%	2.8%	8.1%	7.0%	5.1%	25.0%	16.8%	-25.1%

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

otherwise facilitated, the development and implementation of this comprehensive program of jail population management.

LAW ENFORCEMENT DIVERSION

Both the Alachua County Sheriff's Office (ASO) and the Gainesville Police Department (GPD) have implemented a number of policies and procedures intended to divert certain categories of criminal defendants from jail booking and an initial period of pretrial detention. Persons eligible for such diversion include those arrested on charges involving public intoxication and most non-violent misdemeanor offenses, criminal defendants with mental health problems, and defendants for whom arrest warrants have been issued by the court. In addition to establishing policies designed to achieve more widespread diversion of such cases from jail, both ASO and GPD provide regular training that addresses issues pertaining to the identification and processing of those defendants eligible for diversionary tactics. In several cases, diversionary policies and procedures have grown out of combined efforts of law enforcement, the county government, and the judiciary to more effectively manage a scarce and expensive resource - namely local jail beds.

Diversion of Public Inebriates

Under Section 396.072, Florida Statutes, law enforcement officers may arrest and book into jail public inebriates where the individual is incapacitated and refuses an escort home or to a treatment resource center. Since the early 1980's, Alachua County has contracted with a private provider who has operated a 10 bed detoxification facility in order to provide law enforcement officers with an alternative to jail booking in such cases. Over this period, the various local law enforcement agencies operating in Alachua County have been cooperative in using the detox facility in lieu of jail booking for persons arrested on public inebriation charges, except where the arrestee is violent. However, when no beds are available at the facility, persons arrested on public intoxication charges are housed in the jail until they become sober. As noted in Table AC-6, the number of jail admissions involving public intoxication charges fell from an annual rate of 303 in 1988 to just over one hundred in 1990. Coupled with the decline in the average daily population of the jail held on public intoxication charges, this suggests that the use of this diversionary procedure by local law enforcement agencies has become more widespread and effective in recent years.

Pre-Arrest Diversion of Mentally Disabled Persons

Under the authority provided by Section 394.462, Florida Statutes, local law enforcement agencies operating in Alachua County traditionally have diverted mentally ill persons who have been arrested on misdemeanor or selected felony charges from jail to area evaluation and treatment facilities. Currently, Alachua County contributes funding for a 26 bed Crisis Stabilization Unit, which was opened in 1985 by Mental Health Services of Alachua County and provides law enforcement with an alternative to jail booking for mental-health related arrests. Prior to that time, the county utilized the Renner House, a 16 bed residential mental health center, or a local hospital, as receiving facilities. Under

Table AC-6
Jail Admissions For Public Intoxication and Average Daily Jail Population Held On Public Intoxication Charges Alachua County, 1985-1990

Year	Admissions	Average Daily Jail Population Held on Public Intoxication Charges
1985	44	1
1986	275	1
1987	312	1
1988	303	1
1989	153	0
1990	105	0

Source: Alachua County Department of Court Services.

current practices, the arresting officer who identifies a new arrestee as having a mental health problem transports the person to a facility for receiving, evaluation, and treatment purposes. While the Crisis Stabilization Unit is funded in part by the Alachua County Board of County Commissioners, diversion of mental health cases from jail is deemed to be cost effective by local criminal justice officials for several reasons. First, the ability to provide appropriate and effective treatment has resulted in reductions in the average lengths of stay in jail for arrested persons who experience mental health problems. In addition, defendants with mental health conditions who are detained tend to use a disproportionate share of jail resources, insofar as they often have to be housed separately from other inmates, require higher levels of supervision by correctional officers, and require in-house psychiatric care and specialized medication. By diverting such defendants to specialized treatment facilities, such resources can be conserved.

Notices to Appear

In response to initiatives undertaken by Court Services staff and the multi-agency Oversight Jail Population Review Committee (OJPRC),[6] both the ASO the GPD in early 1990 adopted policies and procedures intended to provide for more widespread use of notices to appear in lieu of arrest in misdemeanor cases. Such procedures - also commonly referred to as "citations in lieu of arrest" and "field citations" - are intended to systematically divert persons charged with minor offenses from jail booking and an initial period of pretrial detention. As generally practiced in local jurisdictions in Florida as well as in other states, a law enforcement officer issues a notice to appear in court to persons charged with specified, non-violent offenses, provided that the accused presents proper identification and

[6]The Alachua County Oversight Jail Population Review Committee and the Alachua County Criminal Justice Coordinating Committee were created in the mid-1980's at the behest of the judiciary in order to provide a multi-agency forum for discussion, analysis, and policy development in the area of local jail overcrowding. For a more detailed discussion of these entities, see pp. 216-217, infra.

evidence of ties to the community, and where the officer is able to ascertain that the defendant is not wanted on any outstanding criminal charges and does not pose a threat to himself or to others. Often, the notice details the time and place where the defendant must appear to answer the charges lodged by the arresting officer.

Under the policy adopted by the Gainesville Police Department, law enforcement officers are required to issue a notice to appear to any adult arrested for a misdemeanor, criminal traffic, or local ordinance violation unless certain criteria are met. These criteria closely parallel those provided for in Rule 3.130 of the Florida Rules of Criminal Procedure, and pertain to the officer's ability to properly identify the subject, the public safety implications of release, and the subject's community ties and past record of appearance at criminal proceedings. In a particularly novel approach, the notice to appear issued by GPD includes a place for the thumb print of the defendant, and the Department of Court Services at the outset of the program supplied police officers with ink pads in order to encourage arresting officers to take such a print before releasing the accused. According to local officials, providing a means for positively identifying a defendant prior to the issuance of a notice is an important tool in helping to avoid charges of mistaken identity in subsequent court proceedings.[7] In contrast to the stringent policy adopted by the Gainesville Police Department, the policy put into place by the Alachua County Sheriff's Office only "encourages" all deputies to issue notices to appear in lieu of a custodial arrest when discretion allows, unless grossly aggravating circumstances require incarceration.

Station House Release

As a complement to the use of notices to appear in lieu of arrest and jail booking, the Alachua County Sheriff's Office uses a postcard system to notify persons charged with certain offenses[8] that a summons or capias is outstanding. Under this procedure, the defendant is afforded an opportunity to report to the Sheriff's office voluntarily by 7:30 a.m. on the morning of a scheduled first appearance hearing, whereupon they are taken before the court at 9:30 a.m.. In most instances, these defendants are released by the court at first appearance and thus either avoid jail booking entirely, or are taken there only briefly for prints and photos.

The ASO also has the authority to issue a recognizance release to any person who surrenders on a capias issued for failure to appear for arraignment in County Court or for a capias issued when a summons was unexecuted. The ASO warrants division was given this authority by the County Court judges in 1987 at the impetus of Oversight Jail

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[7]According to criminal justice experts, one of the drawbacks associated with the use of more traditional notices to appear procedures is the difficulty of countering claims of mistaken identity made by a person appearing in court on a notice to appear summons. By requiring defendants to provide a thumb print on the face of the notice prior to releasing the accused, positive identification can be provided to the court in order to indicate that the person appearing in court is the person to whom the notice to appear was issued.

[8] Under current practices in Alachua County, defendants charged with failure to appear or felony offenses other than those involving worthless checks are not eligible for this diversionary procedure.

Population Review Committee. As Table AC-7 notes, both forms of station-house release have expedited the release of large numbers of criminal defendants who were charged with relatively minor offenses. In the event that these defendants had been detained for even relatively short periods of time prior to being released by the courts, the demand for space in the Alachua County jail system would have increased substantially, as would have the costs associated with housing these defendants.

Summons in Lieu of Warrant

In early 1987, Alachua County's criminal court judges approved the use of summons in lieu of a warrant for felony violation of probation (VOP) cases. This policy became operational later that year when felony probation staff instituted a discretionary policy of recommending to the court the use of summons in lieu of warrants for appropriate probationers who are charged with technical probation violations. As a result, defendants who normally would be arrested and booked into jail on VOP charges currently are

Table AC-7
Number of Persons Arrested But Not Booked Into Jail Under The Alachua County Sheriff's Office Stationhouse Release Procedures, 1985-1990

Year	Number of Persons Arrested and Released
1985	908
1986	1,288
1987	941
1988	863
1989	1,105
1990	955

Source: Alachua County Department of Court Services.

served with a notice stating that they must appear in court at a specified time and place in order to answer the criminal charges lodged against them.[9] While County Court judges have not agreed to adopt this policy on a systematic basis in misdemeanor VOP cases, knowledgeable sources indicate that between 20% and 30% of all technical misdemeanor probation violations are handled through the use of a summons in lieu of an arrest warrant.

[9]It should also be recognized that two additional practices reduce the incidence of detention in the case of technical probation violators in Alachua County. First, the courts tend to reinstate probation rather than order jail time for persons who are found to have committed a technical violation of probation. Second, there has been a tendency for the court to order a defendant who has failed to pay a fine to "work off" the fine by participating in the community service program coordinated by the Division of Court Alternatives.

Other Law Enforcement Policies and Procedures

In addition to the several policies adopted by ASO and GPD in order to limit admissions to jail of defendants charged with relatively minor offenses, both agencies have adopted informal policies of notifying jail staff, Court Services staff, and other significant actors when they are planning a significant "bust" that may result in a large number of jail admissions (ie. 20 or more arrests) over a relatively short period of time. This allows agencies to arrange adequate staff to process the arrestees so as to avoid system delays. Such delays can be costly in terms of delaying the release of criminal defendants by the court, which ultimately increases the demand for jail space and county jail expenditures.[10]

JAIL CASE MANAGEMENT INITIATIVES

Local Criminal Justice Information System

In 1975, Alachua County used U.S. Law Enforcement Assistance Administration funds to develop and implement a local Criminal Justice Information System (CJIS) in order to provide integrated data to most local criminal justice agencies via a shared data base. Agencies served included the Clerk of the Court, the Alachua County Sheriff's Office (ASO), the Gainesville Police Department (GPD), the Alachua County Department of Corrections (ACDOC), and the Office of the State Attorney. Over time, CJIS was modified and enhanced in order to meet emerging needs of system users, and additional users were provided with access and reports generated by the system. Included in this expansion was an effort to fully automate the entire Department of Court Services, which was accomplished during fiscal year 1984-1985.

While CJIS traditionally was used to generate arrest statistics, jail population data, and a number of other criminal justice-related measures, the system as initially developed and implemented did not have the capability to produce specific reports that identified and categorized delays involving cases in which defendants failed to secure pretrial release. With this limitation, CJIS did not significantly enhance the ability of jail or DCS staff to monitor and manage in-jail cases in order to expedite the processing of detained defendants. This shortcoming was addressed in 1987, when Alachua County obtained a federal grant for Local Circuit Court Delay Reduction. Among other things, grant funds were used to develop reports that contained scheduling and other case processing-related data for pending in-jail and out-of-jail cases categorized by type of offense. These reports became available for Circuit Court use in November, 1987, and were provided to trial court judges and other system actors until January, 1990. At that time, CJIS was replaced by a new offender based transaction system (OBTS). The new system was developed using grant funds awarded by the Florida Supreme Court, and has been designed to provide system users with more detailed case management-related information in order to permit more

[10]A recent analyses of Broward County jail admissions and first appearance hearing logs undertaken by the Federal Court for the Southern District of Florida indicates that delays in processing necessary paperwork and running criminal history record checks by jail booking staff resulted in substantial numbers of criminal defendants being held for more than 24 hours prior to appearing before a first appearance judge.

effective analysis of criminal justice system operations.

Jail Case Monitoring

While local Corrections staff do not track the court status of pretrial defendants who remain detained in jail in order to ensure that cases are processed expeditiously and that the length of pretrial detention is not extended through oversight or inattention on the part of the courts, prosecution, or defense, pretrial services staff of the DCA have performed a variety of related functions since 1978. The particular form of detention case monitoring as well as the number of staff assigned to this function have varied from year to year. This variation is attributable to the priority placed upon conducting release investigations for first appearance hearings and supervising released defendants at the direction of the court. Thus, where the demand for these more traditional functions of pretrial services has increased, detention case monitoring efforts have been scaled back due to staffing limitations.

In the late 1970's and early 1980's, much individual attention was given to incarcerated defendants through the provision of in-jail services, social service agency referrals, and detention case monitoring. For example, an extensive network of social services was developed in order to divert appropriate defendants from jail, whereby the defendant could receive day furlough[11] to pretrial services for purpose of obtaining residence, and pretrial services would provide transportation to out-of-county residential treatment programs, etc. By 1984, detention case monitoring - formally known as "jail review" - became more structured as the pretrial services program supervisor began to review all new felony detainees in order to identify those who might be appropriate for diversion from jail. The cases were then assigned to the original pretrial investigator for follow-up. Ultimately, jail review information was shared with judges and the offices of the Public Defender and State Attorney in order to assure that unnecessary delays were not encountered in the processing of detention cases.

As the volume of arrests and first appearance hearings increased in the mid-1980's, pretrial services came under increasing pressure to direct its resources more to the primary function of performing pretrial release and detention investigations for the court. Insofar as staffing increments did not keep pace with the increased demand for pretrial investigations, intensive monitoring and intervention in detention cases decreased significantly. As Table AC-8 relates, the number of investigations and supervision cases by 1986 had increased to the point where pretrial staff were reorganized and jail review was further de-emphasized. In 1987 that trend continued and staff involvement in jail review was reduced to the equivalent of .1 of a full time equivalent (FTE) position (see Table AC-8). During the same time, however, pretrial services began to provide more information for bond reduction hearings, in which the court reviews the detention status and conditions

[11] Under the day furlough option, a defendant is released by the first appearance judge for 1 day, during which time pretrial services staff attempt to place the defendant in a treatment program, or to obtain residence or employment for the defendant. Where these endeavors are successful, the court often is more willing to grant pretrial release to the defendant on the condition that they maintain participation in the program or their residence.

of release imposed upon defendants who remain detained subsequent to first appearance.[12] Beginning in 1988 and continuing through 1989, one FTE was assigned to Bond Reduction/Jail Review and in January, 1990, Pretrial Services received additional staff, increased the number of FTE's assigned to these functions to 2.25, and enhanced its jail review activities. Staff were hired, trained and began operation in April, 1990.

Table AC-8
Jail Review Staffing Patterns For
Alachua County 1984-1990

Year	Number of Pretrial Services Staff Assigned to Jail Review
1984	Shared by interview staff
1985	Shared by interview staff
1986	.25 FTE
1987	.10 FTE
1988 *	.25 FTE
1989 *	.25 FTE
1990 (April)	2.25 FTE

Source: Alachua County Department of Court Services

Note: * During fiscal year 1989, felony probation staff participated in jail review and bond reduction hearing responsibilities pursuant to a request made by Chief Circuit Judge Chester Chance under the provisions of Section 903.03, Florida Statutes.

Currently, staff assigned to jail review in Alachua County provide a variety of case management-related services, including the following:

1. Reviewing cases of all defendants who remain in custody after First Appearance in order to identify diversion candidates and those for whom further investigation is likely to result in a modification of conditions of release established at first appearance;

2. Finalizing investigations initiated by pretrial services prior to first appearance;

3. Arranging treatment evaluations and release and programing options for detained defendants who have substance abuse problems;

4. Coordinating mental health evaluations for detained defendants;

[12]For a more detailed discussion of the use of bond reduction hearings in Alachua County, see pp. 208-209, infra.

5. Coordinating appointment of counsel for detained defendants who lack counsel;

6. Contacting defense attorneys to recommend that motions be filed for bond reduction hearings where new information indicates that the court may seriously reconsider conditions of release established at first appearance;

7. Identifying problem cases;

8. Providing information to the courts and identifying candidates for release consideration when jail "sweeps" are done;

9. Providing information to the court and probation offices for bond reduction hearings.

According to statistics generated by DCA, the jail review activities of pretrial services staff have resulted in the expedited release of large numbers of criminal defendants (see Table AC-9). Thus, in 1990, pretrial staff assigned to this function reviewed over 1,800 cases, and took follow-up actions[13] in well over one-half of these. Moreover, a total of 347 defendants secured pretrial release as a direct result of the intervention of jail review staff. Given that the cost associated with housing an inmate in the Alachua County Detention Center in 1990 was approximately $57 per day, savings to the county stemming from these activities far exceed the costs incurred in assigning staff to perform the function of detention case monitoring.

THE ROLE OF ALACHUA COUNTY JAIL ADMINISTRATION

Far from being restricted solely to serving a custodial function for persons housed in local jails, jail administration can play an important role in contributing to effective control over the growth in local jail populations. Specific policies and procedures available to jail administrators in this regard include authorizing jail staff to issue citations in lieu of custody to persons who are transported to the jail by law enforcement, providing the prosecution and defense with ready access to defendants who have been detained, and sharing jail census data with other key system actors.[14] Although the Corrections Division

[13] Among the most frequent follow-up actions taken by jail review staff are arranging transportation for the defendant to an alcohol, substance abuse, or mental health evaluation, notifying the defense of the need to schedule a bond reduction hearing, and seeking employment referrals for the defendant.

[14] See Hall, A., Alleviating Jail Overcrowding: A Systems Perspective, (Washington, D.C.: U.S. Department of Justice; 1985), pp.14-17.

Table AC-9
Bond Reduction Hearing Investigations
Completed by Alachua County Pretrial Services Staff
and Hearing Outcomes,
1984-1990

Fiscal Year	Number of Defendants Investigated	Number of Defendants ROR'D	Number of Defend. Released to Sprv. of Pretrial Svc.	Number of Defendants for whom Bonds were Reduced
1984*	60	N/A	N/A	N/A
1985*	60	N/A	N/A	N/A
1986*	60	N/A	N/A	N/A
1987	472	N/A	N/A	N/A
1988	843	109	199	N/A
1989	1,372	251	225	167
1990	1,894	294	239	212

*Approximate

Source: Alachua County Department of Court Services.

of DCJS currently does not issue jail citations, it has taken a number of steps to facilitate the efforts of other entities that exercise jail population management responsibilities. In so doing, it has served as a vital component in the wider system that has been developed in order to control growth in the local jail population in a manner consistent with public safety.

Providing Access to Detainees

Many experts on jail case management point out that early defendant-counsel contact is critical in order to expedite the case screening and review processes of the defense, not only for purposes of bail setting, but for speeding up the plea process as well. While the Corrections Division traditionally has made good faith efforts to facilitate such access,[15] only recently has more formal action been taken in this area. Thus, in late 1991, the Division assigned exclusive use of 3 interview rooms located at the jail to the Public Defender's Office. Notwithstanding this policy, pretrial staff are permitted to use the rooms when they are not being used by the assistant public defenders, and generally do so to conduct pre-first appearance interviews between the hours of 6:00 and 8:30 a.m.

[15] According to local officials, these efforts to provide court appointed counsel with access to detainees should be viewed in the context of a crowded facility in which space generally was at a premium and accommodations for private interviews were minimal. Moreover, as the size of the jail population became subject to periodic surges, available space provided for this purpose of necessity would decrease.

While providing assistant public defenders with ready access to detained defendants facilitates early case intervention by the defense, it is imperative that staff of the pretrial services program also be permitted to make contact with defendants who are newly booked into jail. Such speedy access is necessary due to certain operational features of the pretrial program. Thus, pretrial services investigators are responsible for interviewing detained defendants shortly after jail booking, and must verify and present background information provided by the defendant to the court prior to first appearance. Reflecting this need, Corrections' administrators provide pretrial staff with free access to all parts of the detention center, and staff have quick access to those booked into jail during the midnight shift, which immediately precedes first appearance hearings. Access is slower at other times once defendants are transferred out of holding areas and are scattered throughout the main jail and other buildings.

Sharing Jail Census Data

Jail census data in the form of the jail list is provided daily by the Corrections Division of DCJS to criminal court judges, the State Attorney and Public Defender, and other officials on a regular basis. The division also shares various monthly and annual statistical reports with other agencies, and information is supplied to the OJPRC and others on an as-needed basis. DCA receives a daily report that includes information pertaining to the population of the jail, facility capacity, and the percent overcrowded. Whenever the population reaches crisis proportions, appropriate officials are informed via the OJPRC or by Court Alternatives' staff.

The provision of jail census data to other key agencies assists in the more effective management of available jail space in a number of ways. Thus, when jail census data indicate that the inmate population is reaching its legal maximum, assistant public defenders increasingly argue for the pretrial release of individual defendants, while assistant state attorneys become more discriminate in arguing for pretrial detention. In addition, the regular provision of jail census data to OJPRC enables the committee to identify underlying trends in the growth of the local jail population and to develop alternative strategies for addressing these when analysis indicates that overcrowding is imminent. For example, under the administrative order that created the OJPRC in January, 1987, the chair of the committee is authorized to recommend the release of individual defendants to the trial judge. In practice the OJPRC has undertaken "jail sweeps" intermittently when the committee has been notified by Corrections staff that the jail population has reached crisis levels. During these sweeps, either the Chief Judge or the administrative judge of the Circuit Criminal Division has presided and directly authorized release of individual detainees, or has worked to facilitate the entry of plea agreements involving specified defendants. Alternately, jail sweeps were accompanied by special hearings conducted by a Circuit Court judge who was vested with authority to grant pretrial release and to dispose of cases through plea agreements.

Similarly, jail census data are used by the judiciary to identify defendants who are held on outstanding warrants from other jurisdictions. In the event that such "out of county holds" are not picked up by the county of jurisdiction within 72 hours of notification, they are returned to first appearance. The judge presiding at First Appearance then has

authority to reconsider the bond. The administrative order authorizing this procedure was implemented in December, 1987.

THE ROLE OF THE PROSECUTION

In addition to exercising strong leadership in addressing jail overcrowding issues through OJPRC, the Office of the State Attorney for the 8th Judicial Circuit has implemented a number of policies and procedures that help reduce the demand for jail space in Alachua County. These policies and procedures range from pre-arrest warrant screening to automatic discovery procedures, and while several were developed and implemented as a result of the court-delay reduction initiatives of the CJCC and OJPRC in the mid-1980's, others have been in place for well over a decade. In virtually all instances, the initiatives undertaken by the office go beyond the requirements found in the Florida Rules of Criminal Procedure. The following represents a description of the several initiatives undertaken by the State Attorney in this area.

Early Case Screening and Review

Pre-Arrest Warrant Screening. While officials with the State Attorney's office in Alachua County note that resource constraints traditionally have limited their ability to engage in such early case screening procedures as reviewing new charges lodged against defendants at jail booking and making charging decisions within 72 hours of arrest, the prosecution has long followed the procedure of requiring local law enforcement agencies to obtain prosecution approval before executing warrants. This procedure is intended to insure that persons booked into jail pursuant to an arrest warrant are not "overcharged" in the sense that available evidence will not support the charge lodged against the defendant. Overcharging by law enforcement and the prosecution can contribute to questionable use of jail space insofar as the courts tend to establish stricter release conditions for defendants who are charged with more serious offenses than those who face less serious charges. In this context, pre-arrest warrant screening - by contributing to more accurate charging decisions being made prior to first appearance - helps assure that the courts do not impose stricter conditions of release on criminal defendants than those that are appropriate to the charges that ultimately will be filed against the defendant

State Attorney Intake Unit. Much of the literature focussing upon the causes of and solutions to local jail overcrowding suggests that the establishment of intake units by prosecuting attorneys can be an effective jail population management tool. Such units or "divisions" are intended to institutionalize a series of early case screening and review procedures by the prosecution in order to assure more accurate initial charging and to weed out weak or marginal cases early on in the process. In so doing, these units can effectively decrease the incidence and length of pretrial detention in cases that ultimately will be dropped or become subject to a substantial reduction in charges for lack of

evidence.[16] As a number of independent studies of local criminal justice systems in Florida have indicated, substantial local jail space often has been used to house pretrial defendants whose charges ultimately will be dropped or reduced in severity by the prosecution. By expediting the final charging decision, intake units can play a valuable role in jail population management programs.

In June of 1991, the state attorney's office in Alachua County established an intake unit comprised of 4 attorneys and a number of clerical support staff. According to local officials, the intake unit has been designed to make final filing decisions on all virtually all felony cases[17] within 21 days of the arrest and jail booking of a defendant. Program staff generally initiate case review within 1 day of the arrest of a felony defendant and place time limits within which law enforcement agencies must submit arrest reports and supporting investigative documentation to the prosecution. Subsequent to their review and the filing of charges, the intake unit turns the case over to trial prosecutors for further action. While program officials do not as yet perceive that the unit has had a tangible impact on the local jail population, DCA and corrections division officials feel that the program has been effective in weeding out and reducing charges in weak cases. Beyond the issue of jail impacts, state attorney staff report that the unit has increased the operational efficiency of the office insofar as only valid cases are forwarded to the trial division. According to program staff, the intake unit currently is disposing of approximately 40% of all criminal felony cases through dismissals and reducing charges to the misdemeanor level.

Expedited Processing of Detention Cases

Although the State Attorney's office has not adopted any formal procedures in order to identify and "fast-track" jail cases, a number of procedures have been implemented in order to speed the processing of criminal cases through the system, including those in which the defendant fails to secure pretrial release. While the State Attorney's office does not have a written policy and procedure manual, office policy establishing the use of these procedures is communicated via memo and is disseminated through the division structure of the office. In addition, all prosecutors are aware of the jail crowding issue due to the State Attorney's participation in the OJPRC and Circuit Court Delay Guidelines issued by the judiciary in 1987.

Consolidation of Charges. Under policies currently in place in the State Attorney's office, all felony charges involving the same defendant - including any additional charges not associated with the defendant's most recent arrest - are assigned to one Circuit Court trial prosecutor. Similar procedures currently are used in County Court, whereby all misdemeanor charges for the same defendant are assigned to one County Court prosecutor. These procedures help assure that defendants who have one charge resolved by the courts

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[16]According to ACIR calculations involving data compiled by the Florida Supreme Court's Summary Reporting System, approximately 29% of all criminal defendants had their cases dismissed as a result prosecutorial decisions to no-file or nolle pros the case prior to trial in 1990.

[17] According to state attorney staff, the intake unit does not handle major felony offenses such as homicide, sexual battery, aggravated child abuse, and cases resulting from arrests made by specialized narcotics units.

will not remain detained pending the disposition of other charges, and are viewed by State Attorney staff as very effective in managing the growth in the local jail population. Thus, by assigning all felony or misdemeanor charges lodged against individual defendants to a single attorney, the prosecution can take the steps necessary to have multiple charges disposed of simultaneously. Notwithstanding these practices, problems remain in achieving coordination between Circuit and County Court cases where the defendant faces both felony and misdemeanor charges. Thus, defendants sometimes obtain release/disposition on all felony cases but are held in custody on pending County Court cases.

In late 1987 the OJPRC focused attention on the consolidation of county and Circuit Court cases for bond reduction hearings and case disposition. At the same time, Circuit Court judges were given administrative authority to reduce bond on County Court cases. It is now the policy of the State Attorney's office to consolidate cases for both bond reduction and disposition, subject to the approval of the assigned prosecutor. Most cases are consolidated unless the specific nature of the case or the defendant's record preclude such action. Again, these procedures minimize the need for multiple bond reduction hearings for those defendants who face several criminal charges, where the various charges arise out of different events.

Vertical Case Processing. In addition to encouraging the consolidation of charges through the case assignment process, the State Attorney's office has implemented procedures whereby cases are assigned to one prosecutor from start to finish unless the case is transferred to County Court or to a different court division. Again, this is viewed as promoting system efficiency insofar as it helps avoid delays attendant upon the transfer of paperwork among several assistant State Attorneys who otherwise would become assigned to a case at different points in the case processing continuum. According to responses to an ACIR survey, State Attorney staff in Alachua County view vertical case processing to be an effective tool for managing available jail capacity.

Other Court Delay Reduction Initiatives

Automatic Discovery. In addition to its attempts to screen new charges brought against individual defendants in a systematic manner and to provide for the expedited disposition of cases in which the defendant remains detained in jail, the office of the State Attorney has implemented other "court delay reduction" techniques that are designed to speed the processing of criminal cases by the courts. Chief among these is the use of "automatic discovery" procedures whereby the State Attorney and the Public Defender for the 8th Judicial Circuit have agreed to share discovery-related information without the necessity of submitting requests on a case-by-case basis. As practiced in Alachua County since 1989, automatic discovery is provided for through the annual transmittal of a single demand to the State Attorney by the Public Defender seeking discovery for all felony cases that will be forthcoming over the course of the ensuing calendar year. In making such a demand, the office of the Public Defender recognizes its reciprocal responsibility to provide the state with timely access to discovery-related information.

Pretrial Conferences. Finally, assistant State Attorneys in Alachua County reportedly attempt to schedule pretrial conferences with the court and defense counsel shortly after

first appearance hearings in order to speed the plea negotiation process. Although conducted in special cases only, these conferences are useful to the extent that they attempt to resolve cases prior to the filing of an information, which under current Rules of Criminal Procedure, must be accomplished within 21 days of arrest and jail booking. Given this extended interim period, any attempts to resolve cases prior to the filing of formal charges by the State Attorney's office can be expected to have significant payoffs in terms of shortened lengths of stay in jail among those defendants who fail to secure pretrial release at the first appearance hearing.

ROLE OF THE PUBLIC DEFENDER

The Office of the Public Defender for the 8th Judicial Circuit has long played a key role in the development and implementation of policy initiatives designed to manage growth in the Alachua County jail population. In addition to exercising leadership in local efforts to implement mass bond reduction hearings and alternative pretrial release and sentencing options, the Public Defender's office has adopted a number of policies and procedures designed to expedite the processing of cases in which the defendant remains detained in county jail subsequent to first appearance. The following represents a description of the various initiatives undertaken by the Public Defender in this area.

Early Case Screening and Review

Knowledgeable observers often point out that early intervention by defense counsel in criminal cases can expedite both the pretrial release of criminal defendants as well as case disposition, and thereby free up scarce jail beds. Since the early 1970's, the Public Defender's office in Alachua County has attempted to achieve early case intervention on a systematic basis by implementing a series of case assignment, screening, and review procedures within 24 hours of jail booking. Thus, assignment of attorneys is accomplished within 24 hours of the arrest of criminal defendants in virtually all cases, and counsel generally attempt to establish initial contact with the defendant within this time period as well. While assistant public defenders attempt to begin case review and investigation shortly after their assignment to a particular defendant, high caseloads have recently introduced delays in this area. As a result of these delays, arraignment hearings are commonly held pro forma whereby the defendant's presence is waived and the case is continued to allow further time for investigation. Finally, while the Public Defender's office generally initiates plea negotiations shortly after counsel has been assigned to a case. These negotiations represent an ongoing process that can be extended for substantial periods of time. However, once plea agreements are reached, the case is set for the earliest change-of-plea date that is available. Special attention is accorded to negotiating and reaching pleas at first appearance in misdemeanor and criminal traffic cases, particularly if the defendant is a poor candidate for pretrial release.

While the Public Defender's office has not instituted an intake unit in the sense of assigning senior-level attorneys to specialize in conducting indigency screening, making initial contact with defendants, and initiating case review in the hours immediately following arrest, related functions variously have been discharged by Public Defender staff. Beginning in 1987, an assistant public defender was assigned to handle all first appearance hearings in Alachua County in order to counsel defendants on the issues of pretrial release and plea

agreements. In addition, in 1990 an investigator was assigned to make contact with defendants who were unable to post bond subsequent to first appearance in order to develop background information for bond reduction motions. Taken together, these steps have facilitated the entry of pleas at first appearance hearings where appropriate, and have played an important role in assisting the court in its endeavors to make informed pretrial release and detention determinations.

Expedited Processing of Pretrial Detention Cases

While the prosecution and the court generally exercise greater influence over case scheduling issues than do defense counsel, the Public Defender's office in Alachua County by informal policy attempts to focus its attention on obtaining release and/or early case disposition for defendants who fail to secure pretrial release. While no specific policies have been issued in order to operationalize this, attorneys track their own in-jail cases in order to assure continuous movement through the system. At the misdemeanor level, special efforts are made in County Court to review in-jail cases and expedite release, and State Attorney staff and County Court judges participate with the Public Defender's office in weekly reviews of in-jail cases. In addition to these efforts, assistant public defenders participated in case status conferences prior to their discontinuance in 1991. These conferences were established as part of a series of Circuit Court delay reduction procedures implemented in 1987 through the work of the OJPRC, and assisted the prosecution, defense, and the court in targeting detention cases for expedited processing.[18]

As part of its wider efforts to expedite the processing of in-jail cases, the Public Defender's office was instrumental in the establishment of the weekly bond hearing docket in 1987. Among the specific actions taken by the office in this regard was the policy of waiving appearance by the defendant at the bond reduction hearing, which cleared a significant obstacle to successful implementation of the procedure. In addition, the Public Defender's office in mid-1989 created a staff position to expedite collection of information needed for bond reduction hearings. This staff member makes daily visits to the jail in order to obtain additional information from defendants who have been unable to obtain release. This information is then provided to the respective attorneys so that they can then prepare the bond reduction motions that are required to place the case on the weekly docket. This has greatly reduced the amount of time it takes for a defendant to have a bond reduction hearing.

Court Delay Reduction

In addition to its efforts to expedite the processing of criminal cases in which the defendant fails to secure pretrial release, the office of the Public Defender has participated in several court delay reduction initiatives that grew out of the work of the OJPRC. Chief among these was the adoption of automatic discovery procedures in cooperation with the State Attorney, which helps overcome delays attendant upon making and responding to

[18] According to local officials, status conferences were cancelled in 1991 due to insufficient public defender and state attorney resources that resulted from increasing workloads.

discovery-related demands on a case-by-case basis. In addition to this initiative, the Public Defender uses vertical case assignment procedures whereby a single counsel in assigned to each case from start to finish. Such procedures are advocated by criminal justice system experts in order to avoid delays that occur when paperwork is transferred among several attorneys who assume responsibility for a single case at different points in the case processing continuum. Finally, a series of procedures have been implemented by the Public Defender whereby all felonies for a particular defendant are assigned to the same attorney, which enhances the ability of the courts to dispose of all charges lodged against a defendant in a single proceeding. In the absence of such procedures, there is a real risk that defendants who have one set of charges disposed of by the court will remain detained pending the resolution of other charges. Similar procedures have been implemented for misdemeanor cases.

Jail Diversion

The expertise and influence of Public Defender offices can provide critical assistance in the development and implementation of various alternatives to incarceration for both pretrial defendants and sentenced offenders. In addition, the willingness of assistant Public Defenders to advocate the use of these alternatives can help steer the court in the direction of greater reliance upon these. According to knowledgeable observers, the Public Defender's office in Alachua County traditionally has cooperated with Court Alternatives and its predecessor, the Department of Court Services, both on individual cases and in support of changes that increase system efficiency. In addition, assistant public defenders reportedly use the full range of pretrial release methods and sentencing alternatives in negotiations with the State. Finally, the pubic defender's office for the 8th Judicial Circuit has supported the development of various programs offered by DCA, and continues to provide support, cooperation, and ideas for local efforts aimed at developing and implementing policies and procedures designed to make more efficient use of available jail beds in Alachua County.

PRETRIAL SERVICES AGENCIES

Early Program History and Development

In 1976, the Alachua County Board of County Commissioners received a grant from the now-defunct federal Law Enforcement Assistance Administration (LEAA) to establish a Court Liaison Program within the County Department of Corrections.[19] Initially staffed by a program director and two counselors, the program was organized within the intake unit of the Department, and took on the functions of a full service pretrial release and diversion program. Thus, program staff were responsible for performing a number of duties, which ranged from conducting pretrial release investigations and indigency screening to providing social service referrals to released defendants. Although LEAA funding was discontinued in 1978 as part of a series of wider cutbacks in direct federal support of state and local

[19]As initially established, the LEAA funded 90% of the Court Liaison Program, with the remaining 10% coming from county and state sources.

criminal justice programming, Alachua County provided continuing funds for two pretrial counselors. In 1981, the program was expanded to four counselors and an additional counselor position was added in 1982.

In 1983, the Court Liaison program was transferred to the newly created Department of Court Services. Impetus for this organizational shift was provided by a local citizens advisory committee, which recommended the change in order to professionalize the program and focus its energies on addressing the problem of local jail overcrowding.[20] As part of these organizational changes, the program took on its current name - the Alachua County Pretrial Services Program - and by early 1984, it had been assigned several new responsibilities. Included among these were the provision of intensive supervision services to released defendants at the direction of the court, conducting weekly "follow-up" reviews on all defendants who remained detained after first appearance, and coordinating court-ordered mental health evaluations at the Renner House.

The Alachua County pretrial services program continued to take on additional duties through the 1984-1986 period, as program staff became responsible for coordinating urine testing for released defendants in order to assist the court in monitoring compliance with conditions of pretrial release, and with coordinating and assisting in the provision of services to jail inmates under the Community Mental Health Treatment Program created and funded by Alachua County. During this time, pretrial services also was provided on-line access to local, state, and national criminal history record systems, and began providing criminal history information to the other key actors in order to expedite the flow of cases through the system. Finally, pretrial staff began attending bond reduction hearings at judicial request in order to provide the court with additional information pertaining to pretrial release and detention decisions that may not have been available prior to the first appearance hearing. In order to meet with these increased duties and responsibilities, the number of professional staff assigned to the program increased from five to seven in 1991.

Current Program Operations

Although the Alachua County pretrial services program was forced to cut back on a number of services over the 1988-1990 period as a result of increased demand for release investigations stemming from rising numbers of arrests and jail bookings,[21] it remains a full service program, and in fact has experienced significant budgetary and staffing increases over the 5 year period ending in fiscal year 1991 (see Table AC-10). By the close of 1991, the program was staffed by a unit supervisor and twelve (12) counselors who provide investigations, various levels of supervision over released defendants, and jail review. The specific duties and responsibilities discharged by pretrial staff are described below.

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[20] For a more detailed discussion of the role of citizen advisory committees in the reform process, see p. 215, infra.

[21] Among the specific areas of responsibility that were subject to cutbacks in 1988 were the supervised release and intensive supervision components of the pretrial services program, and staffing of felony bond reduction hearings. In addition, pretrial release investigations for defendants detained on misdemeanor charges were temporarily halted in 1989. Since that time, these cutbacks have been restored.

Table AC-10
Budgetary and Staffing Levels for the Alachua County Pretrial Services Program: Fiscal Years 1987-1991

Fiscal Year	Annual Budget	Number of Professional Staff*
1987	$219,309	6
1988	$262,051	7
1989	$243,322	7
1990	$367,000	12
1991	$400,411	12

Note: * Excludes Program Director position.

Source: Alachua County Department of Court Services.

Pretrial Release Investigations. Currently, pretrial services attempts to conduct pretrial release investigations on all criminal defendants who are booked into jail and held to appear before a first appearance judge. These investigations generally are comprised of three distinct components. First, pretrial staff conduct defendant interviews in order to gather information pertaining to residence, employment, financial condition, community ties, and other background information.[22] If the volume of arrests and jail bookings is so high during any given shift that staff are unable to complete all interviews prior to first appearance, interviews are prioritized so that those defendants who are least likely to be released in the absence of a release investigation are seen first. From 1976 until February, 1988, all Pretrial Services interviews were done immediately prior to first appearance, however, in February, 1988, an evening shift was initiated. By the close of 1991, investigations were done five evenings per week, five midnights per week, and prior to first appearance seven days per week. In order to achieve this level of service, the pretrial program has been staffed at a level sufficient to provide approximately 24 hour coverage at the Detention Center.

After defendant interviews are completed, pretrial staff attempt to verify information provided by the defendant, which usually includes placing telephone calls to family or other household members. The investigation process generally ends with checks of national, state, and local criminal histories on detained defendants. These checks are made using on-line computer terminals located in the program offices.

Making Release Recommendations to the Court. Under current procedures operative in Alachua County, pretrial services offers recommendations concerning the pretrial release

[22]In general, pretrial services staff interview all defendants with the exception of those who are too violent due to intoxication or mental illness.

and detention of individual defendants to the court in the context of a "pre-first appearance conference". Upon completing pretrial release investigations for all defendants who are scheduled to attend first appearance on a given day, program staff meet with the first appearance judge, representatives of the State Attorney and Public Defender's offices, and other criminal justice staff prior to the conduct of the first appearance hearing. At this time, the first appearance judge reviews the results of investigations and solicits recommendations pertaining to pretrial release and detention from program staff.

Among the release options considered by pretrial services and the court are the following: release on own recognizance (ROR), conditional release with or without supervision, bail, bail pending evaluation for residential diversion,[23] bail pending further verification of background information by pretrial services, and bail pending evaluation for the intensive supervision component of the pretrial services program. After receiving the release recommendation and its supporting rationale, the first appearance judge seeks input from other conference participants, and questions whether the state or the defense has any objections to the recommendations offered by pretrial services. Ultimate discretion over the release decision remains vested in the first appearance judge, however. According to various officials, these pre-first appearance conferences are critical to the conduct of well informed first appearance hearings, and help smooth the flow of cases through the hearing process.

Jail Diversion of Mental Health and Substance Abuse Cases. Staff of the Alachua County pretrial services program are trained to identify the mentally ill and substance abusing defendant as part of their initial orientation. Upon identifying new arrestees who appear to have mental health problems, pretrial investigators refer the defendant to the Alachua County Community Mental Health Center for evaluation and screening. Depending on mental status, criminal charges, and risk as determined by mental health staff, these defendants either remain in custody, or are transferred to the Crisis Stabilization Unit. Alternately, these defendants may be released by the court with or without special conditions. Persons with substance abuse problems also are initially identified by investigators and may likewise be diverted to a drug or alcohol treatment program. If the defendant is not interested in treatment or if the problem does not substantially increase public safety or failure to appear risks, treatment is not usually required as a condition of release. If the defendant poses a risk and is not amenable to treatment, a monetary bond usually is set.

Information Provision. In addition to conducting background investigations on persons newly booked into jail and making reports and recommendations to the court, pretrial services provides a variety of information to other criminal justice agencies in order to expedite case processing. Thus, program staff provide copies of the defendant's background interview to the assistant public defender, which allows the Public Defender's office to open the case file on the same or the next day. In addition, staff provide the

[23]Under the residential diversion option, defendants are granted pretrial release on the condition that they are accepted into, and maintain participation in, a residential work-release, substance abuse, or mental health treatment program.

prosecution with two copies of each defendant's National Criminal Information Center (NCIC), Florida Criminal Information Center (FCIC), and local criminal history at the first appearance hearing, which enables the State Attorney's office to transfer one copy to the Public Defender on the same date that they are appointed by the court. Finally, pretrial staff provide investigative reports, local and NCIC/FCIC records checks, and release recommendations for all defendants scheduled for bond reduction hearings to the probation and parole officers who attend these hearings. They also transport all bond reduction hearing orders to the Alachua County Adult Detention Center and explain all court ordered conditions of pretrial release to each defendant.

Supervision of Released Defendants. Currently, the pretrial services program provides various levels of supervision over released defendants at the direction of the court. The least restrictive form of supervision involves weekly call-ins to program offices by releasees, at which time program staff monitor any changes in the defendant's residence and employment status. In addition, program staff use the call-ins to question whether the defendant is aware of pending court dates, whether contact has been made with counsel, and to answer any questions that the defendant may have. This minimum level of supervision is available only for those defendants who have not had any conditions placed upon their release other than that they maintain regular contact with the pretrial services program. Where a defendant fails to place a call in to the program, staff initially mail out reminder notices. Ultimate failure to comply with the call-in requirement could lead the court to place the defendant under a more restrictive level of supervision, or to revoke pretrial release outright.

In addition to fielding call-ins from released defendants, the pretrial services program administers an intermediate level of supervision over released defendants that is referred to as "treatment supervision". Under this option, program staff perform basic assessments on defendants who have been ordered to enroll in a substance abuse treatment program as a condition of pretrial release, and attempt to place defendants in appropriate treatment programs. In addition to making contact with the treatment program twice per month, pretrial staff handle urine drops from defendants in order to monitor compliance with conditions of release imposed by the court, and make occasional home or office visits with the released defendant. Finally, all defendants who are placed on treatment supervision are required to come to the program offices upon their release from residential or out-patient treatment in order to insure that all relevant paperwork has been completed and they fully understand all conditions of pretrial release.[24] Under current program guidelines, treatment supervision in Alachua County has established the standard of one program counselor for 50 defendants.

The most restrictive level of supervision administered by Alachua County's pretrial services program is referred to as "intensive supervision". Unlike less restrictive forms, this level of supervision involves field visits to the defendant's home and/or place of employment that vary in frequency from a minimum of twice per week to as many as five times per week. In addition to providing the same assessment and treatment referral

[24]The sole exceptions to this requirement are defendants who are non-county residents.

services as is the case under the treatment supervision option, defendants placed under intensive supervision are afforded high levels of personal attention as program staff provide transportation to treatment facilities on an as needed basis, and provide assistance in job seeking and in making application for appropriate social services. Defendants who are placed on intensive supervision by the courts generally have more extensive criminal histories than those placed on less restrictive forms, and are more likely to be charged either with having committed a larger number of crimes or with more serious offenses. In some cases, the court orders intensive supervision for defendants who have failed to comply with less restrictive conditions of release or those whose criminal history suggests are more likely to fail to appear in court. Under current program standards, the intensive supervision program maintains a counselor-to-defendant ratio of 1 to 25.

Program Service Levels

Levels of services provided by the Alachua County pretrial services program are summarized in Table AC-11. As noted, the program completed well over 6000 pretrial release investigations in 1990, and over 200 defendants were released at first appearance to the supervision of program staff. Judicial confidence in the ability of pretrial services to manage the behavior of defendants released to the supervision of the program is indicated by the increasing tendency observed over the 1986-1988 period for defendants released on monetary bond to be assigned to the program for supervision purposes (see Table AC-11). In all, Table AC-11 indicates that the judiciary in 1990 released nearly 600 defendants to the supervision of pretrial services, either at first appearance or as a result of additional information provided to the court at bond reduction hearings. Many of these releases represent defendants who otherwise would have been detained in the Alachua County Detention Center at considerable expense to the county.

While the data presented in Table AC-11 indicate that program workloads increased substantially in the 1985-1990 period, various output measures apparently peaked in the middle of the period and in fact entered a period of decline in 1989 and 1990. Thus, while the number of pretrial release investigations completed in fiscal year 1990 represented an increase of approximately 70% over the number completed in 1985, they represented a decrease of nearly 20% from the peak year of 1988. Similar trends are observable with respect to other first appearance workload measures, including investigations not completed, and defendants released to the supervision of pretrial services. According to program officials, the decreases in program output that have occurred since 1988 are the result of several factors. On the one hand, a combination of increases in the number of arrests and defendants released to the supervision of pretrial services had reduced the quality of investigations and client supervision by mid-1988. To improve quality, a supervision cap of 250 clients was established for the program, intensive supervision was discontinued, and pretrial investigations for misdemeanor defendants were halted for several months beginning in September, 1988. While increments in program resources permitted the reinstatement of intensive supervision in February 1990, persistent increases in rates of arrest have continued to divert program resources away from defendant supervision to the conduct of pretrial investigations. As a result, the number of defendants released to the supervision of pretrial services has fallen to record lows. While members of the judiciary as well as program staff acknowledge that the completion of pretrial release investigations prior to

first appearance remains the top priority for the program, cutbacks in the supervision component of the program inevitably result in the detention of defendants who otherwise could be released to the supervision of pretrial services.

Table AC-11
Program Performance Measures for the Alachua County Pretrial Services Program, Fiscal Year 1985-1990

First Appearance Investigation and Releases

Fiscal Year	Investigations Completed	Investigations not Completed	Number ROR[1]	Number ROR to Ct. Svcs.[2]	Number Bond to Ct. Svcs.[3]	Total Defendants Supervised[4]
FY 85	3727	135	1370	743	5	787
FY 86	4496	155	1593	678	27	764
FY 87	5829	339	1817	965	45	1122
FY 88	7842	542	2783	1028	50	1127
FY 89	6572	2451	3010	322	1	590
FY 90	6324	596	2590	234	3	575

Source: Alachua County Department of Court Services

Notes:
1. Total number of defendants who were released on their own recognizance by the court at first appearance. Excludes defendants who were released to the supervision of pretrial services.
2. Total number of defendants who were released to the supervision of pretrial services at first appearance. Excludes defendants who secured release by posting a monetary bond with the court at first appearance and who the court required to be subject to the supervision of pretrial services as a condition of pretrial release.
3. Total number of defendants who secured release by posting a monetary bond with the court at first appearance and who the court required to be subject to the supervision of pretrial services as a condition of pretrial release.
4. Total number of defendants who were ordered released to the supervision of pretrial services at both first appearance and bond reduction hearings.

ROLE OF THE JUDICIARY

According to knowledgeable officials, the judiciary in Alachua County has had a long tradition of supporting initiatives designed to manage growth in the local jail population. This support has fallen along two distinct dimensions. On the one hand, former Chief Judge Chester Chance as well as other members of the criminal bench have exercised leadership through the CJCC and OJPRC in order to expand release mechanisms and provide for more efficient processing of criminal cases. By and large, these efforts have been designed to decrease the incidence and length of pretrial detention in Alachua County in a manner consistent with public safety. On the other hand, the judiciary has been

instrumental in developing and supporting alternatives to local incarceration for persons who have been found guilty of criminal offenses punishable by imprisonment in the county jail. In both the development and implementation of these initiatives, the judiciary has worked closely with the Department of Court Services and its various divisions and programs.

Management of Pretrial Populations

Expedited Bail Setting and Review. Although the Alachua County pretrial services program has not been granted direct release authority by the judiciary,[25] the courts have taken several steps to speed the bail setting and review process. Thus, the judiciary in 1985 issued a bond schedule for misdemeanor offenses that permits defendants to secure release prior to first appearance by posting a monetary bond with the court. As part of the release procedure established through the issuance of the bond schedule, jail booking staff have been authorized to accept bail at the time of booking in order to speed the release process. Beyond these initiatives, the court by formal policy in 1988 made provisions for a "duty judge" to be on call by pretrial services staff during evening hours in order to grant release approval prior to first appearance on a case-by-case basis. While this policy was discontinued after approximately 6 months as a result of efficiency concerns,[26] pretrial services staff on occasion will contact a judge for release approval prior to first appearance.

In addition to taking steps to expedite the bail setting process, Alachua County courts in the mid-1980's moved to institute mass bond reduction hearings.[27] Such hearings have proven effective in other jurisdictions in allowing the court to reconsider conditions of release for large numbers of criminal defendants who remain detained after first appearance. Bond reconsiderations often are warranted where information on the background of individual defendants that was not available to the court at first appearance subsequently becomes available through the investigative efforts of pretrial services or probation staff. In the absence of a regularized process for reviewing bonds set for persons who remain detained subsequent to first appearance, the length of pretrial detention may be extended beyond that which is warranted by public safety and court appearance concerns.

Prior to 1987, bond reduction hearings in Alachua County were scheduled

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[25] According to program staff, the county has not sought direct release authority due to concerns over program liability in the event that a defendant released by the pretrial services engaged in criminal activity during the release period.

[26] According to program staff, the availability of a duty judge resulted in pretrial investigators channeling too much effort into obtaining the release of one or two defendants each night, to the detriment of completing background investigations on other defendants who were awaiting first appearance.

[27] In the general case, mass bond reduction hearings represent a procedure whereby the court regularly schedules, on a weekly or more frequent basis, hearings to reconsider the bond established at first appearance for all defendants fail to make bail subsequent to first appearance. Such hearings have been advocated by criminal justice system experts as a means to overcome the delays attendant upon motioning for and scheduling bond review hearings on a case-by-case basis.

individually by the defense and there was commonly a two to three week wait for a hearing time. Under procedures initially implemented in 1987, all felony defendants for whom bond reduction hearings are sought are scheduled at the same time each week. Each defense attorney files his/her motion petitioning the court for a hearing by Friday and the case is set for hearing the following Wednesday. In order to provide for the expeditious handling of large numbers of defendants in the course of these weekly hearings, the Public Defender's office waives the appearance of the defendants. In addition to defense counsel and the prosecution, felony probation and pretrial services staff attend bond reduction hearings in order to provide the court with criminal history and investigative information pertaining to each defendant for whom a hearing has been scheduled.[28] In 1990, mass bond reduction hearings were held for approximately 1900 criminal defendants. Of these, nearly 300 were released by the court on their own recognizance as a result of additional information brought to the court by Court Services and probation staff, while an additional 239 defendants were released to the supervision of pretrial services. In 1992, the successes achieved through weekly bond reduction hearings motivated the judiciary to expand their frequency to three times per week.

Beyond instituting procedures for mass bond reduction hearings, several administrative steps were undertaken under the authority of Chief Circuit Judge Chester Chance in the area of bail review. In December of 1987, Judge Chance signed an administrative order requiring defendants who remained detained for 72 hours subsequent to first appearance on out-of-county holds[29] to be brought before a judge for reconsideration of bond. Moreover, in 1988 a standardized court order was implemented for use in bond reduction hearings in order to allow defendants to be released from custody the same day that a bond reduction resulting in a recognizance release or supervised release is ordered by the court. Prior to the implementation of this order, releases often were delayed for up to one week as a result of lags in the preparation and processing of requisite paperwork by defense counsel and the court.

Authorization of Pretrial Release Procedures. In addition to working through the OJPRC in order to achieve more widespread and systematic use of notices to appear in lieu of custodial arrest by local law enforcement agencies beginning in 1990,[30] the judiciary in Alachua County has been very responsive to new services offered by the pretrial services program. Included among these is the increased use of recognizance release that has been facilitated by the provision of defendant background investigations conducted by program staff, and staff participation in pre-first appearance conferences. In addition, judicial referrals to the intensive supervision component of the pretrial program increased steadily through 1988, up to the time when a cap was placed on counselor caseloads. In response to these caps, judges began to release more defendants on unsupervised recognizance bonds.

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[28]Division of Court Alternatives staff indicate that pretrial staff no longer attend bond reduction hearings due to recent staff cutbacks necessitated by wider county budget constraints. In lieu of their attendance, probation staff continue to attend these hearings and are provided with key information by pretrial services.

[29] Out-of-county holds refer to defendants who were picked up by law enforcement in Alachua County on criminal charges filed in other counties.

[30] See discussion on pp. 216-217, infra.

Judges also tend to reserve supervised release options for those who will benefit from treatment and/or supervision, i.e. if a defendant is not amenable to supervision or treatment, but is likely to appear in court, the defendant is usually released.

Court Delay Reduction. In addition to participating in the development of system-wide delay reduction initiatives through the OJPRC and CJCC, the Alachua County judiciary has developed and implemented a series of policies and procedures designed to achieve more efficient processing of cases by the criminal courts. Included among these were special jail case review procedures, and procedures designed to reduce delays between adjudication and sentencing.

Alternatives to Incarceration

In cooperation with the county government, the judiciary in Alachua County has given support for and utilized a variety of alternatives to incarceration for persons found guilty of criminal offenses punishable by county jail time. In addition to a misdemeanor probation program, available alternatives to traditional jail time for misdemeanor offenders include community service, weekend jail reporting, and work release. The development and implementation of these alternatives has been spearheaded by the sentencing alternatives unit of the Division of Court Alternatives, which currently is responsible for supervising approximately 1,500 clients who have received a sentence of probation or community service from the court. Beyond program administration responsibilities, the alternative sentencing unit is charged by an administrative order of the court and departmental policy with developing alternative strategies to reduce jail crowding and with identifying programmatic options to assist in rehabilitating offenders who are under supervision. Unit staffing levels include a supervisor, 7 probation officers, and 3 community service coordinators.

County involvement in misdemeanor probation services is traceable to 1975, when the Florida Legislature removed the supervision of county criminal court cases from the Florida Parole and Probation Commission. Currently, the Division of Court Alternatives administers these services and is responsible for supervising misdemeanor offenders and with coordinating the collection of fines, court costs, and fees from probationers. The community service program also was instituted in 1975, and provides offenders with an opportunity to complete community service work for non-profit or governmental agencies as a part of their sentence. Currently, program staff coordinate worksite referrals and oversee approximately 1,200 clients in over 200 locations in Alachua County. As noted in Tables AC-12 and AC-13, judicial reliance upon probation and community service as alternative sanctions to county jail time has increased substantially in recent years, both in an absolute sense and in terms of the proportion of all county criminal court sentences.

Under the weekend jail reporting option, certain county probationers who have been sentenced to perform jail time as a result of a new sentence or a sentence for violation of probation are given the opportunity to complete their sentence on weekends. The probationer reports at 7:00 a.m. on Saturday and Sunday and is released at 5:00 p.m. each day. The probationers are assigned to a weekend work detail at the correctional

Table AC-12
Alachua County
Probation and Community Service Intakes, Fiscal 1984-1990

	Intakes						
	FY84	FY85	FY86	FY87	FY88	FY89	FY90
Probation	565	1,190	803	788	846	1,176	1,167
Community Service	1,292	1,515	1,693	2,013	2,628	2,880	3,182
TOTAL	1,857	2,705	2,496	5,297	3,474	4,056	4,349

Source: Alachua County Department of Court Services.

Table AC-13
Defendants Sentenced To Alachua County Probation and Community Service Programs, Fiscal 1984-1990

	Sentenced Cases				
	Total County Court Cases Sentenced	Number Sentenced to Probation	% Sentenced to Probation	No. Sentenced to Community Service	% Sentenced to Community Service
FY87	11,000	788 25	(7%)	2,013	(18%)
FY88	8,976	846 38	(9%)	2,628	(29%)
FY89	10,099	1,176 41	(12%)	2,880	(29%)
FY90	11,222	1,167 38	(10%)	3,182	(28%)

Source: Alachua County Department of Court Services.

facility and perform the duties during the weekend stay. Criteria for acceptance into the program limit this alternative to those offenders who pose no immediate threat to society or themselves. Implemented in 1988 through the joint efforts of county criminal court and Alachua County government, current caseloads average between 15 and 20 offenders per weekend. Finally, the Alachua County Work Release Center provides a sentencing alternative for selected misdemeanor offenders in order to allow them to maintain employment while they are serving a sentence of incarceration at the local level. This facility is located adjacent to the county detention center and is used to house both pretrial detainees and sentenced offenders. Judicial reliance upon work release as an alternative to traditional jail time reflects the judgement that providing offenders with an opportunity to maintain employment during a period of incarceration promotes rehabilitation at the same time that it allows offenders to continue to meet their financial obligations to their families while they are serving their sentence. In addition, this option helps offset the cost of incarceration insofar as inmates are required to pay 30% of their net earnings to the program.

THE ROLE OF FELONY AND MISDEMEANOR PROBATION OFFICES

Although at times they may be overlooked in efforts to manage the growth in local jail populations, the policies and procedures followed by probation offices in supervising offenders and providing information to the court can have a critical impact upon the demand for jail beds at the local level. Thus, delays in the preparation of pre-sentence investigations can increase the length of time that defendants remain detained in jail between adjudication and sentencing, and the willingness of probation officers to seek detention where offenders are charged with technical violations of probation (VOP's) can also influence the size of local jail populations. Finally, the processing of VOP cases by probation offices and the courts can influence the length of stay in jail of persons charged with violating one or more conditions of probation established by the sentencing court. According to local officials,. the felony and misdemeanor probation offices in Alachua County traditionally have been sensitive to the problem of local jail overcrowding, and have implemented or otherwise participated in a number of policies and procedures designed to expedite the processing of, and limit the use of detention in, VOP cases.

Expediting Case Disposition

Pre-Sentence Investigations. Since 1987, Circuit Court judges in Alachua County have ordered pre-sentence investigations (PSI's) in less than ten percent (10%) of felony case dispositions. Most commonly, PSI's are used in cases involving sexual aberration or other unusual circumstances where the court is contemplating specific treatment alternatives as part of a criminal sentence. When ordered for cases in which the defendant is detained, the local probation office's policy requires completion within three(3) weeks of the judicial order. County Court judges rarely order pre-sentence investigations, but may occasionally request that county probation officers provide specific information for sentencing. Most County Court defendants are not incarcerated pretrial, hence there are no formal procedures to expedite these requests.

Probation and Parole Revocations. Hearings pertaining to alleged violations of

probation and other conditional prison releases are set by the felony probation office within five(5) days of the offender's re-arrest. In addition, VOP hearings in Circuit (felony) Court are held twice monthly. This procedure began in 1987 as part of a wider series of court delay reduction initiatives. If the alleged violation is based on a new criminal offense rather than a technical violation, the hearing is usually continued until disposition of the new offense. Although VOP hearings in misdemeanor cases were switched from a weekly to a monthly schedule in 1991, the relatively few offenders who are detained on misdemeanor VOP charges minimized any impact on the local jail population.

Policies Limiting the Use of Detainers in VOP Cases

Currently, the felony and misdemeanor probation offices in Alachua County as yet have not adopted any formal policies that either encourage or prohibit the placing of "detainers"[31] on probationers/parolees who have been arrested. While felony probation staff at times contact the pretrial services program in order to recommend detention, pretrial services and the courts consider that recommendation as one piece of information only and make decisions on the defendant's risk to the community and likelihood of failure to appear on an individual basis. Prior to the adoption by the court in 1987 of the policy to issue summons in lieu of warrants for appropriate VOP cases,[32] it was much more common for probation officers, pretrial staff, and the judiciary to order the detention of probationers pending the disposition of the charge. Since that time, it has become increasingly common for persons on probation for felony offenses to be released from custody on recognizance bonds with the condition that they continue to remain under the supervision of their probation officers and abide by the original conditions of probation.

FACTORS CONTRIBUTING TO SUCCESSFUL MANAGEMENT OF JAIL POPULATION GROWTH

The systematic and comprehensive program of local jail population management that has been developed and implemented in Alachua County over the last decade has been predicated on the confluence of a number of forces that distinguish Alachua County from many other Florida counties. Included among the individual factors that paved the way for the program were the exercise of strong leadership by the judiciary and other key criminal justice officials, a series of citizen advisory committees that focussed the attention of the public and governmental leaders on jail overcrowding and the factors contributing to the problem, and a cadre of professionals serving in key positions within the county government. Providing an adhesive for these disparate elements of reform were a series of other factors that helped bring together the many independent entities whose cooperation was necessary for the reform program to proceed. Included among these were a series of resource enhancements targeted at various components of the local criminal justice system, two multi-agency forums that brought together a wide range of system actors in a policy development and oversight role, and the political acumen of key officials that resulted in

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[31] Placing a detainer upon an offender who has been charged with violating a condition of probation requires that the offender be placed in custody pending the disposition of the alleged violation by the court.

[32] See discussion on p. 189, supra., for a discussion of this policy initiative.

the identification of alternative policies and procedures that proved to be mutually beneficial to a variety of agencies. The following represents a brief discussion of these various agents of reform. In drawing attention to these, it is hoped that other jurisdictions can identify and put into place the basic "infrastructure" that allowed reform to proceed in Alachua County.

The Leadership Factor

In attempting to identify the factors that facilitated the development of the local jail population management program that was put into place in Alachua County over the course of the 1980's, recognition must be accorded to the leadership role exercised by key members of the judiciary. While criminal court judges at both the Circuit and County Court levels assisted in the development and utilization of various managerial policies and procedures, the leadership exercised by Chief Judge Chester Chance was pivotal. According to local officials, leadership on the part of the chief judge proved to be crucial for several reasons. First, many other system officials view the judiciary as playing a neutral role in a system otherwise characterized by adversarial relationships among actors. Moreover, the chief judge in particular is treated with deference and often is looked to for systemwide leadership. In addition, reducing population pressures on local jails represents a legitimate area of concern for the chief judge under rule 2.050 of the Florida Rules of Criminal Procedure. Finally, court delays and sentencing practices fall within the purview of the chief judge, who serves in the capacity of chief administrative officer of the local court system. In this regard, the chief judge is equipped not only with informal powers of persuasion, but also with formal powers in the form of administrative orders and calendaring authority.

According to knowledgeable observers in Alachua County, the leadership exercised by Judge Chance during his 6 year tenure as chief judge for the 8th Judicial Circuit illustrates the unique abilities of the chief judge to undertake system reforms. Thus, Judge Chance was recognized as an ambitious, progressive judge, who assumed power with an agenda to modernize and streamline the administration of justice in Alachua County. Among other initiatives, Judge Chance successfully garnered federal funds in order to pursue Circuit Court automation, and responded to county government officials who were concerned with local jail overcrowding. In addition to relying upon his formal powers by issuing several key administrative orders that were intended to speed the processing of in-jail cases, Judge Chance also worked through the multi-agency forums represented by the CJCC and OJPRC in order to develop and implement reforms in the area of court delay reduction and pretrial release. In emphasizing court modernization and efficiency, Judge Chance's interests dovetailed well with the agenda of key officials in county administration, who were acting on their own initiative in order to develop policies and procedures designed to control the growth in the local jail population.

In addition to the role assumed by the judiciary in Alachua County, the offices of the State Attorney and Public Defender also exercised key leadership in various areas. Thus, not only did the State Attorney and Public Defender participate in and cooperate with the CJCC and OJPRC in identifying and addressing system inefficiencies, but they also saw fit to develop and implement in their own offices a number of managerial policies and procedures designed to expedite the processing of criminal cases, and to utilize alternatives

to incarceration. As with the judiciary, the efficiency enhancements undertaken by these offices ultimately assisted the county government and the courts in their efforts to manage the growth in the local jail population in a manner consistent with public safety.

Citizen Advisory Committees

Under a long standing policy of the Alachua County Board of County Commissioners, each department organized under the county manager is served by a citizens advisory committee. In the general case, these committees are comprised of both citizens and representatives of the department at issue and other entities that interact with the department on a consistent basis. While the roles assumed by various advisory groups tend to vary according to leadership factors and the policy area involved, they generally serve in an independent, oversight role in studying, documenting, and analyzing agency operations and formulating recommendations for agency improvement.

Beginning in the early 1980's the citizen advisory group attached to ACDOC began to study and come to grips with local jail overcrowding and alternative solutions to the problem. Comprised of citizens and representatives of key criminal justice system agencies operating in Alachua County, this committee focused on departmental policies, resource levels, and problems characterizing the county's attempt to manage criminal justice system operations as these impacted upon the jail. Among other functions, the ACDOC advisory committee served to educate the public, county officials, and criminal justice system actors on the nature of problems confronting the county government in this area, and articulated a number of options that were available to address these concerns. According to observers of the process, the ACDOC citizen advisory group performed a number of tasks that county officials may have been reluctant to take on themselves, since to do so would engender conflict with powerful criminal justice entities whose operations may have been cast in a less than favorable light as a result of such efforts. In this context, citizen advisory committees in Alachua County served the dual role of diagnosing problems characterizing the local criminal justice system, and insulating county officials from the political problems that otherwise would be attendant upon such analysis. Among these efforts were those that resulted in the creation of the Department of Court Services in 1983, and more widespread usage of other alternatives to incarceration.

Professional Administration and the Role of the Alachua County Board of County Commissioners

Over the course of the 1980's, Alachua County was fortunate in having a highly competent professional staff in the Department of Court Services, the ACDOC, and the wider county administration. These officials were well versed in local criminal justice system planning and evaluation functions, and worked strenuously in developing alternative policies and procedures designed to limit growth in the local jail population in a manner consistent with public safety. In addition, these officials were well skilled in political acumen, which they used to develop policies and procedures that not only were designed to address jail overcrowding, but that also held the potential of enhancing the operational efficiency of various agencies operating at the local level. In addition, professional staff within the county administration and Court Services successfully pursued resource enhancements from various state and federal sources in order to augment local funding of

several initiatives aimed at enhancing the management of the pretrial and sentenced populations under county supervision.

In acknowledging the key role played by professional staff in developing and implementing a comprehensive program of jail population management in Alachua County, attention must also be drawn to the support provided to these professionals by the Board of County Commissioners. Through the establishment of citizen advisory groups, and the once separate Departments of Corrections and Court Services, the county governing body evidenced an early willingness to grapple with issues that were both politically charged and analytically demanding. Beyond this support, the county commission provided the necessary resources to fund a wide range of pretrial and post-sentence services in the local community. In assuming these responsibilities beginning in the late 1970's, the Alachua County government established itself as a leader in criminal justice planning and programing not only in Florida, but nationally as well.

Cooperative Approaches in Criminal Justice System Planning and Problem Solving

As many national experts recognize, the factors that influence the size of local jail populations are many and varied, and are rooted in the interdependent policies and procedures adhered to by the various entities that combine to form the local criminal justice systems that operate at the county level. Given these interdependencies, a true "systems approach" often is required in order to address the problem of jail overcrowding. In Alachua County, this systems approach became manifest through a series of multi-agency decision making forums and resource enhancements that fostered the development of cooperative approaches to criminal justice planning and problem solving. Beyond these factors, the willingness and ability of many key officials to search for and develop "mutually beneficial" policy options that would enhance the operational efficiency and effectiveness of a number of criminal justice system agencies also played a role in the development of an integrated approach to jail population management.

Multi-Agency Decision Making Forums. Much of the success realized by Alachua County in managing the growth of its local jail population is attributable to the work of two interagency groups that institutionalized system-wide planning and problem solving capabilities. The first of these is the Alachua County Criminal Justice Coordinating Council (CJCC), which is comprised of significant agency heads, including representatives of the Clerk of the Court, the State Attorney's office, the Sheriff, the Gainesville Police Department, DCJS and its predecessors, state probation and parole, the Public Defender's office, and the county manager. Under the leadership of Chief Judge Chester Chance, the Council focussed its attention on resolving inter-agency problems that were hindering the efficient and effective operation of the local criminal justice system. Among other achievements, the CJCC was instrumental in providing impetus for a sustained series of court delay reduction initiatives and the implementation of the new offender-based tracking system. In addition, the Council played a major role in obtaining federal funding for substance abuse treatment programs through the Anti-Drug Abuse Act of 1988. Beyond these specific endeavors, the Council generally has provided systemwide leadership and has served to build consensus for various jail population management initiatives.

The second multi-agency forum established in order to analyze the impact of various

criminal justice system operations on the local jail population is the Oversight Jail Population Review Committee (OJPRC). Created early in 1987 through an Administrative Order issued by Chief Judge Chester Chance, the OJPRC's specific function is to identify systemic problems that contribute to jail overcrowding and to seek short and long term solutions to these. The committee is chaired by the administrative judge for the criminal division of the Circuit Court, and is comprised of representatives of a wide range of entities that exercise criminal-justice related responsibilities in Alachua County. Included among these are the Circuit and County Courts, law enforcement, the offices of the State Attorney and Public Defender, state probation and parole, the Clerk of the Court, and county government.[33] Since its inception, OJPRC has been instrumental in the development and implementation of a number of jail population management initiatives, including jail case monitoring and review by pretrial services, the widespread use of notices to appear in lieu of arrest in misdemeanor cases, and the movement towards mass bond reduction hearings in criminal court.

Resource Enhancements. In addition to the multi-agency forums represented by the CJCC and OJPRC, resource enhancements also played a critical role in the development of cooperative solutions to the problem of local jail overcrowding in Alachua County. While such enhancements are viewed as critical in any arena insofar as they enable individual entities to employ the personnel and technology necessary to expedite the processing of criminal cases and develop alternatives to incarceration, in Alachua County they also served to "grease the wheels" of politics by increasing the willingness of officials to cooperate with one and other in the implementation of specific policies and procedures designed to manage the growth in the local jail population. For example, the willingness of the Alachua County Government to share federal grant moneys and administrative responsibilities over these with the Gainesville Police Department in the late 1980's reportedly made the Department more willing to implement comprehensive notice to appear policies in 1990. In addition, the Department of Court Services in 1987 used federal grant moneys awarded through the Florida Department of Community Affairs to send a multi-agency team of officials to an out-of-state technical assistance workshop focussing on court delay reduction. According to local officials, this approach helped build rapport among key officials that in turn facilitated the development of a series of policies and procedures intended to speed the processing of criminal cases through the court system.

The Search For Mutually Beneficial Policy Options. Given the structure of intergovernmental relations in this area, any effective program of controlling jail population growth requires the cooperative and concerted efforts of a wide variety of criminal justice system agencies that operate at the local level. In light of the fact that many of these entities are independent of county government, however, such cooperation cannot be compelled by county officials. Instead, local officials must find ways to enlist the support

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[33]More specifically, OJPRC membership extends to the following: the administrative judge of the criminal division of the Circuit Court; the chief administrative judge of the County Court; a representative from the Clerk of the Circuit Court; a representative of the State Attorney's office; a representative of the Public Defender's office; a representative of the Probation and Parole office; a representative from Alachua County Mental Health Services, Inc., a representative from the Alachua county Court Services Department; the director of the Alachua County Adult Detention Center or his designee; a representative of the Bar of the Eighth Judicial Circuit; and a representative from the Alachua County Sheriff's Office.

and involvement of such key officials as the State Attorney, the Public Defender, and law enforcement in both developing and implementing a variety of policies and procedures designed to control growth in the local jail population in a manner consistent with public safety. While Alachua County benefitted from the substantial leadership exercised the chief judge and other key officials, county officials were instrumental in garnering support for various initiatives by identifying and proposing "mutually beneficial" policy options. For example, through the establishment of citizen advisory committees, CJIS, and jail review activities, county officials provided a basic infrastructure for analyzing criminal justice system operations from an efficiency and effectiveness standpoint. The analyses generated through these mechanisms proved helpful in two respects. First, they identified the ways in which the operation of various criminal justice agencies impact upon the population of the local jail. Second, these efforts also yielded information on how specific entities such as the courts, prosecution, and defense could process cases more effectively, and thereby reduce their own caseloads. As an example, automatic discovery procedures were seized upon by Court Services staff and proposed to the prosecution and defense as a means of reducing workloads by decreasing paperwork and expediting the discovery process, which in turn helps speed the charging, pretrial, and sentencing processes. Finally, Court Services staff worked closely with the State Attorney's office in developing and implementing the concept of a state attorney intake unit that would help institutionalize early case involvement by the prosecution. Such units have been cited by national experts as a means not only for limiting the use of pretrial detention of defendants who will be charged with only minor offenses or whose charges ultimately will be dropped by the prosecution, but also for the benefits they pose for both the prosecution and the defense. Thus, intake units have the real potential for reducing state attorney and public defender workloads by enabling the prosecution to charge more accurately at the outset of the case-processing continuum. Ultimately, this enables various criminal justice entities - including the courts, and the defense - to more promptly identify those cases in which criminal charges should be reduced or dismissed.

CHAPTER VIII
THE LEE COUNTY CASE STUDY:
A JUDICIAL MODEL OF EFFECTIVE JAIL POPULATION MANAGEMENT

BACKGROUND

Organization of the Lee County Criminal Justice System

Lee County is the most populous of the 5 counties comprising Florida's Twentieth Judicial Circuit. As with most Florida Counties, law enforcement responsibilities are discharged by an elected sheriff, several municipal police departments, and various state law enforcement agencies. Among these, the Lee County Sheriff's Office and the Fort Myers' police account for nearly 80% of the arrests made in the county. Criminal prosecution and indigent defense responsibilities in Lee County respectively are discharged by a State Attorney and Public Defender who are elected circuit-wide, and criminal cases are formally processed by the criminal divisions of the circuit and county courts. In addition, an elected Clerk of the Court and an Administrative Office of the Courts organized under the Circuit Chief Judge provide ministerial and administrative services to the courts.

In addition to providing basic support to the judiciary in the areas of personnel, budgeting, and planning and evaluation, the Administrative Office of the Courts for the 20th Judicial Circuit administers several programs and initiatives that are funded by Lee County Government. Included among these are county probation, court investigations, and various special projects such as criminal justice information systems and jail population management. While program staff in these areas are on the county payroll, they report either directly to the Court Administrator, or to the Director of Criminal Justice Services, whose position in turn is funded by the county and who reports to the Court Administrator. According to local officials, this arrangement has played an important role in facilitating the development and implementation of various jail population management initiatives in Lee County.

Local corrections responsibilities in Lee County are discharged by the Sheriff's Office, which operates two local jail facilities. The main jail, which is located in downtown Ft. Myers, is a maximum security facility with a rated capacity of 425 beds. It is used to house primarily pretrial defendants who have been charged with crimes of violence or first or second degree felony offenses, as well as special population inmates such as mental health cases, women, and juveniles. To a lesser extent, the main jail is used to incarcerate persons who have been convicted of a crime and are serving a local sentence or who are awaiting transport to a state facility. The second facility, the Lee County Stockade, is a 398 bed minimum security jail that is located approximately 5 miles east of downtown Ft. Myers. In contrast to the main jail, the Stockade is predominantly used to house misdemeanor inmates and those serving a sentence of county jail time. Given its central location and proximity to the courts and law enforcement offices, the main jail serves as the chief

booking facility in Lee County.

Dynamics of Jail Population Growth

Over the course of the 1985-1989 period, the local jail population in Lee County was subject to unprecedented increases. As noted in Tables LC-1 and LC-2, the consequences of these increases included chronic overcrowding of existing facilities, and a substantial increase in county spending on jail construction and operations. Thus, Table LC-1 indicates that the average annual daily population of the Lee County jail system grew from 421 to 718 inmates over the 1985-1989 period, which corresponds to an increase of approximately 70%. During this same period, jail spending in Lee County increased nearly five-fold, as annual expenditures grew from $2.7 million to over $10 million.[1] Moreover, local jail expenditures in Lee County have come to consume an increasingly large share of county ad valorem revenue and ad valorem revenue capacity.[2] Thus, whereas jail expenditures in 1985 accounted for approximately 6% of county ad valorem revenue, by 1989 they accounted for 13% of these revenues. Perhaps more importantly from an "ability to pay" standpoint, jail expenditures as a percent of ad valorem capacity increased from 3% to 7% over this period.[3] Should existing trends in jail population growth have continued up to the present, it is likely that one out of every ten dollars in ad valorem taxation available to the Lee County government currently would have been allocated to local jail financing.

While Lee County's experiences in the areas of jail population growth and jail funding are not inconsistent with those of the "average" Florida county,[4] comparisons with different groups of counties categorized according to population suggest that Lee County's jail population has grown more rapidly than is the case among similarly situated jurisdictions. Thus, the data presented in Tables LC-3, LC-4, and LC-5 indicate that the

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[1] It should be noted that total jail expenditures in Lee County for fiscal year 1989 included $4,878,513 in capital outlay.

[2] "Ad Valorem Revenue Capacity" is a revenue potential measure that is derived by calculating how much revenue would be generated by a county if its millage rate was set at the constitutionally imposed 10 mill cap.

[3] For a number of reasons, measuring jail expenditures against county ad valorem revenues represents an incomplete assessment of the ability of county governments to continue to finance local jails in Florida. For one, ad valorem revenues change through time in response to changes in total county taxable value and local millage rates. Second, measuring expenditures against current revenues fails to take into account a county's "revenue potential", or its ability to absorb increasing costs through millage rate increases. Rather, the measure merely captures the proportion of current year revenues allocated to a given activity.

[4] According to a recent Florida Advisory Council on Intergovernmental Relations' analysis, county jail populations on average increased by approximately 98% over the 1985-1989 period, while jail spending on average more than doubled. Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis,(Tallahassee, Florida; September, 1990), pp.14-29.

TABLE LC-1

Average Daily Jail Population, Rated Facility Capacity, and Extent of Jail Overcrowding for Lee County, 1985-1989

Year	Average Daily Jail Population	Rated Jail Capacity*	Percent Overcrowded
1985	421	n/a	n/a
1986	461	441	5%
1987	595	444	34%
1988	664	544	22%
1989	718	627	15%

Source: Jail population and rated capacity data provided by the Florida Department of Corrections, County Jail Facilities: Annual Reports, various years (Tallahassee, Fl.: Department of Corrections).

Note: *Rated facility capacity based on average monthly capacity over the calendar year at issue.

TABLE LC-2

Total County Jail Expenditures and Jail Expenditures as a Percent of County Ad Valorem Revenue and Ad Valorem Revenue Capacity for Lee County, 1985-1989

Year	Total County Expenditures	Jail Expenditures As a Percent of Ad Valorem Revenue	Jail Expenditures as a Percent of Ad Valorem Capacity
1985	$2,766,201	6%	3%
1986	3,241,597	7%	3%
1987	4,073,665	8%	4%
1988	5,175,608	8%	4%
1989	10,042,176	13%	7%

Source: Jail Expenditure data provided by the Florida Advisory Council on Intergovernmental Relations, County Jails in Florida: A Fiscal Impact and Explanatory Analysis (Tallahassee, Florida: ACIR; September 1990)

incarceration rate[5] in Lee County, while somewhat lower than that of neighboring counties and statewide averages, was generally higher than many counties that are similar in size. This indicates that Lee County tended to incarcerate a larger percentage of its population in the late 1980's than these comparison counties. Moreover, Table LC-6 notes that while the rate of growth in the incarceration rate in Lee County over the 1986-1989 period generally was lower than that evidenced by neighboring, similar-sized, and several large population counties, these increases were sufficient enough to result in substantial overcrowding in Lee County's local jails, despite significant additions to local jail capacity.

Factors Contributing to Jail Population Growth

The Role of Crime and Arrests. In attempting to understand the factors underlying the rapid growth in Lee County's local jail population during the latter half of the 1980's, the data presented in Tables LC-3 through LC-5 suggest that factors other than the absolute incidence and rate of crime and arrests occurring in Lee County have been responsible for such growth. Thus, despite evidencing a higher incarceration rate than many similar sized counties over most of the 1986-1989 period, Lee County experienced a lower crime rate and fewer arrests for serious crimes than counties in this comparison group.[6] Moreover, while Lee County traditionally experienced more arrests involving less serious crimes, the number of total arrests occurring in the county generally was lower than that in similar sized counties. Finally, while crime clearances in Lee County generally were higher than those in neighboring counties, the county consistently evidenced a smaller law enforcement presence[7] and fewer arrests of non-county residents those in neighboring counties. According to various criminal justice system experts, the infusion of more police officers in local jurisdictions often leads to more arrests, and hence jail bookings. Arrests involving non-county residents are thought to work in a similar manner insofar as non-residents often lack the family ties, local employment, and community references which the courts look to in making pretrial release and detention determinations.

From a second vantage, it also becomes clear that the growth in Lee County's local jail population cannot be adequately explained by changes in rates of crime, arrests, and other law enforcement activity measures. As noted in Table LC-6, the average daily population of the local jail system increased by approximately 56% over the 1986-1989 period, which outstripped by considerable margins the growth evidenced in the local crime

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[5]The incarceration rate is a ratio measure that represents the number of inmates confined in a county's jail system as a percentage of total county population.

[6]For purposes of the foregoing discussion, arrests for serious crimes refer to Part I arrests as defined by the Uniform Crime Reports, while arrests for "less serious" crimes refer to Part II arrests as defined by the Uniform Crime Reports. See Florida Department of Law Enforcement, Crime in Florida, 1988 Annual Report, (Tallahassee, Florida; 1989), pp. 4-8.

[7]For purposes of this discussion, "law enforcement presence" is measured by the number of sworn law enforcement officers employed by local law enforcement agencies operating within Lee County.

Table LC-3
Comparison of Lee County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1986

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Lee	277,375	461	1.7	5,181.8	10.9	42.2	53.1	43.7	1.5	5.6
					Similar Sized Counties					
Escambia	273,018	822	3.0	6,989.3	20.3	35.4	55.8	26.1	1.5	7.9
Pasco	245,093	267	1.1	5,181.3	10.7	20.8	31.5	24.5	1.3	4.5
Polk	377,583	690	1.8	8,041.9	14.8	22.9	37.7	25.6	1.7	4.3
Sarasota	244,634	309	1.3	6,977.4	16.4	52.3	68.7	31.6	1.6	13.0
Seminole	241,293	303	1.3	5,723.7	10.9	18.4	29.3	24.1	1.7	7.9
Volusia	319,018	851	2.7	7,344.1	14.4	58.3	72.7	23.6	2.2	34.2
					Neighboring Counties					
Charlotte	82,968	66	0.8	3,773.7	4.1	17.3	21.5	11.8	1.4	6.3
Collier	120,695	271	2.2	6,103.0	11.1	38.8	50.0	22.3	2.3	8.1
Glades	7,141	10	1.4	4,523.2	8.7	64.4	73.1	16.7	2.0	47.3
Hendry	23,509	53	2.3	5,266.1	21.8	73.0	94.9	26.9	2.2	16.6
					Large Population Counties					
Broward	1,149,100	1,718	1.5	8,247.4	13.6	43.1	56.7	22.1	2.4	13.5
Dade	1,776,099	3,320	1.9	12,003.3	24.2	37.0	61.1	18.1	2.6	3.8
Statewide Average	173,997	314	1.7	5,150.5	13.1	40.1	53.2	28.4	1.8	14.4

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table LC-4
Comparison of Lee County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1987

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Lee	293,713	595	2.0	4,558.9	10.9	44.6	55.4	36.0	1.5	7.2
					Similar Sized Counties					
Escambia	278,419	842	3.0	6,655.4	20.4	38.7	59.1	33.1	1.4	11.9
Pasco	254,696	286	1.1	5,337.7	12.3	22.8	35.1	31.0	1.3	6.3
Polk	389,056	772	2.0	8,870.2	16.3	28.4	44.6	31.4	1.8	5.5
Sarasota	251,253	351	1.4	6,797.2	10.2	39.7	49.9	30.4	1.7	9.8
Seminole	254,837	364	1.4	5,806.1	10.3	19.2	29.6	26.2	1.7	8.7
Volusia	330,939	1,029	3.1	7,616.5	16.4	64.2	80.6	33.1	2.3	36.1
					Neighboring Counties					
Charlotte	88,230	74	0.8	4,219.7	5.3	21.0	26.2	11.6	1.7	8.1
Collier	126,631	333	2.6	6,624.0	12.6	45.9	58.5	24.1	2.7	10.9
Glades	7,357	16	2.2	3,044.7	7.1	76.4	83.5	29.5	1.9	61.0
Hendry	24,572	88	3.6	5,433.0	21.7	79.0	100.7	27.5	2.9	20.3
					Large Population Counties					
Broward	1,180,895	2,096	1.8	8,478.9	15.2	42.6	57.8	27.9	2.3	13.3
Dade	1,802,427	3,821	2.1	12,523.1	20.7	44.8	65.6	21.0	2.6	7.2
Statewide Average	179,790	367	2.0	5,338.5	14.2	42.9	57.1	36.8	1.8	16.9

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table LC-5
Comparison of Lee County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Lee	324,520	718	2.2	4,916.5	11.4	27.9	39.2	28.1	1.6	2.9
					Similar Sized Counties					
Escambia	285,423	1,044	3.7	8,599.9	20.9	47.5	68.3	22.2	1.4	5.8
Pasco	272,422	297	1.1	4,710.7	9.2	28.7	37.9	23.6	1.3	5.9
Polk	410,863	1,189	2.9	9,926.2	14.1	29.4	43.5	19.2	1.9	3.1
Sarasota	263,937	510	1.9	7,101.1	14.4	51.0	65.4	18.9	1.9	7.6
Seminole	281,049	602	2.1	6,148.0	12.1	29.1	41.2	19.9	1.7	9.2
Volusia	360,049	1,384	3.8	6,937.9	13.1	53.9	67.0	22.7	2.4	22.9
					Neighboring Counties					
Charlotte	99,214	95	1.0	2,970.3	9.4	39.5	48.9	22.0	1.7	9.5
Collier	144,721	502	3.5	6,920.2	8.6	40.3	48.9	21.4	2.6	6.5
Glades	7,765	21	2.7	4,533.2	8.5	50.0	58.5	18.2	2.3	26.3
Hendry	26,138	93	3.6	4,923.9	19.5	82.9	102.4	24.6	3.0	20.2
					Large Population Counties					
Broward	1,242,448	3,055	2.5	8,738.2	13.5	34.9	48.4	21.8	2.6	6.0
Dade	1,873,078	5,162	2.8	13,970.1	24.4	49.9	74.3	18.9	2.7	2.7
Statewide Average	191,005	493	2.5	5,304.4	12.0	35.9	47.9	31.1	1.9	9.2

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table LC-6
Comparison of Lee County to Similar-Sized and Neighboring Counties
In Terms of Percentage Change in Jail Population, Crime, and Law Enforcement Measures*
1986 - 1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Number of Part 1 Arrests	Number of Part 2 Arrests	Total Number of Arrests	Number of Index Crimes Cleared	Number of Law Enforcement Officers	Number of Non-County Resident Arrests
Lee	17.0%	55.8%	33.1%	5.1%	21.8%	-22.8%	-13.6%	-28.6%	24.8%	-30.8%
					Similar Sized Counties					
Escambia	4.5%	27.0%	21.5%	23.0%	7.3%	39.9%	28.0%	9.3%	0.3%	-40.2%
Pasco	11.2	11.2	0.8	-9.1	-4.4	53.4	33.8	-2.7	15.2	8.4
Polk	8.8	72.3	58.4	23.4	3.5	39.8	25.6	0.6	23.3	-36.7
Sarasota	7.9	65.1	53.0	1.8	-5.3	5.2	2.7	-35.3	29.2	-39.0
Seminole	16.5	98.7	70.6	7.4	29.2	84.1	63.6	3.4	15.7	-16.9
Volusia	12.9	62.6	44.1	-5.5	2.9	4.3	4.0	2.6	23.4	-27.4
					Neighboring Counties					
Charlotte	19.6%	43.9%	20.4%	-21.3%	174.5%	171.2%	171.9%	75.2%	46.1%	-34.4%
Collier	19.9	85.2	54.5	13.4	-7.6	24.5	17.1	30.7	36.3	-18.6
Glades	8.7	110.0	93.1	0.2	6.5	-15.7	-13.0	18.6	28.6	-30.6
Hendry	11.2	75.5	57.8	-6.5	-0.6	26.2	20.0	-4.9	54.9	12.5
					Large Population Counties					
Broward	8.1%	77.8%	64.5%	5.6%	6.8%	-12.4%	-7.8%	13.2%	16.0%	-48.0%
Dade	5.5	55.5	47.4	16.4	6.1	42.4	28.0	28.0	8.9	-41.5
Statewide Average	10.8%	71.8%	55.5%	2.8%	8.1%	7.0%	5.1%	25.0%	16.8%	-25.1%

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

rate and the number of arrests for crimes of varying severity. These findings parallel those that apply to local jail population growth in Florida counties generally. Thus, in estimating a series of statistical models used to explain variations in local jail populations and local jail spending across Florida counties, a recent report published by the Florida Advisory Council on Intergovernmental Relations concluded that the rate and incidence of crime account for only a small part of the rapid jail population growth experienced by Florida Counties in the 1980's. Instead, the models suggested that the policies and procedures adhered to by state and local government agencies in processing criminal defendants from arrest through case disposition have the most substantial impact upon the size of local jail populations and the level of local jail spending.[8]

Additional insights pertaining to the factors underlying the jail population increases occurring within Lee County have been offered by Ann Power, a National Institute of Corrections' consultant retained by the Lee County Board of County Commissioners in 1988. In analyzing local data pertaining to the magnitude and composition of the jail population, Ms. Power focussed on a number of growth-inducing factors. At this time, approximately three-quarters of Lee County jail admissions represented defendants arrested on misdemeanor charges, and that two thirds of these defendants secured their release within one day of jail booking. This tendency of low risk defendants to dominate jail admissions was attributed to the lack of effective jail diversion by local law enforcement agencies, the courts, and other entities. According to the consultant, the absence of such diversionary procedures forced the county's criminal justice system to fully process every arrest occurring in the county, and in addition overburdened the local jail during the period of time that new arrestees remained detained.

Lack of Jail Diversion. In commenting upon the lack of effective jail diversion in Lee County, the consultant noted that while notices to appear in lieu of custodial arrest were employed by various local law enforcement agencies, they were not being used uniformly or as widely as they could be. In addition, it also was noted that jail administration as yet had not adopted a policy for citing and releasing low-risk arrestees after they had been booked into jail by another law enforcement agency. Such procedures have been recommended by national experts on jail population management as an effective way of controlling jail population growth in a manner consistent with public safety, and a number of local jurisdictions in Florida currently have implemented aggressive policies and procedures in this area.[9] Beyond these factors, the consultant found a lack of meaningful alternatives to jail booking and detention for special populations such as public intoxicants

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[8]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida pp. 52-70.

[9]For example, in Hillsborough County an Administrative Order issued in 1982 by the Chief Judge of the 13th Judicial Circuit requires arresting officers to issue a notice to appear in lieu of custodial arrest for any person who is charged with a misdemeanor or local ordinance violation, except under a relatively narrow range of circumstances. In addition to having recently instituted a similar program, Alachua County traditionally has diverted from jail booking and an initial period of confinement substantial numbers of persons who have mental health problems or who have been arrested on public intoxication charges.

and the mentally ill. In the absence of such options as detoxification and mental health reception and treatment centers, law enforcement officers had little choice but to transport arrestees falling into these special population groups to the Lee County jail.

In a related matter, an American University consulting team that visited Lee County in 1989 noted an apparent absence of court-directed diversion programs for first time offenders charged with such offenses as minor misdemeanors and low level drug possession. Authority to establish such programs generally lies in the power granted to the circuit chief judges by the Florida Supreme Court to organize the operation of the courts in the respective judicial circuits.[10] In addition, the state attorneys have been granted authority by the legislature to divert certain categories of criminal defendants from prosecution into pretrial intervention programs.[11] In addition to supporting wider efforts designed to reduce overcrowding in the local jail system, the consultant's report noted that such diversionary programs could help achieve significant reductions in the caseloads of the courts and other system entities such as the State Attorney and Public Defender. Where effectively designed and implemented, the consultant suggested that offenders targeted by such programs would spend little or no time in jail either awaiting trial or serving a sentence of incarceration at the direction of the court.[12]

Insufficient Information for Pretrial Release and Detention Determinations. A second factor cited by the consultant as contributing to the unprecedented increases in the local jail population was the paucity of information available to the court at the first appearance hearing concerning the nature of the criminal charge and the background of individual defendants. As a number of circuit and county court judges have testified, the courts often are reluctant to establish relatively lenient conditions of pretrial release in the absence of accurate and detailed information pertaining to the defendant's background and the circumstances surrounding the arrest. Moreover, in the absence of information concerning the financial condition of the defendant, the courts may unwittingly set bail in an amount that the defendant cannot readily meet. According to the consultant's report, first appearance proceedings in Lee County prior to 1989 were conducted without the benefit of information pertaining to the criminal history, community ties, or financial condition of defendants. Instead, the sole information available to the sitting judge was the arrest report submitted by law enforcement during the jail booking process. Furthermore, these reports often were unclear and failed to provide the court with sufficient information pertaining to the circumstances surrounding the arrest incident. Reflecting upon this, judges in Lee County expressed a need for more accurate and complete information from the arresting

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[10]See Rule 2.050(b) of the Florida Rules of Judicial Administration.

[11]See Section 944.036, Florida Statutes

[12]Doyle, R., and Hair, D., Recommendations Regarding the Use of a Citation Release Program and Adversarial First Appearance Hearing to Improve Jail Capacity Management in Lee County Florida, (Washington, D.C.: Bureau of Justice Assistance, Adjudication Technical Assistance Project, Assignment No. 2.010; November, 1989).

officer at the first appearance hearing. To remedy this problem, the consultant recommended that Lee County government establish a full service pretrial services agency that would conduct background investigations on new arrestees and present relevant information to the court at first appearance.[13]

Delays in Case Processing. According to the consultant's analysis, average lengths of stay in the Lee County Jail system were "extremely long" for several categories of criminal defendants in comparison with other jurisdictions.[14] In light of this finding, attention was directed at identifying discrete factors that may have been contributing to delays in the processing of criminal cases, and the impacts that any such delays may have had on increasing lengths of stay in jail. Among the specific factors identified in this analysis were delays in the submission of arrest information to the State Attorney by law enforcement, and additional delays in processing paperwork by the State Attorney's Office. Insights available from other jurisdictions both in Florida and in other states suggest that paperwork delays by law enforcement can limit the ability of the prosecution to engage in early screening and review procedures in order to "weed out" or reduce charges early on in cases in which available evidence is insufficient to support the charges lodged by the arresting officer at jail booking. In either case, such procedures can help decrease the length of stay in jail for the large numbers of criminal defendants whose charges eventually will be dropped by the prosecution, or who ultimately will face charges that have been reduced substantially in severity. In addition, delays by the State Attorney's office in processing paperwork can also increase lengths of stay in jail by delaying key court proceedings and processes that provide opportunities for pretrial release and case disposition. Finally, paperwork delays can preclude early involvement by the state in plea negotiations, which can also increase lengths of stay in jail for those defendants who fail to secure pretrial release.

Beyond paperwork delays, the consultant noted a variety of other factors that slowed the processing of criminal cases by the courts and therefore contributed to the high lengths of stay found within the Lee County jail system. Included among these were excessive grantings of continuances by the courts, limited plea taking at arraignment due to the failure to have sentencing score sheets available for the judge, and delays in the completion of presentence investigations where a defendant remained detained after an adjudication of guilt by the court. In addition, a series of delays were found in the manner in which violation of probation cases were processed by the courts, and a number of lags were identified in the conduct of various proceedings and the filing of felony charges by the prosecution. As with other aspects of court delay, these features of the case processing system in Lee County were cited as contributing to extensive lengths of stay in jail for those

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[13]Power, A., Lee County Correctional Planning Committee Status Report, September, 1989, (Cincinnati Ohio: Power and Power; 1989) p. 5.

[14]Id., pp. 5-6.

defendants who failed to secure their pretrial release prior to or shortly after first appearance.

DIMENSIONS OF REFORM: MANAGERIAL INITIATIVES DESIGNED TO CONTROL JAIL POPULATION GROWTH

Overview

As with many jurisdictions that have experienced chronic jail overcrowding, Lee County Government faced the threat of intervention by the federal courts as a result of the chronic and substantial overcrowding that existed in its local jails over the course of the 1985-1989 period. As several Florida jurisdictions have discovered, the consequences of such intervention are serious and can extend to federal court orders limiting jail admissions, the imposition of fines on the local government, and actual federal management of jail admissions and releases. Complicating the picture was the additional prospect of legal action by the Florida Department of Corrections (DOC) under the authority granted by state law and the commitments made under the terms of the consent decree entered in the landmark Arias case.[15] In Lee County, court administration, members of the judiciary, and other officials responded to these threats by analyzing the local criminal justice system and the manner in which various entities impact the local jail population. Assisted in their task by Ann Power, a National Institute of Corrections consultant retained by the Board of County Commissioners, these efforts ultimately lead to the development and implementation of a broad range of managerial interventions designed to control the growth in the local jail population in a manner consistent with public safety. Propelled by active involvement of court administration and the leadership exercised by Chief Circuit Judge Thomas Reese, a series of local initiatives in this area were developed through the multi-agency County Correctional Planning Committee mandated by Florida Law,[16] and implemented beginning in 1989. As was the case with Volusia County, these initiatives proved successful in reducing the rate of growth in the local jail population to a fraction of the rate evidenced over the 1985-1989 period. The following represents a detailed discussion of the several managerial initiatives undertaken in Lee County in order to address the chronic overcrowding facing the local jail system. Following this, attention is

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[15]For a more detailed discussion of the role of the Florida Department of Corrections' role in regulating conditions of confinement in the state's local jails under the Arias consent decree, see pp. 61-63, supra.

[16]In 1987, the Florida Legislature adopted legislation (see Chapter 87-340, Laws of Florida, Section 951.26, Florida Statutes) that required each county in the state to establish a correctional planning committee consisting of representatives of the state attorney, public defender, chief circuit judge, administrative county judge, the chairman of the board of county commissioners, the director of the county probation office, and the chief correctional officer of the county, who in most cases is the sheriff. Among other responsibilities, these committees were charged with assessing the population status of the local jail and with developing recommendations designed to assure that the legal capacity of the local jail would not be exceeded. According to research conducted by the ACIR, all but a handful of counties had established a correctional planning committee by the late fall of 1990.

directed at evaluating the outcomes of the these initiatives, and the factors that contributed to the success of the reform process.

Jail Diversion

Increased Use of Notices to Appear. Faced with information indicating that nearly three-quarters of Lee County's jail admissions represented persons arrested on misdemeanor charges, of whom approximately two-thirds secured their release within one day of booking, Chief Judge Thomas Reese in 1989 issued an administrative order that requires an arresting officer to obtain the approval of a supervisor prior to transporting a person accused of a misdemeanor or city ordinance violation to the jail for booking. This policy intervention was developed through the County Correctional Planing Committee and the local chiefs of police association, who recognized that notices to appear in lieu of arrest are sanctioned by the Florida Rules of Criminal Procedure and could play a valuable role in controlling the rate of growth in the local jail population. In providing a stamp of judicial legitimacy for the use of this alternative, the administrative order was designed to address disparities in issuance the of notices to appear across municipal police departments operating in Lee County, and to increase the number of persons diverted from jail. According to local officials, the results of the judicial order have been positive. Thus, as early as February, 1990, a Status Report issued by the CPC reported that there had been a "significant" decline in low risk misdemeanant and local ordinance admissions to the jail as a result of the issuance of the court order.

Diversion of Special Populations. In response to the consultant's recommendation that various initiatives be implemented in order to divert public intoxication and mental health cases from jail, an initial forum on alcohol, drug, and mental health services and their impact on the local jail population was held in August of 1989. Approximately 35 service providers and local criminal justice system agency representatives attended this meeting in order to identify community needs and service gaps. In addition, the group initiated an action plan in order to develop a program to address the needs of "special inmate" populations. Working through the CPC, these efforts have culminated in the inclusion of a new forensic unit as part of local jail expansion plans. The proposed unit will be used to conduct substance abuse and mental health screening for newly arrested persons, and to house defendants who fall into one or more of these special population groups pending pretrial release or case disposition. The motivation underlying the proposed forensic unit is one that reflects the principle of cost effectiveness. Thus, local officials acknowledge that it is very expensive to house criminal defendants who suffer from substance abuse or mental health problems in traditional detention facilities, given the need to provide 24 hour supervision and specialized medication and treatment services. Moreover, facilities offered by Lee County Mental Health Services are viewed as unsuitable for criminal defendants falling into one or more of these special needs groups.

Submission of Arrest Reports By Law Enforcement Officers

In analyzing the factors contributing to the rapid increases in Lee County's jail

population during the mid-1980's, Ann Power, the consultant retained by the Board of County Commissioners, drew attention to the problem of incomplete and late submission of arrest information to the state attorney by law enforcement officers, and recommended that the issue be addressed by the county Correctional Planning Committee (CPC).[17] After extensive work that involved the CPC, Court Administration staff, and representatives of local law enforcement, an updated and revised booking and arrest form has been developed and adopted by the major law enforcement agencies operating in Lee County. According to local officials, use of the revised form has effectively addressed the problem of incomplete information submitted to the jail booking officer, and ultimately, the State Attorney's office. Moreover, jail administration currently is moving to electronic data entry of information contained on the form by booking officers, and county officials in conjunction with representatives of effected entities are working towards the use of computer technology to transfer arrest-related information between local law enforcement agencies and the state attorney's office in a timely fashion.[18] This capability will be a central feature of a new, integrated local criminal justice information system that is being developed jointly by the Clerk of Court, County Administration, the Jail, and other agencies that discharge criminal justice system responsibilities in Lee County.[19]

Jail Case Management

According to many national experts on jail overcrowding, jail case management has become a critical feature in many local initiatives designed to control the growth in local jail populations in a manner consistent with public safety. In the general case, such systems involve the assignment of staff to review jail census data on a regular basis in order to identify cases in which the length of stay in jail has exceeded expectations. Once problematic cases are identified, managers attempt to identify the case processing factors contributing to the excessive length of stay. Subsequently, staff work with the prosecution, defense, and the judiciary in order to address these factors and thereby expedite pretrial release or case disposition.

In Lee County, jail case management responsibilities are split between the jail population manager and court investigations staff. Funded by the county and located under the administrative authority of the Court Administrator, the jail population manager is responsible for day-to-day monitoring of the inmate population of the local jail system, and

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[17]See discussion on p. 229, supra.

[18]Under the proposed system, arresting law enforcement officers will enter arrest-related information directly into the system either at the point of arrest in the field or at headquarters. After the report has been approved by a shift officer, it will move electronically through the micro-wave loop into the larger criminal justice information system that the State Attorney, Public Defender, Court Investigations, and the courts will have access to.

[19]For a more detailed discussion of the current status of, and planned improvements to, local criminal justice management information systems, see the discussion on pp. 233-234, infra.

with serving as a liaison between the courts and various criminal justice system entities. The specific duties discharged by the jail population manager include identifying various factors that may be delaying the processing of individual criminal cases in which the defendant remains detained in jail, and working with appropriate criminal justice system entities in order to address these delays so that case disposition can be expedited. As an example of the role played by the population manager, in late 1991 and early 1992, the local jail population again had reached levels that strained existing capacity, despite the implementation of a number of policies, programs, and procedures designed to limit its growth. Working with jail staff and the courts, the manager determined that increased lengths of stay resulting from court delays were contributing to the problem. Upon identifying these factors, the monitor worked with various court divisions and the chief judge in order to effectively address the problem.

Augmenting the duties of the jail population manager in the area of case management are the activities of Court Investigations staff. In the general case, these efforts take the form of a "second look", whereby program staff regularly review cases in which the defendant fails to secure release at or shortly after first appearance. The objective underlying such reviews is to determine whether any additional information pertaining to the defendant's background, financial status, or other factors relevant to the pretrial release decision has become available that was presented to the court at first appearance. In the event that information generated through this "second look" reasonably may lead to a reconsideration of the conditions of release imposed at first appearance, program staff provide such information to the court. Thus, unlike the case management functions of the jail population manager which center on expediting case disposition, activities of court investigations staff in this area focus on expediting the pretrial release of those defendants who fail to secure release within a short time of first appearance.

Facilitating the jail case management and monitoring duties of the population manager and Court Investigations staff are a series of management information systems (MIS) operated by various local entities. Of most utility in this regard is the computer-based system operated by the Clerk of the Court, which contains comprehensive court scheduling-related and criminal history information on all criminal defendants in Lee County. Among other features, the Clerk's MIS contains information on the date of arrest, outstanding charge, bail and pretrial release, date of information filing, and continuances for all cases pending before the criminal courts. Augmenting this data system is an automated data base employed by the Sheriff, which contains information directly related to the jail population, including current population levels, inmate offenses, and to a lesser extent, case processing information for defendants who are held in the county jail. While local officials acknowledge the existence of certain problems with the system, the

information it provides is central to a number of jail population management functions that have been implemented in Lee County in recent years.[20]

Role of Jail Administration

In Lee County, jail administration has played an important role in facilitating various reform initiatives. Such assistance has been forthcoming in two primary areas. First, jail administration has provided Court Investigations with ready access to detainees on a daily basis. Second, jail staff has provided jail census data to the CPC, jail population manager, and other officials on a regular basis that has proved valuable in wider system efforts to control the growth in the local jail population. With respect to providing access to detainees, jail administration has set aside two rooms in the ground floor of the Lee County Jail that are used by Court Investigations staff to conduct interviews, run criminal history checks, and prepare paperwork for defendants who are scheduled to appear before the court for a first appearance hearing. Moreover, jail staff deliver defendants to these rooms for interviews and help supervise those persons who are waiting to be seen by investigators. These services contribute to the more efficient operation of Court Investigations insofar as they enable program staff to avoid engaging in time-consuming searches for individual defendants prior to conducting release investigations. Also worthy of mention here is that the interview rooms provided to Court Investigations double as first appearance hearing rooms, which currently are held through a closed-circuit television link with open courtrooms in the Lee County Justice Center. Such closed circuit loops have proven effective in reducing costs associated with the transportation and guarding of prisoners who have scheduled court proceedings.

In addition to providing facilities to Court Investigations staff, jail administration also plays a key role in providing information pertaining to jail bookings, average daily population, and average length of stay to members of the CPC, the jail population manager, and other officials involved in coordinating Lee County's jail population management initiatives. According to local officials, the information provided by jail administration is critical to ongoing endeavors to monitor the progress of various reform initiatives, and facilitates the identification of emerging forces that impact upon the local jail population. Beyond this, Mr. Roy Yahl, Jail Commander, serves as the Sheriff's representative on the CPC and fully participates in its deliberations. Along with Mr. Steve Crews of the jail staff,

[20]According to local officials, the central flaw characterizing the criminal justice management information systems currently in use in Lee County is that they are not integrated, which in turn results in considerable duplication of paperwork and effort. In order to address these problems, Court Administration and the Lee County government in conjunction with the Clerk of Court, State Attorney, and Public Defender are in the midst of developing an integrated local criminal justice information system that will link all agencies with criminal justice information needs. The system will be coordinated by the Lee County Management Information Systems Office and is intended to enhance communication among different offices in order to facilitate the tracking and case management of all criminal defendants as they move through the local criminal justice system. The impetus for this reworking has been supplied by a staff subcommittee of the local Criminal Justice Information Systems Committee that was created pursuant to an interlocal agreement entered into by the Clerk of Court, Lee County Board of County Commissioners, and the State Attorney and Public Defender.

Mr. Yahl has provided valuable technical assistance to the CPC, and has been responsive to the Committee's request for information available through the jail data base.

Role of the State Attorney

Despite its own resource constraints and problems of coordination with other agencies, the State Attorney's Office for the 20th Judicial Circuit has implemented a number of internal policies and procedures designed to increase the operational efficiency of the office and otherwise expedite the processing of criminal cases. These policies and procedures extend to the establishment of an intake unit to expedite case screening and charging decisions, the consolidation of cases when a single defendant faces multiple charges, and automatic discovery procedures. While little data is available to indicate the extent to which these policies and procedures have had a tangible impact on the local jail population, gains in the operational efficiency of the prosecutor's office can be expected to contribute to wider system efforts to control local jail population growth by decreasing average lengths of stay in jail for those defendants who fail to secure pretrial release at or shortly after first appearance. The following is a brief description of the initiatives undertaken by the State Attorney's Office in this area.

Early Case Screening and Review. As many national criminal justice experts note, early case screening and review by the prosecution can help reduce the demand for jail space by leading to earlier dismissals and charge reductions where available evidence is not sufficient to support the charges lodged by arresting officers. Although State Attorney staff report that lack of resources and insufficient information limit the ability of the Lee County State Attorney's Office to initiate the review of new criminal charges at jail booking or to make final charging decisions within 72 hours of arrest, a number of procedures have been implemented in order to expedite the case screening and review processes. Chief among these has been the establishment of an intake unit, which is responsible for reviewing all incoming felony arrest cases and with conducting pre-arrest warrant screening. Established in 1988, the intake unit consists of 3 assistant state attorneys, a unit supervisor, and clerical staff. Following their review of criminal charges with an eye towards the sufficiency of the evidence implicating the accused, intake staff forward cases to trial division prosecutors for further action.

According to program staff, the intake unit in Lee County has expedited the intake process within the State Attorney's Office, and has resulted in greater uniformity in charging decisions. However, staff are uncertain whether the intake unit has had an impact on the size of the local jail population. The chief barrier in this regard again may involve delays on the part of law enforcement in transmitting appropriate paperwork to the Office of the State Attorney. Thus, state attorney staff note that it takes anywhere from a few days to a few weeks to receive detailed arrest reports from law enforcement, which generally precludes the achievement of such performance standards as screening new charges at or shortly after jail booking and making final charging decisions within 24 hours of arrest. Nevertheless, any initiatives that result in efficiency gains within the State Attorney's Office

hold out the potential to reduce lengths of stay of those defendants who fail to secure pretrial release at or shortly after first appearance.

Expedited Processing of Detention Cases. The State Attorney's Office in Lee County systematically attempts to expedite the processing of criminal cases by following certain policies and procedures in the areas of case consolidation and the initiation of plea negotiations. Thus, state attorney staff report that they attempt to consolidate multiple charges that a defendant may be facing as a result of a single event in order to insure that a defendant who is adjudicated on one charge does not remain in jail awaiting the resolution of other pending charges. In addition, attempts are made to consolidate additional charges that a defendant may be facing when these are found through a criminal history record check subsequent to their arrest. Again, an important consequence of such a policy is that defendants who have one set of charges disposed of by the courts will not have to remain detained pending the resolution of earlier criminal charges such as violations of probation, etc. Finally, the State Attorney's office attempts to schedule pretrial conferences with the trial judge and defense counsel following first appearance in order to speed the plea negotiation process. Experts indicate that such conferences can prove valuable in avoiding prolonged periods of pretrial detention pending the holding of formal, scheduled court hearings.

Role of the Public Defender

Although resource constraints have limited the ability of the Public Defender's Office to implement a number of managerial initiatives that can assist in the control of local jail population growth, several policies and procedures have been developed in this area. Thus, up until recently the Public Defender's Office traditionally screened defendants for indigency and eligibility for public counsel within 24 hours of arrest and jail booking, which facilitated the early appointment of defense counsel.[21] Such procedures are advocated by national criminal justice experts insofar as they facilitate early case involvement by the defense, which in turn can facilitate earlier pretrial release and/or case disposition. In addition, assistant public defenders regularly seek bond reduction hearings for detained defendants who face misdemeanor and third and second degree felony charges, which enable the court to take a "second look" at those defendants who have failed to secure pretrial release. While the Public Defender's Office reports that the court ultimately increases the bond in many such cases, bond reduction hearings have proven to be helpful in other jurisdictions in bringing additional information pertaining to the defendant's background, economic status, and criminal history before the court that may not have been available at first appearance. As the data presented for Alachua County indicate, presentation of additional information to the court in the context of a bond reduction hearing can result in expediting the pretrial release of large numbers of criminal defendants who the court was reluctant to release at first appearance due to insufficient information

[21]Due to staffing shortages within the Public Defender's Office, Court Investigations staff took on this responsibility in October 1989.

pertaining to the background of the defendant and the circumstances surrounding the arrest.[22]

In other areas, the Public Defender's Office in Lee County reports that it regularly schedules and participates in pretrial conferences with the prosecution following the first appearance hearing in order to speed the plea negotiation process. In addition, assistant public defenders systematically attempt to confer with the prosecution on a regular basis in order to help identify marginal cases and expedite the process of downgrading charges or dropping the case where appropriate. Finally, the Public Defender in conjunction with the State Attorney and Court Administration has been involved in the process of revamping the local criminal justice information system in a manner that - once fully operational - will provide for expedited discovery procedures. As currently conceptualized, both the prosecution and defense will be fully integrated into CJIS, which in turn will provide reciprocal access to all information that either side could lawfully obtain without invading guarantees of confidentiality offered to victims, witnesses, and the defense. Underlying this plan has been the joint commitment of both offices to reduce unnecessary discovery proceedings that have the effect of delaying the processing of criminal cases. As with other efforts to reduce court delays and expedite the processing of cases in which the defendant remains detained, these policies and procedures hold the potential to assist in local efforts to control the growth in the local jail population by reducing lengths of stay in jail.

Finally, the Lee County Public Defender's Office has been involved in the development and advocacy of alternatives to incarceration for both pretrial defendants and convicted offenders. In 1984, Public Defender Douglas Midgley with the assistance of Chief Investigator Joseph Campochiaro and Forensic Social Service Counselor Beverly Waters McBride, established an "Alternative Sentencing Program" within the Investigative Department of the Office. Since the program's inception, comprehensive, client specific sentencing plans have been prepared and presented to the Court at the point of sentencing in order to provide the judiciary with an alternative to incarceration for qualified offenders. Among other features, these proposals often include offers of restitution, community service hours, treatment for alcohol, drug abuse, and related problems, which are always accompanied by a supervision component in order to assure public safety. According to the Public Defender's Office, this program recently has been expanded in order to provide a range of options designed to meet needs within the pretrial population. Included among theses services are screenings for immediate short-term treatment and intervention needs, background studies, and bond reduction planning.

Pretrial Services

Program History and Development

In Lee County, the Court Investigations Unit organized under the Court

[22]See discussion on pp. 208-209, supra.

Administrator's Office provides a full line of pretrial services to various local criminal justice system agencies. This program traces its roots to June of 1987, when staff with the Administrative Office of the Courts for the 20th Judicial Circuit began interviewing, investigating, and monitoring misdemeanor defendants who were detained in the county jail system for formal pretrial release consideration by the courts. In taking on these responsibilities, the Circuit Court Administrator was responding to the chronic overcrowding that had come to exist in the Lee County jail system and the resulting threat of federal court intervention. Initiated through the work of the CPC, the program continued to operate with borrowed staff until October 1, 1987, at which time the Lee County Board of County Commissioners began funding the program at the level of one full time employee. Under initial operating procedures, program staff would conduct background investigations of criminal defendants on a case-by-case basis at the direction of the court, and would supervise released defendants, again when directed to do so by the court. Over the course of its first full year of operation, the program added an additional investigator position and a clerical support person.

The program continued in this rather limited role through late 1989 and early 1990, at which time it was substantially revamped and took on the characteristics of a full service pretrial services agency. Thus, in October of 1989, program staff assumed responsibility - in cooperation with the Office of the Public Defender - for conducting indigency screening for purposes of public counsel representation, and began conducting pretrial release investigations prior to first appearance. During this same period, additional professional and clerical support staff were added to the program so that by January, 1990, a total of 7 investigators and 3 clerical support staff were employed by the program. Despite these changes in program operations and resource levels, the Court Investigations Unit continued to be organized under the administrative authority of the Court Administrator and was funded by the Lee County Board of County Commissioners.

Current Program Operations

As a full service program, Court Investigations performs a number of functions for Lee County's criminal courts. The following represents a broad overview of current program operations, service levels, and performance outcomes.

Pretrial Release Investigations. Court Investigations staff currently conduct background investigations on all persons who are arrested and held to appear before a first appearance judge. Such investigations involve interviews of arrested persons after they have been booked into jail in order to gather information pertaining to the defendant's community ties, family situation, and financial condition. In addition, program staff run criminal history record checks using on-line terminals that are connected to national, state, and local criminal history data bases. Currently, the interview process begins at 6 a.m. each morning at the jail in preparation for first appearance hearings, which are held at 8:30 a.m. Subsequently, Court Investigations staff attempt to verify the information gathered during the interview process by placing calls to family or household members, employers, and other acquaintances of the defendant. Given time constraints, verification procedures are not

initiated until a defendant has been ordered released to the supervision of Court Investigations by the first appearance judge. Where contacts with friends, family members, and others indicate that information gathered from defendant interviews is not credible, pretrial contacts the court, which retains authority to establish more stringent release conditions or revoke supervised release outright.

Indigency Screening. Although the office of the Public Defender traditionally conducted indigency screenings prior to first appearance hearings for the court, resource constraints lead Court Investigations staff to gather information pertaining to defendants' eligibility for appointment of public counsel as part of pre-first appearance interviews in late 1989. Currently, program staff question all defendants who are held to appear before a first appearance judge in order to determine their eligibility for the appointment of public counsel. In addition to compiling information pertaining to the defendant's financial history, staff questioning is directed at determining the extent to which the defendant meets the criteria specified in Section 27.52, Florida Statutes, that are to be taken into account by the court in reaching indigency determinations.[23] Information gathered through this process along with other background information is presented to the court at the first appearance hearing.

Providing Investigative Reports and Pretrial Release and Detention Recommendations to the Courts. Upon completing the defendant interview process each day at the jail, court investigations staff attend first appearance hearings. At this time they present a comprehensive packet of information to the court for each defendant who has been scheduled for an appearance. Specific components of this package include the following:

a. A jail booking form that contains a statement of probable cause completed by the arresting officer;

b. A "Financial and Personal History" form that contains information pertaining to the identity of the defendant, including any aliases the defendant has been known to use; the charges lodged by the arresting officer; information required by s. 27.52, F.S., that pertains to the

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[23]Under the provisions of section 27.52, F.S., the existence of any one of the following facts creates a "presumption" that a defendant is not indigent for purposes of public counsel appointment:

1. The defendant has been released on bail in the amount of $5000 or more;
2. The defendant has no dependents and has a gross income of $100 or more per week; or, if the defendant has dependents, his gross income exceeds $100 per week plus $20 per week for each of the first two dependents and $10 per week for each additional dependent;
3. The defendant owns cash in excess of $500.

In addition to these factors, the court is required to take into account any personal or real property holdings of the defendant, and the amount of any debts owed by the defendant, or the amount of debts that might be incurred by the defendant as a result of illness or other family misfortunes.

defendant's eligibility for the appointment of public counsel; detailed information on the defendant's financial history, including current employment status, length of employment at current job, current income levels, real and personal property ownership, and current assets and debts; and criminal history, including any record of failure to appear;

c. A signed affidavit of insolvency for those defendants that are eligible for appointment of public counsel.

In addition to these forms, Court Investigations staff provides the first appearance judge with a "Release on Recognizance" form for those defendants who are likely to be released to the supervision of the program. This form contains a photo of the defendant, and specifies the standard as well as any special conditions of release to be imposed by the court. Included among the standard conditions of release noted on the form are those specifying that the defendant cannot leave the county or change residence during the period of release, that the defendant shall not violate any laws of the state of Florida, and that the defendant shall report as directed to the program. Once accepted into the supervised release program, both the first appearance judge and the defendant must sign the form, and copies are provided to both the defendant and the court. Finally, the form specifies the program staff member who has been assigned to the defendant for purposes of reporting and supervision.

In addition to presenting information to the court at first appearance, program staff make pretrial release and detention recommendations to the court based upon the information gathered through the investigation process. According to program officials, the most common form of recommendation is for supervised release, whereby pretrial release is conditioned upon the defendant's reporting to program staff on a regular basis or complying with such additional conditions as urinalysis, maintaining employment and residence, etc. To a lesser extent, program staff recommend that defendants be released on monetary bond, and only in rare circumstances is recognizance release recommended.

In order to qualify for supervised release, a defendant must achieve a minimum score on a standardized evaluation instrument used by Court Investigations staff. The instrument consists of a score sheet that attaches relative weights to such factors as the residence status, family ties, employment, and criminal history of the defendant. In addition, the score sheet assigns specific points where the defendant faces a charge that involves a violent offense. Defendant scores on each of these factors are combined in an additive scale. Given the weighting scheme embodied in the score sheet, few defendants who face charges involving crimes of violence become eligible for supervised release. This tendency is acknowledged by program staff, who note that virtually all criminal defendants are eligible for supervised release, except those charged with violent offenses.

Information Provision. One of the key responsibilities exercised by Court Investigations in Lee County is to provide information to various system actors at crucial

junctures in the case processing continuum. Thus, beyond making pretrial release reports and recommendations to the court at first appearance, program staff provide copies of these reports to the State Attorney's Office prior to first appearance, which in turn provides copies to the Public Defender's office. Making such information available to key actors not only enables the court to make an informed decision on the conditions of release that need to be imposed upon individual defendants in order to secure their appearance at trial and to protect the safety of the public, but also permits the prosecution and defense to advocate different release and detention options at first appearance in an informed manner. Beyond this, the information made available to the court and other key actors has provided the basis for conducting "adversarial" first appearances in Lee County. As discussed below, these hearings have increased the rate at which cases are disposed of at first appearance, with consequent reductions in judicial, State Attorney, and Public Defender workloads and the local jail population.

In addition to providing information to various parties present at first appearance hearings, Court Investigations also informs the court of the extent of defendant compliance with conditions of release imposed by the court. Finally, program staff also reopen investigations in cases in which the defendant failed to secure release at or before first appearance. The objective behind this is to determine whether any new information on the background of a defendant has become available that was not presented to the court at first appearance. Where relevant additional information becomes available, it is brought before the court for a "second look" hearing. Such hearings have proven effective in a number of jurisdictions in shortening lengths of stay in jail for defendants who fail to secure pretrial release early on in the case-processing continuum.

Supervision of Released Defendants. For those criminal defendants whose cases are continued past first appearance, Court Investigations provides various levels of supervision over released defendants. Thus, all defendants are required to maintain contact with the program as part of the conditions of release established by the court. The frequency and nature of such contacts vary according to the nature of the offense and the circumstances of the defendant. Thus, criminal traffic and other misdemeanor defendants often are required to call the program offices on a weekly basis during the period of their release, while defendants charged with felony offenses often are required to report to the program offices for a face-to-face contact on a weekly or more frequent basis.

Where persons released to the supervision of Court Investigations fail to call-in to program offices as directed by the court, staff take affirmative steps in order to establish contact with the defendant. Initially, program staff will mail a letter informing the defendant that regular call-ins are required as a condition of pretrial release and reminding them of upcoming court dates. Where the defendant fails to respond to the letter, staff conduct field visits to the defendant's residence or place of employment. Once located, the defendant is warned that failure to comply with the call-in requirement will result in a revocation of release. At the same time, Court Investigations staff take the opportunity to verify the defendant's residence and provide the defendant with information pertaining to the next scheduled court date.

Beyond fielding call-ins from released defendants, Court Investigations refers defendants who have substance abuse problems to the local TASC unit for periodic alcohol and drug screening in order to monitor compliance with specific conditions of release that may be imposed by the court. Program staff also interview defendants immediately upon their release in order to review court dates, attorney information, and other issues pertaining to pretrial release. Finally, staff periodically notify released defendants of upcoming court dates and, where appropriate, provide social service referrals to defendants. Staff view such referrals as helpful in reducing the risks of rearrest and non-compliance with conditions of release imposed by the court.

Failure to Appear Follow-Up. In addition to supervising released defendants and conducting field visits to places of residence and employment upon their failure to report to the program as directed by the court, Court Investigations staff attempt to follow up in instances in which a defendant fails to appear at a scheduled court hearing. In the general case, this follow up involves program staff locating and making contact with the defendant, and informing the defendant that a court appearance has been missed. Where the defendant has a legitimate excuse for missing the required hearing, such as having been given a wrong court date or courtroom number or having a legitimate medical condition, staff attempt to re-schedule the defendant's court date and otherwise keep the person in the program. In the absence of a legitimate reason, Court Investigations staff bring the defendant back before the court for modification of conditions of release, which often extends to outright revocation of supervised release.

Program Service Levels and Performance Outcomes

Program Service Levels. As noted in Table LC-7, the workload of the Lee County Court Investigations' Unit increased substantially over the first five years of its operation. Thus, the number of pretrial release investigations completed increased from just over twelve hundred in the program's first full year of operation (fiscal year 1988) to over 10,000 in fiscal year 1991. In addition, the number of defendants accepted for supervision grew from approximately 360 in the program's first full year of operation (fiscal 1988), to over 1,000 in 1991, in increase of nearly 200%. Finally, in fiscal year 1991, Court Investigations supervised an average of 188 defendants on a monthly basis, with was represented a three-fold increase from 1988 suspension levels. Beyond the rapid rate of growth in the number of pretrial release investigations completed and the program's supervised caseload, the number of indigency screenings conducted by Court investigations has increased from approximately 2300 in the 1989, the first year that program staff systematically began to gather information for the court pertaining to the eligibility of defendants for public counsel appointment, to nearly 13,000 in 1991. Clearly, these data indicate that the program has evidenced exponential growth in the levels of services provided to the Lee County criminal courts.

Program Performance Levels. While not all aspects of the performance of pretrial services programs are subject to quantification, statistics pertaining to the number and percentage of all supervised defendants who either fail to appear in court or who otherwise

TABLE LC-7
Lee County Court Investigations
Workload Statistics:
1987-1991

Fiscal Year	Number of Release Investigations	Number of Indigency Screenings	Number of Cases Accepted for Supervision	Average Monthly Supervision Caseload
1987	246	0	73	2
1988	1,219	0	360	63
1989	1,101	2,327	420	71
1990	1,727	8,688	899	138
1991	10,016	12,785	1,061	188

Source: Lee County Court Investigations

do not comply with the conditions of release established by the court are kept on a regular basis by Court Investigations staff. In Lee County, these defendants are treated as "unsuccessful terminations" insofar as persons who fail to comply with conditions of release - including the condition that they not engage in any unlawful activity during the release period - are terminated from the program and remanded to jail. As noted in Table LC-8, the Lee County Court Investigations unit consistently experienced an unsuccessful termination rate of between twenty one and twenty two percent annually over the fiscal 1988-1990 period. During this time, the most common reason for revoking supervised release was the failure of defendants to appear in court at appropriate time. Thus, the program's failure to appear rate grew from just over 11% in 1988 to nearly 17% in 1990, which reflect rates that are somewhat high in relation recent national data and the experiences of other full service pretrial services programs currently operated by Florida counties.[24] In comparison, unsuccessful program terminations resulting from failure to comply with conditions of release other than court appearance generally ranged between 2 and 5 percent of all defendants accepted for supervision annually over this period, and similar percentages of defendants were arrested for new law violations while under supervised release.

In contrast with the relatively high failure to appear rate evidenced over the 1988-1990 period, the data presented in Table LC-8 indicate that substantial progress has since been made in this area. Thus, the failure to appear rate for fiscal year 1991 declined to approximately 10%, and a further decrease to 7.6% was evidenced over the first three-quarters of fiscal 1992. According to program administrators, these decreases in the failure to appear rate are attributable to the additional staff funded by the county after 1990. More specifically, additional staff improved the quality of pretrial release investigations conducted by Court Services, which in turn enabled the court to better predict the failure to appear risks associated with the release of individual defendants. In addition, staffing increments made it possible for Court Investigations to supervise defendants more closely after their release back into the community.

Jail Cost Avoidance. One of the chief arguments offered by proponents of pretrial services programs is that, by presenting the court with a supervised alternative to pretrial detention and monetary bail, substantial numbers of criminal defendants who otherwise would remain detained during the pendency of their case can be released back into the community without compromising public safety or the integrity of the judicial process. These jail diversions reduce the demand for jail space, which in turn translate into cost savings for the local government by obviating the need for new construction and/or

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[24]According to a recent nationwide study of pretrial services programs conducted by the National Association of Pretrial Services Agencies under contract with the U.S. Department of Justice, over three quarters of pretrial services agencies operated by state and local governments that included failure to appear rates in survey responses reported failure to appear rates of 10% or less. See Segebarth, K., Pretrial Services in the 1990's: Findings From the Enhanced Pretrial Services Project, (Washington, D.C.: National Association of Pretrial Services Agencies; March 1991), pp. 107, ff. For a discussion of failure to appear rates among pretrial services programs operated by Florida counties, see pp. 145-149, supra.

TABLE LC-8
Lee County Court Investigations
Performance Measures:
1987-1991

Fiscal Year	Number of Cases Accepted for Supervision	Number (%) of Unsuccessful Case Terminations			
		Noncompliance Terminations	FTA Termination	New Law Violation Termination	Total Unsuccessful Terminations
1987	73	2 (2.7%)	6 (8.2%)	2 (2.7%)	10 (13.7%)
1988	360	19 (5.3%)	41 (11.4%)	17 (4.7%)	77 (21.4%)
1989	420	9 (2.1%)	60 (14.3%)	24 (5.7%)	93 (22.1%)
1990	899	20 (2.2%)	151 (16.8%)	24 (2.7%)	195 (21.7%)
1991	1,061	15 (1.4%)	105 (9.9%)	18 (1.7%)	138 (13.0%)

Source: Lee County Court Investigations

reducing the operating costs of existing facilities. Jail "cost avoidance" data supplied by several Florida jurisdictions suggest that for every dollar allocated to pretrial services programs county governments can avoid between five and 10 dollars in jail operating costs.[25] As noted in Table LC-9, Court Investigations data indicate that the experience of the Lee County program is similar in this regard. Thus, based upon the average daily cost of detaining a person in the local jail system, program administrators estimate that it would have cost Lee County nearly over $6 million to incarcerate those defendants who were released to the supervision of Court Services during the pendency of their cases over the 1987-1991 period.[26]

While plausible arguments can be made that the manner in which jail program staff calculate cost avoidance yields high-end estimates insofar as many of the defendants who are released to the supervision of pretrial services agencies may have eventually secured release through other means or otherwise would have experienced shorter lengths of stay than is normally the case, it also can be argued that the cost avoidance figures for Lee County underestimate total savings to county government associated with the operation of Court Investigations. Thus, it is widely acknowledged by local officials that without the jail diversions attributable to the program, Lee County would currently be engaged in an expensive capital program to expand local jail capacity. Moreover, as a number of members of the judiciary have testified, the savings in jail expenditures attributable to pretrial saving programs go beyond those stemming from the diversion from jail of those defendants who are released under program supervision. More specifically, by providing the first appearance judge with comprehensive data pertaining to the social, financial, and criminal history background of persons who have been accused of criminal law violations, it has been argued that the judiciary is more likely to set conditions of release that can be met by a defendant than is the case where the court has only a probable cause affidavit and the jail booking form when considering the issues of bail and pretrial release.[27]

Role of the Judiciary

The judiciary of the 20th Judicial Circuit has long been recognized as playing a pivotal role in the development and implementation of a wide variety of policy initiatives undertaken in Lee County in order to more effectively manage local jail population growth. Thus, the circuit chief judge and the chief county judge both are formal members of the

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[25]For a discussion of jail cost avoidance attributed to pretrial services programs in Florida, see pp. 145-147, supra.

[26]In calculating jail cost avoidance, Court Investigations administrators multiply the average daily cost of housing a person in the Lee County jail system by the number of days that elapse between the release of the defendant to the supervision of the program and case disposition.

[27]See testimony of Judge Thomas Reese, Chief Judge of the 20th Judicial Circuit, and Judge Jay Rosman, County Judge, Lee County, before the Florida Advisory Council on Intergovernmental Relations Public Hearing on Proposed Pretrial Release and Detention Legislation, Ft. Myers, Florida, July 3, 1991.

Table LC-9
Lee County Court
Investigations Performance Measures:
Jail Cost Avoidance

Fiscal Year	Number of Cases Accepted for Supervision	Number of Jail Bed-Days Saved[1]	Jail Cost Avoidance[2]
1987*	73	3,102	$83,754
1988	360	23,185	625,995
1989	420	26,505	980,685
1990	899	51,858	1,918,746
1991	1,061	67,034	2,480,258
TOTALS:	2,815	171,685	6,089,438

Source: Lee County Court Investigations

*** Includes period from June through September Only.**

[1]Number of jail bed days saved based upon the number of days that elapsed between release to court investigations and case disposition, or recommittment to jail, for all defendants who were released to the supervision of the program during the calendar year referenced.

[2]Jail cost avoidance based upon the number of jail bed days saved multiplied by the average daily cost of housing an inmate in the Lee County Jail System.

CPC, and have had a hand in many of the initiatives that have been instituted in this area. Beyond this, Chief Judge Thomas Reese and the Court Administrator, Doug Wilkinson, have instituted a number of policies and procedures aimed at improving the efficiency of the courts, which in turn expedite the processing of criminal cases in which the defendant remains detained in jail. The following represents a brief overview of the managerial initiatives implemented to date by the criminal courts as part of the wider efforts undertaken in Lee County to manage the growth in the local jail population in a manner consistent with public safety.

Expedited Pretrial Release

In addition to their involvement in the expansion of non-financial release options such as law enforcement notices to appear and conditional supervised release through pretrial services,[28] the criminal courts of Lee County have instituted several policies and procedures aimed at insuring that monetary bail is set promptly upon the arrest and jail booking of a criminal defendant. Chief among these was the January, 1990, promulgation of a revised and simplified bond schedule that specifies bond amounts for specific categories of offenses. According to an analysis completed by the jail population manager, the previous bond schedule was overly strict in the sense that it specified higher bond amounts than the schedules in use in a sample of other Florida counties. In addition, application of the previous bond schedule was difficult and time consuming insofar as it specified a specific bail amount to be set for each of the hundreds of criminal offenses currently defined by Florida Law. As a result of this complexity, mistakes tended to occur in setting bail at the point of jail booking, whereby higher bonds would be imposed than were necessary to protect public safety and insure court appearance. Insofar as the revised bond schedule tends to establish lower bail amounts and has helped avoid paperwork and other mistakes, its use has increased the number of defendants who have been able to post bond and secure release prior to first appearance.

An additional step taken by the courts in Lee County in order to expedite the bail setting process involves judicial encouragement for law enforcement officers to accept bond at stationhouses operated by municipal police departments. Under procedures recently implemented by the Cape Coral police, arresting officers have been transporting persons to police headquarters for purposes of making positive identification, completing required paperwork, and accepting bail pursuant to the revised master bond schedule. In addition to expediting the bail setting process, this procedure enables City of Cape Corral police officers to by-pass the jail booking process, with consequent savings in transportation and other booking-related costs. Approximately 3 persons are diverted from the Lee County jail per week under this procedure, and other municipalities in Lee County currently are either considering or drawing up plans to employ similar practices. In addition to being encouraged to do so by the judiciary, staff of the Lee County jail and the Clerk of the Court

[28]See discussion on pp. 256-257, infra.

worked together in order to develop and implement a series of procedures to assure that required paperwork was routed to appropriate officials in a timely manner.

Court Delay Reduction

Case Management Procedures - Jail Case Review and Vertical Case Assignment. A second key area of judicial involvement in wider system efforts to control the growth in Lee County's local jail population is court delay reduction. As many national experts recognize, the speed at which cases are processed by the courts can have a critical impact upon the size of local jail populations by influencing lengths of stay in jail for those defendants who fail to secure pretrial release. Among the initiatives undertaken by the judiciary in this area has been the implementation of special case review procedures for in-jail cases. Thus, one of the judicially-assigned responsibilities of the jail population manager has been to identify cases in which the defendant has remained detained in jail for an extended period of time due to oversight or court delays. Once identified, the manager brings the case to the attention of the judiciary and the prosecution and defense in an attempt to expedite processing with an eye towards achieving disposition of the case. While undertaken on a more ad hoc basis than formal "jail case management systems" that have been adopted in other jurisdictions, these efforts have proven useful in overcoming delays in the processing of individual cases by the courts.[29] In addition to jail case review procedures, the courts also have implemented vertical case management procedures in Lee County's criminal courts. Under this plan, individual judges are assigned to particular cases from start to finish, which helps eliminate duplication in areas such as case review, and helps avoid lapses in court calendaring that sometimes are attendant upon the transfer of cases among different judges and court divisions.[30]

Adversarial First Appearances. In one of the most innovative initiatives implemented in the area of court delay reduction, the judiciary in cooperation with the State Attorney and Public Defender has instituted adversarial first appearance hearings in Lee County. Normally treated in other jurisdictions as pro-forma hearings at which cursory attention is directed at the issues of probable cause and pretrial release and detention, adversarial first appearance hearings in Lee County have turned into opportunities to dispose of minor misdemeanor and criminal traffic cases through the plea agreement process, and to reach pretrial release and detention decisions on the basis of relatively extensive information pertaining to the defendant's background, criminal history, and ties to the local community. As such, two distinct functions are served by the conduct of adversarial first appearances. First, early case disposition helps avoid a stay in jail for those defendants who ordinarily

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[29]The case management responsibilities discharged by the population manager differ from those undertaken by pretrial services insofar as the manager focusses on achieving timely disposition of cases that have been languishing in the system. In contrast, the jail review activities of pretrial staff focus more on bringing cases back before the court for consideration of release.

[30]See Hall, A., Alleviating Jail Overcrowding: A Systems Perspective, (Washington, D.C.: National Institute of Justice; 1985), pp. 27-28.

would not receive a sentence of incarceration upon entering a guilty plea with the court. Second, by having fairly substantial information on the background of the defendant, the judiciary tends to be more willing to provide an alternative to monetary bail than would otherwise be the case. Other spinoff benefits of these hearings include caseload relief for the courts, the prosecution, and the Public Defender's office. Finally, by avoiding the need for subsequent hearings, the incidence of failures to appear can be reduced.

As operationalized in Lee County, adversarial first appearance hearings are predicated upon active involvement of the prosecution and defense in all phases of the hearing.[31] Thus, both the prosecution and defense attempt to review cases prior to the hearing for purposes of accepting pleas and establishing conditions of release for individual defendants. In addition, each defendant who is scheduled to appear before a first appearance judge is provided with the opportunity to meet with the assistant public defender assigned to first appearance prior to or during the hearing in order to discuss pretrial release and plea issues. At the hearing, attending prosecuting attorneys and the assigned public defender are present for purposes of addressing the issue of probable cause, advocating alternative release options, and otherwise presenting facts to the court. In addition, the assistant public defender assigned to first appearance often counsels defendants during the hearing on plea offers made either by the state or the court. With respect to the judiciary, the first appearance judge generally is prepared to accept pleas offered by a defendant, and to offer the defendant a specific sentence in return for a guilty plea. Finally, the attending judge has extensive interaction with Court Investigations staff, and is prepared to take into consideration the pretrial release recommendations of the prosecution, defense, and Court Investigations.

Direct observation as well as testimony of the judiciary indicate that the Lee County Court Investigations unit has played a key role in making adversarial first appearances in Lee County a success. Thus by presenting first appearance judges as well as the prosecution and defense with information pertaining to the criminal history of individual defendants, defendant aliases, and holds for other states, the program has increased the quality and quantity of information available to key system actors. In turn, where judges, prosecutors and defense counsel have more information on the nature and circumstances of the defendants appearing at first appearance, they are in a better position to address sentencing and other issues involved in the plea agreement process. In addition to providing caseload relief to various entities, local officials report that these dispositions have been a key factor in reducing the rate of growth in the local jail population. Thus, many sentences offered at first appearance involve a shorter period of incarceration than that which may have occurred had the defendant failed to post bond and remained detained until the next scheduled court hearing - generally a period extending anywhere from 3 weeks to one month.

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[31] As a result of resource constraints experienced by the Public Defender's Office, the assistant public defender position assigned to cover first appearance hearings is funded by the Lee County Board of County Commissioners.

Appointment of Outside Counsel. Due to resource insufficiencies, the Office of the Public Defender in Lee County recently has begun to regularly petition the court for appointment of outside counsel on the basis of workload considerations.[32] As generally practiced in most Florida counties, outside counsel are appointed on a case-by-case basis pursuant to s. 925.036, F.S., and are compensated by the county for their services.[33] According to local officials in several jurisdictions, criminal defendants who fail to secure pretrial release in cases in which outside counsel are appointed by the court have substantially higher lengths of stay in jail than do other defendants as a result of lags in the appointment of counsel and corresponding delays in case processing. In order to avoid such delays, the judiciary in Lee County - in cooperation with the Lee County Board of County Commissioners and County Administration - has contracted with a number of private attorneys to handle in-jail felony cases in which the Public Defender has declared a conflict on the basis of workload. According to members of the judiciary as well as county officials, this practice has expedited the appointment of counsel and has shortened case processing time for in-jail cases. Ultimately, these efficiency gains have translated into shorter lengths of stay in the Lee County jail system for pretrial defendants represented by outside counsel, and therefore have helped control the growth in the local jail population.

Expedited Sentencing and Prisoner Transfer Procedures. In other areas, the courts have taken affirmative steps to reduce delays between adjudication and sentencing through a series of procedures developed through the work of the CPC. Thus, a standardized motion form has been developed for use by trial judges that has the effect of ordering the preparation of a presentence investigation prior to a finding of guilt in a case. As originally planned, this procedure was expected to reduce the number of days elapsing between a plea of guilt and the issuance of a sentence from approximately 40 to 10 days. By doing so, the procedure was intended to decrease the amount of time that a guilty defendant would have to remain detained in the Lee County jail system following the issuance of a sentence, where the sentence involved a non-jail sanction such as probation or incarceration in state prison.

In a related area, the judiciary also has participated in joint efforts involving jail staff and the Clerk of the Court that have focussed on the timely completion and

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[32]Under the provisions of S. 27.53, F.S., the public defenders of the respective judicial circuits are responsible for representing criminal defendants who have been determined by the court to be indigent. However, under the provisions of S. 27.53, F.S., a public defender is required to petition the court for appointment of outside counsel when the office determines that the interests of two or more defendants are so adverse and hostile that they cannot be represented without a conflict of interest. In such cases, it is the duty of the court to appoint outside counsel, whose fees and expenses will be paid by the county under the provisions of S. 925.035, F.S. Under the Florida Supreme Court's decision in Escambia v. Behr (384 So. 2d. 147), trial courts are authorized to appoint outside counsel at county expense where the public defender petitions the court for such appointment on the grounds that excessive caseload limits the ability of the office to provide effective representation in a particular case.

[33]Although the Florida Legislature beginning in the early 1980's appropriated funds to reimburse the counties for attorney fees paid in "conflict" cases, this appropriation was discontinued after the 1990 legislative session.

transmittal of post-sentence paperwork. The objective behind these initiatives has been to insure that prisoners sentenced to a period of incarceration in a state facility can be transferred from the jail to the custody of the state as quickly as possible. In a number of jurisdictions, delays in the completion of such paperwork reportedly have resulted in delays in the transfer of offenders from local jails to state facilities. Finally, Chief Judge Reese in 1990 issued an administrative order that establishes expedited extradition procedures for defendants who are detained in the Lee County jail system on warrants from other jurisdictions. Under the provisions of the order, a shortened time frame has been established, within which the jurisdiction at issue must pick up the detainee or the detainee will be released on recognizance by the court. Again, the intention behind this initiative was to decrease the sometimes extended lengths of stay in the Lee County jail system for defendants who are being held for other jurisdictions.

Expedited Processing of Violation of Probation Cases. A final aspect to the efforts of the judiciary in the area of court delay reduction involves the development and implementation of procedures designed to expedite the processing of violation of probation (VOP) cases. Identified by the consultant as particularly prone to extensive case processing delays, several distinct measures have been implemented in this area in order to reduce the amount of time that elapses between arrest and relevant hearings. First, expedited arraignment dates currently are established at first appearance for the second Monday subsequent to the arrest of the alleged violator, and the Clerk of Court has been directed to transmit appropriate paperwork to the arraignment hearing judge for docketing purposes. Previously at first appearance hearings, VOP arraignments were not scheduled, which resulted in extended lengths of stay for the defendant prior to the conduct of the arraignment hearing. Second, circuit court judges issued a directive to probation officers requiring the preparation of sentencing scoresheets and their submission to the court prior to the arraignment hearing. In cases where the court accepts a plea of guilty or no lo contendere at the arraignment, this procedure obviates the need for a subsequent sentencing hearing for the probation violator, and permits the court to release the defendant from jail either to the custody of the state or to the supervision of probation staff. Finally, arraignment hearings for VOP cases are structured in order to take pleas, and when necessary, to establish conditions of release. For those defendants who do not enter a plea at arraignment, VOP hearing dates are set at the time of arraignment.

Role of the Clerk of Court

According to a number of local officials, the office of the Lee County Clerk of Court has played a key role in facilitating the development and implementation of various initiatives designed to manage the growth in the local jail population. Underlying these attributions is the understanding that, as the designated source for all information pertaining to the scheduling and processing of criminal cases by the Lee County courts, the Clerk of the Court is a key resource to enlist in wider system endeavors designed to permit more effective management of the growth in the local jail population. At the most general level, the managerial emphasis upon clearing out paperwork that has been brought to the position by the current Clerk, Charlie Green, has been cited as contributing to a generalized

speeding-up of the case processing system in Lee County, and with expediting the disposition of criminal cases. In a similar vein, Mr. Green reportedly has used a conciliatory rather than a confrontational style in working with various system actors, which has fostered the development of positive and responsive working relationships between the Clerk's Office and other system actors.

Beyond the benefits stemming from these generalized features of the current Clerk's managerial "style", the Clerk's office under Mr. Green's leadership has been directly involved in the development of a number of recent initiatives designed to enhance local criminal justice information system capabilities in Lee County. Included among these have been efforts aimed at developing an integrated, multi-agency information system that various agencies such as the state attorney and public defender will be able to tap into for purposes of data entry and case management. While the Clerk's office currently administers a management information system (MIS) that other criminal justice system entities can access, such access does not extend to data entry. For this reason, key information pertaining to the processing of cases by the prosecution and defense often are not available through the Clerk's MIS, or become available only through report-writing options or separate and duplicative data entry procedures.[34] When it becomes operational, the new system is expected to introduce further efficiencies into the case processing system, thereby expediting the disposition of cases by the criminal courts in Lee County.

A second initiative spearheaded by the Clerk of Court in the area of management information systems relates to the acquisition of technology and the provision of staff training in order to permit trial clerks to enter data into the clerk's MIS from the courtroom. This innovation is expected to speed the transmission of paperwork among various offices, and thereby expedite the processing and disposition of criminal cases. For example, data entry by trial clerks working directly from the courtroom will help avoid delays in the transmission of pretrial release orders, as well as orders providing for the transfer of jail inmates to state correctional facilities. In these ways, this innovation is expected to have tangible impacts upon the local jail population by shortening the time between the issuance of inmate release and transfer orders and actual release of inmates from the custody of the Lee County Sheriff's Office.

In addition to enhancing case management capabilities through the development of various MIS improvements, the Lee County Clerk of Court has played a key role in local jail overcrowding initiatives by participating in the deliberations of the county Correctional Planning Committee (CPC). Thus, while legislation mandating the creation of these committees did not provide for Clerk membership on the CPC, the Clerk's office has served as an important resource for the committee. Thus, the CPC relies upon data generated by the Clerk's MIS in order to identify and analyze bottlenecks in the case processing system,

[34]Both the State Attorney and Public Defender's Offices in Lee County have separate computer-based information systems within their respective offices. However, these systems are separate from one and other as well as from the Clerk's MIS, which limits the possibilities for exchanging information among these offices without duplicating data entry tasks across the three systems.

and the Clerk has been instrumental in focussing the attention of the Committee as well as individual judges on intractable issues such as the granting of continuances by the courts. Finally, the Clerk has been closely involved with a number of ongoing CPC initiatives aimed at addressing problems that have arisen in areas such as juvenile justice and domestic battery.

The Role of Felony Probation Officials

According to knowledgeable observers, Florida Department of Corrections (DOC) officials who provide felony probation services for the 20th Judicial Circuit have come to play an enhanced role in the Lee County reform process in recent years. Thus, in response to the 1991 Florida Community Corrections Partnership Act,[35] the felony probation administrator was made a member of the CPC in order to act as a DOC liaison in local efforts undertaken under the auspices of the Act.[36] While the Florida Legislature to-date has failed commit the resources necessary to implement community corrections on a statewide basis, amendments to s. 948.01, F.S., were enacted in order to permit the courts to sentence offenders to community-based residential and drug treatment facilities in lieu of a more traditional jail or prison sanction.[37] Pursuant to this authorization, DOC entered into a contract with the local Salvation Army Office in December, 1991, in order to secure a residential facility that could serve as a sentencing option for both male and female offenders under the jurisdiction of the Department. As initially designed, the program targeted offenders experiencing chronic substance abuse problems or a drug dependency and who otherwise would be sentenced to a term of incarceration.

As described by DOC officials, the non-secure residential drug facility provides six months of in-patient treatment to eligible felony offenders. While custodial aspects of the program are administered by the Salvation Army, treatment programming has been delegated to Southwest Florida Addiction Treatment Services, a private, non-profit organization, under a subcontracting arrangement. The first phase of the program involves a two-month period of intensive inpatient counseling within the facility, while the second phase emphasizes graduation to a work-release setting. The objective of the program is to provide the offender with a controlled environment that will facilitate withdrawal from dependency and gradual reintegration into the community. While a relatively small number of beds have been allocated to the DOC under terms of the contract,[38] the program nevertheless provides an alternative to incarceration for persons who otherwise may have

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[35]Chapter 91-225, Laws of Florida (1991).

[36]See Section 16, Chapter 91-225, Laws of Florida, (1991).

[37]See Section 14, Chapter 91-225, Laws of Florida (1991).

[38]According to program officials, the contract provided for 15 beds to be allocated to DOC as of September, 1992.

been sentenced to a period of confinement in the Lee County jail system.

Outcomes of the Reform Process

According to local officials, the process of reform initiated in Lee County late in 1987 has been quite successful in its main objective of addressing the unprecedented rates of increase in the local jail population. Thus, in commenting on the successes achieved in the initial stages of the reform process, a status report prepared for the CPC noted that in contrast to a 2% average monthly increase in the number of inmates housed in the Lee County jail system over the 1986-1988 period, the rate of growth through the first 8 months of 1989 declined to just over .5% per month.[39] Furthermore, in contrast to steady annual increases in the average daily population of the jails over the 1986-1988 period, by 1990 the increases in the jail population leveled off, and actually went into decline of through the last three quarters of 1990. While a series of factors led to population increases throughout 1991, the continued efforts of the Judge Reese, the CPC, and the jail population manager as well as other officials turned this upward trend around in the second and third quarters of 1992. As of July 30, 1992, the population of the Lee County Jail System stood at 710 inmates, a population level that compared favorably with 1989 inmate counts.

Any discussion of the successes achieved by the process of reform in Lee County must acknowledge that the lower rates of growth in the local jail population have come at a time of substantial and continuing increases in rates of jail bookings. Thus, while the number of total arrests in Lee County actually declined by approximately 16% over the 1989 period,[40] total jail bookings increased by 11% during this time. Clearly, the comprehensive efforts undertaken in Lee County to expedite the pretrial release of low risk defendants and to speed-up the processing of cases by the court system have effectively compensated for these increases and permitted local officials to control the growth in the local jail population in a manner consistent with both public safety and the ability of Lee County government to fund jail construction and operations.

THE PROCESS OF REFORM: KEY FACTORS CONTRIBUTING TO SUCCESSFUL MANAGEMENT OF LOCAL JAIL POPULATION GROWTH

Judicial Leadership

Discussions with state and local officials working in the criminal justice arena in Lee County suggest that a number of factors lay behind and made possible the initiatives that have been implemented in recent years in order to enable the county government and the courts to more effectively manage the growth in the local jail population. Central to

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[39]Power, A., Lee County Correctional Planning Committee Status Report, September, 1989, (Cincinnati Ohio: Power and Power; 1989) p. 1.

[40]According to Florida Department of Law Enforcement data, the number of arrests in Lee County declined from 12,730 in 1989 to 10,632 in 1991.

the process has been the leadership exercised by Circuit Chief Judge Thomas Reese, whose concern with the problem over local jail overcrowding and willingness to exert leadership in the development, implementation, and monitoring of various interventions have served as critical catalysts in the reform process. More specifically, Judge Reese has taken an active role as chairman of the CPC,[41] and has used this position to continually monitor both the growth in the local jail population and the progress of the various initiatives that have been implemented in recent years to control such growth. In addition, Judge Reese has used the CPC and his other formal and informal powers to keep the process of reform moving forward by keeping key actors working together in the development and implementation of solutions to ongoing and emerging problems. Finally, Judge Reese has been actively involved in the development and implementation of specific policy initiatives, as evidenced by his support for strengthening Court Investigations and his issuance of administrative orders dealing with the issuance of notices to appear by local law enforcement and holds for other counties.[42] Throughout his involvement with the problem of local jail overcrowding in Lee County, it has become clear that Judge Reese understands the need to continually monitor the situation and to devote his attention, as well as wider system resources, to developing innovations designed to address the problem.

Underlying the active involvement of Judge Reese in the area of jail population control has been his willingness to take seriously the authority conferred upon the circuit chief judges by Rule 2.050 of the Florida Rules of Judicial Administration. Among other things, Rule 2.050 specifies that the chief judge is to conduct a "mandatory periodic review of the status" of county jail inmates, and to "develop an administrative plan for the efficient and proper administration" of all courts within the circuit. Given the close relationship that exists between the efficient processing of criminal cases and local jail populations, and the numerous findings of the consultant that pointed out how various features of the case processing system in Lee County were contributing to the problem of local jail overcrowding, many of the interventions instituted in Lee County in order to control the growth in the local jail population fall under the broad purview of Judge Reese.

Active and Involved Court Administration

Beyond the leadership exercised by Judge Reese in his capacity as Chief Judge for the 20th Judicial Circuit, Doug Wilkinson, the Circuit Court Administrator, also has been actively involved and has provided critical impetus for the reform process. Thus, Court Administration began to exert leadership upon being informed by the Lee County Sheriff's Office in 1987 that the state Department of Corrections was contemplating intervention to address chronic overcrowding in the local jail system under the auspices of Chapter 951,

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[41]Under the provisions of Section 951.26, F.S., the chairman of the board of county commissioners is required to serve as chairman of the CPC. However, Court Administration encouraged the county to cede this responsibility to the Chief Judge in light of the crucial role played by the courts in controlling such key managerial tools as Court Investigations and case calendaring and scheduling systems.

[42]For a more detailed discussion of these initiatives, see p. 231 and p. 251, supra.

Florida Statutes, and the terms of the consent decree entered into in the landmark Arias v. Wainwright case.[43] In response to this threat, Court Administration committed to the Department that a pretrial services program would be implemented in Lee County that would focus on expediting the release of the large numbers of low risk defendants who were being detained in the county jail pending trial. It is to be noted that Court Administration was not acting alone in making this commitment. Instead, the decision to implement a pretrial program was supported by the incumbent Chief Judge, Robert Shafer, and the Lee County Board of County Commissioners. In this regard, county support was forthcoming not only in response to the threat of state action, but also as a result of the realistic threat of federal court intervention. In light of the population caps, fines, and prisoner release mechanisms established by the federal courts in the Orange and Broward County overcrowding suits, the establishment of a county-funded pretrial services program was viewed as a preferable alternative to federal intervention.[44]

A second critical step taken by Court Administration was the 1990 creation of a jail population manager position. Funded by the Board of County Commissioners but falling under the administrative authority of the Court Administrator, this position has been filled since the outset by Mr. Brooks Smith, who is charged with monitoring the local jail population both in aggregate and in the sense of tracking the flow of in-jail cases from arrest through case disposition. In discharging these functions, Mr. Smith serves as a trouble-shooter by monitoring the dynamics of jail population growth, identifying process bottlenecks and other factors that may be responsible for periodic surges in the local jail population, and by devising solutions to these in conjunction with the Court Administrator and Chief Judge. Through his continuous involvement in jail population monitoring and program development, Mr. Smith performs the critical role of detecting and working towards the correction of system "errors" that have negative impacts upon the local jail population.

Role of the Outside Consultants

Various state and local government officials involved in criminal justice administration in Lee County indicate that outside expertise in the form of independent

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[43]In addition to containing a series of provisions pertaining to Florida's local jails, Chapter 951 vests the Department with regulatory responsibility over conditions of confinement in local jails. Under the terms of the consent decree entered into in the landmark Arias v. Wainwright case, the Department pledged to tighten and aggressively enforce the regulatory code authorized by s. 951.26, F.S.

[44]The Broward county jail system currently is under the supervision of the Federal Court for the Southern District of Florida as a result of chronic overcrowding. Under the terms of this supervision, the county governing body since 1986 has been assessed and paid a civil fine of $1000 to the federal court for each day that the jail population exceeds court-imposed population caps. Since 1986, the Broward county board of county commissioners has paid a total of $1.8 million to the federal court. In Orange County, federal intervention has resulted in the issuance of a federal court order requiring the release of defendants arrested on one or more of a variety of non-violent misdemeanor or felony offense charges, unless a relatively narrow set of circumstances are met.

consultants also has provided critical impetus to the process of reform. While a consulting team organized by the American University under an arrangement with the United States Bureau of Justice Assistance generated a report in 1989 that focussed on various features of the local criminal justice system as these impacted upon the jail population, of most value to the process of reform has been Ms. Ann Power, the National Institute of Corrections consultant who was first retained by the Board of County Commissioners in 1988. Initially engaged in order to study the operation of the local criminal justice system with an eye to identifying factors contributing to the rapid rate of growth in the local jail population, Ms. Power has since been retained each year to assist the CPC in its efforts to monitor the progress of population management initiatives and to identify and devise solutions to emerging problems. In speaking to the role played by Ms. Power, local officials note that there was a critical need for an outsider to come in and diagnose problematic features of the case processing system, insofar as local officials would engender too much conflict were they to do so. In this sense, the technical expertise brought to bear by Ms. Power was valuable in two respects. First, Ms. Power assisted court administration and the county government in their endeavors to identify factors contributing to the local jail overcrowding problem and devise solutions to these. Second, the consultant's role as an outsider served to insulate various participants in the reform process from political problems that may have arisen over the course of identifying problematic features characterizing the operation of various state and local criminal justice agencies operating in Lee County. Beyond these contributions, Ms. Power's continued retention by the Lee County government has augmented the efforts of Court Administration and others to continually monitor the reform process, and her periodic meetings with key officials and the CPC has helped to ensure that officials do not back-out of various managerial initiatives prematurely.

The Lee County Board of County Commissioners

Not to be neglected in any discussion of the factors contributing to successful reforms in the area of jail population management in Lee County is the initiative taken by the Lee County Board of County Commissioners. Thus, knowledgeable officials have noted that the Board of County Commissioners never seriously considered the "buildout" option of addressing jail overcrowding solely through new jail construction. Instead, the Board embraced a "systems" approach to the problem. On the one hand, county government took the necessary steps to fund additional jail capacity, and expanded the number of jail beds in the local system from 444 in December, 1987, to 727 in 1990, and to 823 in April, 1992. On the other, it took a number of steps in order to address the impacts various case-processing factors posed for growth in the local jail population. Included among these were active participation in the CPC by county commissioners, and the early assignment of an assistant county manager to serve as staff liaison to the CPC in order to provide the Committee with organizational and research capabilities. In addition, the Board saw fit to invest significant resources in order to acquire the services of the outside consultant Ann Power in 1988, and has continued to retain her services through the current fiscal year. Finally, the Board demonstrated its willingness to fund a programmatic infrastructure in order to provide the courts as well as other system actors with the tools necessary to effectively manage the growth in the local jail population. Among the specific activities

funded by the County in this area have been the Court Investigations unit, the position of the jail population manager, and various improvements to criminal justice management information systems in Lee County. Throughout all these initiatives, the Board of County Commissioners demonstrated an understanding that local jail overcrowding and the population increases underlying this problem in large part could be addressed by policy initiatives aimed at enhancing the efficiency of local criminal justice system processes and operations.

The Role of Multi-Agency Forums: The Lee County Correctional Planning Committee

While the exercise of leadership and initiative by discrete actors such as the Chief Judge, Court Administration, and the Board of County Commissioners have been vital to the process of reform that has been underway in Lee County since the late 1980's, the successes that have grown out of this process would not have been possible without the active cooperation and involvement of each of the agencies that combine to form the local criminal justice system in Lee County. In a policy area that is characterized by built-in adversarial relationships among key actors and that has been often been referred to as a "non-system" by scholars and other observers,[45] this cooperative approach has been achieved through the workings of the CPC. Initially activated in 1988 pursuant to the provisions of Section 951.26, Florida Statutes, this committee has served the useful function of bringing together on a monthly basis representatives of the various entities that affect the local jail population in order to promote communication as well as problem identification and resolution. More specifically, CPC meetings tend to involve discussions of recent trends in the growth of the local jail population and the factors affecting these, and focus on the development, implementation, and monitoring initiatives designed to manage such growth. While the formal membership of the Committee is established by statute, current participation in the Lee County CPC extends to Judge Reese, who serves as chairman, the administrative county judge, representatives of the Sheriff's Office, the chief deputy assistant state attorney, the Public Defender, the Director of the Department of Public Safety for Lee County, who serves as the representative of the chairman of the Board of County Commissioners, a representative of the Clerk of Court, and the heads of the major municipal law enforcement agencies operating in Lee County. In addition to these officials, Mr. Brooks Smith provides staff support to the committee and serves the Committee in an ongoing organizational and research capacity. According to knowledgeable sources, the Committee has played a key role in facilitating the development of a truly "systems" approach to addressing the jail overcrowding issue in Lee County.

[45]United States Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, (Washington, D.C.; 1971), p. 13

CHAPTER IX
THE VOLUSIA COUNTY CASE STUDY: A COUNTY-INITIATED MODEL OF EFFECTIVE JAIL POPULATION MANAGEMENT

INTRODUCTION

This chapter describes the multi-faceted, multi-agency reform process undertaken in Volusia County over the 1985-1991 period that has enabled the county government and the criminal courts to more effectively manage the growth in the local jail population. After briefly describing the organization of the Volusia County criminal justice system, the chapter details the unprecedented population growth experienced by the Volusia County jail system over the 1985-1989 period, and the several factors that accounted for such growth. Attention next is focussed on the process of reform, and the leadership exercised by key state and local officials who exercise criminal justice-related responsibilities within Volusia County. Lastly, the various managerial interventions that grew out of the reform process are described in detail, as are the several outcomes that have resulted from the implementation of these reform initiatives.

BACKGROUND

Organization of the Volusia County Criminal Justice System

Volusia County is the most populous county in Florida's 7th Judicial Circuit. As with most other counties in the state, it is served by a circuit and a county court, an elected clerk of court, and a state attorney and public defender who are elected circuit-wide. Law enforcement responsibilities are shared by an elected sheriff and a number of municipal law enforcement agencies, of which the Daytona Beach Police Department is the largest. Despite these similarities, the structure of the local criminal justice system is somewhat different from other Florida counties in a number of respects. First, under the terms of the 1972 Volusia County Charter, the local jail is under the administrative authority of the Volusia County Department of Corrections (VCDOC), which is a line agency of county government organized under the office of the County Manager. Second, the circuit and county criminal courts are served by the Volusia County Department of Judicial Services (DJS). In addition to providing a full range of pretrial services to the criminal courts, DJS exercises defendant case management responsibilities, administers the program providing for the appointment and compensation of public defender conflict counsel, supervises the court witness management program, staffs first appearance and jail arraignment hearings, and coordinates substance abuse policies for Volusia County government. In so doing, the Department has come to play a key role in the jail population management initiatives that have been undertaken in Volusia County in recent years.

Volusia County is served by two jail facilities located adjacent to one another in the geographic center of the county, equidistant from the two major population centers of Deland and Daytona Beach. The older jail is a medium security, barracks-type correctional facility that is used to house primarily sentenced misdemeanants and low risk pretrial detainees. Constructed in the mid-1970's, this facility has a rated capacity of 595 beds. The

Volusia County Branch Jail was opened in December, 1986, with an initial capacity of 450 maximum security beds. Through a series of renovations beginning in the spring of 1988, capacity was increased to 900 through double bunking as the county attempted to grapple with unprecedented increases in arrests and jail admissions. Currently, the Branch Jail is used to house both felony and misdemeanor defendants pending the disposition of their cases.

The Impetus for Reform: Dynamics of Jail Population Growth

Volusia County has traditionally been recognized as a "high incarceration" county as measured by the size of the local jail population relative to general county population.[1] Thus, through the 1986-1989 period, Volusia consistently evidenced a higher incarceration rate than its neighboring counties as well as counties of similar size (see Tables VC-1 through VC-3). In fact, by 1989, Volusia ranked second in the state in terms of its local incarceration rate, with nearly four inmates per 1,000 county residents, and first in the state in terms of the number of pretrial detainees per capita. At that time, only Orange County experienced a higher overall incarceration rate (4.43 inmates per 1,000 residents).[2] Underpinning this ranking was an approximate doubling in the local incarceration rate over the 1984-1989 period, as the number of jail admissions rose from 9,850 to 20,698. During the four year period extending from 1986 through 1989, the growth in Volusia County's jail population and incarceration rate substantially outstripped corresponding increases in county population, arrests, crime clearances, and law enforcement resources (see Table VC-4). As noted in Table VC-4, during the same time that its jail population grew by nearly 63%, the crime rate in Volusia County posted a decline of approximately 6%.

The consequences for the Volusia County government stemming from local jail population increases were serious as measured by levels of jail overcrowding and resource allocations made to the VCDOC. As noted in Table VC-5, local jail populations in Volusia County over the 1986-1989 period consistently exceeded the rated capacity of local facilities, thus threatening to reactivate a federal court suit initiated in 1978 and exposing the County to the possibility of state court action under the guise of the Arias consent decree.[3] Beyond this, growth in the local jail population was accompanied by unprecedented increases in jail spending by Volusia County. As noted in Table VC-5, Volusia County reported nearly $11 million fiscal year 1989 jail expenditures, which represented an increase of 46% over fiscal 1985 spending levels. Over this period, Volusia County consistently allocated approximately 20% of its ad valorem revenues to local jail operations.[4]

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[1]Edelstein, C.E., Volusia County Court Case Assignment and Pretrial Detention Study, Phase Two Report, Pretrial Detention Study, (Volusia County, Florida;July 21, 1990), p. 3

[2]Id., pp. 3, 22

[3]For a discussion of the Arias case, see pp. 61-64, supra.

[4]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida: A Fiscal Impact and Explanatory Analysis, (Tallahassee, Florida; September 1990), Appendices A & C.

Table VC-1
Comparison of Volusia County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1986

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Volusia	319,018	851	2.7	7,344.1	14.4	58.3	72.7	23.6	2.2	34.2
					Similar Sized Counties					
Escambia	273,018	822	3.0	6,989.3	20.3	35.5	55.8	26.1	1.5	7.9
Lee	277,375	461	1.7	5,181.8	10.9	42.2	53.1	43.7	1.5	5.5
Pasco	245,093	267	1.1	5,181.3	10.7	20.8	31.5	24.5	1.3	4.5
Polk	377,583	690	1.8	8,041.9	14.8	22.9	37.7	25.6	1.7	4.3
					Neighboring Counties					
Brevard	357,033	326	0.9	6,487.4	12.5	38.5	51.0	21.1	1.6	6.1
Flagler	17,482	24	1.4	3,866.8	16.7	53.7	70.4	37.3	2.2	34.9
Lake	130,079	192	1.5	4,588.7	10.8	17.3	28.1	30.4	1.7	6.2
Putnam	58,480	98	1.7	6,503.1	12.7	21.3	34.0	26.1	1.7	7.9
Seminole	241,293	303	1.3	5,723.7	10.9	18.4	29.3	24.1	1.7	7.9
					Large Population Counties					
Broward	2,249,200	1,718	1.5	8,247.4	13.6	43.1	56.7	22.1	2.4	13.5
Dade	1,776,099	3,320	1.9	12,003.3	24.2	37.0	61.1	18.1	2.6	3.8
Statewide Average	173,997	314	1.7	5,150.5	13.1	40.1	53.2	28.4	1.8	14.4

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table VC-2
Comparison of Volusia County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1987

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Volusia	330,939	1,029	3.1	7,616.5	13.0	41.3	54.2	29.9	1.8	7.1
					Similar Sized Counties					
Escambia	278,419	842	3.0	6,655.4	20.4	38.7	59.1	33.1	1.4	11.9
Lee	293,713	595	2.0	4,558.9	10.9	44.6	55.4	36.0	1.5	7.2
Pasco	254,696	286	1.1	5,337.7	12.3	22.8	35.1	31.0	1.3	6.3
Polk	389,056	772	2.0	8,870.2	16.3	28.3	44.6	31.4	1.8	5.4
					Neighboring Counties					
Brevard	371,735	549	1.5	6,575.9	13.0	41.3	54.2	29.9	1.8	7.1
Flagler	19,243	29	1.5	4,198.9	15.7	49.2	64.9	43.7	2.2	19.7
Lake	137,138	215	1.6	4,611.4	10.7	20.3	31.0	32.2	1.8	7.4
Putnam	62,476	127	2.0	6,501.7	14.1	26.3	40.4	38.4	1.5	9.8
Seminole	254,837	364	1.4	5,806.1	10.3	19.2	29.6	26.2	1.7	8.7
					Large Population Counties					
Broward	2,280,985	2,096	1.8	8,478.9	15.2	42.6	57.8	27.9	2.3	13.3
Dade	1,802,427	3,821	2.1	12,523.1	20.7	44.8	65.6	21.0	2.6	7.2
Statewide Average	179,790	367	2.0	5,338.5	14.2	42.9	57.1	36.8	1.8	16.9

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table VC-3
Comparison of Volusia County to Similar-Sized and Neighboring Counties
In Terms of Jail Population, Crime, and Law Enforcement Measures*
1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Part 1 Arrest Rate	Part 2 Arrest Rate	Total Arrest Rate	Crime Clearance Rate	Law Enforcement Officer Rate	Non-County Resident Arrest Rate
Volusia	360,049	1,384	3.8	6,937.9	13.1	53.9	67.0	22.7	2.4	22.9
					Similar Sized Counties					
Escambia	285,423	1,044	3.7	8,599.9	20.9	47.5	68.3	22.2	1.4	5.8
Lee	324,520	718	2.2	4,916.5	11.4	27.8	39.2	28.1	1.6	2.8
Pasco	272,422	297	1.1	4,710.7	9.2	28.7	37.9	23.6	1.3	5.9
Polk	410,863	1,189	2.9	9,926.2	14.1	29.4	43.5	19.2	1.9	3.1
					Neighboring Counties					
Brevard	403,500	719	1.8	6,571.7	11.0	42.0	52.9	20.1	1.8	4.4
Flagler	23,911	36	1.5	3,789.1	10.0	35.8	45.8	36.1	2.2	18.2
Lake	146,333	272	1.9	5,191.6	9.6	22.6	32.2	25.5	2.0	6.5
Putnam	62,828	182	2.9	8,712.7	13.2	14.3	27.5	30.1	1.7	3.1
Seminole	281,049	602	2.1	6,148.0	12.1	29.1	41.2	19.9	1.7	9.2
					Large Population Counties					
Broward	1,242,448	3,055	2.5	8,738.2	13.5	34.9	48.4	21.8	2.6	6.0
Dade	1,873,078	5,162	2.8	13,970.1	24.4	49.9	74.3	18.9	2.7	2.7
Statewide Average	191,005	493	2.5	5,304.4	12.0	35.9	47.9	31.1	1.9	9.2

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

Table VC-4
Comparison of Volusia County to Similar-Sized and Neighboring Counties
In Terms of Growth in Jail Population, Crime, and Law Enforcement Measures*
1986-1989

County	Population	Average Daily Jail Population	Incarceration Rate	Crime Rate	Number of Part 1 Arrests	Number of Part 2 Arrests	Total Number of Arrests	Number of Crimes Cleared	Number of Law Enforcement Officers	Number of Non-County Resident Arrests
Volusia	12.9%	62.6%	44.1%	-5.5%	2.9%	4.3%	4.0%	2.6%	23.4%	-27.4%
Similar Sized Counties										
Escambia	4.5%	27.0%	21.5%	23.0%	7.3%	39.9%	28.0%	9.3%	0.3%	-40.2%
Lee	17.0	55.8	33.1	-5.1	21.8	-22.8	-13.6	-28.6	24.8	-30.8
Pasco	11.2	11.2	0.1	-9.1	-4.4	53.4	33.8	-2.7	15.2	8.4
Polk	8.8	72.3	58.4	23.4	3.5	29.8	25.6	0.6	23.2	-36.7
Neighboring Counties										
Brevard	13.0%	120.6%	95.2%	1.3%	-0.5%	23.1%	17.3%	4.0%	27.8%	-31.7%
Flagler	36.8	50.0	9.7	-2.0	-18.1	-8.7	-11.0	29.8	33.3	-19.8
Lake	12.5	41.7	25.9	13.1	0.4	46.9	29.0	6.9	31.8	-8.3
Putnam	7.4	85.7	72.9	34.0	11.7	-27.9	-13.1	65.9	16.7	-57.1
Seminole	16.5	98.7	70.6	7.4	19.2	84.1	63.6	3.4	15.7	-16.9
Large Population Counties										
Broward	8.1%	77.8%	64.5%	5.6%	6.8%	-12.4%	-7.8%	13.2%	16.0%	-48.0%
Dade	5.5	55.5	47.4	16.4	6.1	42.4	28.0	28.0	8.9	-41.5
Statewide Average	10.8%	71.8%	55.5%	2.8%	8.1%	7.0%	5.1%	25.0%	16.8%	-25.1%

* Jail population data provided by Florida Department of Corrections, Office of the Inspector General. Crime and law enforcement data provided by the Florida Department of Law Enforcement. County population data represent official state estimates published by the Bureau of Economic and Business Research, University of Florida. "Incarceration Rate" represents the average daily population of the local jail per 1,000 county residents. "Crime Rate" represents the number of reported Part I and Part II crimes within a county per 100,000 county residents. "Part I Arrest Rate" represents the number of arrests per 100,000 county residents that involve the major offenses of murder, forcible sex, robbery, aggravated assualt, burgulary, larceny, and motor vehicle theft. "Part II Arrest Rate" represents the number of arrests per 100,000 residents that involve offenses other than Part I crimes. "Total Arrest Rate" represents the total number of arrests per 100,000 county residents that involve either Part I or Part II offenses. "Crime Clearance Rate" represents the percent of reported offenses that are reported as cleared by law enforcement. "Law Enforcement Officer Rate" represents the number of sworn law enforcement officers employed by county and municipal governments per 1,000 county residents. "Non-County Resident Arrest Rate" represents the number of arrests involving persons who do not reside in the county per 100,000 county residents.

TABLE VC-5

Jail Population, Rated Facility Capacity, and County Jail Expenditures for Volusia County, 1985-1991

Year	Average Daily Jail Population	Rated Jail Capacity	Total County Jail Expenditures	Jail Expenditures As A Percent of Ad Valorem Revenues
1985	784	N/A	$ 7,414,117	24%
1986	851	601	7,173,474	23%
1987	1,029	881	7,652,395	18%
1988	1,289	1,158	9,500,340	20%
1989	1,384	1,366	10,840,139	20%
1990	1,127	1,494	N/A	N/A
1991	1,036	1,494	N/A	N/A

Source: Jail population and rated capacity data provided by the Florida Department of Corrections, County Jail Facilities: Annual Reports, various years (Tallahassee, Fla.: Department of Corrections).
Jail Expenditure data provided by the Florida Advisory Council on Intergovernmental Relations, County Jails in Florida: A Fiscal Impact and Explanatory Analysis (Tallahassee, Fl.: ACIR; September 1990)

Factors Accounting for Local Jail Population Growth

Insight into Volusia County's traditionally high incarceration rate and the jail population increases underlying this phenomena can be gained by inspecting Tables VC-1 through VC-3, which present various crime and arrest measures for Volusia and selected other counties over the 1986-1989 period. On the one hand, the data indicate that while Volusia County consistently experienced a relatively high rate of reported serious crime in comparison with similarly-sized and neighboring counties over the 4 year period at focus, it ranked in the middle of the distribution in terms of the arrest rate for serious crimes (Part I Arrest Rate). On the other hand, Volusia consistently evidenced higher rates of arrest for less serious crimes (Part II Arrest Rate) and total arrests (Total Arrest Rate). These patterns were highlighted in a report prepared by Professor Charles Edelstein, an independent consultant initially retained by Volusia County in 1986, which noted that arrest rates for liquor law, disorderly conduct, and disorderly intoxication offenses in Volusia were approximately 3 times the statewide average in 1987.[5] This tendency most likely is related to the nature of the tourism trade, with its heavy influx of college students each spring, and the large police presence in Volusia County. As related in Tables VC-1 through VC-3, Volusia County had more sworn law enforcement officers per county population and higher levels of non-resident arrests than many neighboring and similar sized counties over the course of the 1986-1989 period.

In addition to presenting a variety of findings and recommendations pertaining to the problem of local jail population growth in Volusia County, the series of reports submitted by Professor Edelstein provide insight into how the high rate of non-resident arrests and arrests for less serious offenses may have contributed to this problem. In reviewing various attributes of the pretrial release process, the Edelstein report took note of inefficiencies associated with the daily rotation of first appearance judges, an excessive reliance upon monetary bail by the courts, and an understaffed pretrial release program. Taken together, these factors contributed to the failure of many low risk defendants to secure release prior to case disposition, and delays in the release of many other defendants who eventually secured pretrial release.[6] In reporting these findings, Edelstein concluded that greater continuity in the assignment of judges to first appearance and expanded pretrial release options could result in the expedited release from jail of defendants who pose only marginal risks to the safety of the community. In turn, these releases would have the potential to affect a substantial decline in local jail populations, and consequently, reduced county expenditures on jail construction and operations.

In theory, non-resident arrest rates can account for differences in local jail populations insofar as criminal defendants with no ties to the community are unlikely candidates for non-monetary forms of pretrial release (eg. recognizance release; third party custody release), and therefore must often post bond in order to secure release pending

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[5]Edelstein, C.E., Phase 2 Report, p. 5.

[6]Edelstein, C.E., Volusia County Court Case Assignment And Pretrial Detention Study, Phase One Report, County Court Case Assignment Study, (Volusia County, Florida;May 18, 1990), pp.7-8; and Edelstein, C.E., Phase 2 Report, pp. 6-9.

trial.[7] Since a number of analyses have demonstrated that reliance upon monetary bail often precludes the release of many criminal defendants who cannot afford to post bond, and delays in the release of other persons who eventually secure bail,[8] jurisdictions with higher rates of non-resident arrests can be expected to have higher rates of incarceration than those with lower rates. While the data presented in Tables VC-1 through VC-3 indicate that Volusia County traditionally has experienced a high rate of non-resident arrests relative to neighboring and similar-sized counties, the Edelstein report noted that nine Florida counties experienced higher rates, and that many of these had substantially lower incarceration rates.[9] On the basis of these observations, it can be concluded that while the high rate of non-resident arrests experienced by Volusia County may partially account for its high incarceration rate, other factors also play a critical role in this regard.

In discussing other features of the Volusia criminal justice system that may have contributed to the high incarceration rate and the jail population growth underlying this measure, the Edelstein reports cited the lack of an integrated criminal justice information system, inefficiencies in the assignment of cases among court divisions, and the failure on the part of a number of judges to use first appearance hearings to dispose of relatively minor cases. Beyond these factors, certain policies and procedures adhered to by the state attorney and public defender in processing criminal cases from arrest through disposition also were viewed as problematic. In drawing attention to these factors, Edelstein noted that their combined effect was to contribute to higher rates of admissions and lengths of stay within jail than what ordinarily would be required to insure public safety and the appearance of defendants at trial.[10] The significance of these findings lay in the challenge they posed to the conventional wisdom that jail population increases were primarily a function of crime in various local communities comprising Volusia County. Instead, the Edelstein reports as well as other available information indicate that the problem of local jail overcrowding was traceable to a number of policies and procedures followed by agencies in processing criminal cases from arrest through disposition.

THE REFORM PROCESS

Over the 1985-1988 period, a comprehensive process of reform was initiated in Volusia County that came to reverse the historic trends that had affected its status as a high incarceration county. The initial seeds of this reform process were sewn by the work of the multi-agency Volusia County Criminal Justice Task Force, which was formed in 1985 and included representatives of all criminal justice agencies operating in the county.

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[7]Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures in Florida, pp. 56-58.

[8]See Correctional Services Group, Inc., Collier County Florida Integrative Corrections Strategic Development Plan, (Correctional Services Group, Inc.: St. Louis, Missouri; 1991), pp. I-15, I-16, V-15, V-16, and Appendix B; Florida Department of Community Affairs, Local Correctional Assistance Project for Escambia County, Florida, (Tallahassee, Florida; June 1984), pp.46-48.

[9]Edelstein, C.E., Phase 2 Report, pp.3, 5, 29-30.

[10]See Edelstein, Court Case Assignment Study, and Phase 2 Report, generally.

Under the vision of the Administrative Circuit Judge, the Director of the VCDOC, the Deputy County Manager, and the Public Defender, this task force began convening on a regular basis in order to discuss problems characterizing the administration of justice in Volusia County, and to identify short and long term strategies for addressing these. Within a short period of time, the Volusia County Council had thrown its substantial weight behind a series of criminal justice reforms emanating from the task force. These reforms were designed to enhance the Council's ability to manage the growth in the local jail population in a manner consistent with both public safety and the County's ability to fund jail construction and operations. Augmenting the Council's efforts in this regard were the individual initiatives undertaken by members of the judiciary, county administration, and a newly elected state attorney, each of whom who was committed to improving system efficiencies. As the process of reform proceeded, the sequence of reports submitted by Professor Edelstein played a key role not only in setting the agenda for reform, but in motivating various affected parties to become involved in the process thereof.

The impetus for stepped up County involvement in jail population management initiatives is traceable to 1986. At that time, the administration of VCDOC brought to the attention of the Volusia County Council and its administration certain aspects of the local criminal justice system that were contributing to the rapid increases in the local jail population, and ultimately, facility overcrowding. Among the system features focussed upon were the limited abilities of the local criminal justice information system, inefficient processing of cases by various court system entities, and an absence of interagency coordination. Many of these same factors came to be cited in the 1987 report submitted by the consulting team headed by Professor Edelstein. At the same time that the County began grappling with the problem of system inefficiencies, local government officials recognized that a number of judges serving in the Volusia County courts were progressive in the sense of understanding the need for - and mechanics of - effective jail population management. By and large, this sensitivity was realized through an understanding of the experiences of other Florida jurisdictions that were in the process of addressing many of the same problems that had come to characterize the Volusia system.

As with a number of other Florida counties, the attention of Volusia County government to problems underlying the rapid rate of growth in the local jail population eventually was galvanized by the failure of the "buildout" solution to effectively address levels of overcrowding in local facilities. Thus, in response to chronic overcrowding at the main jail, Volusia County undertook an ambitious expansion program that culminated in the opening of a new branch jail in December, 1986. Originally designed to house 601 inmates, the population at the new jail expanded to within 10% of its rated capacity within 4 months of its opening, and remained at similar levels until May of 1988, when the facility exceeded its legal capacity. Although substantial numbers of additional beds were added to the facility in May and August of 1988 through double- bunking, the new jail continued to be characterized by population levels near or in excess of rated capacity through 1989. VCDOC administration had projected these patterns of growth prior to the construction program, which afforded it credibility with county management. Jail administration seized upon this opportunity by articulating the need for a series of reforms aimed at increasing the efficiency of the case processing system in order to address the root causes underlying the overcrowding problem. With the experience of the new facility prominently before

many officials, this sequence of events provided critical momentum to allow reforms to proceed.

At this early juncture, VCDOC was the primary entity concerned with local jail overcrowding, while members of the bench were concerned with court efficiency and meeting the rehabilitative needs of drug offenders. The several issues targeted for reform included an enhanced criminal justice information system, more efficient case processing by the state attorney and public defender, and reduced emphasis upon the use of pretrial detention by the state attorney. Beyond this, both county government and the judiciary saw the value of enhancing the existing pretrial release program as part of a reconfigured court services agency. At this time, an enhanced pretrial program was viewed primarily as increasing the rate of releases from jail, and not fulfilling the multifaceted role that it eventually came to serve.

As the process of reform evolved, a coordinated, multi-agency approach was realized. On the one hand, VCDOC administration enlisted the commitment and assistance of county administration and criminal justice information system staff. On the other, the judiciary brought the State Attorney, Public Defender, and the Clerk of the Court into the process. Under the leadership of Judge Edwin Sanders, Administrative Circuit Judge for Volusia County, the Volusia County Criminal Justice Advisory Committee was formed out of the Criminal Justice Task Force and its predecessor, the Jail Overcrowding Task Force. In addition to Judge Sanders, various court system entities were represented on the committee, including the State Attorney, Public Defender, Court Administrator, Clerk of the Court, and several circuit and county court judges. From the County side, membership extended to representatives of the Volusia County Council, County Administration, VCDOC, CJIS staff, and commencing in 1988, Judicial Services. Finally, the Volusia County Sheriff and the Volusia County Association of Chiefs of Police were represented on the Advisory Committee. In assuming the chairmanship of the task force, Judge Sanders used his power and influence to keep the group together and working cooperatively.

By mid-1988, the Criminal Justice Advisory Committee had developed a three-pronged approach to enhancing court efficiency and managing the growth in the local jail population. First, attention would be focussed on improving communication and coordination among various criminal justice system entities. In order to facilitate achievement of this objective, substantial enhancements to the local criminal justice information system were proposed. Second, the existing pretrial release program was targeted for revamping in order to broaden its mission beyond the conduct of pretrial release investigations and minimal supervision of released defendants. In so doing, the task force acknowledged that by expanding the role of this program to include certain case management and court staffing responsibilities, the efficiency of the wider court system would be improved substantially. Finally, the Advisory Committee proposed the creation of a Judicial Services Department that would enhance and coordinate county judicial programs and information systems. Projected to serve as the linchpin in the process of reform, such a department was viewed as providing an important communication link among the diverse agencies exercising criminal justice system responsibilities within Volusia County.

Notwithstanding the multi-agency approach that was realized through the workings of the Criminal Justice Advisory Committee, the individual leadership of key system actors was critical to the process of reform. Included here were members of the judiciary, who were very supportive of county and advisory committee efforts to adopt system wide reforms. In particular, Judge Edwin Sanders, Administrative Circuit Judge for Volusia County, played a critical role in this regard. In addition, Terry Moore was instrumental in galvanizing County involvement in the reform process in his capacity as Director of VCDOC. The State Attorney for the 7th Judicial Circuit, John Tanner, also was at the forefront of a number of initiatives designed to bring greater efficiency to the processing of criminal cases by the prosecution after his 1988 election. Included among these were the establishment of the intake unit, and the empowerment of assistant state attorneys to engage in plea negotiations at first appearance hearings in cases involving minor criminal offenses. Public Defender Jim Gibson, Chief Circuit Judge Kim Hammond and his successor in 1989, C. McFerrin Smith, III, completed the leadership team which guided the development of significant system-wide innovations. Finally, Volusia County Councilman Big John played a critical role in supporting comprehensive reform of the local criminal justice system, and was instrumental in the hiring of the outside consultant, Professor Charles Edelstein, in order to give shape and attach credibility to the reform movement.

DIMENSIONS OF REFORM

The process of reform that was initiated in the 1985 - 1988 period eventually led to the development and implementation of a number of programs, policies, and procedures in Volusia County. By and large, these interventions were designed to permit the County government and the criminal courts to more effectively manage the growth in the local jail population in a manner consistent with both public safety and the county's ability to fund a scarce and expensive resource - namely local jail beds. The following represents a description of the various initiatives that have been undertaken to date in this area. Following this, the discussion will turn to the impact that the various initiatives have had on the local jail population.

Law Enforcement Diversion Practices

The various local law enforcement agencies operating in Volusia County have implemented a number of policies and procedures that have the effect of diverting certain classes of cases from the jail. Included among these are public inebriates, mental health cases, municipal ordinance violations, and to a lesser extent, persons charged with relatively minor misdemeanor and municipal ordinance offenses. When implemented in a manner consistent with the safety of the community, these policies and procedures have had tangible effects upon the demand for bed space in the Volusia County jail system.

Diversion of Public Inebriates. The diversion from jail of persons arrested on public intoxication charges is relatively routine in Volusia County, provided that there are no aggravating circumstances associated with the case. The general practice is for the law enforcement officer to take the arrestee to the Stewart Treatment Center, a private, non-profit detox facility that is located adjacent to the jail. In the relatively few cases in which

public inebriates are brought to the jail, jail staff contacts the detox facility in order to determine whether sufficient space is available to house the arrestee. Where adequate space is available, jail staff transport the person to the detox center. Currently, all local law enforcement agencies operating in Volusia County use this diversionary procedure, which has been fostered by the positive, long term working relationship that exists between the detox center and the various law enforcement agencies operating in the County.

The detox center is funded jointly by the County and the Florida Department of Health and Rehabilitative Services (HRS), and makes limited use of user fees. In addition to freeing up jail beds that ordinarily would be used to house persons arrested on public intoxication charges for short periods of time, programs operated by the center have the additional effect of reducing the incidence of rearrests. Beyond the benefits accruing to Volusia County government from these reductions in the demand for local jail space, the presence of well organized and influential alcohol, drug abuse, and mental health treatment groups in the community provided impetus for the establishment of the detox center and its current diversionary functions.

While the number of jail beds "saved" through the diversion of public inebriates is rather limited due to the relatively low volume of cases and the relatively short periods of time that defendants picked up on public intoxication charges normally would remain detained, other tangible savings accrue to the local criminal justice community from the diversion programs. Thus, in addition to diversion from jail, persons picked up on public intoxication charges are diverted from prosecution, provided that no aggravating circumstances are present. This practice is supported by key agencies such as the State Attorney's office, the Public Defender, and the judiciary, for whom such diversion translates into caseload relief. Given the financial contributions it makes in support of criminal trial court operations, reduced caseloads also translate into Article V cost savings for Volusia County government.

Diversion of Mental Health Cases. Despite the ambitious diversion programs directed at public inebriates, VCDOC continues to house persons who suffer from mental health conditions. According to local officials, insufficient numbers of long term, state-funded mental health and local domiciliary beds have resulted in the lack of an institutional alternative to jail for persons with such conditions who have been arrested on criminal charges. Local government involvement in funding such alternatives has been limited due to official perceptions that the provision of mental health facilities is a state function.

Use of Notices to Appear. Considerable variation exists across local law enforcement agencies operating in Volusia County in terms of the use of notices to appear in lieu of arrest. On the one hand, municipal law enforcement agencies divert large numbers of municipal ordinance violators from jail through the use of noticing procedures. On the other hand, notices to appear are used to only a limited extent by the Volusia County Sheriff's office and by jail booking staff as authorized by rule 3.125 of the Florida Rules of Criminal Procedure. The use of this procedure by municipal law enforcement agencies is attributable in part to the $25 fee that is assessed by VCDOC against the arresting agency whenever a person charged with violating a municipal ordinance is booked into jail. This fee structure has been in place since the mid-1980's, and has proven to be effective in

encouraging more widespread and uniform use of notices to appear among Volusia County municipalities.

To a certain extent, the limited use of notices to appear by county law enforcement officers - who generally do not deal with municipal ordinance violations - has been offset by Judicial Services staff, who have been afforded direct release authority in certain cases by the courts. Under this procedure, pretrial services investigators conduct background investigations on detainees within a few hours of jail booking. Upon determining that the inmate meets criteria specified by the court, the detainee is released prior to the first appearance hearing. Release criteria currently used by Judicial Services staff emphasize the nature of the current charge, a defendant's criminal history and community ties, and any past record of having failed to appear in court.

Jail Case Management

While realized largely on an informal basis, Volusia County has developed a coordinated case management system that systematically identifies and attempts to overcome delays in the processing of criminal cases in which the defendant has been booked into and remains in jail subsequent to the first appearance hearing. This system is based upon monthly statistical reports generated by the VCDOC that relate the detention status of all pretrial defendants, their current location in the case processing continuum, and the scheduled timing of key proceedings such as arraignments. These statistical reports are run off the County's criminal justice information system (CJIS), which contains a variety of defendant-specific data ranging from criminal history to victim information. The CJIS data base is updated every six hours by VCDOC data entry operators in order to insure that the most current information is available to system users.

Information contained in the monthly statistical reports is used internally by VCDOC for purposes of inmate classification and identifying the jail status of individual defendants, and by the County's pretrial services agency in order to identify delays in the processing of cases in which the defendant has failed to secure pretrial release. Where such delays are identified, pretrial staff use the information in court hearings in order to encourage the prosecution and defense to take action in the hearing so as to overcome the delay. Information contained in the reports also is circulated to the court, the County Council, the jail review committee, and the offices of the State Attorney and Public Defender. DJS and VCDOC staff are instrumental in distributing the reports to these key actors.

Defendant case management efforts in Volusia County were instituted in the fall of 1990 at the behest of the Director of the Department of Judicial Services, who perceived a judicial need for such initiatives. While the county government funds the computer and staff resources allocated to this function, the cooperation of a wide variety of criminal justice system officials is necessary in order for the case management system to succeed in its overall goal of expediting the processing of detention cases through the courts. Among these include the state attorney, public defender, and the judiciary, who must be willing to take action on the basis of information generated by the VCDOC reports. While not required to do so, these court system officials have strong incentives to expedite cases insofar as they will realize benefits as their dockets are cleared at an accelerated pace.

County Criminal Justice Information System (CJIS)

The CJIS that serves as the basis for the jail case management initiatives currently undertaken in Volusia County was implemented in 1978 by the county governing body for use by the courts and VCDOC. As currently structured, CJIS contains a variety of information on all criminal defendants whose cases remain pending before the courts. Among the specific data elements contained in the CJIS data base are those pertaining to the criminal history and detention and case status of individual criminal defendants, the attorneys and judges assigned to specific cases, case and trial tracking information, and the scheduled time and location of upcoming court proceedings. While containing a wealth of key information on individual defendants, one Volusia County official noted that software capabilities currently available for extracting data from the system are cumbersome and time consuming, thereby limiting the managerial potential of CJIS. In order to address these problems, the county government is in the process of substantially expanding the capacity and capabilities of the system.

While a variety of criminal justice agencies access CJIS on a regular basis in order to facilitate the discharge of their responsibilities, its contribution to the County's efforts to manage the growth in the local jail population is realized primarily through DJS. More specifically, information available through CJIS enables the department to consolidate case-related information so that strategic decisions can be made concerning the processing of individual as well as broad classes of cases. For example, pretrial services staff use CJIS in order to generate information pertaining to such issues as the criminal history and court appearance record of individual defendants. This information then is used to make pretrial release and detention recommendations to the court at first appearance and subsequent proceedings. In addition, CJIS enables pretrial staff to identify and track all criminal cases pending against individual defendants. By providing such information to the court, pretrial services facilitates case consolidation insofar as trial judges are equipped to make decisions on multiple cases in a single hearing. When this is accomplished, the speed at which cases are processed by the courts increases substantially.

While the county funds and staffs CJIS operations, an inter-agency Criminal Justice Information Council approves all access to CJIS and procedures governing its use. Council membership includes the Chief Judge of the 7th Judicial Circuit, the County Manager, the Sheriff, and the Clerk of the Courts. Once formulated and agreed upon, policies and procedures are communicated to and implemented by a CJIS steering committee, which consists of representatives of system end-users. Included among the agencies with representation on the steering group are the offices of the Sheriff, state and county probation, the State Attorney and Public Defender, and VCDOC and DJS. In addition, CJIS staff have membership on the steering committee. These administrative arrangements reflect the extensive degree of inter-agency cooperation that is required in order to achieve a properly functioning, user-oriented criminal justice information system at the local level.

The Role of Jail Administration

The VCDOC has implemented a number of policies and procedures designed to control growth in its inmate population. Chief among these are the provision of jail census

data to the courts and State Attorney to assist in their attempts to speed the processing of certain types of cases in which the defendant remains detained pending case disposition. Current initiatives in this area are directed at identifying persons detained on civil contempt charges, defendants who face criminal charges in other jurisdictions, and persons facing misdemeanor charges. With respect to persons held on civil contempt charges, local officials note that the sole mechanism for affecting release from jail in such cases is through a judicial order. Once these cases are identified through computer-based jail census runs, Judicial Services staff notify the court on a regular basis (ie. every 3-7 days) in order to expedite the issuance of judicial release orders. Similar procedures are followed in the case of defendants who have holds placed on them by other jurisdictions, whereby jail census data is used to identify those cases for which local charges have been cleared up. Once identified and brought to the attention of VCDOC staff, contact is made with the other jurisdiction in order to expedite the release process so that the defendant can be transported thereto. Finally, jail staff develop a weekly status report on persons detained on misdemeanor charges. This information is communicated to the state attorney and the courts in order to expedite the processing of such cases. Local officials note that jail census data currently is not used to provide information on felony detainees insofar as the large number of criminal defendants held on felony charges would result in too lengthy a report.

Pretrial Services and Community Confinement

Although Volusia County initiated a pretrial release program in 1983, the unit offered only limited services and was inadequately funded prior to the system-wide reforms implemented after 1988. Thus, as late as June and July of 1987, program staff reportedly were able to conduct pretrial release investigations for only one-third of all jail bookings, and provided minimal information to the court at first appearance.[11] In addition, only 10-15% of all new arrestees were released to the supervision of the program at that time, and staff were unable to undertake follow-up reviews on defendants who failed to secure pretrial release at first appearance and discharge other responsibilities critical to effective program operation.[12] The marginal state of the pretrial program lead the independent consultant team headed by Professor Edelstein to recommend a number of changes designed to insure that the operation of a "full service" pretrial agency would be become a reality in Volusia county.[13]

As part of the reform process initiated in the 1985-1988 period, the Volusia County pretrial services program enjoyed a significant expansion in resources and functions. The impetus for this expansion was provided by the findings and recommendations submitted by the consultant team and through the efforts of various local officials. In particular, the newly appointed Director of the Department of Judicial Services, John H.

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[11]The EMT Group, Inc., Volusia County Florida: Recommendations for Improvement of Criminal Justice Processes, Technical Assistance Report, (Sacramento, California: The EMT Group; 1987), pp. 14-15.

[12]I
d, pp. 14-21.

[13]Id., pp. 2-3, 13-21.

DuPree, studied the operation of existing programs in Alachua, Orange, and Dade Counties, and was instrumental in organizing a statewide association of county pretrial services agencies. On the basis of the information generated through these efforts, local officials came to view pretrial services as fulfilling a much larger role than that pertaining to the release and supervision of criminal defendants. Under this broader conception, pretrial services was viewed as a gatekeeper for information on the criminal justice process, and as providing critical staffing to the courts not only at first appearance hearings, but at jail and other criminal arraignments as well. Additionally, expanded direct release authority, case management, and problem solving responsibilities also were targeted for the enhanced pretrial services program.

Currently, the Volusia pretrial services program is funded and administered by the County through the Department of Judicial Services, and is subject to the authority of both county administration and the courts. According to the program administrators, this proximity to the courts has been pivotal in garnering judicial support for the program, which in turn has increased the stature and role of pretrial services in the criminal justice community. In addition, the close working relationships that have been achieved with individual members of the criminal bench have been instrumental in the delegation of direct release authority to pretrial staff. Under this authority, pretrial services is authorized to release misdemeanor and third degree felony defendants who have ties to the local community and no extensive criminal history prior to first appearance without securing prior case-by-case approval from the court. This delegation of release authority was initially granted by a 1985 administrative order issued by the Circuit Chief Judge. More recently, the direct release authority extended to pretrial services was expanded to cover spring break students charged with misdemeanor offenses who do not necessarily have local ties to the Volusia area.

As a full service entity, the Volusia program provides a wide range of pretrial services to the criminal courts. In addition to exercising direct release authority, the program conducts pretrial release investigations for first appearance hearings and makes recommendations to the court at first appearance on issues of pretrial release and detention for all persons who have been booked into jail on misdemeanor, traffic, third degree felony, and felony drug possession offenses. Although not initiated during the jail booking process, the investigative work of conducting defendant interviews, criminal history record checks, and verifying information gathered from defendants all are completed and presented to the court along with recommendations pertaining to release prior to first appearance. While program administrators believe that the release process would be expedited if investigations were initiated during jail booking, the current "intervention point" is viewed to afford program staff sufficient time, in most cases, to generate and communicate to the court a proper evaluation of the risks that would be attendant upon the release of individual criminal defendants under various release conditions. Additionally, the assistance of pretrial services program staff at first appearance hearings has contributed to a significant number of case resolutions within 24 hours of arrest.

Beyond its investigatory responsibilities, pretrial services interviews defendants immediately once pretrial release has been secured in order to review forthcoming court proceedings and dates. In addition, pretrial staff field call-ins from released defendants

who have been directed to maintain weekly or more frequent contact with the program, and notify these and other defendants of pending court dates while they are on pretrial release. Insofar as many observers acknowledge that failures on the part of released defendants to appear at subsequent court proceedings often result from improper notification of upcoming court dates as well as inadvertent "client errors",[14] these procedures have proven effective in keeping failure to appear rates at manageable levels in Volusia County. The County's community confinement program augments these post-release activities by administering more intensive levels of supervision over released defendants as directed by the court. Under this procedure, the courts release criminal defendants to the supervision of community confinement, whereupon program staff perform field supervision over released defendants in order to monitor compliance with conditions of release established by the court. In the general case, field supervision involves staff visits to the residences and/or places of employment of released defendants in order to evaluate defendant behaviors while on pretrial release. Technological advances such as electronic monitoring and multi-drug urinalysis screenings have contributed to community confinement's successful record at insuring the defendant's appearance in court and compliance with other conditions of release.

In addition to performing duties relevant to the release and community supervision of criminal defendants, the Volusia County pretrial services program performs a number of other duties and responsibilities that facilitate the processing of criminal cases by the courts. Included among these is the operation of a case tracking system, through which information pertaining to the case status of detained defendants is provided to the court, the prosecution, and the Public Defender's office. This function is valuable in identifying and overcoming delays in the processing of criminal cases in which the defendant is booked into and remains in jail subsequent to first appearance. Other duties and responsibilities of pretrial services are the daily provision of general management support to first appearance hearings, and staffing criminal arraignments and other hearings in order to expedite the release of defendants who undergo a change of status that impacts upon their eligibility for pretrial release. Finally, the program provides a number of services for released defendants, including the coordination of social, health, and substance abuse treatment service referrals.

As related in Table VC-6, staffing and budgetary levels for the pretrial services and community confinement programs have grown substantially in the recent past, to the point at which the programs employed 14 professional staff and had a combined budget of $580,000 in fiscal year 1991. In that year, pretrial services staff performed a total of 2,443 pretrial release investigations, and provided managerial support to the court at each first appearance hearing, which are held on a daily, 7 days per week basis. In terms of outcome measures, the pretrial release program experienced a 1991 failure to appear rate of 10.0%, while the corresponding rate for community confinement was 3.2%.

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[14]Chaudhari, M. Why Defendants Fail To Appear: An Exploratory Review, Presented at the 1986 Annual Meeting of the National Association of Pretrial Services Agencies; See Also Handberg, R., The Impact of Failures to Appear on Florida's Criminal Justice System, report prepared for the Florida Legislature under the direction and oversight of the Florida Bail Bond Regulatory Board, (Tallahassee, Florida: Florida Bail Bond Regulatory Board; 1990).

TABLE VC-6

Budgetary and Staffing Levels for the Volusia County Pretrial Services Program: Fiscal Years 1987-1991

Fiscal Year	Annual Budget	Number of Professional Staff
1987	$140,000	5
1988	$190,000	6
1989	$460,000	11
1990	$530,000	12
1991	$580,000	14

Source: Volusia County Department of Judicial Services.

Court Delay Reduction Initiatives

Through the work of the Volusia County Criminal Justice Task Force, its successors, and the individual leadership exercised by certain key officials, a number of court delay reduction initiatives have been implemented by various criminal justice system entities operating in Volusia County in recent years. By and large, these initiatives have been designed to reduce delays in the processing of criminal cases through the court system, and thereby decrease the length of stay of those defendants who are booked into the local jail system. While a number of entities have been involved in the development of these "court delay reduction" efforts, primary responsibility for the implementation of these has rested with the judiciary, and the offices of the State Attorney and Public Defender. Facilitated and augmented by enhanced criminal justice information system capabilities and the multi-faceted roles fulfilled by DJS and the pretrial services program, these initiatives have made a substantial contribution to more effective management of local jail population growth in Volusia County.

State Attorney and Public Defender Initiatives. Upon the 1988 election of John Tanner, the office of the State Attorney for the 7th Judicial Circuit implemented a number of initiatives designed to expedite the processing of criminal cases through the courts. Of particular import in this regard was the 1989 establishment of a state attorney intake unit, in which seasoned prosecuting attorney's are given responsibility for screening charges lodged against newly arrested persons at the jail, and making charging and filing decisions within a few days of jail booking. Widely advocated by criminal justice system experts, this expedited intake function promotes the early dismissal or reduction of charges against a defendant where evidence indicates that the original charges contained in the arresting officer's report will not hold up. In addition to reducing prosecution caseloads early-on in the process, such early case screening has proven effective in reducing the incidence and length of detention for defendants whose charges ultimately would have been dropped or reduced by the State Attorney's office.

In addition to establishing an intake unit, the Office of the State Attorney in 1989 and 1990 implemented several procedures designed to single out for expedited processing those cases in which the defendant fails to secure pretrial release. Among the specific steps taken in this regard are the consolidation of additional charges found pending against a defendant after arrest and jail booking, which helps avoid extending a defendant's length of stay in jail after the resolution of a single case. In the absence of such consolidation, the length of pretrial detention may be extended pending the disposition of other charges pending against the defendant. In addition, the prosecution regularly holds pretrial conferences with the court and the defense following the first appearance hearing in order to communicate their intentions to reduce charges in weak cases and to speed the process of plea negotiations. Finally, the State Attorney's office systematically attempts to "fast track" detention cases. Under this procedure, cases in which the defendant remains detained subsequent to the first appearance hearing are identified and singled out for speedy resolution through such procedures as expedited information filing and the acceleration of other key decision points in the case-processing continuum.

Beyond these initiatives, the State Attorney's office has implemented - in conjunction with the Public Defender and the criminal courts - automatic discovery procedures.[15] As practiced in both Volusia County and a number of other jurisdictions in the state, these procedures have proven effective in overcoming lags in the processing of criminal cases that are attributable to the inherent delays attendant upon filing and responding to discovery requests on a case by case basis. In addition, the State Attorney in 1989 adopted policies and procedures designed to limit the frequency and extent of case continuances. Again, the objective behind these policies and procedures is to reduce delays in the processing of criminal cases, and thereby decrease the length of stay for defendants who remain detained in jail during the pendency of their case. Finally, the State Attorney's office has expanded its use of diversion programs such as Pretrial Intervention (PTI). Under this program, defendants charged with a minor offense and who have no substantial criminal history are offered a chance to avoid further judicial action if certain conditions are met and there is no future criminal activity. An indication of the result of these efforts is the reduction in average time from booking to arraignment from 35.7 days in January, 1989 to 25.1 days in January, 1992.

In contrast to the impetus for prosecutorial reforms that was provided by the 1989 turnover in the office of the state attorney, the Public Defender for the 7th Judicial Circuit traditionally has attempted to systematically undertake early case screening and review, which normally extends to the assignment of counsel and making initial contact with criminal defendants within 24 hours of arrest and jail booking. In addition, the Public Defender regularly attempts to initiate case review and investigation and, where appropriate, begin the plea negotiation process during this critical time frame. Finally, the Office of the Public Defender engages in automatic discovery procedures and post-first appearance bench conferences with the State Attorney, and has adopted policies and procedures to limit the use of case continuances.

Judicial Initiatives. Beyond the leadership provided for the overall process of reform, the Volusia County judiciary has implemented a number of policies and procedures designed to reduce delays in the processing of criminal cases by the courts. Thus, the judiciary has taken steps to expedite the pretrial release process through the promulgation of a uniform bond schedule, and in 1989 expanded the authority for pretrial services staff to release criminal defendants prior to first appearance. In addition, a "blind filing system"[16] for assigning cases among court divisions was adopted in 1989, and greater continuity was provided for in judicial coverage of first appearance hearings through a weekly rotation system. Beyond these actions, the judiciary has cooperated with the DJS in its attempts to limit the incidence and length of continuances by both the defense and the prosecution in

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[15]In the general case, automatic discovery procedures involve an agreement between the state attorney and public defender to share discovery-related information without the necessity of submitting discovery requests on an individual case-by-case basis.

[16]Under the blind filing system adopted in Volusia County, computer-based technology is used to assign cases to trial judges on a random, evenly distributed basis. This system initially was proposed by Professor Edelstein in order to address the uneven distribution of cases across judges and court divisions that was attendant upon an alphabetically-based case assignment process.

criminal cases.

Among the most important initiatives undertaken by the Volusia County judiciary in the area of court delay reduction has been its cooperation with the efforts of the State Attorney, Public Defender, and pretrial services to expedite the plea agreement process. Under this procedure, first appearance hearings in Volusia County increasingly have been used to identify, and consider the acceptance of pleas by, those defendants who reasonably can be diverted from further penetration of the criminal justice system. As a result of this practice, the number of persons whose cases are resolved within 24 hours of arrest increased more than ten-fold in 1990, to an annualized figure of 2200. More recent data available from DJS indicate that first appearance hearings in Volusia County continue to be used to dispose of large numbers of minor criminal cases, with a total of 2,221 pleas accepted by sitting magistrates in 1991.

Additionally, daily jail arraignments are held to give a "second look" at defendants who remain in jail after first appearance hearings. These hearings, held at the jail, allow the attorneys and judiciary to consider defendants who have been held for three to five days after their initial appearance but might qualify for case disposition, bond reduction or pretrial release consideration. A significant result of jail arraignments has been the effective prevention of "losing" defendants in the system.

OUTCOMES OF THE REFORM PROCESS

The multi-faceted, multi-agency reform process that has been underway in Volusia County since the mid-1980s has resulted in substantial reductions in the local jail population from preexisting levels, and has gained national recognition for Volusia county government.[17] In turn, better management of local jail population growth has helped the county government avoid becoming subject to state and federal litigation as a result of overcrowded facilities, and has generated substantial savings in resource allocations to jail construction and operations. According to local officials, these benefits far exceed any direct and indirect costs associated with the development and implementation of the series of reforms that have been undertaken in recent years.

In terms of improving the ability of county government and the courts to manage growth in the local jail population, Table VC-7 indicates that the average daily population of Volusia County's jail facilities decreased by well over 200 inmates during 1990, the first

[17]In 1991, the Volusia County Department of Corrections was recognized by the National Association of Counties (NACO) for innovative corrections programming. More specifically, the Department's Jail Population Management Program was honored for its demonstrated ability to effectively control the size of the local jail population. In granting this award, NACO pointed to the program's successes in deferring construction of a new jail and saving local taxpayers $78 million in jail construction and operating costs. In addition, the Department was recognized for its mental health diversion program, whereby diversion into a treatment program is substituted for jail confinement for individuals with mental health problems. See the Volusia County Department of Corrections 1991 Annual Report, (DeLand Florida: Volusia County Department of Corrections; 1992), pp. 1-2.

TABLE VC-7

Average Daily Jail Population in Relation to Available Jail Capacity for Volusia County: 1985-1991

Year	Rated Jail Capacity	Average Daily Population	Number of Inmates Over/Under Capacity	Percent Over/ Under Capacity
1985	N/A	784	N/A	N/A
1986	601	851	+250	+42%
1987	881	1,029	+148	+17%
1988	1,158	1,289	+131	+11%
1989	1,366	1,384	+18	+ 1%
1990	1,494	1,127	-367	-25%
1991	1,494	1,036	-458	-31%

Source: Florida Department of Corrections, County Detention Facilities: Annual Report, various years (Tallahassee, Florida: Department of Corrections).

year in which full scale reforms were in place. Over the course of 1991, an additional population reduction of approximately 90 inmates was realized. As Table VC-7 relates, these population reductions have effectively addressed levels of local jail overcrowding in the Volusia County system. In contrast to the substantial levels of overcrowding evidenced in the 1985-1989 period, available jail space exceeded the average daily population by over 30% in 1991, and as recently as January, 1992. The county experienced a surplus of over 400 beds.

In addition to effectively addressing the chronic overcrowding that traditionally had characterized the Volusia County jail system, the jail population reductions resulting from the reform process have generated substantial cost savings to the County. Thus, VCDOC returned $1.5 million to the Volusia County Council at the close of fiscal year 1990 as a result of reduced jail operating costs. This return represented a savings of nearly 15% over the $10.8 million in expenditures made by Volusia County government in support of jail operations in fiscal 1989.[18] Moreover, it is clear that cost savings of similar magnitude continue to be realized at the local level. Thus, local officials attribute over $600,000 in detention cost savings over the first six months of fiscal 1992 to the operation of the pretrial services and community confinement programs alone.[19]

In addition to reduced costs associated with the operation of existing jail facilities, the series of reforms implemented in Volusia County has enabled the county government to shelve plans to add additional capacity to the local jail system. As recently as 1988, the county council was actively engaged in planning for the construction of a new 600 bed jail. Given the population reductions affected by the series of reforms that have been implemented, these plans have been shelved at an estimated savings of over $16 million to local taxpayers. Beyond these costs savings, Volusia County recently has taken steps to generate revenues by leasing excess jail capacity to other governmental entities. Included among these efforts are plans to use maximum security beds in the branch jail to house state prisoners under contract with the Florida Department of Corrections, and to enter into an intergovernmental agreement with the U.S. Marshal's service that would make local jail space available to house federal prisoners awaiting trial in Federal District Court. Under both of these arrangements, the County would be reimbursed on a per diem basis for the costs of housing these prisoners.

SUMMARY

As a result of unprecedented increases in its local jail population - increases that substantially outstripped corresponding growth in the rate and incidence of crime and arrests - the county council and other state and local government entities involved with criminal justice administration in Volusia County embarked on a comprehensive reform process beginning in the mid-1980's. By engaging in this process, criminal justice system

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[18]See Florida Advisory Council on Intergovernmental Relations, County Jail Expenditures. Detailed expenditure data pertaining to county jails are contained in the appendices to the Council's 1990 report.

[19]Testimony of Circuit Judge Edwin Sanders before the House Corrections Committee of the Florida Legislature, February 10, 1992.

leaders sought to identify, develop, and implement a series of policies and procedures that would permit more effective management of the growth in the local jail populations in a manner consistent with both public safety and the ability of the county government to fund jail construction and operations. Initially provided impetus by the leadership of key members of the judiciary and the failure of the "build-out" solution to effectively address chronic jail overcrowding, the reform process took the form of a multi-agency, multi-faceted approach that resulted in the implementation of a series of managerial initiatives beginning early in 1989. In the end, these reforms not only reversed existing patterns of growth in local jail populations and levels of jail spending, but also hold the promise of turning local jail operations into a revenue producing entity for Volusia County government.

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