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PROGRAM BRIEF

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Information Guide for Elected Officials, Judges,
Corrections Officials, and Concerned Criminal Justice Personnel

JAIL OVERCROWDING/ALTERNATIVES TO PRETRIAL DETENTION

Jail Overcrowding/Alternatives To Pretrial Detention

CONTENTS OF THIS BRIEF

PREPARED IN CONJUNCTION WITH
REGULATIONS IMPLEMENTING THE
JUSTICE ASSISTANCE ACT OF 1984

98251

U.S. Department of Justice
National Institute of Justice

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I. INTRODUCTION

A. Purpose

Jail overcrowding is a long-standing problem in many communities and becomes more widespread each year. In response, the Congress authorized funds and technical assistance, made available under the Justice Assistance Act of 1984, to be used for, among other things, programs which provide alternatives to pretrial detention and which alleviate jail overcrowding. This Program Brief synthesizes the results of research and demonstration projects aimed at reducing jail overcrowding, and provides guidance for those jurisdictions choosing to implement a program of proven effectiveness with funding assistance provided under the Act.

B. Scope of Problem

Jail overcrowding often stems from inappropriate policies for determining who is to be placed in jail and for what period. Although some jails are too small to satisfy community needs, it is often an inefficient use of public funds to build or expand until a thorough analysis of jail policy and usage is conducted to determine long-term needs.

The 1978 National Jail Census revealed that, based upon the proposed standard of 60 square feet per inmate, half of the inmates in local jails in the United States were housed in substandard conditions. Tensions spawned by crowded living conditions and the inability of jail officials to properly classify inmates often led to unnecessary violence and death. In some institutions, juveniles were still being housed in adult jails on a temporary or permanent basis.

The problem has already reached crisis proportions. Courts have held that aggrieved inmates and civil rights groups can sue local governments for substandard jail conditions, and for the injuries suffered during incarceration. "Good faith" efforts to manage an overcrowded jail are no bar against substantial awards.

Courts also are increasingly granting injunctive relief in response to crowding. It is estimated that at least 20 percent of local jails in the United States currently are involved in litigation, or are under court order to reduce crowding or otherwise improve jail conditions.

II. HISTORY OF THE PROGRAM

Against this background, the Department of Justice initiated a research program in 1973, and an action program in 1978 to assist local communities facing a jail crisis.

A. Research Phase

A five-year research effort (1973 through 1977) sponsored by the National Institute of Law Enforcement and Criminal Justice produced a five-volume series, "Instead of Jail," authored by the American Justice Institute, Sacramento. The research outlined the full range of alternatives to jail (diversion, pretrial release, and sentencing options). Monographs concerning the "Central Intake Program" and "Citation Release" followed.

B. Action Program Structure

The action program tested the system-wide planning approach to alleviate jail overcrowding over four years at 21 sites. A three-year evaluation showed that the project sites did a better job than non-project (control) sites in screening pretrial detainees and developing alternatives that saved thousands of jail days. The evaluation also showed that FTA (failure-to-appear) and rearrest rates at project sites were slightly lower than at non-project sites.

C. Standards

Most important has been the development of standards for local detention facilities. (See "Manual of Standards for Adult Local Detention Facilities"; Commission on Accreditation for Corrections; Rockville, Maryland; December, 1977.) These standards cover such topics as administration, organization, and management (philosophy, goals, or purposes of the facility; an operations manual); personnel (personnel policy manual, affirmative action); training; physical plant ("minimum of 50 square feet per inmate for holding cells"); new facilities (all cells single-occupancy, 70 square feet floor space); medical and health services; and supervision of inmates.

The National Advisory Commission on Criminal Justice Standards and Goals has promulgated standards relating to jail alternatives in the volumes on "Courts" and "Corrections." Case screening, diversion, pretrial release, pretrial services, and programs for pretrial detainees are addressed.

Standards for pretrial release also have been developed by the National Association for Pretrial Service Agencies (NAPSA) and the American Bar Association. Both of these efforts deal specifically with many approaches identified by the Jail Overcrowding Program, including the increased use of citations and summonses, and the expansion and speedier implementation of non-financial, pretrial release options.

All of the standards emphasize the importance of keeping juveniles out of adult detention facilities, and of providing appropriate juvenile detention facilities.

Under the Civil Rights of Institutionalized Persons Act of 1979, the Justice Department is obligated to bring suit against state and local institutions where there is widespread and persistent abuse of inmates' constitutional rights. The Justice Department has fostered the development of jail standards to serve as a guide for state and local corrections agencies.

III. IMPLEMENTATION

A. Phase I - Planning

- A system-wide Jail Policy or Advisory Board should be created consisting of elected officials and the heads of all agencies that impact upon the jail population. Representatives from special interest groups, including victim/witness service organizations, and the public at large might also be included. The Board serves as a forum for developing pretrial and jail intake policies.
- The Board should designate a project coordinator and a data collection team to collect and analyze jail data. The project coordinator should develop a data collection plan that is feasible from both a technical and political standpoint. Data are collected; potential target groups in the jail are identified; an analysis is completed. (No major decisions on construction/renovation should be made before the data analysis is completed.) The data should confirm that no juveniles are being housed in adult jails.
- The Board should review the data on the causes of jail overcrowding and the proposed remedies, and then assign priorities to implement remedial actions. This information is formally called a Jail Population Management Plan.
- Project staff and Board members may find it helpful to confer with model jail sites or jurisdictions that already have implemented the alternatives under consideration.
- A formal project evaluation plan should then be developed to measure results.

B. Phase II - Implementation

- Maintain involvement of all components by creating special inter-agency task forces, including victim/witness service organizations. Each task force should be charged with implementing a specific element of the plan.
- Improve the Jail Management Information System (manual or automated) to provide periodic reports on the jail population to the jail commander, corrections administrators, and the courts.
- Phase in "central intake" operation, incorporating police citation screening, pretrial release screening, booking, prosecutor screening and charge decision, public defender representation, and jail intake/classification. With instant access to "rap" sheets and on-site or on-call representation 24 hours a day, key decisions can be made within 24 to 48 hours.

- Monitor the system's efficiency and cost saving measures, including: citations issued; jail average daily population (ADP); average pretrial population; number of bookings; average length-of-stay (LOS) for both pretrial and sentenced offenders; number of charges filed; budget trends for police overtime; transportation costs; jail administration; etc. The information is for use by the Policy/Advisory Board. Other monitoring information that might be helpful to the Board includes: number of rearrests of those on pretrial release; elapsed time from release to rearrest; multiple rearrests; nature of rearrest offense and comparison with original arrest charge; and, number of failures to appear in court.
- Evaluate the project's impact and cost savings and present the findings to the Policy/Advisory Board.
- Take measures to assure that the Jail Policy/Advisory Board adjusts its objectives and target populations as the composition of the jail population changes and as new obstacles or opportunities present themselves. The Board may set a desired limit on the jail population, earmarking certain subpopulations for own-recognizance or supervised release under various levels of emergency conditions. Population control is maintained through periodic "exceptions reports" from the Jail Management Information System.

IV. PROGRAM GOAL AND OBJECTIVES

Goal: To develop a screening system for defendant classification that insures the maintenance of public safety and the integrity of the judicial process.

Objectives:

- To rank jail use by identifying defendants requiring maximum security.
- To develop alternative levels of supervision for defendants requiring less than maximum supervision.

V. CRITICAL ELEMENTS

A. State Responsibilities

The program should be implemented by a responsible unit of state government which screens applications and coordinates activities. It can be developed in two possible ways:

1. A comprehensive statewide program that covers every local detention facility (e.g., the State of Washington, which involved basic legislation, jail standards, definitions of jail capacity and crowding, accountability reporting, inspections, and staff training); or,

2. A selective county-by-county program that utilizes two or more jurisdictions as pilots (e.g., the Pennsylvania Commission on Crime, which is currently assisting four counties in controlling jail populations).

State units may provide technical assistance in local organization, data collection, and analysis of jail populations.

B. Local Responsibilities

At the local level, the core program includes a Phase I planning effort, followed by a Phase II implementation project. (The state unit should certify completion of the planning effort before funding implementation projects.) Strong judicial support of each local project is critical.

C. Phase I - Planning (6-12 months)

- Each jurisdiction should organize a local Jail Policy/Advisory Board made up of policy heads of the judiciary, sheriff/department of corrections, prosecution, public defender, pretrial services, probation, city/county legislators, and interested citizen groups, including victim/witness service organizations. A small staff composed of a project director and a data analyst should assist the Board.
- An analysis should be conducted of data on jail intake decisions, jail populations, lengths-of-stay, and court processing times. The Jail Policy/Advisory Board should review the analysis.
- The Board should review jail data to target jail populations that should be detained, and review alternatives to jail for both pretrial and nonviolent, sentenced offenders. There should be assurances that no juveniles are housed in the jail.
- System-wide criteria for pretrial jail detention, release, and diversion should be established by the local Jail Policy/Advisory Board. Persons charged with violent crimes such as murder, rape, arson, armed robbery, sexual assault, sexual molestation, and manslaughter would be detained, while offenders who present minimal risk to the community could be released under various levels of supervision or their promise to appear in court, as appropriate. Prosecutors should recognize a range of approved diversion or deferred prosecution options. Criteria would normally include type of offense, previous criminal history, drug/alcohol abuse, mental health, and impact on the victims and/or witnesses.
- The end product will be a Jail Population Management Plan outlining jail population goals, the methods to screen and control the jail population, and the alternatives to be implemented.

D. Phase II - Implementation (18-24 months)

Implement the Jail Population Management Plan through inter-agency task forces, policy changes, and legislation, if needed. Projects should receive phased funding, and should include six-month review cycles.

Implementation projects should emphasize improved intake screening and include a number of the following elements:

- Adaptation of the "central intake" concept, including early pretrial screening; prosecutor screening, including victim/witness impact statement; public defender screening; and jail intake/classification, all within 24 to 48 hours of arrest. (The intake process should assure that no juveniles are housed in adult detention facilities.)
- Comprehensive pretrial services, with critical elements to include: screening and interview process; verification of relevant information, particularly prior criminal record and drug and alcohol abuse; presentation of information and appropriate recommendations, including victims' concerns; screening of the jail population; and supervision and tracking of those not incarcerated.
- Public inebriate and mental health diversion to appropriate medical service facilities.
- Citation release component, with fixed percentage goals for targeted, misdemeanor ordinance violations.
- Community corrections centers.
- Sentencing alternatives, including community services and victim restitution, supervised release, work release, and fines.
- Jail information system improvements, including adaptation of systems models such as **PROMIS** (Prosecutor Management Information System), or **JAMS II** (Jail Administrator Management System).

E. Federal Agency Responsibilities

Training, technical assistance, and program manuals will be provided for state and local teams through national discretionary funds, and may be provided from state Block Grant funds.

VI. PRINCIPLES AND IMPLEMENTATION STEPS

- The only sure means of limiting the jail population is for local officials to establish, through written policy, a desired population limit for existing jail facilities.
- Jail overcrowding problems are inherently systemic in nature and are not solvable by any one agency acting alone. A Jail Policy/Advisory Board should be established to include policy-making officials from each agency, including victim/witness service organizations. Whenever possible, the Jail Policy/Advisory Board should be headed by a judge.
- The court is a key to any comprehensive solution to jail overcrowding since it can effectuate and encourage release alternatives, expedite the flow of criminal cases, and employ sentencing alternatives.

- A planning phase is crucial for gaining an understanding of the makeup of the jail population, and for identifying subgroups of inmates that can be targeted for early release or kept out of jail completely.
- Only firm data and an interdisciplinary analysis can provide a sound basis for jail policy changes.
- Public safety should always be a critical factor in pretrial decision-making.

VII. LESSONS LEARNED

Successful implementation of the Jail Overcrowding Program has fostered these benefits:

- Inter-agency cooperation in planning and implementation of the program.
- Early involvement of the prosecuting attorney's office and early case screening.
- Concentration on alternatives for target populations that account for substantial percentages of the local jail population, e.g., alcohol abuse programs, misdemeanor OR (own recognizance) release, and programs that identify and treat the mentally ill offender. Many of these programs not only help relieve the jail overcrowding problem, but also divert large numbers of persons from subsequent criminal justice involvement.
- Process changes such as increased use of citations in lieu of arrest, prebooking misdemeanor release, intercounty and interstate information exchange and cooperation for the release of eligible persons without local ties (who are now frequently being held on minor charges), early involvement of defense counsel, and reduction of the time between charge and trial.
- Increasing the numbers on pretrial release, through improved screening/release practices, and simultaneously reducing the failure-to-appear and rearrest rates of those released.
- Expanded use of citation release by police officers providing one of the highest payoffs in terms of criminal justice efficiency.

Despite the emphasis on alcohol detox centers over the past ten years, many jails still handle large numbers of inebriates, and the issue of alcohol-related jail admissions is still hotly debated in many jurisdictions. Jailing of inebriates appears to be the least productive use of jail space and the least medically desirable for the inebriate. Modest expansions in the operations of local detox centers (24 hour drop-in type or longer-term facilities) and the cooperation of local police can have substantial impact on alcohol-related jail bookings.

Early involvement of the prosecuting attorney's office and early charge screening is crucial to reduction of pretrial populations. In some jurisdictions, late charging decisions coupled with a high percentage of "no charges filed" create a de facto administrative detention policy that keeps the jail continuously at or near capacity. Ideally, a prosecutor should be available 24 hours a day to make initial screening and charging decisions.

Pretrial services agencies which use unevaluated criteria, sloppy interview practices, and high levels of untrained staffs do a relatively poor job of advising the court on release options. Pretrial services agencies should have formal training for all professional and volunteer staff, and should develop validated point systems along lines recommended by the Pretrial Services Resource Center.

Automated jail information systems usually take twice as long to implement as originally planned because of agency coordination, staffing, and equipment problems. Issues dealing with county data processing support, equipment, and the requirements analysis should be handled early, and potential user groups should officially approve the system design. During implementation, user training is the largest single task.

Expectations that both the average daily populations in jails and the pretrial populations would be reduced proved unrealistic. Most jurisdictions experienced an increase in serious felony bookings over the life of the project. In addition, cleared pretrial jail space was filled by sentenced inmates in most jails.

VIII. FUNCTIONS AND AGENCIES INVOLVED

<u>Function/Activity</u>	<u>Government Units/Agencies Involved</u>
1. Jail Policy/Advisory Board Oversee project impact, performance standards, and inter-agency coordination. Focus on major policy issues.	Judiciary, Corrections/Sheriff, Prosecutor, Public Defender, Pretrial Services, Law Enforcement, Probation, Victim/Witness Service Organizations, and County Board. (Add special Task Forces incorporating Health and Social Service Agencies, local Bar, Citizen Groups, etc.)
2. Citation Release Expand citation release on uniform, county-wide basis.	All Law Enforcement Agencies, Prosecutor, Judiciary, County Board.
3. Central Intake Unit Create central intake unit for early decision-making and uniform processing. Could involve citation screening, ROR (Release on Own Recognizance) screening, charge decision, public defender services, emergency medical services, and jail intake/classification.	Law Enforcement, Pretrial Services Agency, Prosecutor, Public Defender, and Corrections/Sheriff.
4. Pretrial Services Initiate pretrial services agency, or expand hours and scope of operations. Initiate supervised release unit.	Judiciary, Pretrial Services Agency, Law Enforcement, Corrections/Sheriff, Victim/Witness Service Organizations.

5. Inmate Classification Initiate or improve inmate classification system.	Corrections/Sheriff.
6. Alternatives to Jail Initiate or expand alternatives such as detox, mental health, work release, diversion and/or restitution, social services, job training, etc.	Corrections/Sheriff, Law Enforcement, Prosecutor, Judiciary, Pretrial Services, County Board, and related Social Service Agencies, including Victim/Witness Service Organizations.
7. Jail Management Information System Improve manual or automated Jail MIS (Management Information System) to track population.	Corrections/Sheriff, County Data Processing, County Board, and related agencies as necessary.

IX. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

A. Selected Bibliography

- "Jail Overcrowding: Identifying Causes and Planning for Solutions - A Handbook for Administrators"; W. Busher; OJARS; February, 1983; NCJ #88340.

A "how to" guide for the organization/planning phase of a jail overcrowding project.
- "Jail Overcrowding: Guide to Data Collection and Analysis"; J.R. Bush; American Justice Institute; May, 1982; NCJ #87509.

Presentation of the data elements necessary for analyzing the jail population and the flow of people through a jail.
- "Outline for Preparation of a Jail Population Management Plan"; American Justice Institute; March, 1981.
- "Central Intake Workbook: Diagnosing and Improving Intake and Release Decision Systems"; Denver Research Institute; December, 1982.

User-oriented set of texts, charts, and worksheets on the coordinated central intake concept.

- "The Jail Information System: An Automated Booking, Inmate Accounting, and Jail Population Management Information System"; J.R. Bush; QJARS; March, 1982; NCJ #83078.

This is a handbook with related PROMIS-based software and documentation. It describes a defendant-based, "subject-in-process" system designed to track individuals from booking through pretrial release and post-trial incarceration. (Needs sophisticated adaptation to local jurisdiction if implemented.)
- "Instead of Jail"; American Justice Institute; NIJ, LEAA; 1977.

The five-volume series, published as a research document by the National Institute of Justice (NIJ), is still available through microfiche, and is useful in comparing national practices. The volumes are:

Vol. 1: "Alternatives to Jail Incarceration - Issues and Program Briefs"; NCJ #42223.
Vol. 2: "Alternatives to Pretrial Detention"; NCJ #42224.
Vol. 3: "Alternatives to Prosecution"; NCJ #42240.
Vol. 4: "Sentencing the Misdemeanant"; NCJ #42241.
Vol. 5: "Pre- and Post-trial Alternatives to Jail Incarceration - Planning, Staffing, and Evaluating"; NCJ #42251.
- "Jail Overcrowding and Pretrial Detention: An Evaluation of Program Alternatives"; J.C. Neubaum and A.S. West; Denver Research Institute; NIJ; September, 1982 and November, 1980; NCJ #88212.
- Most of the preceding information is available from the cited source or, through microfiche, from:

National Criminal Justice
Reference Service (NCJRS)
P.O. Box 6000
Rockville, Maryland 20850
Tel: (301)251-5500 or
Toll Free (800)851-3420

B. State and Local Project Contacts

Following are some notable examples of jail data collection and planning activities, as well as implementation of alternatives to jail. This list is merely exemplary.

1. Washington Statewide Effort

No other state has moved so comprehensively as has Washington over the past few years to insure modern, well-managed jails. The Washington effort is a joint State, local government response to antiquated, overcrowded local jails that failed to meet current correctional standards. The effort is overseen by the Corrections Standards Board (formerly State Jail Commission) which is now responsible for coordinating both jail and prison policies in the State.

The Washington effort managed to cut through the usual red tape, turf wars, and political infighting with a minimum of complications. The basic elements include:

- Basic legislation (City and County Jails Act);
- Standards for facilities and staff;
- Fixed definitions for jail capacity and crowding;
- Accountability reporting (Population Accounting Form);
- Training and education; and,
- Inspections and follow-up.

Washington also recently passed legislation encompassing both determinate sentencing and a sentencing grid along the lines of the Minnesota model.

Contact: Robert Cote, Executive Secretary
Stuart Radio, Chief Research Investigator*
Washington Corrections Standards Board
Olympia, Washington 98504
Tel: (206) 753-5790

* Presently assigned to National Institute of Corrections, Boulder, Colorado.

2. Tucson (Pima County), Arizona

Pima County already had a sophisticated pretrial services agency and sufficient data and planning to enter directly into a Phase II demonstration project. The project initiated a Central Intake Program, targeting earlier release of misdemeanants and initiating an augmented, supervised release effort for felony defendants.

Over a one-year period, project units handled 10,000 misdemeanor arrestees and 5,000 felony arrestees. The biggest payoff came from the 600 higher-risk felony defendants under supervised release. That project element saved nearly 35,000 jail days and more than paid for all pretrial release services. In addition, a special court rule empowered program staff to grant misdemeanor pretrial release (acting on behalf of a magistrate). Ancillary benefits were a 90 percent drop in the jail suicide rate, and decreases in both failure-to-appear and rearrest rates. A June, 1980 Federal court suit meanwhile provided added incentives to limit the jail population.

Contact: Kim Holloway, Director
Pretrial Services
Pima County Superior Court
45 West Pennington
Tucson, Arizona 85701
Tel: (602) 791-3314

C. Technical Assistance Sources

- Jails Division, National Institute of Corrections
Bureau of Prisons, U.S. Department of Justice
Ray Nelson, Director
1790 30th Street, Suite 440
Boulder, Colorado 80301
Tel: (303) 497-6700

Short-term site assessments and analyses of overcrowded jails for up to 45 jurisdictions by trained consultants. Regional training programs for all jail overcrowding "teams" in cooperation with National Academy of Corrections. Pilot Prison/Jail Overcrowding Project in four states.

- National Sheriffs' Association
L. Cary Bittick, Executive Director
R. Ford, Jail Staff
1450 Duke Street
Alexandria, Virginia 22314
Tel: (703) 836-7827

Jail staff of 15, and nine consultants. Jail assessments/evaluations compared to acceptable standards in about 40 to 45 jails per year. On-site jail management training, and special courses through Sheriffs' Institute at FBI Academy.

- National Coalition for Jail Reform
Judith Johnson, Executive Director
1828 L Street, N.W.
Washington, D.C. 20036
Tel: (202) 296-8630

Coalition of 40 national organizations interested in jails. Documentation on Coalition priorities, especially diversion of alcoholics, mentally ill, and children from jail. National public interest group and project contacts.

- Pretrial Services Resource Center
Alan Henry, Director
918 F Street, N.W., Suite 500
Washington, D.C. 20004
Tel: (202) 638-3080

Resource center for analysis of jail crowding, and primary technical assistance and clearinghouse source on pretrial services. Staff of five provides publications and technical assistance. Has developed procedures and forms for follow-up of those on pretrial release.

D. Federal Program Contact

Jail Overcrowding/Alternatives to Pretrial Detention Program
Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Tel: (202) 724-5974

Documentation, contacts, funding, statewide and local organization.

X. PERFORMANCE INDICATORS

During implementation of the program described in this Program Brief, sponsoring agencies or organizations should find it useful to track and maintain certain program information in order to provide some indication of program performance. While basic in nature, this information will not only provide an indication of program progress and performance, but will also serve as a benchmark for continued program implementation and allow for comparison with similar program efforts in other jurisdictions. Attached is a suggested reporting form listing several performance indicators which should be helpful in tracking program performance.

PERFORMANCE INDICATORS
(Please type)

Program Category: Jail Overcrowding/Alternatives to
Pretrial Detention

Project I.D. No.: _____
(Limited to 10 characters)

Implementing Agency: _____

Address: _____

Report Date: ____/____/____

Period Covered: ____/____/____ through ____/____/____

Performance Indicators: In order to gather basic information regarding project implementation, please provide responses to the following performance indicators.

(1) Number of staff assigned to project:

(2) Total amount of Federal/non-Federal expenditures:

(3) Pretrial jail population during the project period and for the corresponding period prior to the project:

(4) Types of alternatives/services implemented:

(A) Establishment of central intake unit:

(B) Diversion of public inebriates:

(C) Expanded jurisdiction-wide use of citations for minor offenses:

(D) Supervised release:

(E) Other:

(5) Total number of arrestees, all offenses, during project period; and number of arrestees eligible for project participation during project period:

(6) Number of arrestees actually served, by type of alternative/service:

(A) Number of arrestees screened by central intake unit:

(B) Number of public inebriates diverted to detoxification:

(C) Number of citations issued for minor offenses:

(D) Number of arrestees released under supervision:

(E) Number of arrestees served by other alternatives/services:

(F) Total number of arrestees served/diverted:

(7) Number of convicted clients successfully completing alternative sentence:

(8) Number of released defendants:

(A) That were rearrested:

(B) That failed to appear in court:

(9) Estimated number of jail days saved:

(10) Additional comments/information:

END