



# Vigo County, Indiana Jail & Criminal Justice Assessment

## FINAL REPORT

Includes

Part I Indiana Public Law 1034-2018 Jail Feasibility Study, July 21, 2018

Part II Criminal Justice System Assessment & Facility Planning



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Vigo County, Indiana  
Jail and Criminal Justice System Assessment

FINAL REPORT  
Includes

Part I: Indiana Public Law 1034-2018 Jail Feasibility Study, July 21, 2018  
Part II: Feasibility Study Update, Criminal Justice & Law Enforcement

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*“A Vigo County Project Dedicated to Public Safety and Community Wellness”*



**Dr. Kenneth A. Ray**  
RJS Justice Services  
PO 1481  
Ashland, KY 41195  
606.694.3031  
[ken@rjsjusticeservices.com](mailto:ken@rjsjusticeservices.com)

**Katherine S. Edwards, BS**

**JCI**  
**Justice Concepts, Inc**

**Dr. Allen R. Beck**  
Justice Concepts, Inc. 417 E.  
87<sup>th</sup> Pl Kansas City, MO  
64114  
816.361.1711  
[abeck@justiceconcepts.com](mailto:abeck@justiceconcepts.com)

**Carol Ann Ray, RN, CCHP**

**CRS**  
**Community**  
**Resource**  
**Services**

**Rod Miller**  
Community Resource  
Services, Inc. 925 Johnson  
Dr. Gettysburg, PA 17325  
717.338.9100  
[rod@corrections.org](mailto:rod@corrections.org)

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*“To accomplish great things, we must not only act, but also dream; not only plan, but also believe.”*

Anatole France

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### **Appendix: Best Practices Literature Attached:**

1. *The Court Administrator, Court Administration: A Guide to the Profession.* Publication of the National Association for Court Management. This publication is provided in an appendix of this report.
2. *Core Competency Curriculum: What Court Leaders Need to Know and Be Able to Do.* Publication of the National Association for Court Management.
3. *Steps to Reengineering: Fundamental Rethinking for High-performing Courts.* Publication of the National Association for Court Management.
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## PART I SECTION 1 OVERVIEW AND FINDINGS

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The primary purpose of Part I of this report is to support Vigo County in meeting its statutory requirements for jail expansion and/or new construction. Part 2, or final report, will incorporate contents in this report and expand into other topics of the assessment. The final report draft is scheduled for submission before or by the end of September.

Vigo County intends to meet the requirements of Indiana Public Law 184-2018 in its decision to construct, reconstruct, and/or operate the Vigo County Jail. Specifically, this report serves as one feasibility study to partially meet the requirements of this statute, focusing on: (1) Assess current and potential alternatives to incarceration, (2) Provide recommendations regarding the feasibility of housing inmates in the county jail of another or in a multicounty (regional) jail established by two or more counties, and (3) Provide a projection estimate of the number and characteristics of future inmates relative to estimated current and future jail and jail capacity needs.

### **A. Findings:**

#### **1) Assessment of Current and Potential Alternatives to Incarceration:**

In considering the scope and capacity of alternatives to incarceration, it is necessary to consider (1) Does the County operate a range of programs that would be considered representative of forward thinking governmental and criminal justice systems? (2) Do the programs need improvement? and (3) Can impact of the programs be specifically measured?

It is our opinion, based on experience in working with counties across the country, that Vigo County has implemented and continues to operate a wider array of programs than most counties of similar size. Also, we have found that the judiciary and other criminal justice system leaders have been self-starters in developing specialty courts and supporting development of programs that address the needs they have often experienced. The establishing, continuation, and ongoing refinement of these ATI programs is clear evidence that Vigo County did, in fact, implement important aspects of the 2005 NIC study, despite some public assertions to the contrary.

Secondly, it is the consultant's rule of thumb that all programs need improvement. Importantly, members of the Vigo County criminal justice system have been open about participating with the consultants to investigate improvement in program operations, improving linkages between criminal justice system-based programs and community resources, such as mental health resources. Importantly, the consideration of how to improve programming for persons with mental health and substance abuse problems is being incorporated into planning of the design of a new jail.

Thirdly, the impacts of programs are often difficult to separate out. When pretrial defendants and sentenced offenders receive a mixture of services, the individual impact of each program may not be specifically measurable. In those instances, the concern for best practices is often the guiding factor for adding more programs to the mix of services. For example, the provision of educational programs by Community Corrections is congruent with best practices. Although the effects of such programs may not be directly reflected in a specifiable reduction in a number of jail beds, they have collective contribution to reducing recidivism.

Unfortunately, the complexity of the criminal justice system makes it difficult for the public to grasp the interplay between criminal justice system resources necessary to implement new programs, budgetary constraints, state and local operational practices, and changing beliefs about how to deal with crime. In the past, many members of the public hold the opinion that crime is something to be “fought” by the government. This perspective obscures the need to develop various kinds of community support for people whose problems bring them into contact with the justice system. This is one of the reasons the consultants have supported the formation of a Criminal Justice Coordinating Committee, which includes representation of community members, and the recommendation that Indiana State University consider establishing a justice policy program or institute with the capability to assist in the evaluation of the county’s criminal justice programs.

Section 8, rather than display the past histories of the programs through graphs and tables of historical participation rates, the focus is on the current status those programs and the possible impact of those programs on the jail population. The weaknesses or gaps in capabilities, three or four or ten years ago is of little import in responding to current needs.

## **2) Recommendations Regarding the Feasibility Housing Inmates in the County Jail of Another or in a Multicounty (Regional) Jail Established by Two or more Counties:**

Section 9 discusses the complexity regarding a decision to regionalize a jail for multi-jurisdictional benefit. The decision is very complex due to the multitude of issues involved, and very arduous because the issues and interests involved are significant. Care and protection of the public, correctional staff, and inmates are crucial factors to consider. Regionalization involves significant issues and is typically the result of the high cost of jail construction and operations along with a desire to spread those costs over more than one jurisdiction.

A significant part of the research involved identifying, cataloging, and contacting other localities nationwide who are either currently engaged in the regional jail process, or those who began that process but ultimately decided against pursuing a regional jail.

The research identified regional jail projects in 12 states that were under consideration. Ten projects in eight states are known to have abandoned regional jail discussions since the year 2000. There are many more regional projects that have been considered but were eventually discarded. More detailed findings are available in the three feasibility study reports, which may be downloaded at: <http://tbf.me/a/EaUMc>.

Based on several factors discussed in this section of the report and limited timeframes in which to resolve extant and serious jail overcrowding, the regional jail option does not seem feasible for Vigo County.

## **3) Provide a Projection Estimate of the Number and Characteristics of Future Inmates Relative Estimated Current and Future Jail and Jail Capacity Needs:**

Section 10 provides a detailed descriptive analyses and discussion of jail and jail population data and information from 2003 thru 2017. Salient characteristics are examined to understand jail population patterns and trends in an effort to reasonably estimate current and future jail capacity needs to the year 2050.

Obviously, we concur that the capacity of the current jail is sorely insufficient to achieve and sustain adequate and constitutional levels of inmate care and custody. Based on our assessment of the jail, review of the DLZ study and this analysis, it does not seem economically or

operationally feasible or responsible to expand or renovate the existing jail. Construction of a new facility that would more efficiently and effectively achieve and sustain provision of constitution care and custody of inmates is recommended.

Finally, we believe that new jail construction consisting of an estimated total capacity of 527 beds is adequate to meet Vigo County's jail needs to at least the year 2050. We estimate that this capacity level will allow Vigo County to operate well within the facility's operating capacity and eliminate the need to obligate local tax dollars to house inmates in other county jails.

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**PART I - SECTION 2.**  
**INTRODUCTION**

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- A. In January 2018, Vigo County Commissioners and Council sought to retain qualified professionals to assess the Vigo County Jail and Criminal Justice System and to assist Vigo County in resolving existing jail federal civil rights litigation pertaining to extant jail overcrowding and problematic conditions of prisoner confinement. The County Council approved funding for this assessment and the County Commissioners engaged a competitive selection process. RJS Justice Services was chosen to conduct this assessment and to help in resolving prisoner civil rights litigation.
- B. The RJS team possesses strong knowledge of all elements of the criminal justice system and extensive experience in the areas of criminal justice, corrections, and law enforcement. The team's experience specifically includes system and program planning, evidence-based practices relevant to collaborative and solution-focused planning and system reform.
- C. Onsite, Vigo County officials and RJS jointly established 13 foundational assumptions on which the assessment would move forward:
- 1) Fairness
  - 2) Inclusion and collaboration in decision-making
  - 3) Efficiency and Effectiveness
  - 4) Optimize application of evidence-based best practices
  - 5) Consistency and continuity of inmate care, custody, criminal justice processes and outcomes
  - 6) Timeliness in provision of justice and public safety
  - 7) Positive public perceptions, stakeholder and community involvement and support
  - 8) Respect for all
  - 9) Sustainable provision of constitutional levels of inmate care and custody
  - 10) Safe and secure jail environments
  - 11) Cost-effective and sustainable system reforms
  - 12) Flexibility
  - 13) Ongoing institutional and system review processes

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**PART 1 - SECTION 3.  
PURPOSE OF THIS ASSESSMENT**

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The County Commissioners, County Council, and the Vigo County Sheriff clearly articulated three fundamental purposes for this assessment before work began:

- A. To assist Vigo County, identify and choose best options for resolving extant issues involving:
  - 1. Criminal Justice System efficiencies and outcomes
  - 2. Community corrections, probation and parole practices and outcomes
  - 3. Jail population management and crowding practices and outcomes
  - 4. Jail facility structure and operational conditions of confinement
  - 5. Constitutional care and custody of persons confined at the Vigo County Jail
  
- B. To assist Vigo County in resolving federal class-action claims and litigation pertaining to Case 2:16-cv-00397-JMS-MJD.
  
- C. Assist Vigo County to comply with Indiana Public Law 184-2018 in its decision to construct, reconstruct, and/or operate the Vigo County Jail. Specifically, this assessment serves as one feasibility study to partially meet the requirements of this statute, focusing on:
  - 1) Assess current and potential alternatives to incarceration.
  - 2) Provide recommendations regarding the feasibility of housing inmates in the county jail of another or in a multicounty (regional) jail established by two or more counties.
  - 3) Provide a projection estimate of the number and characteristics of future inmates relative to estimated current and future jail and jail capacity needs.



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**PART I - SECTION 4.  
SCOPE OF WORK**

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The agreed scope of work for this assessment is specifically designed to achieve the purposes of this work, while applying the assessment's fundamental assumptions. The scope of work involves 13 components:

**A. Evaluate criminal justice system elements impacting jail population numbers and profile:**

- 1) Criminal case processing: courts, prosecution, defense
- 2) Bail and bond practices
- 3) Specialty courts
- 4) Community corrections, probations and parole
- 5) Diversion
- 6) Pretrial release and alternatives to incarceration
- 7) Law Enforcement arrest, diversion in lieu of arrest, and case processing practices
- 8) Correctional admissions and release practices

**B. Evaluate Vigo County Jail facility structural and operational practices:**

- 1) Space utilization
- 2) Staffing and command structures
- 3) Overflow
- 4) Environmental health, life and fire safety
- 5) Budgets

**C. Jail Population Management:**

- 1) Intake, release, reentry
- 2) Population profile and salient characteristics
- 3) Risk and needs
- 4) Classification
- 5) Special / vulnerable populations
- 6) Average daily and peak population
- 7) Population forecasting

**D.** Conduct onsite meetings and interviews of various stakeholders and officials to identify criminal justice system strengths, needs, and information to develop a data-driven and consensus-based action plan.

**E.** Conduct jail facility tours to assess current conditions of confinement and to identify options for resolving and/or mitigating problematic issues and conditions.

**F.** Obtain and review previously generated studies or reports - Review NIC Assessment Report, any other reports such as informal analyses, annual statistical reports, etc.

**G.** Review Inmate population profiles including number of inmates amenable to new sentencing alternatives.

**H. Orient Oversight Committee and Subsequent Meetings:**

- 1) Discuss goals and strategies.
- 2) Discuss methodology and timeline.
- 3) Discuss insights about local operations and resources.

**I. Conduct Community Meetings:**

- 1) Discuss purpose of jails and insights not commonly known by community.
- 2) Listen to community concerns about the jail and criminal justice system.
- 3) Identify issues to examine.
- 4) Present overview of findings and action plans after project report is accepted by County Commission.

**J. Evaluate Factors that Influence Jail Population Growth:**

- 1) Examine Law Enforcement operations.
- 2) Examine Court-Related operations.
- 3) Examine Jail-Related operations.

**K. Assess Inmate Space Utilization:**

- 1) Assess peak and average inmate counts.
- 2) Assess numbers of inmates held in various areas for processing, treatment, and housing.

**L. Examine Jail Program Needs, Community Resources, and Alternative Sentencing Options (occurs concurrently with population analysis):**

- 1) Evaluate current program capacities in light of pretrial defendants' and sentenced offenders' characteristics such as medical and behavioral health needs.

**M. Forecast Future Jail Capacity Requirements based upon five factors:**

- 1) County population growth projections.
- 2) Historical Jail Population trends.
- 3) Factors influencing jail growth.
- 4) Changes or plans to make changes in Criminal Justice Legislation.
- 5) Options for reducing demand for beds.

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## SECTION 5. REFORM SUSTAINABILITY CONCEPTS

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- A. Assessing organizations, systems and/or practices for needed reforms involves comprehensive evaluation of strengths and needs. These findings will culminate into written and evidence-based best practice options and opportunities that are prescriptions for success. However, the best laid efforts and reform plans are destined to fail, or not fully achieve desired outcomes, unless reforms are sustainable over time. Time and economic resources are too often wasted unless reforms are determined to be sustainable before they are implemented. Reform sustainability is somewhat akin to accurately predicting the outcome of a horse race. Several salient indicators are combined and assessed: 1) history of achievement, and 2) technical indicators. Achievement alone is not a reliable indicator, absent specific contributing technical factors; predicting program sustainability via technical indicators alone is equally unreliable, absent achievement that demonstrates the efficacy of technical indicators. Combined, achievement and technical indicators can yield reliable and measurable conclusions for assessing and reasonably predicting reform sustainability. For the purposes of this project, the term Sustainability is defined as *“the ability [of Vigo County] to maintain reform achievements and outcomes (technical indicators) and its benefits (constitutional care and custody, facility safety and security, and community safety) over time”*.
- B. An evidence-based framework is overlaid onto assessment findings to determine the likelihood of reform plan sustainability.<sup>[1]</sup> This framework uses these eight (8) Sustainability Factors containing five (5) Key Sustainability Indicators to assess each factor:

### Key Sustainability Indicators for Criminal Justice Reform

Sustainability Factors	Key Indicators / Questions
<b>Environmental Support</b>	<ol style="list-style-type: none"> <li>1. Do champions exist who strongly support reforms and evidence-based best practices?</li> <li>2. Do reform efforts have strong champions with the ability to garner needed resources?</li> <li>3. Do reform efforts have support from the larger organization?</li> <li>4. Do reform efforts have strong and consistent internal leadership support?</li> <li>5. Do reform efforts have strong public support / community support?</li> </ol>
<b>Adequate Funding Stability</b>	<ol style="list-style-type: none"> <li>1. Do reform and reform efforts exist in a supportive economic climate?</li> <li>2. Are there policies specifically implemented to help ensure sustained funding?</li> <li>3. Are necessary reform and reform activities funded from stable and reasonably predictable funding sources?</li> <li>4. Is reform funding flexible to meet needs as they change?</li> <li>5. Is reform funding sustainable over time?</li> </ol>
<b>Partnerships</b>	<ol style="list-style-type: none"> <li>1. Are external and internal partners invested in reform plans, achievement and success?</li> <li>2. Are reform needs, challenges, and achievements effectively communicated with internal and external stakeholders?</li> <li>3. Are internal and external stakeholders committed to reform activities and desired outcomes?</li> <li>4. Are reform goals established in collaboration with internal and external partners/stakeholders?</li> <li>5. Are internal and external stakeholders actively engaged in reform implementation and desired results, per their respective roles and responsibilities?</li> </ol>
<b>Organizational Capacity</b>	<ol style="list-style-type: none"> <li>1. Are reforms well-integrated into the operations of the stakeholder organizations?</li> <li>2. Are organizational systems in place to support various structure, process, and results-oriented needs?</li> <li>3. Does leadership effectively articulate the reform vision to internal and external partners / stakeholders?</li> <li>4. Do leaders efficiently manage staff and other resources for reform achievement?</li> <li>5. Are critical reform needs adequately staffed to achieve consistent results?</li> </ol>
<b>Program Evaluation</b>	<ol style="list-style-type: none"> <li>1. Does the organization have the capacity and ability for quality reform evaluation?</li> <li>2. Does the reform program report short term and intermediate outcomes?</li> <li>3. Are evaluation results routinely used to inform reform program planning, implementation, and fine-tuning?</li> <li>4. Are reform evaluation results used to demonstrate achievement of planned outcomes to funding bodies, partners / stakeholders.</li> <li>5. Does strong evidence exist to report to partners / stakeholders that demonstrates reliable reform-outcomes efficacy?</li> </ol>
<b>Program Adaptation</b>	<ol style="list-style-type: none"> <li>1. Does the organization / oversight group periodically review the reforms' evidence base?</li> <li>2. Can reforms adapt to different / new strategies to gain / improve desired results?</li> <li>3. Can reforms adapt to new internal and external evidence and best practices relevant to program results?</li> <li>4. Does the organization proactively adapt reform practices according to changes in the internal and external environments?</li> <li>5. Does the organization critically self-assess and make appropriate decisions regarding reform components, methods, and practices that are ineffective and should cease?</li> </ol>
<b>Communications</b>	<ol style="list-style-type: none"> <li>1. Does the organization communicate reform plans and strategies to secure and maintain partner / stakeholder support?</li> <li>2. Do reform staff effectively communicate the need for the program in a timely manner to partners and stakeholders?</li> <li>3. Does the organization market propose and implement reforms to partners / stakeholders in a way that generates interest in its success?</li> <li>4. Is internal and external organizational awareness systematically increased?</li> <li>5. Can the organization effectively demonstrate value of reforms and outcomes to partners / stakeholders?</li> </ol>
<b>Strategic Planning</b>	<ol style="list-style-type: none"> <li>1. Does the organization plan for program future resource needs?</li> <li>2. Is there a long-term funding plan to maintain compliance achievements and outcomes?</li> <li>3. Does the organization have a written compliance sustainability plan?</li> <li>4. Do all partners / stakeholders clearly understand compliance program goals?</li> <li>5. Does the organization / program clearly outline roles and responsibilities for all stakeholders and program members?</li> </ol>

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**SECTION 6.**  
**A BRIEF REVIEW OF RECENT JAIL**  
**& CRIMINAL JUSTICE SYSTEM ASSESSMENTS**

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This assessment considers information, findings, and recommendations contained within two recent studies involving the Vigo County Jail and criminal justice system: A) the 2005 Local System Assessment of the Vigo County Criminal Justice System provided by the United States Department of Justice National Institute of Corrections, and B) the 2015 Vigo County Jail Facility Assessment and Feasibility Study provided by DLZ Architecture, Engineering, Planning, and Construction.

We concur with the methodologies used in these two studies and our assessment generally affirms the findings and recommendations issued.

**A. 2005 Local System Assessment of the Vigo County Criminal Justice System provided by the United States Department of Justice National Institute of Corrections:**

The National Institute of Corrections (NIC) is an agency of the United States Department of Justice Federal Bureau of Prisons. NIC provides various forms of support to local jail and criminal justice systems to include short-term technical assistance. The primary purposes of this study were to assess the Vigo County criminal justice system in the context of extant jail overcrowding and to provide best-practice recommendations for overcoming jail overcrowding through the implementation of criminal justice system reform.

This study provides and describes six salient recommendations:

- 1) Establish a criminal justice policy planning or criminal justice coordinating committee (CJCC) to provide a structured, systematic, and planned approach to identify, implement, and evaluate reforms intended improve the effectiveness and efficiency of the criminal justice system.
- 2) Establish a jail population analysis capability to provide a clear and ongoing understanding of jail utilization and the jail population.
- 3) Create a coordinated system of sanctions and services to help local officials determine the capacity and use of its various criminal sanctions in order to maximize the effectiveness and efficiency of those sanctions.
- 4) Look for ideas in other jurisdictions to identify successful (and failed) methods and strategies used to address similar criminal justice issues and challenges.
- 5) Develop partnerships outside of the Vigo County criminal justice system to obtain assistance and gain local problem ownership by redefining current challenges as a “community problem” rather than problems that only jail, criminal justice, law enforcement, and/or local government officials can solve.
- 6) Decide on issues and methods for the local criminal justice coordinating committee that allow for the adoption of broad policy planning rather than single specific issues. This recommendation also endorses taking a broad systems approach, addressing issues or

problems and recommends that the CJCC have subcommittees assigned to specific issues or problems.

This study also issued eight valuable preliminary action steps intended to support the planning and implementation of these six recommendations:

- 1) Form a criminal justice coordinating committee
- 2) Enlist the key policy makers
- 3) Decide how to get organized
- 4) Hire staff to support the CJCC
- 5) Get the necessary data (data that matters)
- 6) Inform funding bodies
- 7) Create a public forum
- 8) Read the Local System Assessment Report

We find ample evidence demonstrating that Vigo County officials implemented several important components of the NIC assessment.

#### **B. 2015 Vigo County Jail Facility Assessment and Feasibility Study provided by DLZ Architecture, Engineering, Planning, and Construction:**

DLZ is a reputable professional architectural and engineering firm that specializes in criminal justice and jail facilities planning, design and construction. The purpose of this feasibility study was to assist Vigo County officials to determine current and future jail facility needs, and to partially meet the jail construction or reconstruction feasibility study requirements contained in Indiana Law 1263-2018.

This study is multidimensional and incorporates seven primary components, including:

- 1) Review of the 2015 NIC study
- 2) Onsite assessment of the Vigo County Jail
- 3) Interviews with various key stakeholders
- 4) Assessment of Vigo County demographics, the criminal justice system, inmate profile, and jail population
- 5) A 20-year jail bed needs forecast estimate
- 6) Development of preliminary facility design concepts
- 7) Probability cost estimates for jail expansion and new construction

The DLZ study provides meaningful assessment of jail layout (design), security sightlines, staff and prisoner movement areas and corridors, physical structures, electrical, control, and plumbing systems; inmate, staff, and storage spaces, issues pertaining to the Americans with Disabilities Act (ADA), heating and air conditioning, energy utilization, life and fire safety systems, and current and past bed capacity relative to prisoner admissions and daily populations, and provides jail bed projection estimates to the year 2035.

DLZ recommends that Vigo County consider expanding the jail bed capacity to 528 beds through new construction or expansion of the existing facility. This bed capacity estimate is primarily based on an examination of inmate criminal charges (2003-2013), annual bookings (2004-2014), the inmate average daily population and length of stay (ADP/LOS, 2003-2015), examination of felony and misdemeanor cases filed (2002-2013) and adds a 10% increase to the projection estimate to

compensate for potential incarceration increases caused by Indiana Criminal Code 1006 (IC1006).

We do not dispute the DLZ forecast methodology but we completed the required independent jail bed projection estimate to the year 2050 using similar data and additional indicators that are likely to result in incarceration increases. These indicators are discussed in the jail bed forecast section of this report.

In general, our interpretation of the DLZ study concurs that the Vigo County Jail facility is at the end of its life-cycle, and due to extant overcrowding, design, failing structures and systems, it is incapable of ensuring adequate or sustainable incarceration of prisoners. We would add that the Vigo County Jail is incapable of ensuring constitutional levels of prisoner care and custody due to the problems reported in the DLZ assessment.

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## SECTION 7. LEGAL FRAMEWORK REGARDING JAIL DESIGN AND OPERATIONS

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The following discussion lays out a brief legal foundation regarding a jail's obligation to provide adequate medical, dental and mental health care to inmates.

### A. The Civil Rights of Institutionalized Persons Act (CRIPA)<sup>1</sup>:

- 1) In an effort to stem the tide of prisoner section 1983 litigation and strike a balance between deference to state officials and the rights of the institutionalized, Congress enacted the Civil Rights of Institutionalized Persons Act ("CRIPA") in 1980. Prior to 1980, inmates who wanted to sue in court were not required to exhaust their administrative remedies. CRIPA applied only to section 1983 actions and contained the first exhaustion requirement for prisoner lawsuits. CRIPA did not require mandatory exhaustion, however, and gave judges the power to require plaintiffs to exhaust administrative remedies when "appropriate and in the interests of justice." A judge could continue a case for up to 180 days if he/she believed that the suit could be resolved using administrative remedies.
- 2) This discretionary exhaustion requirement offered [jail] officials the ability to resolve violations in administrative proceedings without involving the courts. The exhaustion provision of CRIPA further limited its own application by mandating that exhaustion could only be required where the administrative remedies had been certified by the Attorney General as meeting certain minimum standards. These standards required that inmates be afforded an advisory role in creating and applying a grievance procedure. The Supreme Court created a balancing test for determining when to require exhaustion under CRIPA; "federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion."
- 3) Beyond the exhaustion requirement, CRIPA also gave the Attorney General of the United States authority to sue state and local officials responsible for facilities exhibiting a pattern or practice of flagrant or egregious violations of constitutional rights. CRIPA also set forth guidelines for prison administrative procedures and required that states have their procedure certified by the Attorney General in order to require exhaustion of remedies. Even with this discretionary exhaustion requirement, CRIPA allowed inmates to participate in the formation of the grievance procedures and many states refrained from having their procedures certified because of this requirement. The states' refusal to adopt these provisions and alter their grievance procedures to accommodate inmates' civil rights had opposite of the intended effect and actually increased the number of prisoner suits filed, thus contributing to the burden on federal dockets as well as increasing the costs to prisons caused by defense of suits. In response, many legal scholars, politicians and judges supported a change in the system that would reduce the number of frivolous lawsuits.

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<sup>1</sup> Civil Rights of Prisoners: The Seventh Circuit and Exhaustion of Remedies Under the Prison Litigation Reform Act, Seventh Circuit Review, Volume 1, Issue 1, Spring 2006 ([www.kentlaw.edu/7cr/v1-1/mccomb.pdf](http://www.kentlaw.edu/7cr/v1-1/mccomb.pdf))



## B. The Prison Litigation Reform Act of 1995:

- 1) The civil rights of inmates were again the subject of Congressional legislation in 1996, with the passage of the aptly named amendment to CRIPA, the Prisoner Litigation Reform Act ("PLRA"). Though the legislative history is minimal, the PLRA was intended to stem the tide of purportedly frivolous prisoner lawsuits and reduce judicial oversight of correctional facilities. The PLRA represented a major change in prison litigation creating barriers such as requiring physical injury in tort claims, forcing even *in forma pauperis* prisoners to pay filing fees, and creating limits on attorney's fees. Most importantly, however, the PLRA drastically modified the CRIPA's exhaustion of administrative remedies provision.
- 2) Under the PLRA, inmates are required to exhaust all administrative remedies available, mandating, "No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal Law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." The PLRA's exhaustion requirement was more restrictive and differed from CRIPA in five important ways: First, the PLRA applies to all state, local and federal prisoners in contrast to CRIPA, which did not apply to federal prisoners or juveniles. Second, the exhaustion requirement was broadened to include pretrial detainees as well as convicted prisoners. Third, the PLRA requires dismissal of cases in which administrative remedies were not exhausted. Before the PLRA, courts continued or stayed cases until prisoners had exhausted administrative remedies.
- 3) The PLRA lacks the discretionary application of the exhaustion requirement and removes the ability of judges to determine when requiring exhaustion is appropriate. Finally, before a court could require a prisoner to use a prison's administrative grievance process, the process had to meet certain requirements. The PLRA removed the requirements that exhaustion of administrative remedies must be "appropriate and in the interests of justice" or that the administrative remedies be "plain, speedy and effective." The PLRA also removed the five statutory standards for administrative remedies and required only that the remedies be "available." The impact of the PLRA on prisoner lawsuits for constitutional violations was immediate and substantial. In the last year under CRIPA, inmates filed 41,679 civil rights petitions.
- 4) In 2000, four years after the passage of the PLRA, the number of civil rights petitions dropped to 25,504 - a reduction of 39%. Specifically, the more comprehensive and automatic exhaustion requirement greatly increased the number of inmate lawsuits that were dismissed for failure to exhaust all available administrative remedies. The Supreme Court, in interpreting the new exhaustion requirement under the PLRA, held that inmates were required to exhaust all available administrative remedies regardless of whether the claims involved general circumstances of incarceration or particular incidents, thus ensuring that the PLRA will govern all prisoner lawsuits in every state.

## C. Inmate Healthcare<sup>2</sup>:

- 1) Jail inmates have the right to receive adequate health care. The Eighth Amendment of the US Constitution guarantees the right to be free from cruel and unusual punishment, which the Supreme Court has determined to include the right of prisoners to have access to

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<sup>2</sup> [http://www.washlaw.org/projects/dcprisoners\\_rights/medical\\_care.htm#objectiveStandard](http://www.washlaw.org/projects/dcprisoners_rights/medical_care.htm#objectiveStandard)

health care.<sup>3</sup> The denial of necessary medical care is a Constitutional violation only if prison officials are "deliberately indifferent" to a "substantial risk of serious harm."<sup>4</sup> Medical, dental and mental health care would fall within the scope of these legal expectations.

- 2) In order for an inmate to successfully claim that inadequate medical care violated his constitutional rights, he must prove two things<sup>5</sup>: (1) that the treatment or lack of treatment resulted in "sufficiently serious"<sup>6</sup> harm (the objective standard), and (2) that the jail officials responsible for the harm knew of that or the possibility of a risk, by act or omission, failed to eliminate the risk <sup>7</sup> (the subjective standard).
- 3) The Objective Standard of Care: Generally speaking, for an injury to be considered "sufficiently serious," the harm must significantly change the prisoner's quality of life. For example, harm would be considered "sufficiently serious" if it causes degeneration or extreme pain. Some examples of medical needs that the courts have considered "sufficiently serious":
  - a) degenerative, painful hip condition that hindered the inmate's ability to walk
  - b) painful, obviously broken arm
  - c) bleeding ulcer that caused abdominal pain
  - d) inflamed appendix
  - e) shoulder dislocation
  - f) painful blisters in mouth and throat caused by cancer treatment
  - g) pain, purulent draining infection, and 100 degrees or greater fever, caused by an infected cyst
  - h) cuts, severe muscular pain, and burning sensation in eyes and skin, caused by exposure to Mace
  - i) head injury caused by slip in shower
  - j) substantial back pain
  - k) painful fungal skin infection
  - l) broken jaw requiring jaw to be wired shut for months
  - m) severe chest pain caused by heart attacks
- 4) Some examples of medical needs that the courts have determined NOT to be "sufficiently serious":
  - a) sliver of glass in palm that did not require stitches or painkillers
  - b) pain experienced when doctor removed a partially torn-off toenail without using anesthetic
  - c) nausea, shakes, headache, and depressed appetite caused by family situational stress
  - d) "shaving bumps"
- 5) The Subjective Standard of Care: A jail official cannot be "deliberately indifferent" to a medical need if he is not aware of the medical problem. Thus, an inmate must make sure that jail officials know about his medical needs. If an inmate wants to see medical personnel, he must inform the corrections officers on his block. He must fill out sick call

<sup>3</sup> *Estelle v. Gamble*, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

<sup>4</sup> *Farmer v. Brennan*, 511 U.S. 825 (1994).

<sup>5</sup> Criteria summarized in *A Jailhouse Lawyer's Manual* (JLM), 5th edition. New York: Columbia Human Rights Law Review, 2000, p. 540.

<sup>6</sup> *Wilson v. Seiter*, 501 U.S. 294, 298, 115 L. Ed. 2d 271, 111 S. Ct. 2321 (1991).

<sup>7</sup> *Martinez v. Mancusi* 443 F.2d 921, 924 (1970). In: JLM, p. 542.

slips and, if these are not honored, he must file grievances. Once an inmate gets in to see a nurse or doctor, he should discuss symptoms and any relevant medical history.

While an inmate should do everything he or she can to make sure that medical personnel are aware of his medical problems, medical personnel can also be held responsible for knowing information in addition to what the inmate tells them. Specifically, medical personnel are responsible for information gained by examining the inmate, reviewing the inmate's medical records, and by talking to others familiar with the inmate (guards, other doctors, and family members, for example). If a jail official knows of an inmate's medical problem, he must do what is in his power to address that problem. If a jail official knows of an inmate's substantial medical need and disregards it, he can be held accountable for violating the inmate's constitutional rights. Listed below are some common situations in which courts have held that officials were deliberately indifferent to inmates' medical needs.

- 6) **Failure to Treat a Diagnosed Condition:** If a jail doctor diagnoses an inmate with a certain medical condition and then fails to provide that inmate with treatment for this condition, courts are likely to find that the doctor has been deliberately indifferent to inmate's medical needs. If an inmate suffers serious harm as a result of this lack of treatment, jail officials can be held liable for violating the inmate's rights. For example, if an inmate who is diagnosed with HIV receives no drugs to inhibit the virus and as a result develops full-blown AIDS more quickly than he should have, jail medical staff can be held liable.

Similarly, jail officials other than doctors can be held liable for infringing on an inmate's rights if the official prevents an inmate from receiving treatment recommended by a doctor. For example, the 2nd Circuit Court of Appeals held that prison officials were deliberately indifferent to an inmate's medical needs when they removed him from a hospital without permission from the doctors.<sup>8</sup> Jail officials without medical training do not have the right to second-guess the recommendations of doctors.

- 7) **Delay in Treatment or Delay in Access to Medical Attention:** Jail officials do not have to provide inmates with immediate access to non-emergent medical care. Generally speaking, jail officials can delay in providing medical care if they have a legitimate reason for doing so. For example, security concerns can justify delaying an inmate's access to medical care, as long as this delay does not make the medical problem significantly worse. On the other hand, unreasonable delays do violate the Constitution. A delay is considered to be unreasonable if it is medically unjustified and it is likely to make the medical problem worse or to result in permanent harm. For example, the 7th and 8th Circuit Courts of Appeals have ruled that 10-15-minute delays in responding to heart attacks constitute deliberate indifference.<sup>9</sup> Also, the 4th Circuit Court of Appeals held that prison officials were deliberately indifferent when they delayed 11 hours in examining an inmate's painfully swollen and obviously broken arm.<sup>10</sup>
- 8) **Denial of Access to Medical Personnel:** Jail officials cannot deny inmates access to health care personnel. If an inmate requests health care attention, non-healthcare staff may not decide whether or not to allow the inmate to see health care personnel. For example, in *Parrish v. Johnson*, the 6th Circuit Court of Appeals ruled that a guard who failed to relay

<sup>8</sup> *Martinez v. Mancusi*, 443 F.2d 921, 924 (1970). In: JLM, p. 542.

<sup>9</sup> *Lewis v. Wallenstein*, 769 F.2d 1173, 1183 (7th Cir. 1985) and *Tlamka v. Serrell*, 244 F.3d 628, 633-34 (8th Cir. 2001). In: Toone, p. 81

<sup>10</sup> *Loe v. Armistead*, 582 F.2d 1291, 1296 (4th Cir. 1978). In: Toone, p. 81

an inmate's request for health care was deliberately indifferent to the inmate's medical needs.<sup>11</sup> Similarly, the 11th Circuit Court of Appeals found a physician's assistant to be deliberately indifferent to an inmate's medical needs when the assistant refused to x-ray an inmate with a broken hip or to send him to a doctor for examination.<sup>12</sup>

- 9) Grossly Inadequate Care: Negligent medical care does not generally violate the Constitution. In jails, health care malpractice, generally speaking, does not constitute a violation of prisoners' rights. On the other hand, excessively bad medical care can violate a prisoner's 8<sup>th</sup> Amendment rights. For example, a jury could find that a jail official acted with deliberate indifference if he treats a patient with a serious risk of appendicitis by simply giving him aspirin and an enema.<sup>13</sup>
- 10) Inadequate staffing levels: Inadequate jail health care staffing has been determined by the United States Department of Justice to be a direct and indirect cause for Civil Rights violations. Insufficient staff levels create serious access-to-care barriers, resulting in medical neglect. Additionally, assigning unqualified staff to perform medical or mental health care functions outside their scope of licensure or practice can be cause for inadequate care violations as noted in a 2012 DOJ jail Investigation Findings Letter<sup>14</sup>:

*“Our investigation found reasonable cause to believe that the Jail is denying necessary medical and mental health care, and consequently places prisoners at an unreasonable risk of serious harm, in violation of the Constitution...”*

*Many of the lapses we identify below are directly related to [the jail's] inadequate medical staffing. There is too little onsite coverage by properly licensed staff members, forcing certified nursing assistants (CNAs) to practice and provide medical care beyond their training and licensure. The lack of sufficiently trained and available medical staff for the management and evaluation of serious medical conditions places prisoners at risk of unnecessary harm and is deliberately indifferent to prisoners' serious medical needs. Prison officials, including doctors, “violate the civil rights of inmates when they display ‘deliberate indifference to serious medical needs.’” Gordon v. Kidd, 971 F.2d 1087, 1094 (4th Cir. 1992) (citing Estelle v. Gamble, 429 U.S. 97, 104 (1976)) ...*

*“Perhaps the most significant single concern we have with the provision of medical and mental health care at the Facility is that staff members routinely perform medical services beyond what they are trained and credentialed to do. A further concern involves “medical” security officers. We reviewed several incidents in which security staff were used to evaluate prisoner injuries and cleared the prisoners without any medical input or consultation. Any clinical support by corrections officers must be limited, must be overseen by the medical department, and must be guided by clear protocols. Corrections officials may, and, in fact, should respond to medical emergencies in acute, life-threatening situations and be properly trained to do so. They should never, however, evaluate prisoners for medical reasons, perform sick call, or provide any type of non-emergency care. There are no protocols in place at [the jail] to guide corrections officers in the very limited medical*

<sup>11</sup> 800 F.2d 600, 605 (1986). In: Toone, p. 80.

<sup>12</sup> *Mandel v. Doe*, 888 f.2d 783, 789-90 (1989). In: Toone, p. 80

<sup>13</sup> *Sherrod v. Lingele*, 223 F.3d 605, 611-12 (7th Cir. 2000). In: Toone, p. 84.

<sup>14</sup> [http://www.justice.gov/crt/about/spl/documents/piedmont\\_findings\\_9-6-12.pdf](http://www.justice.gov/crt/about/spl/documents/piedmont_findings_9-6-12.pdf)

*tasks they may perform, and the current level of medical department oversight of officers is insufficient.”*

#### **D. Inmate Psychiatric Treatment and Mental Health Care:**

- 1) It is important that jail officials and local government leaders clearly recognize and acknowledge that adequate inmate psychiatric treatment and mental health care is a fundamental constitutional obligation of the jail and, therefore, a constitutional duty of local government. Such care should be looked at no differently than medical care in terms of providing constitutionally adequate care and custody of inmates. The courts have consistently applied the same constitutional standards for inmate medical care to psychiatric and mental health services. The standards generally consist of these six (6) elements:
  - a) Timely and appropriate assessment, treatment and monitoring of inmate mental illness.
  - b) Making appropriate provisions for an array of mental health services that are not limited to psychotropic medication only.
  - c) Ensuring that administrative segregation and observation is used appropriately.
  - d) Mental health records are accessible, complete and accurate.
  - e) There is proper and adequate response to medical and laboratory orders in a timely manner.
  - f) That adequate and ongoing quality assurance programs are in place.
  
- 2) The Fourteenth Amendment mandates that jails must provide pre-trial inmates “at least those constitutional rights... enjoyed by convicted prisoners,” including Eighth Amendment rights.<sup>15</sup> Under the Eighth Amendment, prison officials have an affirmative duty to ensure that inmates receive adequate food, clothing, shelter, and medical care.<sup>16</sup> The Constitution imposes a duty on jails to ensure an inmate’s safety and general well-being.<sup>17</sup> This duty includes the duty to prevent unreasonable risk of serious harm, even if such harm has not yet occurred.<sup>18</sup> Thus, jails must protect inmates not only from present and continuing harm, but also from future harm. This protection extends to the risk of suicide and self-harm.<sup>19</sup>
  
- 3) The Constitution also mandates that jails provide inmates adequate medical and mental health care, including psychological and psychiatric services.<sup>20</sup> Jail officials violate inmates’ constitutional rights when the officials exhibit deliberate indifference to inmates’ serious medical needs.<sup>21</sup>

<sup>15</sup> *Bell v. Wolfish*, 441 U.S. 520, 545 (1979).

<sup>16</sup> *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

<sup>17</sup> *County of Sacramento v. Lewis*, 523 U.S. 833, 851 (1998) (citing *DeShaney v. Winnebago County Dep’t of Soc.Servs.*, 489 U.S. 189, 199-200 (1989)).

<sup>18</sup> *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

<sup>19</sup> *Matos v. O’Sullivan*, 335 F.3d 553, 557 (7th Cir. 2003); *Hall v. Ryan*, 957 F.2d 402, 406 (7th Cir. 1992) (noting that prisoners have a constitutional right “to be protected from self-destructive tendencies,” including suicide)

<sup>20</sup> See *Farmer*, 511 U.S. at 832

<sup>21</sup> *Estelle v. Gamble*, 429 U.S. 97, 102 (1976).

## E. Jail Staffing and the Federal Courts<sup>22</sup>:

- 1) Court decisions define important parameters for jail operations by establishing minimum levels of service, performance objectives, prohibited practices, and specific required practices. We explore federal court decisions in this appendix, but we note that state and local courts also play an active role in evaluating and guiding jail operations. Decisions handed down by federal courts have required jails to:
  - a) Protect inmates from themselves, other inmates, staff, and other threats.
  - b) Maintain communication with inmates and regularly visit occupied areas.
  - c) Respond to inmate calls for assistance.
  - d) Classify and separate inmates.
  - e) Ensure the safety of staff and inmates at all times.
  - f) Make special provisions for processing and supervising female inmates.
  - g) Deliver all required inmate activities, services, and programs (medical, exercise, visits, etc.).
  - h) Provide properly trained staff.
- 2) Federal court involvement with jails goes back more than 40 years. State and federal prisons were the focus of many landmark cases in this era, and local jails soon became targets, as well. Early federal decisions tackled fundamental constitutional issues in jails. Many of these pioneering decisions are still cited in current litigation.

## F. Courts View Staffing Levels and Practices as Central to the Constitutional Duty to Protect:

- 1) The United States Constitution imposes an extraordinary duty to protect on jails that have no counterpart in the public safety. While the jail's duty is less visible to the public, and likely less appreciated, it rises above the constitutional responsibilities of our public safety colleagues. Even probation does not approach the duty to protect that is imposed on jails. Probation officials are not held responsible for the behavior of offenders under their supervision, nor for what happens to the offenders when they are not actually with a probation officer.
- 2) Do citizens have a constitutional right to be protected from crime or to have a fire extinguished? Neither of these are services that government *chooses* to provide. Whether or not to provide these services and the level of service that are delivered are discretionary decisions from a constitutional perspective. To be sure, it is politically expedient to provide fire and police protection. Because such services are discretionary, officials may vary staffing levels in response to temporary or long-term staff shortages.
- 3) A jail's duty to protect is constant, beginning when an inmate is admitted and continuing until release. Case law clearly establishes the responsibility of jail officials to protect inmates from a "risk of serious harm" at all times, and from all types of harm-- from others, from themselves, from the jail setting, from disease, and more. Because the duty to protect is constant and mandated, jails do not have the legal or moral option to lower the level of care just because there is not enough staff. If a shift supervisor leaves a needed post

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<sup>22</sup> See: Excerpts from: Jail Staffing Analysis Third Edition, Jail Staffing and the Federal Courts Copyright 2009, Rod Miller, Dennis R. Liebert and John E. Wetzel. (An NIC project).

vacant because there are not enough employees to staff all posts, he/she increases risk and exposes the agency and government to higher levels of liability.

#### **G. Duty to Protect:**

- 1) In an early federal district court case in Pulaski County, Arkansas, the court described the fundamental expectations that detainees have while confined:

*...minimally, a detainee ought to have the reasonable expectation that he would survive his period of detainment with his life; that he would not be assaulted, abused or molested during his detainment; and that his physical and mental health would be reasonably protected during this period... Hamilton v. Love, 328 F.Supp. 1182 (D.Ark. 1971).*

- 2) In a Colorado case, the federal appeals court held that a prisoner has a right to be reasonably protected from constant threats of violence and sexual assaults from other inmates, and that failure to provide an adequate level of jail security staffing, which may significantly reduce the risk of such violence and assaults, constitutes deliberate indifference to the legitimate safety needs of prisoners.

#### **H. Staffing Levels:**

- 1) The first Pulaski County case produced continuing federal court involvement with jail operations. When the county was brought back to court by inmates in 1973, the county asked the court to consider their plans to build a new jail. But the judge held that, while the plans are promising, current conditions must be addressed:

*This Court can only deal with present realities.... The most serious and patent defects in the present operation result directly from inadequate staffing. Hamilton v. Love, 358 F.Supp. 338 (D.Ark. 1973). A federal district court judge linked Platte County (Missouri) Jail's duty to protect to staffing levels: There shall be adequate correctional staff on duty to protect against assaults of all types by detainees upon other detainees. Ahrens v. Thomas, 434 F.Supp. 873 (D.Mo. 1977).*

- 2) In New Jersey, the federal district court required county officials to obtain an independent, professional staffing analysis addressing security staffing and training, classification, and inmate activities. The court set expectations for the plan and ordered the county to implement the plan:

*The staffing analysis shall review current authorized staffing, vacancies, position descriptions, salaries, classification, and workload... [The county] must implement the plan... Essex County Jail Annex Inmates v. Treffinger, 18 F.Supp.2d 445 (D.N.J. 1998).*

#### **I. Liability:**

- 1) Officials may be found to be "deliberately indifferent" if they fail to address a known risk of serious harm, or even if they *should* have known of the risk. Ignorance is not a defense. Failure to protect inmates may result in liability. Usually court intervention takes the form of orders that restrict or direct jail practices. Sometimes the courts award compensatory damages to make reparations to the plaintiffs. In more extreme situations, defendant

agencies may be ordered to pay punitive damages. A U.S. Supreme Court decision held that punitive damages may even be assessed against individual defendants when indifference is demonstrated:

*A jury may be permitted to assess punitive damages in a § 1983 action when the defendant's conduct involves reckless or callous indifference to the plaintiff's federally protected rights. Smith v. Wade, 103 S.Ct. 1625 (1983)*

#### **J. Court Intervention:**

- 1) Most court decisions produce changes in jail conditions, including operations. Continuing court involvement might be prompted by a consent agreement between the parties, or by failure of the defendants to comply with court orders. The nature of court involvement may even include the review of facility plans. In a New Mexico case, the court renewed its involvement when plans to reduce staffing were challenged by the plaintiffs. The court prevented the state from reducing staffing levels at several correctional facilities:

*...defendants will be enjoined from...reducing the authorized or approved complement of security staff...unless the minimal staffing levels identified as being necessary to provide a constitutional level of safety and security for prisoners have been achieved. The Court also will enjoin defendants to fill existing vacancies and thus to employ at least the number of medical and mental health staff as well as the number of security staff authorized to be employed during fiscal Year... Duran v. Anaya, 642 F.Supp. 510 (D.N.M. 1986).*

#### **K. Connecting Staffing Practices to Other Conditions:**

- 1) In the New Mexico case, the court went on to draw links between staffing levels and other aspects of facility operations, ranging from overtime to inmate idleness:
  - a) Overtime: *"...security staff will be adversely affected by excessive overtime work as a result of the understaffing of the institutions subject to the Court's orders in this litigation"*
  - b) Out of Cell Opportunity: *"...In addition, prisoners will be required to remain in their housing units for longer periods of time, and inmate idleness will increase."*
  - c) Idleness: *"Prisoner idleness...will increase as a result of staff reductions..."*
  - d) Programs and Activities: *"There is a direct, inverse correlation between the incidence of acts and threats of violence by and between inmates, on the one hand, and the types and amounts of educational, recreational, work and other programs available to inmates, on the other--i.e., acts and threats of violence tend to decrease as program availability and activity increase."*
  - e) Training: *"Reduction in security staff positions will prevent...complying with staff training requirements of the Court's order..."*
- 2) The court noted concerns by a security expert that the *"security staff reductions that are contemplated will result in a 'scenario at this time...very similar to the scenario that occurred prior to the 1980 disturbance"*, referring to the deadly inmate riot at the New



Mexico Penitentiary that claimed 33 inmate lives and injured more than 100 inmates and 7 officers.

#### **L. Lack of Funds is Not an Excuse:**

- 1) Federal courts have made it clear that lack of funds does not excuse violation of inmates' constitutional rights:

*Humane considerations and constitutional requirements are not, in this day, to be measured or limited by dollar considerations... Jackson v. Bishop, 404 F.2d 571 580 (8th Cir.1968)*

- 2) Courts may even restrict a jurisdiction's discretion with regard to where funds are found to make needed improvements. An appeals court held that it may restrict the sources from which monies are to be paid or transferred in order to protect the legal rights of those who have been victims of unconstitutional conduct. In a 1977 decision, Supreme Court Justice Powell observed:

*...a federal court's order that a State pay unappropriated funds to a locality would raise the gravest constitutional issues... But here, in a finding no longer subject to review, the State has been adjudged a participant in the constitutional violations, and the State therefore may be ordered to participate prospectively in a remedy otherwise appropriate.*

#### **M. Other Related Federal Cases Examples:**

Although the basic tenets of federal court involvement with jail staffing and operations were forged many years ago, the practice has not ended, as suggested in these more recent cases:

- 1) *Cavalieri v. Shepard*, 321 F.3d 616 (7th Cir. 2003). The court noted that the detainee's right to be free from deliberate indifference to the risk that he would attempt suicide was clearly established.
- 2) *Wever v. Lincoln County, Nebraska*, 388 F.3d 601 (8th Cir. 2004). The court held that the arrestee had a clearly established Fourteenth Amendment right to be protected from the known risks of suicide.
- 3) *Estate of Adbollahi v. County of Sacramento*, 405 F.Supp.2d 1194 (E.D.Cal.2005). The court held that summary judgment was precluded by material issues of fact as to whether the county knowingly established a policy of providing an inadequate number of cell inspections and of falsifying logs showing completion of cell inspections, creating a substantial risk of harm to suicide-prone cell occupants.
- 4) *Hearns v. Terhune*, 413 F.3d 1036 (9th Cir. 2005). The court held that the inmate's allegations stated a claim that prison officials failed to protect him from attacks by other inmates. The inmate alleged that an officer was not present when he was attacked, even though inmates were not allowed in the chapel without supervision.
- 5) *Velez v. Johnson*, 395 F.3d 732 (7th Cir. 2005). The court held that the detainee had a clearly established Fourteenth Amendment right to be free from the officer's deliberate indifference to an assault by another inmate.

- 6) *Smith v. Brevard County*, 461 F.Supp.2d 1243 (M.D.Fla. 2006). Violation of the detainee's constitutional rights was the result of the sheriff's failure to provide adequate staffing and safe housing for suicidal inmates, and in light of the sheriff's knowledge that inmate suicide was a problem, his failure to address any policies that were causing suicides constituted deliberate indifference to the constitutional rights of inmates.

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**SECTION 8.**  
**ASSESSMENT OF CURRENT AND POTENTIAL**  
**ALTERNATIVES TO INCARCERATION (ATI)**

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**A. Introduction:**

- 1) In considering the scope and capacity of alternatives to incarceration, it is necessary to consider (1) Does the County operate a range of programs that would be considered representative of forward thinking governmental and criminal justice systems? (2) Do the programs need improvement? and (3) Can impact of the programs be specifically measured?
- 2) It is our opinion, based on experience in working with counties across the country, that Vigo County has implemented and continues to operate a wider array of programs than most counties of similar size. Also, we have found that the judiciary and other criminal justice system leaders have been self-starters in developing specialty courts and supporting development of programs that address the needs they have often experienced. The establishing, continuation, and ongoing refinement of these ATI programs is clear evidence that Vigo County did, in fact, implement important aspects of the 2005 NIC study, despite some public assertions to the contrary.
- 3) Secondly, it is the consultant's rule of thumb that all programs need improvement. Importantly, members of the Vigo County criminal justice system have been open about participating with the consultants to investigate improvement in program operations, improving linkages between criminal justice system-based programs and community resources, such as mental health resources. Importantly, the consideration of how to improve programming for persons with mental health and substance abuse problems is being incorporated into planning of the design of a new jail.
- 4) Thirdly, the impacts of programs are often difficult to separate out. When pretrial defendants and sentenced offenders receive a mixture of services, the individual impact of each program may not be specifically measurable. In those instances, the concern for best practices is often the guiding factor for adding more programs to the mix of services. For example, the provision of educational programs by Community Corrections is congruent with best practices. Although the effects of such programs may not be directly reflected in a specifiable reduction in a number of jail beds, they have collective contribution to reducing recidivism.
- 5) Unfortunately, the complexity of the criminal justice system makes it difficult for the public to grasp the interplay between criminal justice system resources necessary to implement new programs, budgetary constraints, state and local operational practices, and changing beliefs about how to deal with crime. In the past, many members of the public hold the opinion that crime is something to be "fought" by the government. This perspective obscures the need to develop various kinds of community support for people whose problems bring them into contact with the justice system. This is one of the reasons the consultants have supported the formation of a Criminal Justice Coordinating Committee, which includes representation of community members, and the recommendation that Indiana State University consider establishing a justice policy program or institute with the capability to assist in the evaluation of the county's criminal justice programs.

- 6) In the following sections, rather than display the past histories of the programs through graphs and tables of historical participation rates, the focus is on the current status those programs and the possible impact of those programs on the jail population. The weaknesses or gaps in capabilities, three or four or ten years ago is of little import in responding to current needs.

## **B. Current Programs and Potential Programs:**

- 1) **Pretrial Diversion.** The Pretrial Diversion program is established in the Prosecutor's Office pursuant to Indiana Code 33-39-1-8. The primary purpose of this program is to allow first time, nonviolent offenders to participate in a program that may require education, treatment and/or community service. In exchange, the defendant who successfully meets all requirements and pays all fees will have the charges dismissed. Participation in this program can be for up to one (1) year. This diversion program, because of the eligibility criteria, has very little impact on jail inmate numbers. The defendants who are appropriate for the program are not the inmates typically held in the Vigo County Jail beyond a first court appearance or are never booked into the jail at all.

***Impact: In 2017, 438 people participated in the Pretrial Diversion program. Nearly half of the way into 2018, 117 people have been placed on the program.***

- 2) **Misdemeanor PAIR Program.** In the late 1990s the county judges, prosecutor, public defenders and mental health community came together to address the concern that they were seeing many of the same people. As a result, a combined effort was instituted called the Psychiatric Assertive Identification and Referral Program (PAIR). The PAIR program is a non-certified problem-solving court. The primary program purpose is to divert misdemeanor defendants, who have mental health issues that contributed to their offense, into a positive regimen for dealing with those problems. PAIR brings together criminal justice system operatives and community resources into a program of case management, monthly court appearances, medication monitoring, treatment, and education. A motivational element in the program is the requirement for participation as a condition of diversion. Program participation can last up to one year.

***Impact: In 2017, 33 people were admitted to the PAIR program. Nearly half of the way into 2018, 48 people have been diverted into the program. Since inception, 731 defendants have participated. Because of the nature of recidivism for those with mental illness, this program has a significant impact on the jail.***

- 3) **Felony Adult Mental Health (AMH) Court.** In 2008, a program for felony defendants that is similar to the PAIR was established in Vigo Superior Court 6. The AMH court is a non-certified, problem solving court. The primary purpose of this program is to divert felony defendants, who have mental health problems (or co-occurring disorders) that contributed to their offense, into intensive supervision through collaboration of the courts, prosecutor, defense attorneys, mental health service providers, and life skills educators. This intensive supervision often involves monthly court appearances, meetings with treatment providers, meetings with medication providers, and in-home visits. Participation in this program can be for up to four (4) years.

***Impact: In 2017, 78 people were admitted to the AMHC program. Nearly half of the way into 2018, 26 people have been placed on the AMHC program. Since its inception, 371 defendants have participated in this program.***

- 4) Drug / OVWI Court.** The Vigo County Drug Court is a certified, problem-solving court. There are two primary tracks for this diversion program. The first is for those facing misdemeanor or felony charges of possession of controlled substances. Participation in this track is for up to 18 months. The second is for those facing a 3rd Operating While Intoxicated offense within ten (10) years that would cause a defendant to become a habitual traffic violator and receive a ten (10) year Operator's License Suspension from the Indiana Bureau of Motor Vehicles. Participation in this track is for up to two (2) years. The primary purpose of this program is to provide supervision and services to help defendants establish a clean and sober lifestyle through partnerships with area treatment providers, local sober living environments, and the criminal justice system. This program, as it continues to regrow, will continue to assist in keeping the jail population down by reducing recidivism in a group with a very high recidivism rate.

This program endeavors to have candidates referred, evaluated, and accepted into the program within 50 days of arrest. If the person is placed into the program, they are no longer going to be housed in the Vigo County Jail, resulting in a significant reduction in length of incarceration. Additional funding for this program will allow for increased staffing, resulting in an increased number of participants. Currently, the Vigo County Prosecutor's Office provides additional funding allowing for a case manager position within the program.

***Impact: During most of 2017, the program served 25 participants and was at its maximum capacity. In March of 2018, a case manager was hired who has now been trained. The goal is that by the end of 2018, up to 50 participants can be placed in the program.***

- 5) Veteran's Treatment Court.** The Vigo County Veteran's Treatment Court is a certified, problem-solving court. The mission of Vigo County Veterans Treatment Court is to create a collaborative, proactive effort between the court system and community organizations serving veterans, aimed at improving outcomes of veterans involved in the court system who have substance dependency and/or mental illness and increasing their opportunities for success after military service. This program involves the use of volunteer mentors that are also military veterans. In diverting defendants who are military veterans, the primary goals of this program are:

- a) Help veterans receive the services they need to reach their full potential as productive members of society.
- b) Help veterans navigate the court system, treatment system, and the VA system.
- c) Assess veterans needs and help them adjust back to civilian life.

This program endeavors to have candidates referred, evaluated, and accepted into the program within 50 days of arrest. If the person is placed into the program, they are no longer going to be housed in the Vigo County Jail, resulting in a significant reduction in length of incarceration. Additional funding for this program will allow for increased staffing, resulting in an increased number of participants. Currently, grant funding allows for the Court Coordinator. A recently received grant for FY2018 will allow the court to add a case manager and increase the number of participants.

***Impact: In 2017, 25 people were admitted to the Veteran's Treatment Court. Nearly half of the way into 2018, 24 people have been placed on the program.***

## 6) Community Corrections:

Vigo County Community Corrections uses fees paid by offenders (Project Income) to supplement funds awarded by the Indiana Department of Corrections. Vigo County Community Corrections interviews offenders prior to placement in the Vigo County Community Corrections Program to determine which component would be most effective for the offender. Upon sentencing to the Vigo County Community Corrections program, a risk-needs assessment (Indiana Risk Assessment System - IRAS) is used to determine the risk level, as well as the needs, that will be addressed during the sentence. A case plan is developed and discussed with the offender, addressing needs and programs that would be appropriate during sentence. The goals identified in the case plan are then used to determine the placement in programs and classes offered by Vigo County Community Corrections and other agencies. Offenders are reassessed every six months and at discharge to ensure all needs are being addressed and that all goals are documented as being achieved. The case plan is reviewed on a regular basis to assure that the offender is on track with the case plan and to identify any problems that may arise.

- a) **Community Resources Utilization.** Community Corrections utilizes several partnerships and collaborations with many local service providers. The Vigo County School Corporation provides Adult Education classes and testing in-house. Self-paced classes and instruction are provided to assist and educate the participants, so that they can pass the High School Equivalency Test. Indiana Work One (HIRE program) offers a job search class once per week in the facility. Hamilton Center provides mental health and substance abuse treatment. Hamilton Center is a Recovery Works provider; therefore, participants that qualify are referred for all mental health and substance abuse treatment. Choices Consulting Center provides life skills and alcohol and drug education classes, as well as other cognitive based classes to participants. IU Medical Health offers a one-time education group on AIDS and STD's, as well as testing to anyone volunteering to be tested. The Vigo County Health Department provides TB testing.

***Impact: During FY2017, 311 people were served in this program, including 134 on pretrial release.***

- b) **Work Release.** The Vigo County Community Corrections' Work Release program allows a person who is sufficiently trusted, or can be sufficiently monitored to leave confinement, to continue working at their current place of employment, returning after work to Community Corrections facility, which is separate from the jail.

The Work Release program serves both pretrial and convicted males and females. All participants receive an assessment and are supervised based on their risk and needs. People are placed in Work Release as deemed needed by the judges. Participants are required to turn in their paychecks each time they get paid unless they receive direct deposit. After the fees are addressed, a check is reissued to the participant.

***Impact: The Work Release program is able house 132 persons who might otherwise be in jail. In 2017, 331 persons in were assigned to Work Release, of which 134 were pretrial defendants and 177 were sentenced offenders. Not all of the program slots were filled and utilization was lower than the previous year.***

- c) **Home Detention.** As indicated by the program name, the participant lives at their home, usually under electronic monitoring, and may be monitored via drug screens and

alcohol sensors when so determined by their risk needs assessment. The program serves both pretrial and sentenced males and females. The sentenced participants (felons) may be the subject of split sentences and the Community Transition program.

All risk levels are served. Offenders are pre-assessed to determine eligibility for the program according to policy. After being sentenced to the program, an Intake assessment is performed using the IRAS. This assessment determines the person's needs and matches those needs with appropriate treatment programs and services. Program participation and progress is monitored by case managers and support staff to ensure the participants are following their treatment plans. The participant submits a weekly work schedule and attends programs as specified in their treatment plans. In addition, they are field-checked outside the facility according to their risk level and must report in person, weekly, to the Community Corrections facility.

***Impact: During FY2017, 453 people were served in this program, including 156 on pretrial release.***

- d) **Community Service Restitution.** The Community Service Restitution program serves both males and females who are pretrial defendants and sentenced felons and misdemeanants. As indicated in the program title, participants perform community service hours at a not-for-profit agency, as assigned by Vigo County Community Corrections, in lieu of detention in jail.

No grant funds are used to fund this program. This program is funded by user fees (Project Income) only. This is an administrative supervision program only. There are no services utilized in this level of supervision.

***Impact: During FY2017 1,254 offenders participated, including 134 felons, 1,108 misdemeanants and 12 on pretrial release.***

## **7) Vigo County Adult Probation:**

Vigo County Adult Probation supervises both pretrial defendants, by definition unsentenced persons, and offenders who are sentenced to probation.

- a) **Pretrial Supervision.** Pretrial Supervision is an alternative to jail that costs less than incarceration and gives offenders charged with crimes the opportunity to live with their families, hold jobs and to be productive members of society while awaiting judicial proceedings. This also assists in reducing the jail population. Probation officers enforce the Court's order to ensure those being monitored comply with the conditions of pretrial release and return to Court as ordered.

***Impact: The number of pretrial defendants under supervision usually ranges between 150-200 persons.***

- b) **Probation Supervision.** Probation Supervision allows offenders with suspended sentences to remain in the community under various levels of supervision based on their assessed risk and needs. This alternative to incarceration serves to protect the community by reducing risk that people on supervision commit crimes; provides resources for services to address needs that may be linked to their criminal behavior, including substance abuse or mental health treatment, medical care, training and

employment assistance. Utilization of evidence-based practices allows for incentives to reward good behavior and imposition of sanctions to gain compliance. Sanctions are utilized in an effort to prevent their return to jail, as well as referrals to treatment and other community resources, both with the goal of reducing recidivism. The use of probation has had an impact on both the county jail and prison system by diverting offenders to the community to serve a term of supervision instead of housing them in jail.

***Impact: In general, the caseload includes 1,600 felony offenders and 300 misdemeanor offenders on a continuous basis, minus the pretrial defendants.***

#### **8) Public Defender Mental Health & Addiction Services:**

- a) On January 1, 2017, the Vigo County Public Defender's Office implemented a program funded by a grant from the Edward Byrne Memorial Justice Assistance Grant Program and the Indiana Criminal Justice Institute. The program is staffed by a case manager who interviews clients (who are in custody and not in custody) and assists them in selecting a Recovery Works agency, which will provide treatment appropriate for their mental health and/or addiction problems. (The Recovery Works Program is a new service of the Indiana Mental Health and Addiction Division.)
- b) In addition to the initial interviews of clients, the case manager monitors the status of treatment participation of those who have been evaluated for treatment and follows up with clients who failed to appear for treatment evaluation. For those who missed their scheduled evaluation, the case manager assists with rescheduling the appointment. The Hamilton Center, a designated Recovery Works treatment provider, has set aside a day for such rescheduling of missed appointments.

The case manager also is developing a database of service providers for mental health, addiction, and wraparound services in the community.

***Impact: Through this program, the likelihood is increased that a higher proportion of indigent persons who come into contact with the criminal justice system will receive mental health and/or addiction treatment services.***

#### **9) Expanded Pretrial Release Programming (currently under development):**

- a) In September 2016, the Indiana Supreme Court adopted Criminal Rule 26 – Pretrial Release. CR26 encourages the release of arrestees, without bail, who do not present a substantial risk of flight or danger to self or others, subject to appropriate supervision, and not including defendants charged with murder, or those already on pre-trial release, probation or community corrections. CR26 also encourages courts to use evidenced-based risk assessments in determining whether an arrestee presents a substantial risk of flight or danger to self, others or the public. Statewide implementation of all CR26 requirements is mandatory in January 2020. Supporting this initiative is a state pretrial work group that has facilitated the development of a set of evidence-based policies and procedures (Pretrial Practices Manual) for use by Indiana jurisdictions as they develop and implement programs.
- b) Prior to the 2016 initiative, Vigo County was already operating pretrial release services through the Vigo County Adult Probation Department and Community Corrections.



Early in 2018, Vigo County Courts assembled a committee to pursue possible improvements in pretrial release practices, consistent with CR 26 and the recommendations in the Pretrial Practices Manual. The committee has representation from the Judiciary, Prosecutor's Office, the Public Defender's Office, Vigo County Adult Probation, Community Corrections, County Commissioners, County Council, Sheriff, and City Law Enforcement.

- c) On February 28, 2018, the Deputy Director of the Indiana Office of Court Services met with the committee to familiarize members with evidence-based decision-making concepts in pretrial release programming and to discuss various aspects of improved pretrial release programming. As a result of the meeting, the CR26 Committee made a formal request for Technical Assistance from the National Institute of Corrections (NIC). The request was approved and funded. On May 18, 2018, the committee met with Lori Eville from NIC. Additional meetings with the NIC are planned, as the committee works towards implementing and improving a more formal pretrial release program.

***Impact: At this stage, it is too early to forecast how the refinements will affect the size of the jail population. Additional resources are anticipated to fully implement this initiative and the full benefits relative to jail population impacts will not be actualized for 3-5 years post implementation.***

#### **10) Behavioral Health Diversion Facility (BHD):**

- a) Vigo County is seriously considering the implementation of a 16 to 30-bed Behavioral Health Diversion Facility to add to its regimen of alternatives to incarceration (ATI). We highly commend Vigo County officials and their community behavioral health partners for such forward thinking.
- b) BHD facilities are typically non-custodial facilities that have shown as an effective (and humane) alternative to incarceration throughout the United States, but their existence is very rare. Such facilities function as an alternative to incarceration for relatively low-level, non-violent offenses committed by people experiencing mental health crises, or who are in the midst of other serious behavioral health episodes. These facilities provide an array of professional behavioral health treatment services from crisis stabilization, medication assisted treatment (MAT), short-term residential care to outpatient mental health and addiction services, designed to help address behavioral health links to certain offending behaviors.
- c) BHD facilities provide local law enforcement an efficacious alternative to booking a person into jail, thereby reducing the number of jail bookings and daily inmate population. More importantly, BHD facilities effectively help to address timely access to mental health service problems – a common issue among mentally ill offenders and most community mental health delivery systems.
- d) Adding to the value of this potential ATI, Vigo County officials envision a BHD facility could improve jail and criminal justice system performance and outcomes in several other ways, for example:

1. Serve as a behavioral health step-down facility to further stabilize and prepare inmates being released from the jail.
  2. Serve as behavioral health step-up to jail (or other custodial sanction) facility for defendants and offenders who fail to comply with court-ordered BHD program requirements.
  3. Provide Community Corrections and County Probation agencies with another option to consider before making the determination to sanction an offender with incarceration.
  4. Give local courts, prosecution, and defense another non-custodial option when considering sanctions for noncompliance with other ATI programs, such as Felony Mental Health Court and PAIR, Veteran's Court, etc.
- e) A BHD facility could help to reduce the jail population in the long run. However, facility and operational planning, development, implementation could take up to two years, and its full impact on the jail population would likely not be realized for five to eight years after full implementation of the program. Nonetheless, a BHD facility can effectively support criminal justice reform sustainability if it is well planned, implemented, and operated according Key Sustainability Indicators for Criminal Justice Reform.

***Impact: Behavioral Health Diversion Facilities have demonstrated their effectiveness as a specialized alternative to incarceration throughout the United States over past several decades, but they are rare. Facility and operational planning requires considerable collaboration between government officials, community agencies, and the community. Funding mechanisms for sustainable facility construction and operations are not yet known to Vigo County but should be identified soon, so as to potentially incorporate this ATI strategy into the County's overall jail and criminal justice reform planning. Impact on jail capacity cannot be reliably determined at this time.***

#### 11) National Stepping-Up Initiative:

- a) An estimated 2 million people with serious mental illnesses and other treatable behavioral health problems are admitted to jails across the nation. Approximately 75% also have drug and alcohol use and addiction problems. These individuals typically remain incarcerated longer their counterparts and are at greater risk for reincarceration upon release. Vigo County is no exception, with an estimated 30%-60% of its jail population having serious mental illness and other diagnosable behavioral health disorders at the time of admission and during incarceration.
- b) Jails spend considerably more of their budgets on inmate behavioral health disorders. And yet upon release, the investment is much to no avail because public safety benefits are short term and/or not realized at all. As is with Vigo County, local jurisdictions and communities have invested tremendously to overcome this problem, but those efforts are too often derailed or impaired by serious political, organizational, financial and other resource challenges. Without sustainable change, many people with behavioral health problems will continue to cycle through local jails and criminal justice systems with often tragic outcomes of missed opportunities for needed treatment with public safety consequences.

- c) The Stepping-up Initiative is a nationwide effort to divert people with mental illness and other behavioral health problems from jails into appropriate treatment and aftercare services. This campaign is led by the National Alliance for Mental Illness, National Association of Counties, Council of State Governments Justice Center, American Psychiatric Foundation and many law enforcement associations and behavioral health organizations.
- d) The initiative challenges counties and their communities to collaborate in finding sustainable solutions to address community-specific needs. The campaign also supports local leaders by providing examples of demonstrated effective reforms and connections to other jurisdictions that have been successful in reducing incarceration of people with mental illness.
- e) Joining the campaign costs nothing but doing so can return tremendous dividends toward public safety and community wellness. Vigo County's, active participation in the National Stepping-Up Initiative would garner valuable resources and substantively support many jail and justice system reforms.
- f) County officials are encouraged to connect with Stepping-Up Initiative officials in Vanderburg County, IN and download the campaign resource toolkit at: <https://stepuptogether.org/toolkit>.

***Impact: Nationwide, jurisdictions involved in the Stepping-Up Initiative are experiencing improvement in the effectiveness and efficiency with jail and criminal justice system outcomes. The impact on the Vigo County Jail populations cannot be reliably determined at this time.***

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**SECTION 9.**  
**FEASIBILITY OF HOUSING INMATES IN THE COUNTY JAIL OF ANOTHER OR**  
**IN A MULTICOUNTY (REGIONAL) JAIL ESTABLISHED BY TWO COUNTIES**

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**A. Feasibility of Regional Partnerships:**

- 1) The decision to regionalize a jail for multi-jurisdictional benefit is complex, due to the multitude of issues involved, and very arduous because the issues and interests involved are significant. Care and protection of the public, correctional staff, and inmates are crucial factors to consider. Regionalization involves significant issues and is typically the result of the high cost of jail construction and operations along with a desire to spread those costs over more than one jurisdiction.<sup>23</sup> There are no viable regional alternatives available to Vigo County at this time.
  
- 2) Although Vigo and the four adjacent counties are overcrowded, according their 2016 State Jail Inspection Reports, a regional solution would require the adjacent counties to transport some or all of their inmates to Vigo County as the logical hub. Figure 1 shows jail data for adjacent counties.

**Figure 1: Jail Data for Adjacent Counties.**

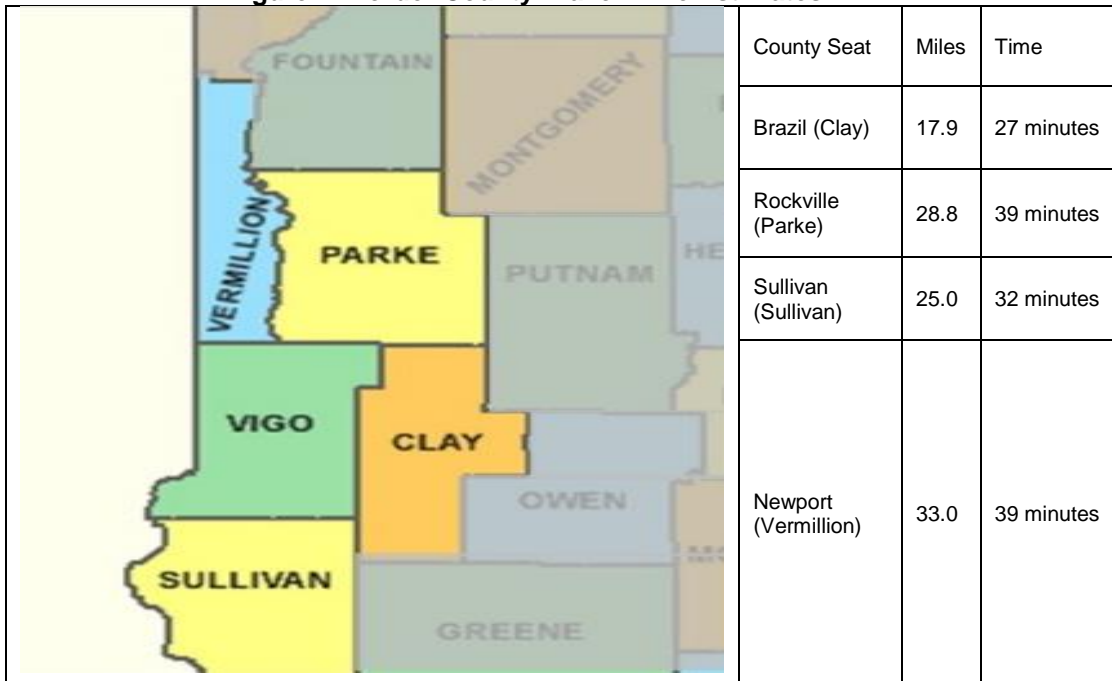
County	Inmate Pop.	Num. of Beds	Jail Rate of Utilization	Jail Over Capacity*	Num. of Inmates sentenced to serve county time	Num. of beds for DOC holding	Num. of inmates being held for DOC	Num. of sentenced inmates awaiting transfer to DOC	Num. of inmates for US marshal /ICE	Adequate Jail Staffing
Clay	162	170	95.3%	Yes	0	12	10	0	57	No
Parke	75	92	81.5%	Yes	3	30	0	0	0	No
Sullivan	72	56	128.6%	Yes	15	0	0	0	0	No
Vermillion	80	74	108.1%	Yes	12	30	3	0	0	Yes
Vigo	251	267	94.0%	Yes	0	0	0	3	0	No
State	17,833	21,050	84.7%		2,024	1,470	757	266	384	

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<sup>23</sup> Ray, Kenneth A. and Kathy O'Meara Wyman. *Privatizing and Regionalizing Local Corrections: Some Issues for Local Jurisdictions to Consider*. Corrections Today, 62, no 6, (October 2000): Pages 116-128. Reference from: <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=185412>

- 3) Also, as the largest of the five jails, Vigo County would be the logical location of a regional facility, as depicted on the map and chart below showing location, distance and estimated travel time. Figure 2 shows bordering counties, distances and estimated travel times.

**Figure 2: Border County Travel Time Estimates.**



- 4) While the distance between Terre Haute and the four adjacent county seats is not formidable, it represents a substantial cost and logistical challenge for pretrial detainees who require in-person attendance at court proceedings, as shown in Figure 3 below.

**Figure 3: Map of Border County Transportation Distance Travel Time**



**B. A Regional Partnership Might Provide Some Benefits for Vigo County, such as:**

- 1) Lower per-inmate operating costs might be realized by consolidating all inmates into a single facility.
- 2) Lower per-bed construction costs might also be possible.
- 3) Ability to offer more diverse inmate programs in a larger facility.

But adding other partners to a new jail venture would also have many downsides:

- 1) The county would have to build a substantially larger facility, making site acquisition more difficult and likely triggering concerns of higher risks for county residents.
- 2) Sufficient qualified staff for a larger facility would be difficult to find and retain.
- 3) The other partners would need to contribute construction funds to build a facility outside of their county. This has proven to be a difficult concept to sell to officials and the public.
- 4) The parties would need to determine how the new facility would be organized and administered -possibly deciding to create an authority with decision-making shared between the counties.
- 5) Vigo County would assume liability for the expanded inmate population.

- 6) Planning a regional facility would increase the time needed to begin construction by years, while the partners determine the structure and logistics of the project and then secure funding for their shares.
- 7) Vigo County is under pressure to move decisively to solve deficiencies that have become the subject of lawsuits, and it is likely that the plaintiffs would not be willing to wait any longer.

The consultants have implemented three of the four regional jail feasibility studies that have been completed in the United States in the past 10 years. Their work has included conducting a national survey of regional jails. At this time, under current conditions, a regional partnership is not in the best interest of Vigo County.

### **C. Regional Jails in the United States:**

- 1) Regional jails are *exceptional*. Less than 2% of all U.S. jails serve a region rather than a single jurisdiction. Of the approximately 80 regional jails operating today, only a handful were built without substantial state subsidies.
- 2) The most recent non-subsidized regional jail is the Burleigh Morton Detention Center in Bismarck, North Dakota. It opened in 2017. Before that, it had been 14 years since an unsubsidized regional jail was developed -- the Two Bridges Regional Jail in Maine, organized in 2003.
- 3) The Commonwealth of Virginia decided to promote regional jails over thirty years ago, and as a result it has 34 regional jails, more than one-third of all of the regional jails in the United States. Regional partnerships make sense in Virginia where both cities and counties operate jails and the distance between jurisdictions with jails is short. In addition to the regional jails, there are 15 city jails and 29 county jails in Virginia.

Many regional jails in the United States are having difficulties:

- 1) One Virginia regional jail has now closed its doors after 20 years, when the original partners paid off their construction debt and no longer had a need for the extra beds. Several other regional jails in Virginia are costing their partners substantially more than expected because the state prison population has declined, reducing the need to pay regional jails to house state prisoners.
- 2) Several regional jails in other states are encountering difficulties after their initial construction bonds have been paid. In Oregon, the revenue stream for a regional jail was insufficient and the partner counties asked voters to approve an increase. The measure passed in all but one county, which meant that none of the counties could increase their contributions.
- 3) The "regional jails" in Mississippi house state prisoners. Many have experienced difficulties in recent years as the state's prison population has declined. In Ohio, two of the four regional jails built with a 50% state subsidy are experiencing financial problems.

#### D. Feasibility Studies:

Four major regional jail feasibility studies were conducted in the past 10 years:<sup>24</sup>

- 1) Regional Jail Feasibility Study, Allegan, Kalamazoo and Kent Counties, Michigan
- 2) Regional Jail Feasibility Study: Clay, Fentress, Overton and Pickett Counties, Tennessee
- 3) Regional Jail Feasibility and Facility Re-Use Study, 15 Counties in Michigan's Upper Peninsula
- 4) Burleigh/Morton Counties Study, North Dakota

The final reports for these four studies may be downloaded at: <http://tbf.me/a/EaUMc>

#### E. Overview of Regional Jails:

A national survey was conducted for the first Michigan study. Findings were updated in the subsequent two studies. Extensive research was conducted on the topic of regional jails in the United States. This research included:

- 1) A comprehensive literature review.
- 2) Consultation with national sources.
- 3) Review of news accounts of regional jail partnerships.
- 4) Analysis of laws in all 50 states.
- 5) An exhaustive internet search for information regarding regional jails.
- 6) Implementation of a comprehensive survey of existing regional jails and of regional development efforts that did not succeed.

Subsequent updates identified:

- 1) Regional jails operating in 21 states
- 2) 16 regional jail projects in 10 states under consideration.
- 3) 10 regional jail projects in 8 states that were recently abandoned.
- 4) Statutes authorizing or related to regional jails were in place in 20 states.

#### F. Regional Jail Structures:

The National Institute of Corrections (NIC) categorizes regional jails into seven different organizational structures:

- 1) Type I - A consortium of jurisdictions which agree to operate a regional facility for both pretrial and sentenced inmates, with shared control by a jail board drawn from the participating bodies, as well as joint pro rata funding. In this arrangement, there are no other jail facilities in the participating jurisdiction. (The most common form, and the structure authorized in Virginia)
- 2) Type II - The same arrangement as Type I, except that some jurisdictions in the consortium also maintain their own local facilities for pretrial inmates.

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<sup>24</sup> The first three studies were implemented by CRS Inc., a non-profit organization ([www.correction.org](http://www.correction.org)). The SW Michigan study was completed in partnership with Luminosity (<http://www.luminosity-solutions.com/>). The Tennessee study included SRMT Inc. ([www.smrinc.com](http://www.smrinc.com)) and BPR LLC, Knoxville TN (<http://www.bprplanning.com/>). Kimme Associates implemented the North Dakota study.



- 3) Type III - A multi-jurisdictional facility exclusively for certain sentenced offenders; the participating jurisdictions also continue to operate their own jails for both pretrial and sentenced inmates.
- 4) Type IV - A multi-jurisdictional facility holding both pretrial and sentenced inmates; some jurisdictions in the consortium continue to operate their own jails.
- 5) Type V - A locally operated facility which accepts referrals from other participating jurisdictions and the state, generally for work release; all jurisdictions are charged a fee-for-service for all persons confined in the regional unit. (Vigo County' Community Corrections facility was intended to serve the region).
- 6) Type VI - A single jurisdiction accepts pretrial and/or sentenced inmates on a set fee-for-service basis, with total control remaining with the operating jurisdiction.
- 7) Type VII - Consolidated city-county jurisdiction. (No facilities)

The first four types are all variations of a structure in which two or more localities operate a regional jail with none, some, or all of the partners maintaining local jails. These types are recognized as more traditional regional jails while types V, VI, and VII generally are not. The chart below compares and contrasts the characteristics of the seven types of regional structures.

Nearly two-thirds of all regional jails characterize their facilities as Type I, serving two or more jurisdictions and operated by a representative board or authority, with no other jails being operated in the participating jurisdictions. Type IV is the second most common structure, a multi-jurisdictional facility holding both pretrial and sentenced inmates with some jurisdictions in the consortium continuing to operate their own jails. Four facilities reported being Type VI, two facilities as Type II, two as Type III and one facility as Type V. No Type VII arrangements were reported. Figure 4 below shows Regional Jail Types.

**Figure 4: Regional Jail Types.**

Type	Operated By	Maintain Local Jails?	Type of Inmates Housed		Accept Other Jurisdictions?	Number of Facilities
			Pretrial	Sentenced		
I	Consortium	None	Yes	Yes		27
II	Consortium	All	Yes	No		2
III	Consortium	All	No	Yes		2
IV	Consortium	Some	Yes	Yes		5
V	One County	NA	No	Yes	State	1
VI	One County	NA	Yes	Yes		4
VII	City/County	NA	Yes	Yes		0

## G. Notable Obstacles to the Regional Jail Development Process

The regional jails that responded to the survey provided detailed information regarding significant obstacles that needed to be overcome during the development process. Seven primary obstacles were described:

- 1) Citizen opposition to facility location – “not in my back yard”
- 2) Joint powers agreement – developing and securing buy-in from participating jurisdictions

- 3) Cooperation and agreement from participating jurisdictions – planning, financing, architectural design, construction, staffing, and operations
- 4) Sheriffs' resistance to a regional jail instead of expanding their own facilities
- 5) Site selection – zoning and agreement on location (transportation distances)
- 6) Financial – support for bond
- 7) Convincing localities of the advantages of a regional jail

#### **H. Benefits:**

A study completed in Washington State<sup>25</sup> identified that regional jails are a viable alternative for the State of Washington, offering the following potential benefits:

- 1) Economies of scale
- 2) Construction cost savings
- 3) The possibility of operating expense savings
  - a. based on annual per prisoner costs
- 4) Improved jail housing conditions
- 5) Improved provision of inmate services
- 6) Provision of special offender services
- 7) Safer and more secure facilities
- 8) Enhanced public and officer safety

In spite of the encouragement offered by the Washington study, no new regional jails have been developed since the study was completed in 2001. The benefits identified in the Washington report are similar to those reported by regional jails in the national survey.

#### **I. Many Try and Fail:**

- 1) A significant part of the research involved identifying, cataloging, and contacting other localities nationwide who are either currently engaged in the regional jail process, or those who began that process but ultimately decided against pursuing a regional jail.
- 2) The research identified regional jail projects in 12 states that were under consideration. Ten projects in eight states are known to have abandoned regional jail discussions since the year 2000. There are many more regional projects that have been considered but were eventually discarded. More detailed findings are available in the three feasibility study reports, which may be downloaded at: <http://tbf.me/a/EaUMc>.

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<sup>25</sup> "Regional Jails in the State of Washington: Regional Jail Study Final Report." Washington Association of Sheriffs and Police Chiefs. Olympia, Washington. 2001

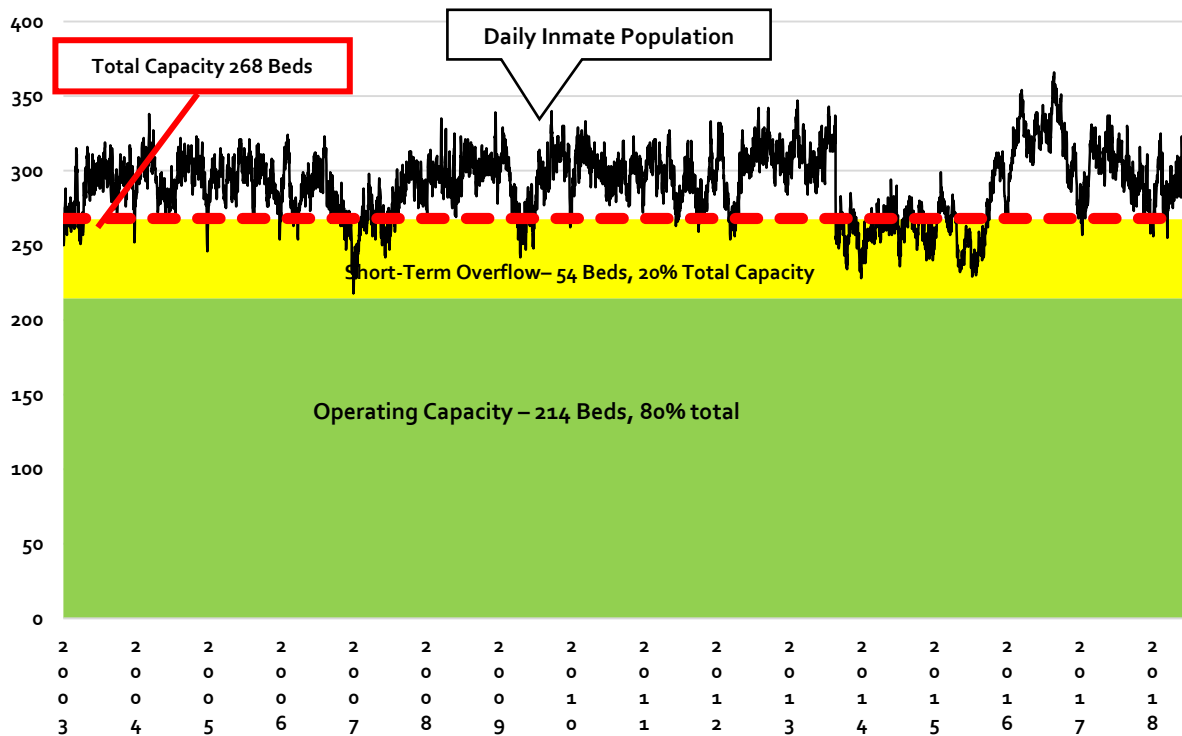
**SECTION 10.**  
**PROJECTION ESTIMATE OF THE NUMBER AND CHARACTERISTICS OF FUTURE INMATES RELATIVE TO CURRENT AND FUTURE JAIL CAPACITY NEEDS**

**A. Jail Capacity:**

The Vigo County jail has an operating capacity of 214 beds (80% of total capacity) and a total capacity of 268 beds. Twenty percent (20%) of total capacity (54 beds) is intended for short-term population increases (overflow), classification and reclassification of prisoners according to inmate and facility risk and safety needs. A jail's operating capacity is considered the recommended maximum number of prisoners that should be held to ensure safe and manageable conditions of confinement. Exceeding a jail's operating capacity for short periods is considered normal, as long as the population does not exceed total capacity.

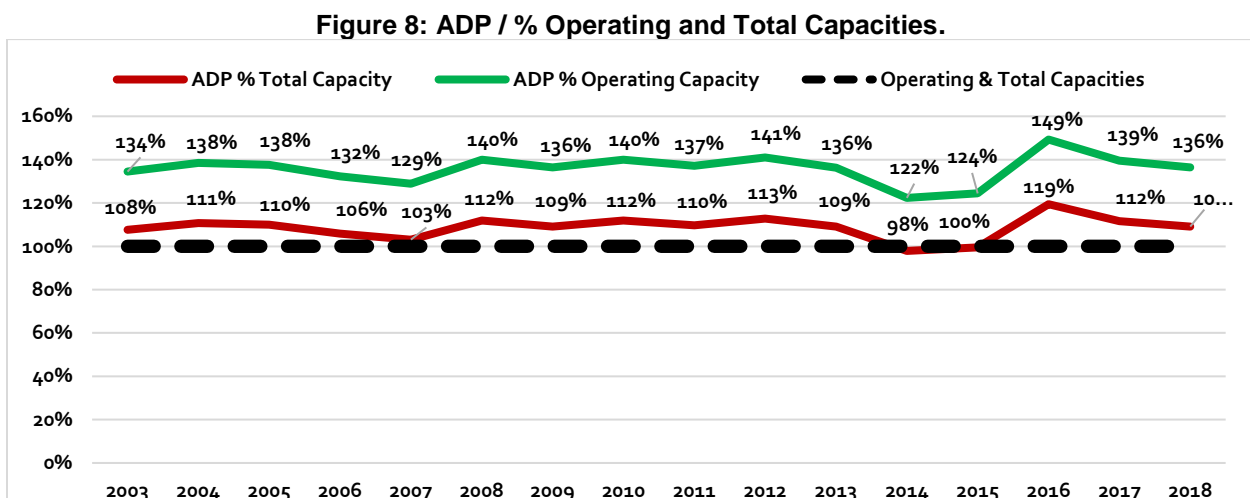
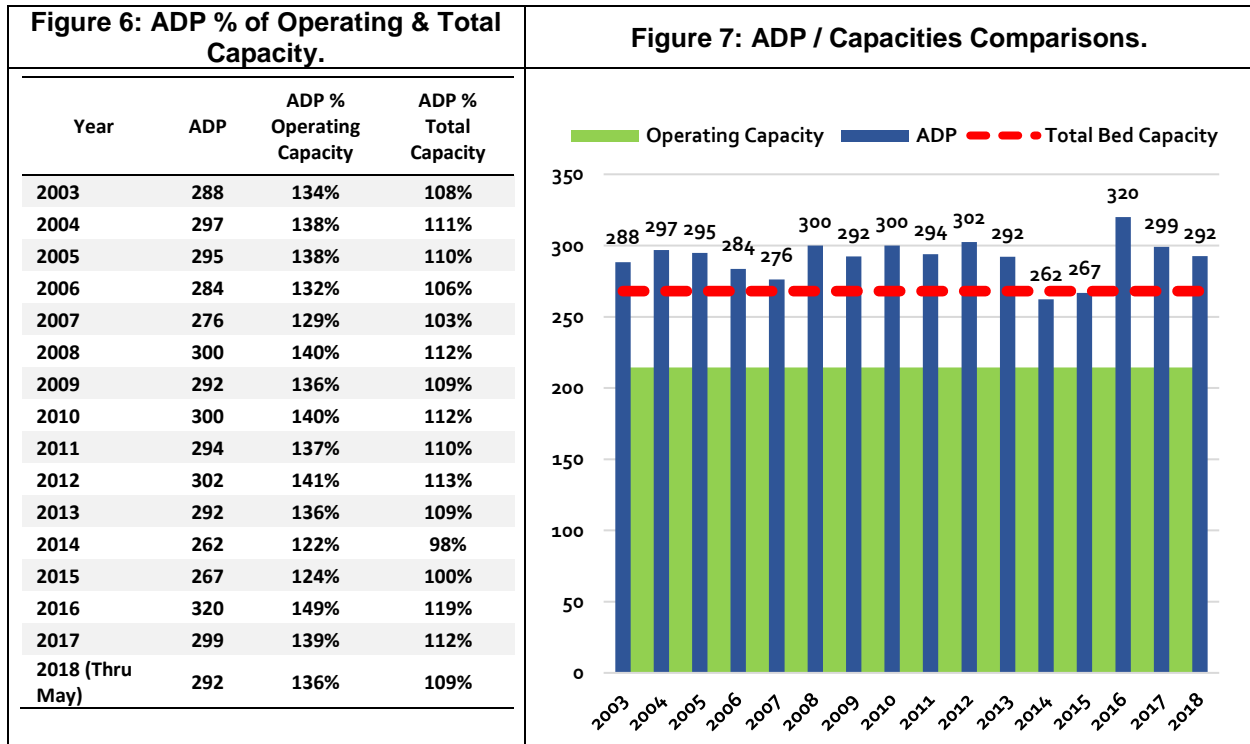
- 1) **Daily Inmate Population.** The Vigo County inmate population exceeded the jail's operating capacity every day between January 1, 2003 through May 30, 2018 (the data range for this assessment). Additionally, the jail has exceeded total capacity approximately 84% of days for more than the past 15 years. Figure 5 below show the jail's daily inmate population for that period compared to operating, short-term, and total capacities.

**Figure 5: Daily Inmate Population and Jail Capacities.**



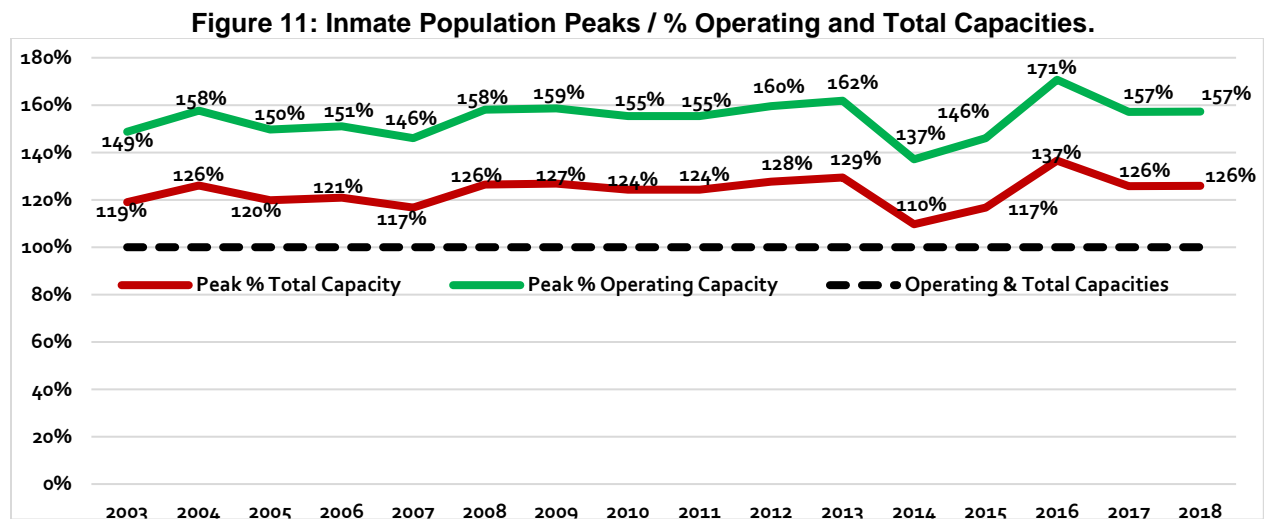
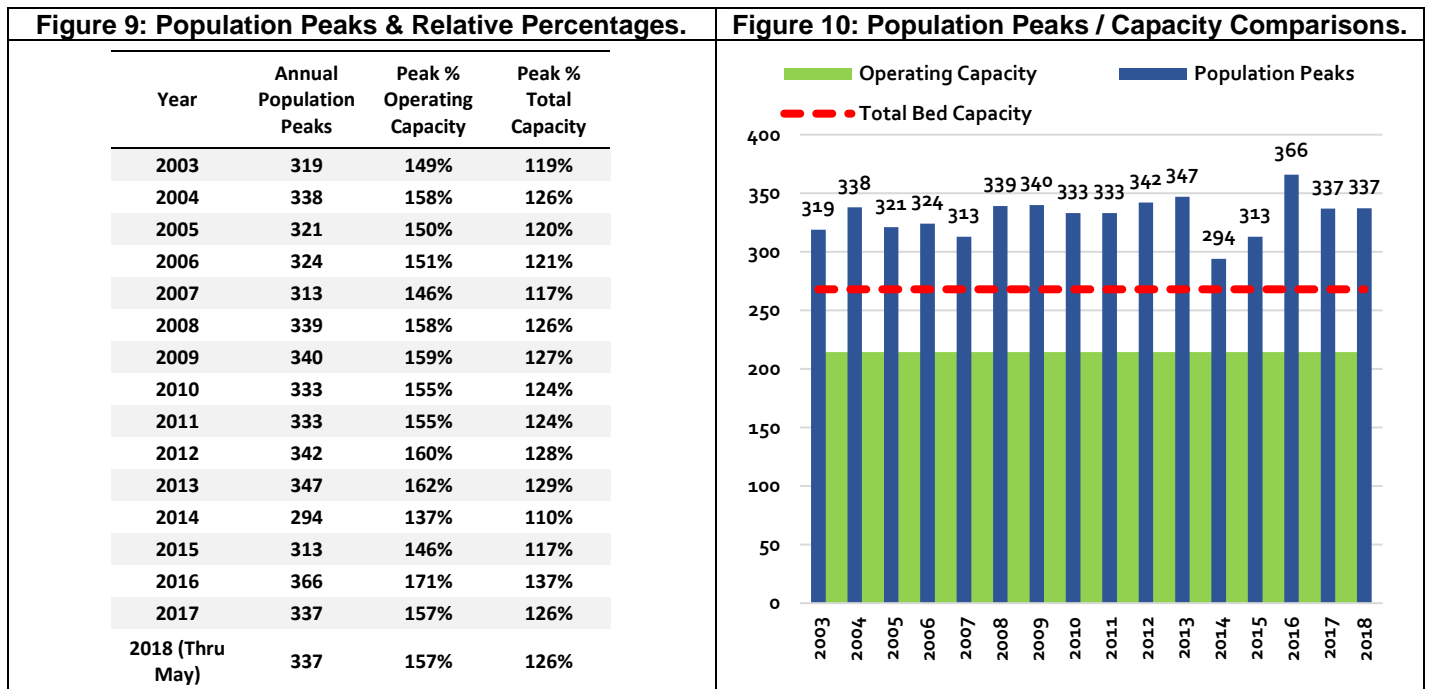
**2) Average Daily Population (ADP).** The average daily inmate population (ADP) is the mean average of the daily population divided by the number of days in a given year. ADP is typically measured annually to assist in identifying population trends and patterns from year to year.

Similar to findings previously described about the daily inmate population, the County’s annual ADP has exceeded the jail’s operating capacity since at least 2003, and total capacity except in 2014, when the ADP reached 98% of total capacity. The ADP reached as high as 149% of operating capacity and 119% of total capacity in 2016. Figures 6,7 and 8 below show annual ADP statistics, relative percentages, and comparisons of ADP to operating and total capacities.



**3) Inmate Population Peaks.** The highest number of inmates per day in a given period is considered the inmate population peak. This study uses annual inmate population peaks to understand their historical relationship with capacity. The 54-bed short-term overflow / classification capacity is the bed capacity between operating and total capacities. This capacity is intended for very short-term inmate population peaks for population overflow, classification and reclassification of prisoners according to inmate and facility risk and safety needs.

The population peaks reached as high as 171% of operating capacity and 137% of total capacity in 2016. Figures 9,10 and 11 below show annual population peak statistics, relative percentages, and comparisons of peaks to operating and total capacities.



#### 4) Displaced Prisoners:

**Figure 12: ADP/Peaks Above Capacities.**

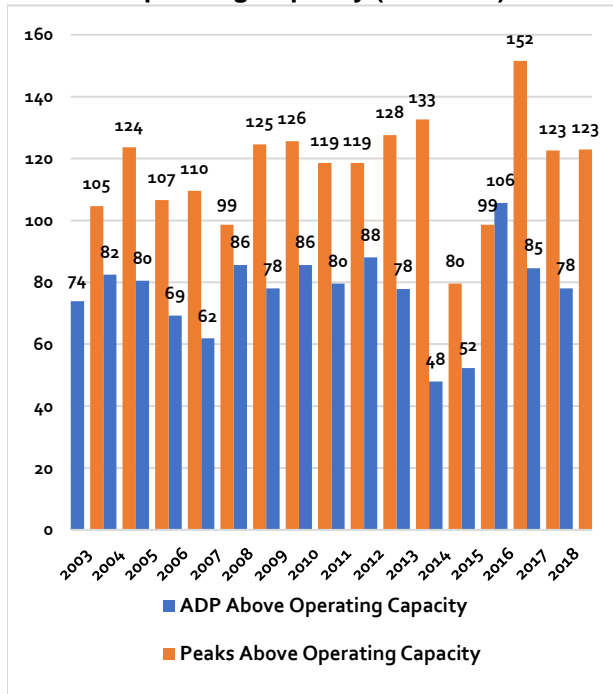
a) Finally, we add to our descriptive assessment of jail capacity the body count – the number of County prisoners that either cannot be housed at the jail, or who are housed in overcrowded conditions, or both. This is simply measured by calculating the annual average daily and peak populations that exceeded the jail's operating and total capacities.

Year	ADP Above Operating Capacity	Peaks Above Operating Capacity	ADP Above Total Capacity	Peaks Above Total Capacity
2003	74	105	20	51
2004	82	124	29	70
2005	80	107	27	53
2006	69	110	16	56
2007	62	99	8	45
2008	86	125	32	71
2009	78	126	24	72
2010	86	119	32	65
2011	80	119	26	65
2012	88	128	34	74
2013	78	133	24	79
2014	48	80	-6	26
2015	52	99	-1	45
2016	106	152	52	98
2017	85	123	31	69
2018	78	123	24	69

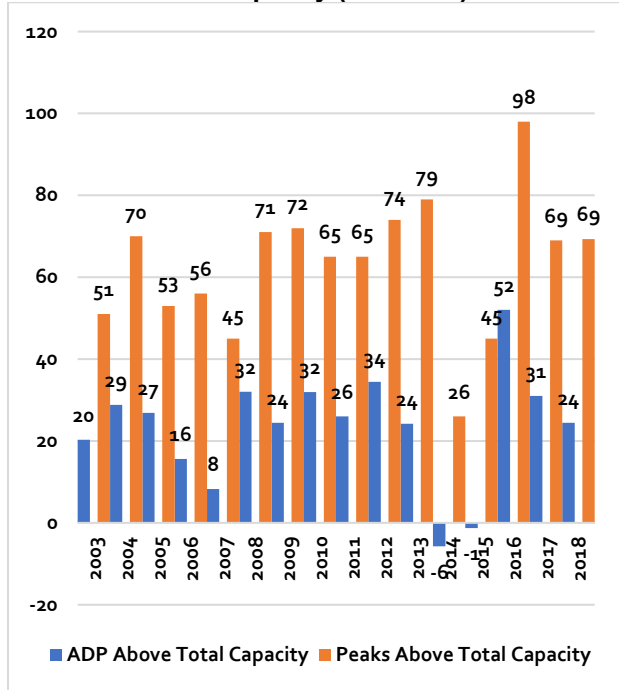
b) Between 2003 and 2018, jail ADP and population peaks exceeded the jail operating capacity of 214 from 48 (2014) to 106 (2016) inmates. ADP exceeded the operating capacity by 80 or more inmates for eight of the last 15 years. Similarly, population peaks exceeded the operating capacity from 80 (2014) to 152 (2016) inmates.

c) Population peaks exceeded the operating capacity in excess of 100 inmates for 13 of past 15 years. The ADP exceeded total capacity for all years assessed except in 2014 and 2015, but annual population peaks exceeded total capacity every year (Figure 12-14).

**Figure 13: ADP & Peak Population Exceeding Operating Capacity (214 beds).**



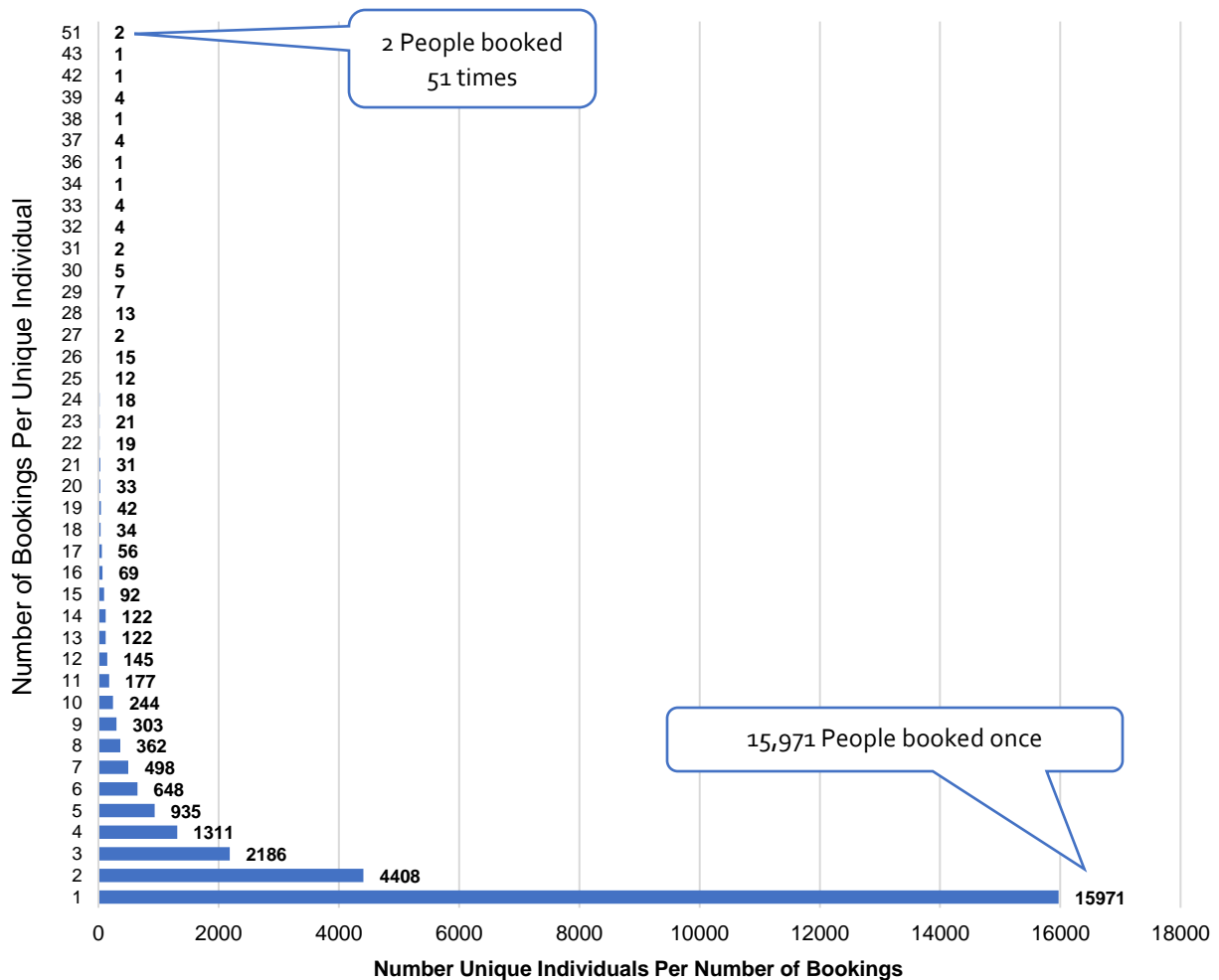
**Figure 14: ADP & Peak Population Exceeding Total Capacity (268 beds).**



**B. Jail Population Characteristics:**

- 1) **Jail Readmissions are Increasing.** For the purposes of this assessment, “readmission” is defined as a unique individual being booked more than once in a single year or in multiple years. This definition includes individuals booked more than once in a specific year, booked only once in multiple years, and those booked multiple times per year and in multiple years. The 2003 through 2017 jail admissions data were examined to determine the number of times unique individuals were booked to estimate readmission rates.
  - a) In aggregate, approximately 27,926 unique individuals account for all 73,544 jail admissions from 2003 through 2017. Nearly 16,000 (15,917 / 52%) were booked only once and account for almost 22% of all bookings. The remaining 48% of unique individuals were booked more than once and account for about 88% of all jail admissions. Unique individuals were admitted from 2 to 4408 individuals) to 51 (2 individuals) times over the 15-year period as shown in Figure 15 below.

**Figure 15: Number of Bookings by Unique Individuals 2003-2017 (Aggregate)**



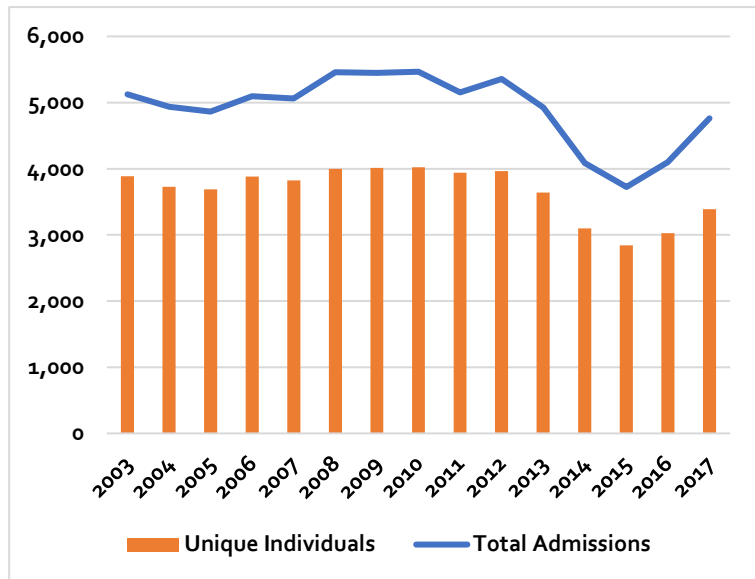
- b) The aggregate readmissions rate is the total number of bookings for each unique individual in 2003 through 2017. Approximately 27,926 unique individuals account for all 73,544 jail admissions from 2003 through 2017. Almost 16,000 (15,917 / 52%) were booked only once and account for almost 22% of all bookings during that period. The aggregate readmission rate is, therefore, approximately 48% (total unique individuals booked more than once). Therefore, the aggregate 48% of unique individuals booking from 2003 through 2017 account for 88% of total bookings.
- c) Nonaggregate readmissions results are somewhat different because it focuses on per year bookings per unique individual. Some individuals were booked more than once in a specific year, some booked only once in multiple years, and some individuals were booked multiple times per and in multiple years. The annual bookings per individual ranged from 1.31 to 1.41. Figures 16 and 17 below show per-year bookings and unique number of individuals admitted.<sup>26</sup>

<sup>26</sup> Per year unique individual total of 54,934 is higher than the aggregate of 27,926 because it is the total sum of unique individuals per year. Unique individuals booked in multiple years are (once or more) counted in each year as a separate unique individual.



Figures: 16 and 17 Admissions Per Unique Individual.

Year	Total Admissions	Unique Individuals	Per UI Admits
2003	5,123	3,885	1.32
2004	4,934	3,726	1.32
2005	4,862	3,690	1.32
2006	5,098	3,880	1.31
2007	5,060	3,825	1.32
2008	5,456	4,000	1.36
2009	5,448	4,012	1.36
2010	5,466	4,021	1.36
2011	5,155	3,940	1.31
2012	5,359	3,963	1.35
2013	4,925	3,639	1.35
2014	4,085	3,099	1.32
2015	3,724	2,841	1.31
2016	4,097	3,024	1.35
2017	4,762	3,389	1.41
Totals:	73,554	54,934	1.34

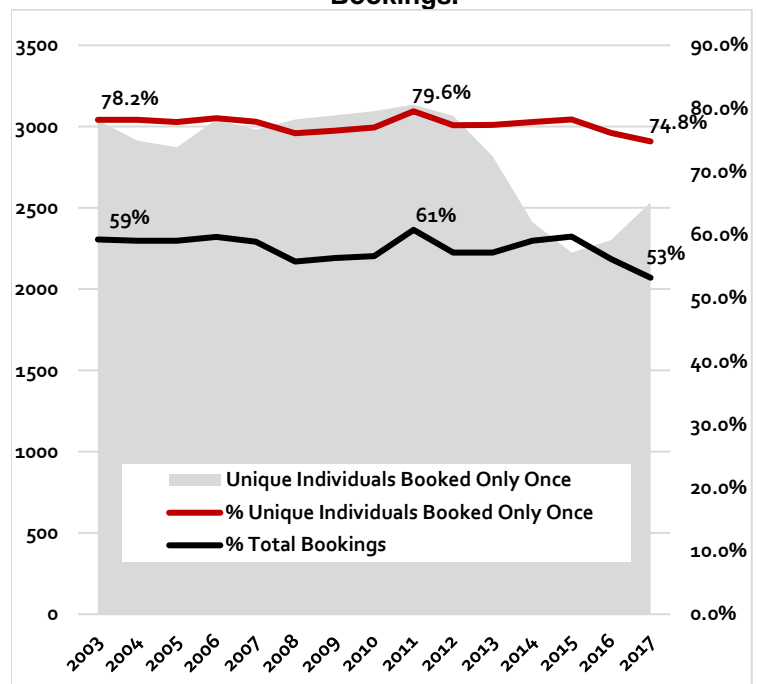


d) The percent of unique individuals booked only once per year ranges from approximately 75% (2017) to almost 80% (2011). Per one-time admissions account for 53% to 61% of total annual bookings as shown in Figures 18 and 19 below.

Figure 18: Annual Percent of Unique Bookings.

Year	Total Bookings	Unique Individuals Booked Once	% Unique Individuals Booked Once	% Total Bookings
2003	5123	3038	78.2%	59%
2004	4934	2915	78.2%	59%
2005	4862	2873	77.9%	59%
2006	5098	3044	78.5%	60%
2007	5060	2981	77.9%	59%
2008	5456	3043	76.1%	56%
2009	5448	3069	76.5%	56%
2010	5466	3096	77.0%	57%
2011	5155	3135	79.6%	61%
2012	5359	3066	77.4%	57%
2013	4925	2817	77.4%	57%
2014	4085	2413	77.9%	59%
2015	3724	2224	78.3%	60%
2016	4097	2302	76.1%	56%
2017	4762	2535	74.8%	53%

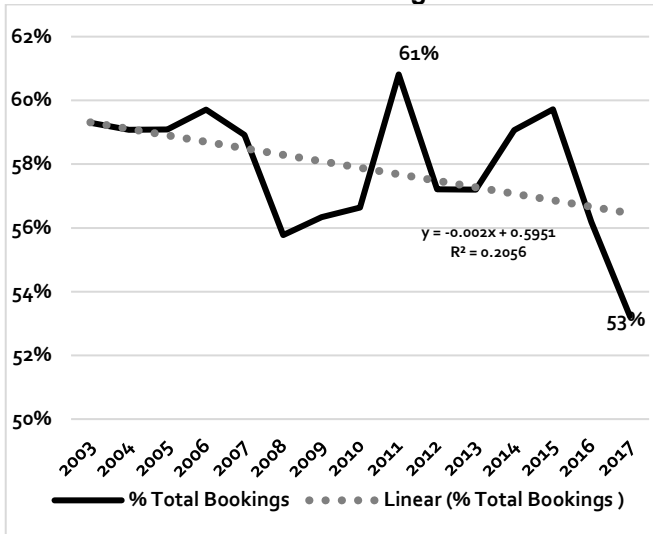
Figure 19: Percent Unique One-Time and Multiple Bookings.



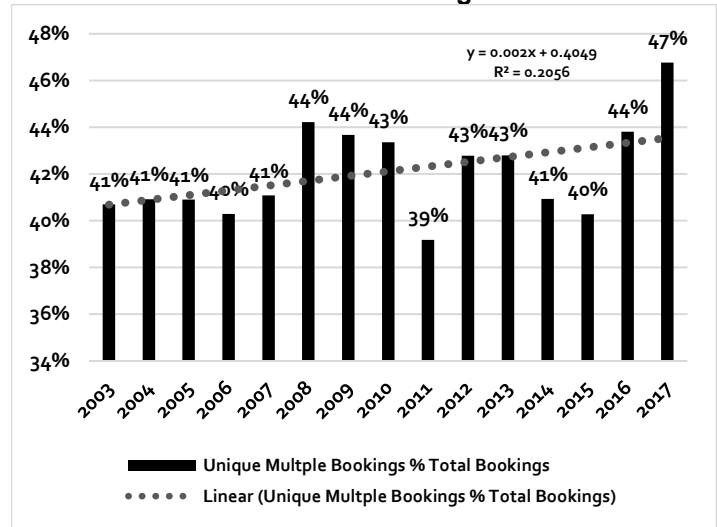
e) There is a downward trend in the percentage of unique individuals being booked only once, from a high of 61% (2011) to 53% (2017) total admissions. The percent of unique individuals being readmitted increased from approximately 39% (2011) to almost 47% (2017) of total bookings. This trend has many potentially serious public safety, jail capacity,

and budget implications and, thus should be carefully examined by Vigo County officials and the Criminal Justice Committee. See Figures 20 and 21 below.

**Figure 20: Per-Year Unique One-Time Bookings % Total Bookings.**



**Figure 21: Per Year Unique Readmissions % Total Bookings.**

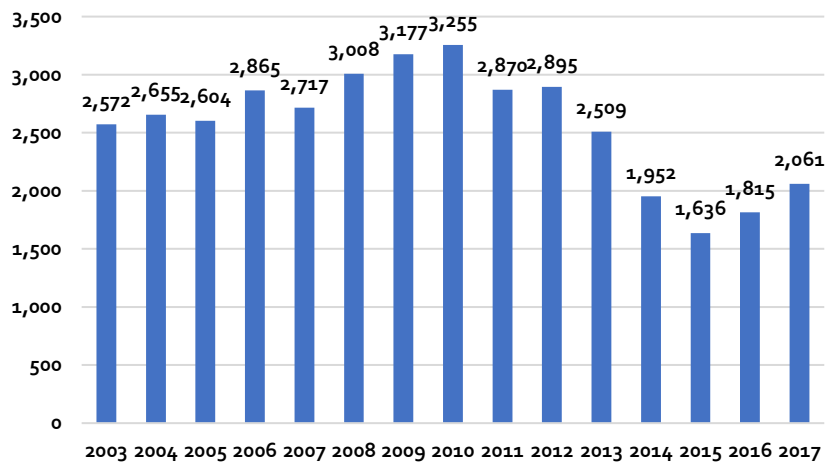


2) **Length of Stay (LOS) Is Growing.** Approximately 38,591 (53%) of 73,554 total jail admissions 2003-2017 remained in custody less than one day as shown in Figures 22 and 23 below.

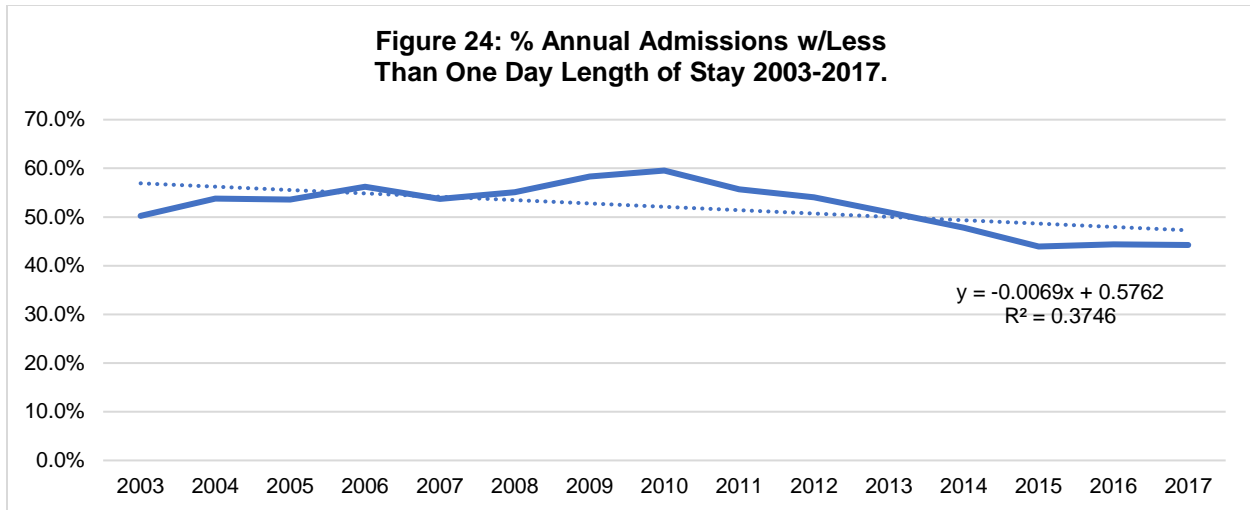
**Figure 22: # Admissions w/Less Than One-Day Length of Stay.**

Year	Less Than One Day Length of Stay	Percent Total LOS
2003	2,572	50.2%
2004	2,655	53.8%
2005	2,604	53.6%
2006	2,865	56.2%
2007	2,717	53.7%
2008	3,008	55.1%
2009	3,177	58.3%
2010	3,255	59.5%
2011	2,870	55.7%
2012	2,895	54.0%
2013	2,509	50.9%
2014	1,952	47.8%
2015	1,636	43.9%
2016	1,815	44.4%
2017	2,061	44.3%
<b>Total</b>	<b>38,591</b>	<b>52.5%</b>

**Figure 23: Graphed.**



a) The percentage of total annual bookings staying less than one day has decreased from a high of approximately 60% (2010) to its lowest of 44.3% in 2017. Figure 24 below shows this downward trend.

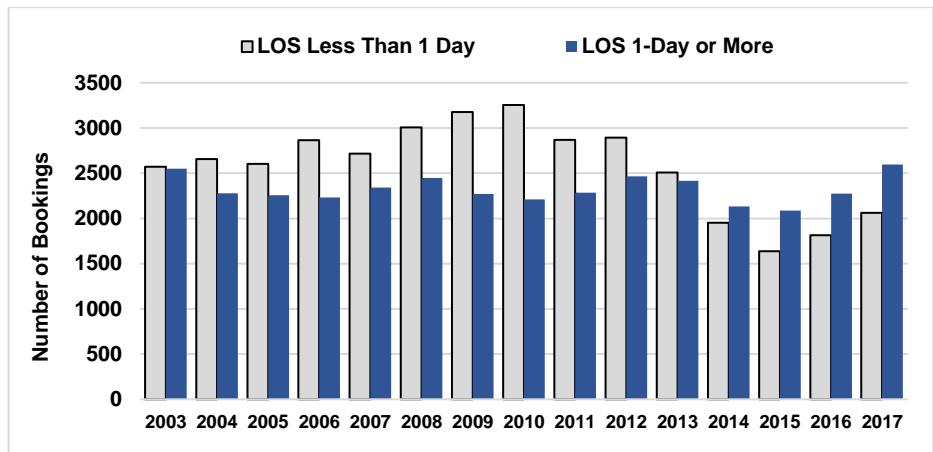


b) Concomitantly, the number and percent of bookings remaining in custody one day or more is increasing as shown in Figures 25 and 26 below.

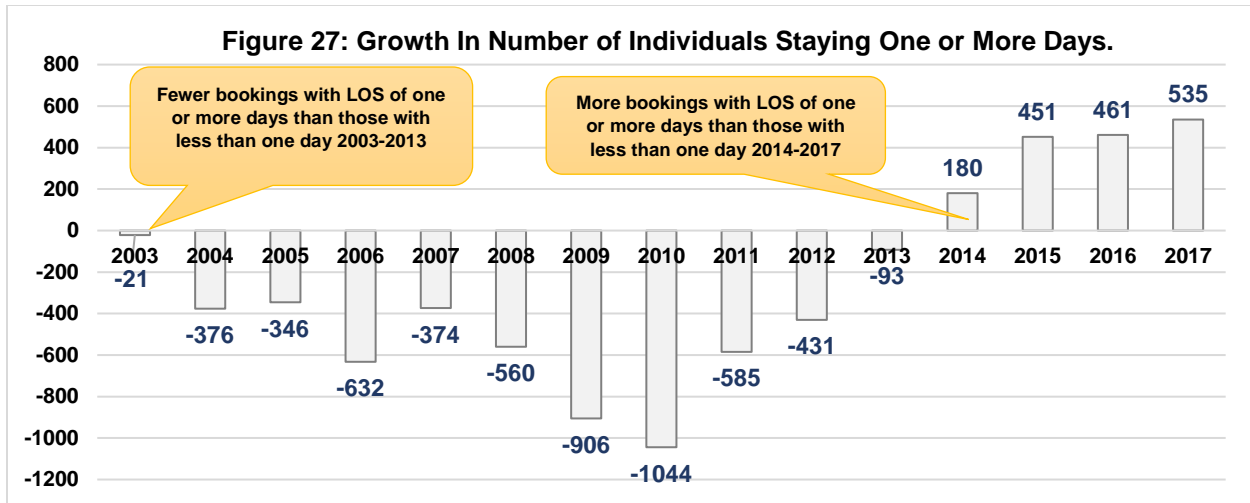
**Figure 25: Bookings LOS Less and More Than One Day.**

Year	LOS Less Than 1 Day	Percent Total LOS	LOS 1-Day or More	Percent Total LOS
2003	2572	50.2%	2551	49.8%
2004	2655	53.8%	2279	46.2%
2005	2604	53.6%	2258	46.4%
2006	2865	56.2%	2233	43.8%
2007	2717	53.7%	2343	46.3%
2008	3008	55.1%	2448	44.9%
2009	3177	58.3%	2271	41.7%
2010	3255	59.5%	2211	40.5%
2011	2870	55.7%	2285	44.3%
2012	2895	54.0%	2464	46.0%
2013	2509	50.9%	2416	49.1%
2014	1952	47.8%	2132	52.2%
2015	1636	43.9%	2087	56.1%
2016	1815	44.4%	2276	55.6%
2017	2061	44.3%	2596	55.7%
Total	38591	52.5%	34850	47.5%

**Figure 26: LOS Comparisons.**



c) From 2003 through 2017, the number of bookings with a LOS of one or more days increased significantly compared to those with a LOS of less than one day. From 2003 through 2013, the number of individuals having a LOS of one or more days was 21 to 1,044 less than those in custody less than one day. Beginning in 2014, the number individuals booked who remained in custody one or more days was greater than those in custody less than one day. This trend continued and almost double from 180 individuals in 2014 to 535 2017, indicating an increase in the LOS for the number of individuals incarcerated one or more days. The decrease in less-than-one-day incarcerations, as a significant portion of the population, is a contributing factor to the increase in length of stay during the last several years. Figure 27 shows this dramatic change less and more than one day lengths of stay.



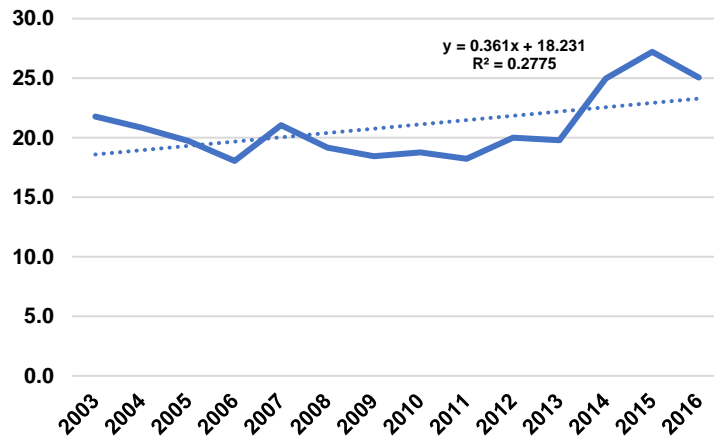
1) Average Length of Stay (ALOS) Is Growing:

- a) All Bookings 2003-2017. As expected, the overall annual average length of stay (ALOS) for all bookings trends upward 15% from 2003 through 2017 and almost 38% from 18.2 days in 2011 to 25.1 in 2017, as shown in Figures 28 and 29.

**Figure 28:  
ALOS All Bookings 2003-2016.**

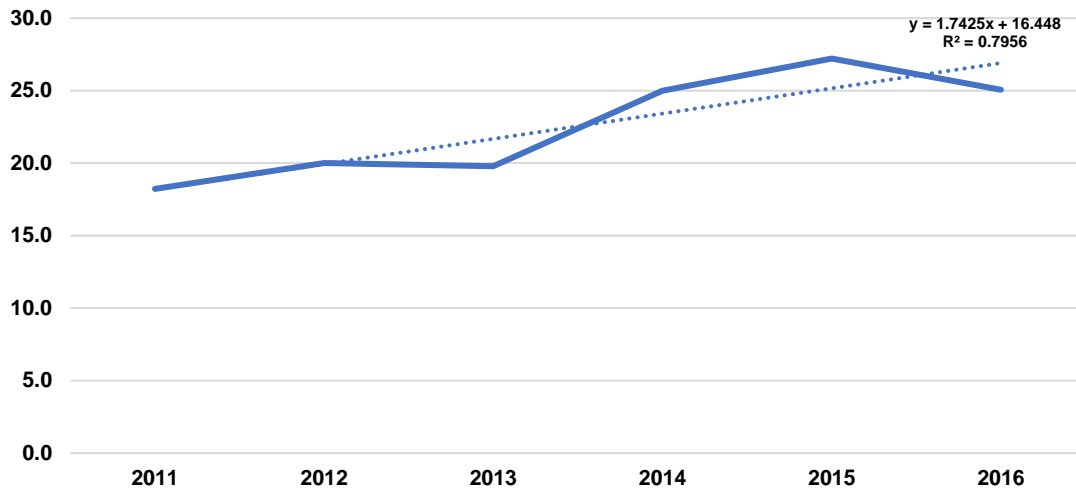
Booking Year	Total Bookings	Total Releases	ALOS
2003	5,123	4,864	21.8
2004	4,934	4,926	20.8
2005	4,862	4,869	19.7
2006	5,098	5,151	18.1
2007	5,060	5,002	21.1
2008	5,456	5,441	19.2
2009	5,448	5,468	18.4
2010	5,466	5,451	18.8
2011	5,155	5,143	18.2
2012	5,359	5,346	20.0
2013	4,925	4,996	19.8
2014	4,084	4,063	25.0
2015	3,723	3,708	27.2
2016	4,091	4,080	25.1
2017	4,657	4,786	15.7

**Figure 29: Linear Regression of 2003-2016  
Booking ALOS.**



The linear regression trajectory for 2011-2017 is greater than for All Bookings ALOS above, as shown in Figure 30 below.

**Figure 30: Linear Regression Trajectory for 2011-2016 ALOS.**

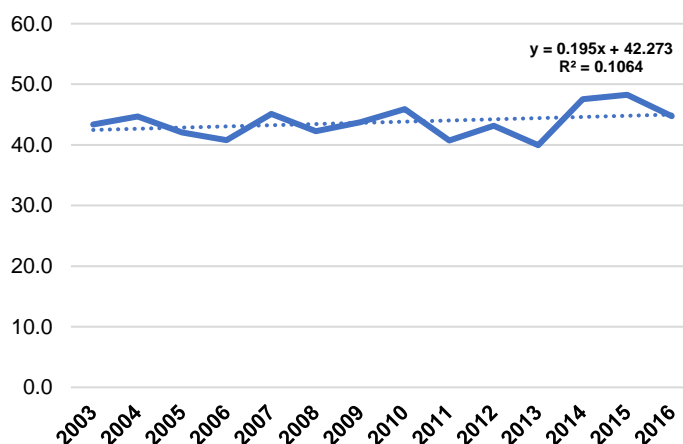


- b) **ALOS for Bookings with LOS of One or More Days.** ALOS for these bookings has trended upward approximately 3.2% from 43.3 days in 2003 to 44.8 days through 2017, and approximately 10% from 40.7 days in 2011 to 44.8 through 2017, as shown in Figures 31 and 32.

**Figure 31: ALOS Bookings w/ LOS of One or More Days.**

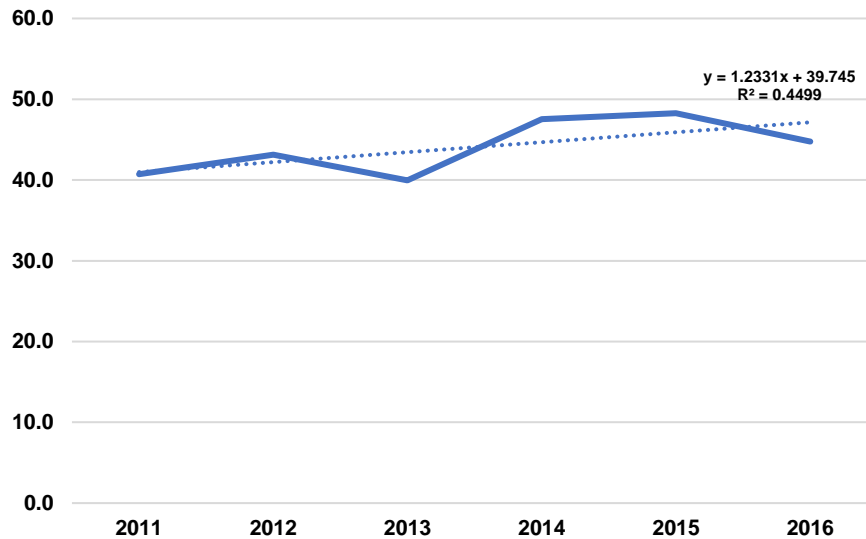
Booking Year	Total Bookings	Total Releases	ALOS
2003	2,551	4,864	43.3
2004	2,279	4,926	44.7
2005	2,258	4,869	42.1
2006	2,233	5,151	40.8
2007	2,343	5,002	45.1
2008	2,448	5,441	42.3
2009	2,271	5,468	43.8
2010	2,211	5,451	45.9
2011	2,285	5,143	40.7
2012	2,464	5,346	43.2
2013	2,416	4,996	40.0
2014	2,132	4,063	47.5
2015	2,087	3,708	48.3
2016	2,276	4,080	44.8
2017	2,596	4,786	27.9

**Figure 32: Linear Regression ALOS Bookings w/ LOS of One or More Days.**



The linear regression trajectory for 2011-2017 is slightly greater than the ALOS above, as shown in Figure 33 below.

**Figure 33: Linear Regression Trajectory for 2011-2016 ALOS.**



- c) The LOS and ALOS findings are potential indicators that an increase in the County's jail population is forthcoming. This should be seriously considered in forecasting jail bed needs, and for stabilizing and expanding alternatives to incarceration where public safety is not adversely impacted.

**C. Gender:**

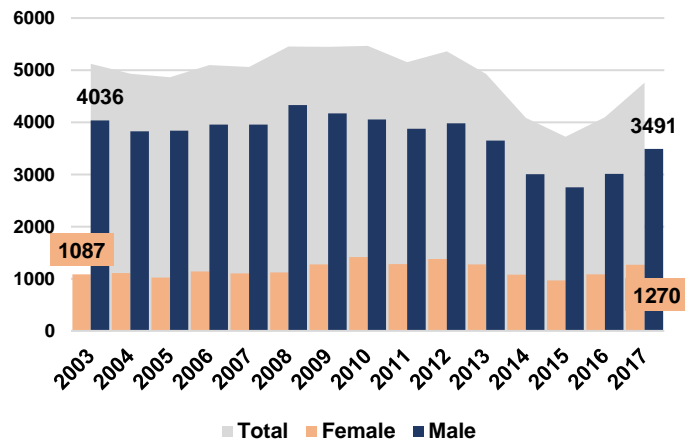
Interesting changes in jail population gender composition occurred from 2003 through 2017.

- 1) **Jail Bookings:** Total jail bookings decreased approximately 7% from 5,123 in 2013 to 4,762 (-361) in 2017. Female bookings increased while the male cohort decreased. Female bookings grew by approximately 17%, from 1,087 bookings in 2003 to 1,270 (+183) in 2017. Conversely, male bookings decreased approximately 14% during that time period from 4,036 to 3,491 (-545). Concomitantly, changes in gender percentage of total bookings changed as well. Bookings by gender are shown in Figures 34 and 35 below.

**Figure 34: Bookings by Gender.**

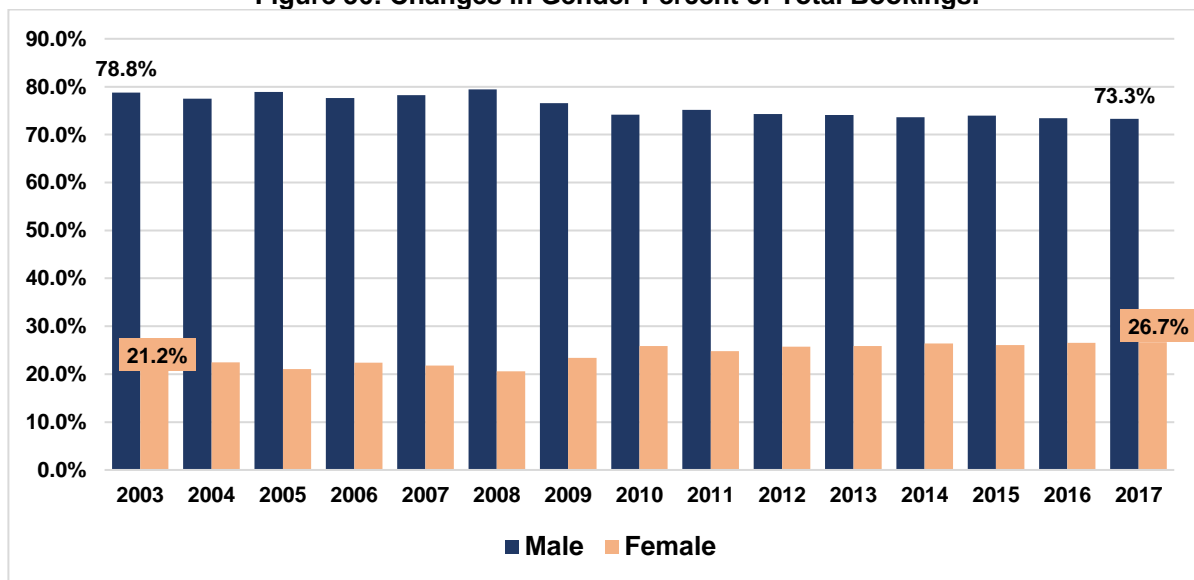
Booking Year	Male	Female	Other (Unk)	Total	Male	Female
2003	4036	1087	0	5123	78.8%	21.2%
2004	3825	1109	0	4934	77.5%	22.5%
2005	3838	1024	0	4862	78.9%	21.1%
2006	3957	1141	0	5098	77.6%	22.4%
2007	3958	1102	0	5060	78.2%	21.8%
2008	4333	1123	0	5456	79.4%	20.6%
2009	4172	1276	0	5448	76.6%	23.4%
2010	4053	1413	0	5466	74.1%	25.9%
2011	3875	1280	0	5155	75.2%	24.8%
2012	3980	1379	0	5359	74.3%	25.7%
2013	3650	1275	0	4925	74.1%	25.9%
2014	3007	1078	0	4085	73.6%	26.4%
2015	2754	970	0	3724	74.0%	26.0%
2016	3009	1087	1	4097	73.4%	26.5%
2017	3491	1270	1	4762	73.3%	26.7%
<b>Total</b>	<b>55938</b>	<b>17614</b>	<b>2</b>	<b>73554</b>	<b>76.1%</b>	<b>23.9%</b>
Increase / Decrease	-545	183	1	-361		
Percent +/-	-13.5%	16.8%		-7.0%		

**Figure 35: Bookings by Gender.**



- 2) In 2003, females accounted for approximately 21% of total bookings. In 2017, female bookings increased to 1,270, about 27%, of total bookings. Male bookings dropped almost 14% (-545) to 3,491. Figure 36 below changes in gender percentages in total annual bookings.

**Figure 36: Changes in Gender Percent of Total Bookings.**



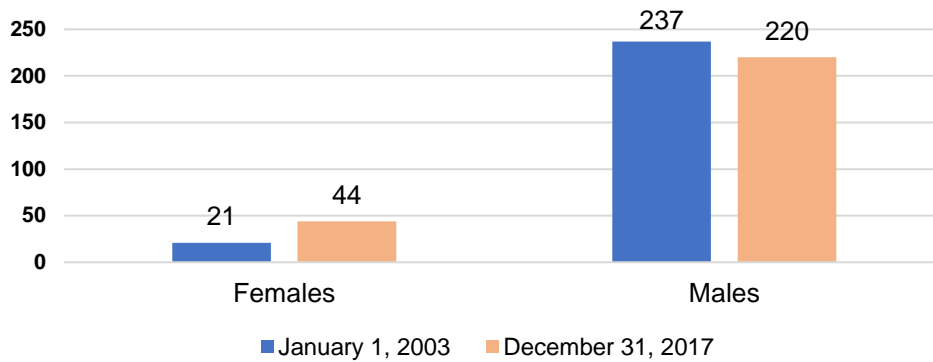
**3) Daily, Average Daily (ADP), and Peak Population:**

**a) Daily Detainee Population.** Similar to gender and booking findings, changes occurred in gender composition of the jail's daily and average daily population (ADP) since 2003. On January 1, 2003, the jail population of approximately 258 detainees consisted of 21 females and 237 males. On that day, the female population was approximately 8% of total detainees. By December 31, 2017, the total population was 2.3% higher with 264 detainees. However, the female population more than doubled (209%) to 44 by this time and accounted for almost 17% of the jail's 264 total detainees. The male population decreased 7.2% to 220, and from almost 92% to 83% of the total detainee population. Figures 37 through 40 show changes in the daily gender population and percentage of total population.

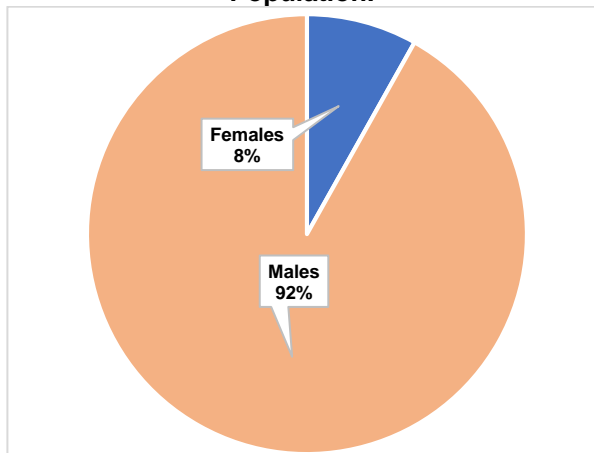
**Figure 37: Changes in Daily Jail Population**

Daily Detainee Population	January 1, 2003		December 31, 2017		Change in Daily Population	
	# Detainees	% Total Population	# Detainees	% Total Population	# Increase / Decrease	% Increase Decrease
Females	21	8.1%	44	16.7%	23	209.5%
Males	237	91.9%	220	83.3%	-17	-7.2%
Total Detainees	258	100.0%	264	100.0%	6	2.3%

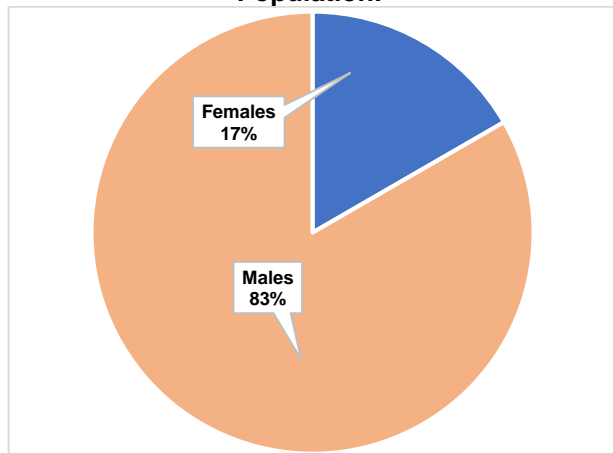
**Figure 38: Number Detainees by Gender.**



**Figure 39: Jan 1, 2003 Percent Total Population.**

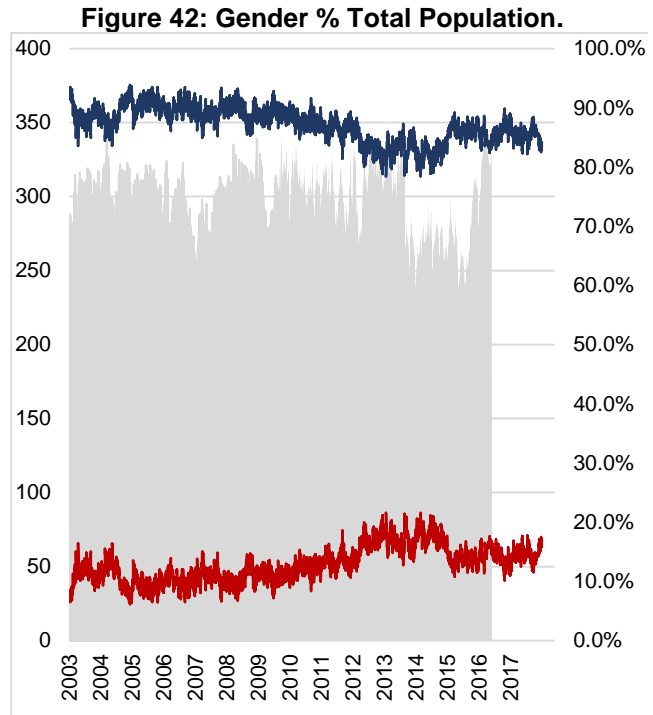
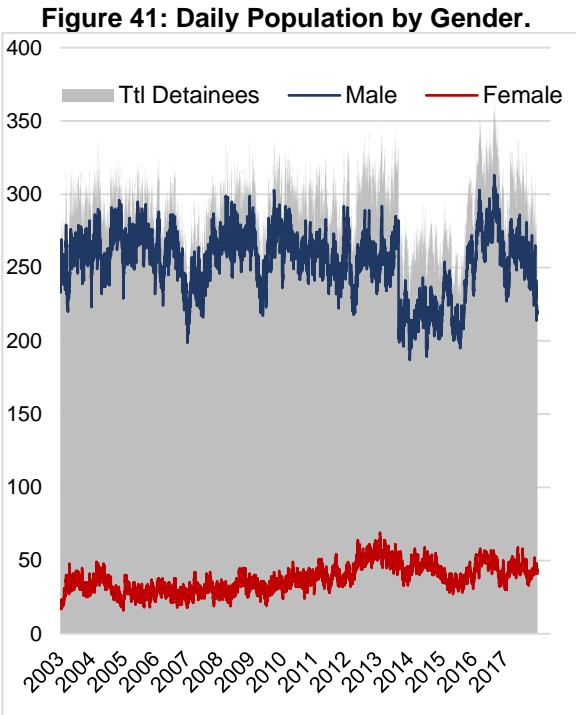


**Figure 40: Dec 31, 2017 Percent Total Population.**





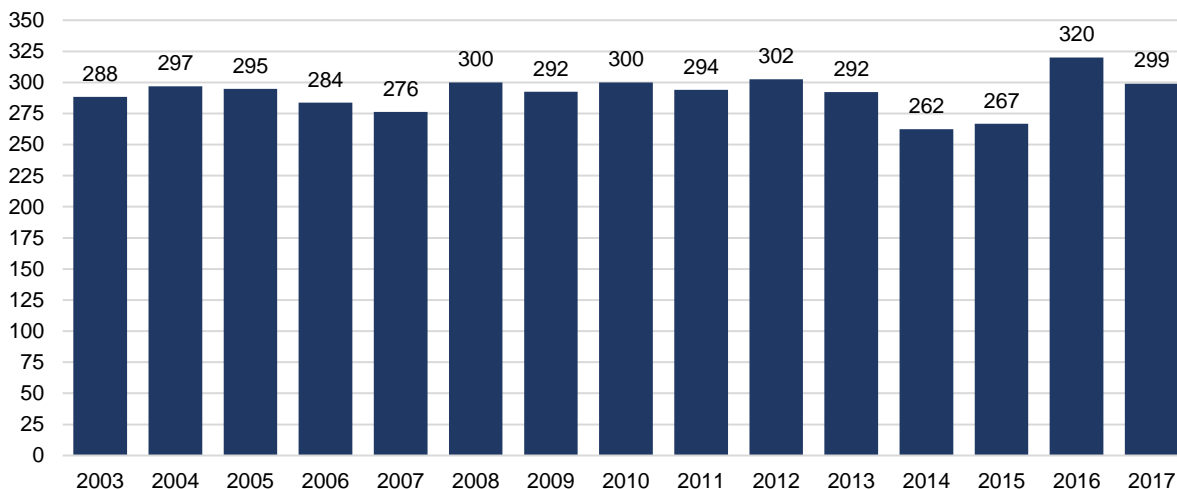
b) Figures 41 and 42 below are the daily detainee populations by gender and percentage of total populations from January 2, 2003 through December 31, 2017.



**4) Average Daily Population (ADP):**

a) The jail average daily population increased approximately 4% from 288 in 2003 to almost 300 in 2017. Female ADP increased almost 27% from 32 to 44. In 2003, female detainees comprised 11% ADP and increased to 15% in 2017. Male ADP remained relatively constant during that time period, but total percent of ADP decreased 4.2% from 89% in 2003 to 85% in 2017. Figures 43 through 45 show gender ADP changes.

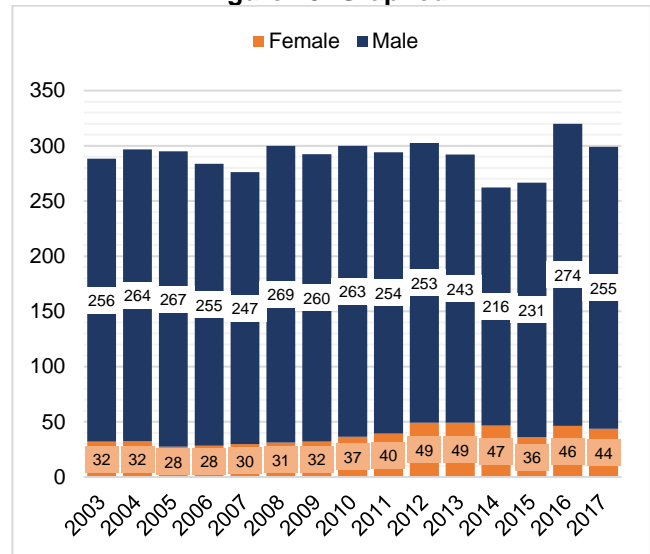
**Figure 43: Jail Average Daily Population.**



**Figure 44: Gender ADP.**

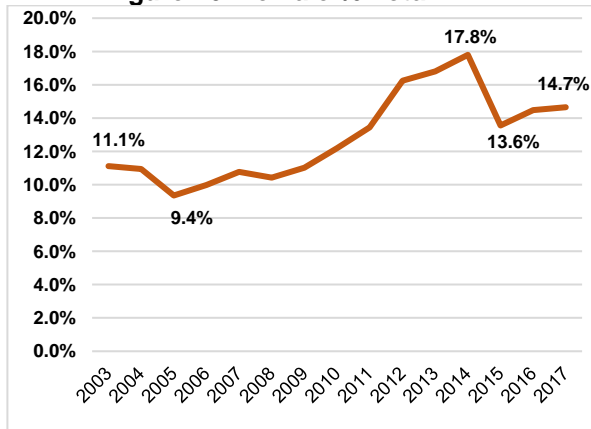
Year	ADP	Female	% Total ADP	Male	% Total ADP
2003	288	32	11.1%	256	89%
2004	297	32	10.9%	264	89%
2005	295	28	9.4%	267	91%
2006	284	28	10.0%	255	90%
2007	276	30	10.8%	247	89%
2008	300	31	10.4%	269	90%
2009	292	32	11.0%	260	89%
2010	300	37	12.2%	263	88%
2011	294	40	13.4%	254	87%
2012	302	49	16.3%	253	84%
2013	292	49	16.8%	243	83%
2014	267	47	17.8%	216	82%
2015	267	36	13.6%	231	86%
2016	320	46	14.5%	274	86%
2017	299	44	14.7%	255	85%
Change	11	12	0	-1	0
% Change	3.6%	26.9%	24.2%	0%	-4.2%

**Figure 45: Graphed.**

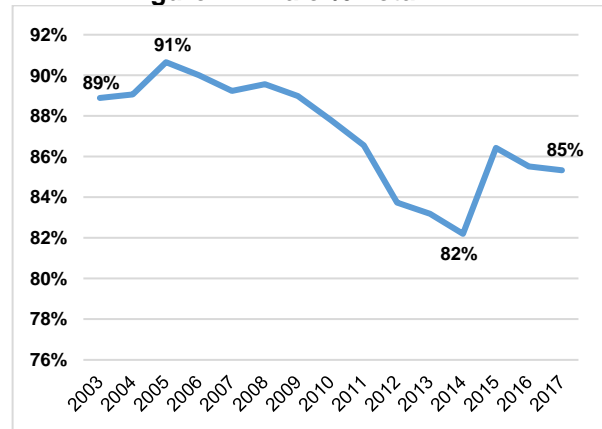


b) Figures 46 and 47 show gender percentage of total ADP 2003 through 2017.

**Figure 46: Female % Total ADP.**



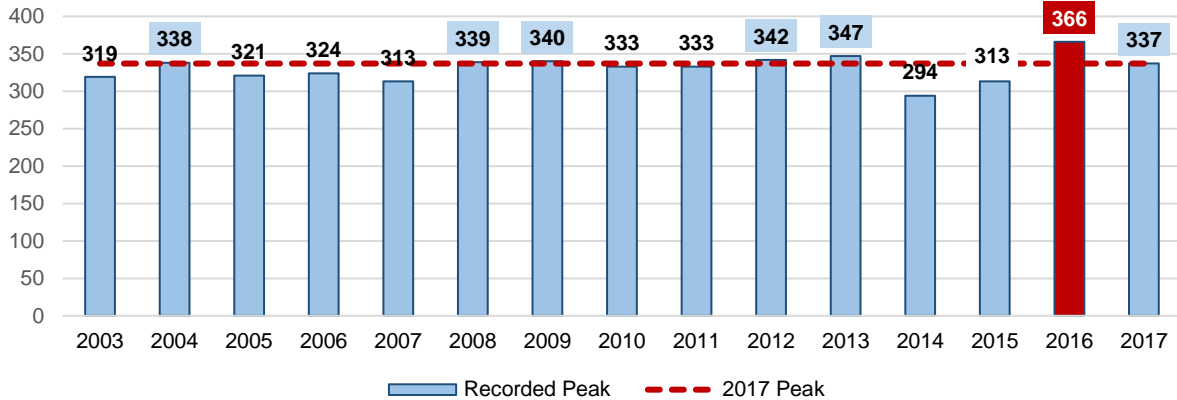
**Figure 47: Male % Total ADP.**



**5) Population Peaks:**

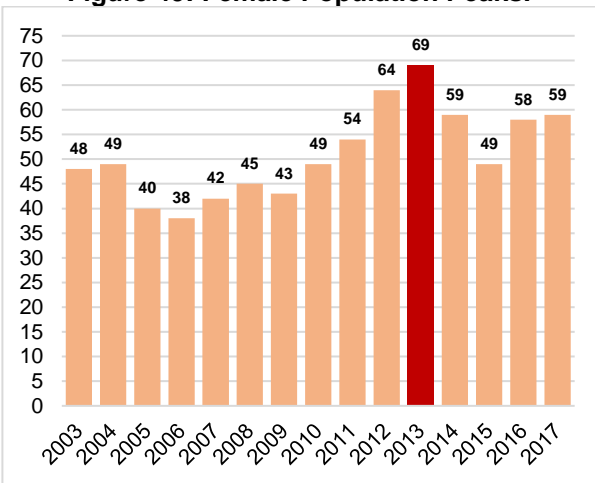
- a) The detainee population peak is the highest number of detainees per day in a given year. The population peak of 319 in 2003 increased approximately 6% to 337 in 2017. However, peaks higher than in 2017 occurred in 6 of the 15 years. The highest peak of 366 occurred in 2016. Figure 48 shows population peaks over the past 15 years.

**Figure 48: Population Peaks Last 15 Years.**

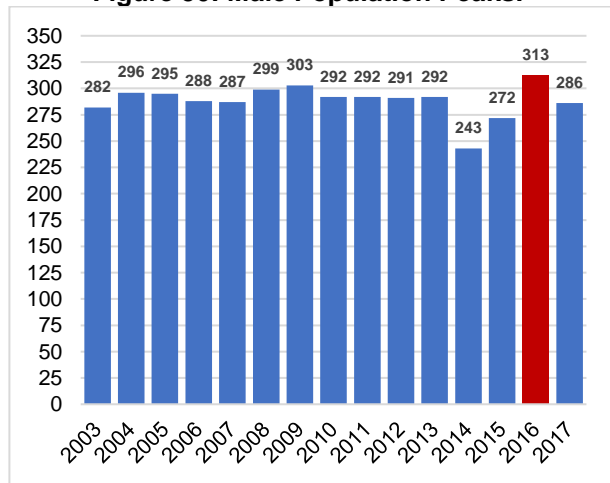


- b) Peaks for female detainees grew greater and more quickly than for males. Female peaks increased approximately 23% from 48 in 2003 to 59 in 2017. Highest female daily peaks began in 2011 with 54 and increased to 69 in 2013 before ending with 59 in 2017. Daily population peaks for males increased 1.4% between 2003 and 2017, 282 detainees to 313 respectively, with the highest peak since 2003 of 313 in 2016. Figures 49 and 50 show gender population peaks.

**Figure 49: Female Population Peaks.**



**Figure 50: Male Population Peaks.**



### C. Jail Bed Capacity Need Estimates:

- 1) The primary objective of this jail bed forecast is to estimate how many total jail beds (Total Capacity) that Vigo County will need in the year 2050 to accommodate its total inmate daily and average daily population within the jail's Operating Capacity.
- 2) Jail bed forecasting is more art than it is a science. Different forecast models can produce similar results just as using of similar forecasting models. All models are error prone and more so the farther out in time the forecast. In this project, we forecast jail bed capacity needs to the year 2050 per the request of Vigo County officials. There are solid arguments suggesting that long-term jail bed forecasting is inherently unpredictable and often incorrect:

*“Although municipal jails consume a significant amount of resources and the number of inmates housed in such facilities exploded in the 1990s, the literature on forecasting jail populations is sparse. Jail administrators have available discussions on jail crowding and its causes, but do not have ready access to applications of forecasting techniques or practical demonstrations of a jail inmate population forecast. ... [T]he underlying reason for this deficiency is the inherent unpredictability of local long-term correctional population levels. The driving forces behind correctional bed need render local jail population forecasts empirically valid only for a brief time frame. These inherent difficulties include the volatile nature of jail populations and their greater sensitivity when compared with prison populations to local conditions; the gap between the data needed for local correctional population forecasting and what is realistically available to forecasters; the lack of reliable lead variables for long-term local correctional population forecasts; the clash of the mathematics of forecasting and the substantive issues involved in the interpretation of forecast models; and the significant political and policy impacts of forecasts on local criminal justice systems and subsequent correctional population trends.*

*The differences between the accuracy of short-term versus long-term jail bed need forecasts means that forecasting local correctional bed need is empirically valid for, at best, one to two years. As the temporal cast is extended, longer-term forecasts quickly become error prone. Except for unique situations where jails exist in highly stable local political, social, and criminal justice environments, long-term forecasts of two years or greater are fatally flawed and have little empirical accuracy. Long-term forecasts of local jail bed needs are useful, though, as policy catalysts to encourage policymakers to consider possible long-term impacts of current decisions, but forecasts should be thought of and presented as one possible future scenario rather than a likely reality. Utilizing a demonstration of a local jail forecast based upon two common empirical forecasting approaches, ARIMA and autoregression, this article presents a case study of the inherent difficulties in the long-term forecasting of local jail bed need.”<sup>27</sup>*

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<sup>27</sup> Surette, R., Applegate, B., McCarthy, B., & Jablonski, P. (2006). Self-destructing prophesies: Long-term forecasting of municipal bed need. *Journal of Criminal Justice*, 34, 57-72.

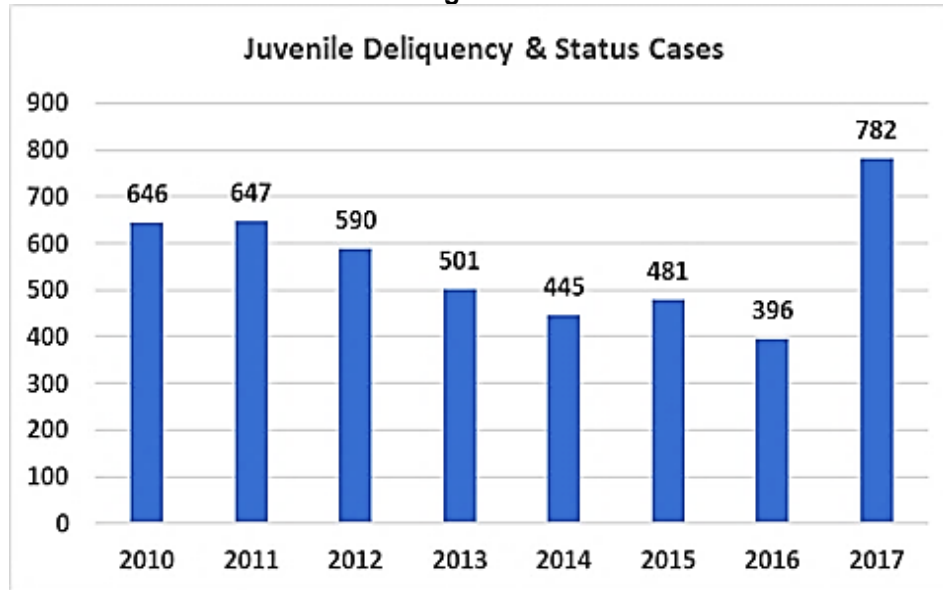
- 3) Using primarily linear regression models of actuarial data (jail bed utilization) and classification capacity factors of 25% to 30% for bed need forecast estimates, two initial very rough bed need estimates of 421 and 462. Both of these estimates were based on linear forecasting of historical jail annual daily peak populations for 2003-2017. Both estimates included classification capacity of approximately 25% to 30%, which is atypically high. The 421-bed estimate was calculated to the year 2035. In June 2018, county officials requested a forecast estimate to the year 2050 to accommodate a 30-year facility life-cycle. The 2050 forecast estimated a total bed capacity of 462. Both of these initial rough estimates were incomplete for two primary reasons. First, bed capacity forecasting typically excludes temporary intake / overflow capacity because those beds are not designed for long-term incarceration as are primary custody beds. County officials requested we add this capacity to our Total Capacity forecast for completed construction and operating cost estimating purposes. Secondly, the annual daily peak data provided are used by jails for managing overcrowding. Those numbers do not account for male and female peaks independently. Despite the likelihood that male and female peaks would occur on the same day is di minimis, the fact remains that jail capacity must accommodate peaks for both male and female populations independently to ensure adequate capacity for each gender independent of the other. Our Total Capacity now incorporates annual daily peaks for each gender by adding those peaks together for a combined annual daily peaking factor.
- 4) To achieve the primary objective of this forecast estimate that the jail Operating Capacity accommodate daily and average daily populations forecast estimates through the year 2050, the Total Capacity forecast estimate uses the following calculation model:
  - a) Combined daily annual peaks are used as the baseline for linear regression forecasting from 2003 to 2050. Linear regression equations are shown.
  - b) Adding a classification capacity of 20% to the combined daily annual peaks.
  - c) Considering an intake / overflow capacity factor of 46 temporary beds to the linear regression of the combined annual daily peaks with the 20% classification margin. Intake / overflow capacity combines highest peak annual bookings of 2003 through 2017 for males (29) and females (17), 46 temporary beds.
- 5) Additionally, capacity forecasting exclude data for 2014 and 2015. Compared to previous and subsequent years, the ADP, bookings, peaks, and case filings showed an unusually large decrease during these two years. According to county officials, it is our understanding that the Indiana State Police station closed in late 2013 or in 2014. This would account for most of the large drops the numbers for 2014-15. Excluding these data seemed appropriate to reduce the risk of an erroneous forecast estimate.<sup>28</sup>
- 6) County officials should be aware of at least six trends and issues that be cannot be reliably factored into this forecast estimate but could impact the veracity of any jail capacity forecast. These trends include: 1) increasing CHINS (Children in Need of Supervision) cases, 2) increasing Juvenile and Status Offenses, 3) increasing felony and misdemeanor criminal cases, 4) increasing level 6 felony cases, 5) increasing mental health petitions / cases, and 6) an estimated 2700-3000 outstanding (not served) felony and misdemeanor criminal warrants.

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<sup>28</sup> Data retrieved from Indiana State Administrative Office of the Courts at: <https://publicaccess.courts.in.gov/ICOR/>.

- 7) **Juvenile Delinquency and Status Cases are Increasing.** Juvenile offense and status cases increased dramatically in 2017 following a stable decline between 2011 and 2016. We cannot accurately extrapolate the effects of this increase for jail bed forecasting purposes. Unfortunately, it is reasonable to anticipate that some of these youth will enter the adult criminal justice and jail system in the near future. Figure 51 shows annual juvenile delinquency and Status cases.

Figure 51:



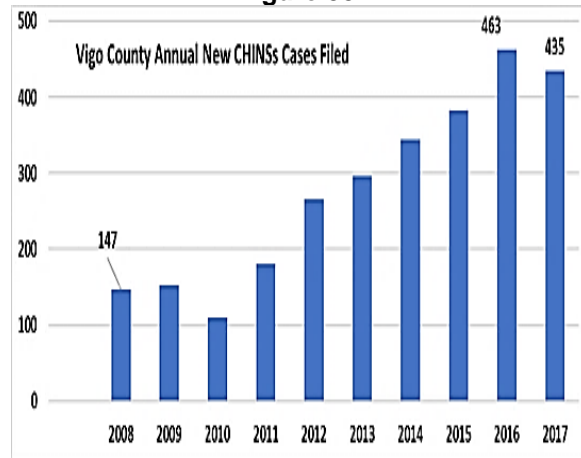
- 8) **Children in Need of Supervision / Services is Increasing (CHINS).** Child in Need of (court/social services) Supervision (CHINs): This population includes abused, neglected, and at-risk children. Being at great risk for criminal justice system involvement is a disheartening and very unfortunate reality for these children. It is also an unfortunate reality to anticipate that a percentage of this population will enter the system and the literature indicates this population is disproportionately involved in adult criminal violence and other crimes compared to non-CHIN youth. CHINs cases increased 165% from 314 to 832, 2010 to 2017; 2779 new CHINs cases were filed from 2008 – 2017. This is a 296% increase. County CASA officials state that CASA has a waiting list of children in need of services due to inadequate resources. Total CHINs cases increased from 314 to 832, 2010 to 2017 for a 165% increase. Considering the dramatic increase in Vigo County CHINs cases, county officials should consider the real and potential impacts on jail capacity. Figures 52 and 53 show CHINS case trends.

**Figure 52:**  
Vigo County CASA Trends  
2008-2017

New CHINS Cases Filed in Vigo County:

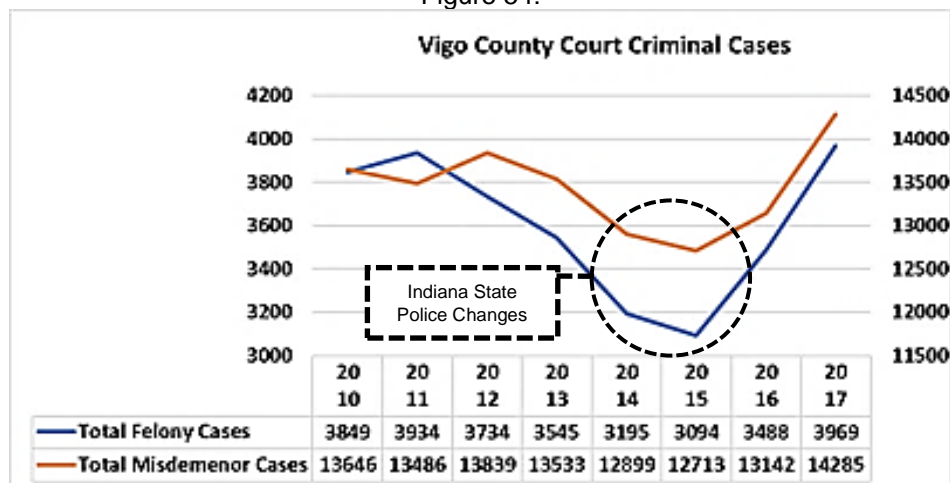
2008	147
2009	153
2010	110
2011	181
2012	266
2013	297
2014	344
2015	383
2016	463
2017	435

**Figure 53:**



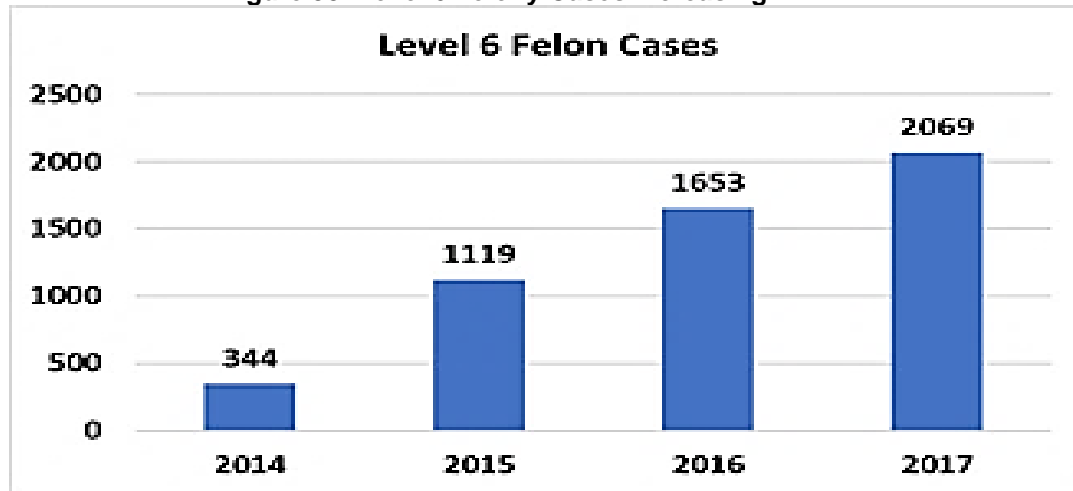
9) **Increasing Felony and Misdemeanor Criminal Cases.** Felony and misdemeanor cases began trending upward in 2015 following a considerable decrease from 2010 to 2015. According to county officials, it is our understanding that the Indiana State Police station closed in 2014, which can account for some of the large drop in cases for 2014-15. Increasing criminal cases can have significant impacts jail capacity, criminal justice system resource capacity, and alternatives to confinement options and resources, and public safety. Figure 54 shows these trends.

Figure 54:



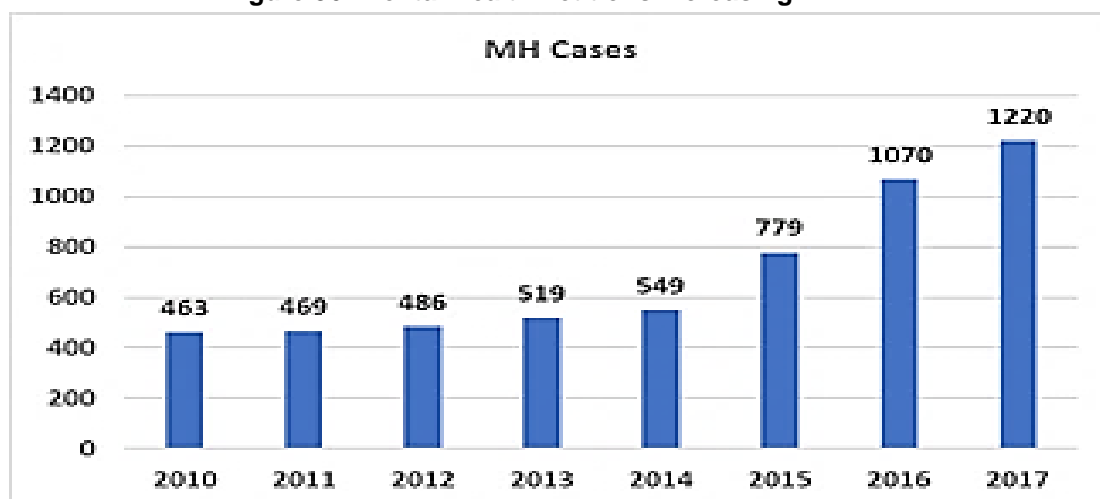
10) **Increasing Felony Level 6 Cases.** The Indiana State Legislature in 2014 off-loaded legal and financial responsibility for incarceration of felony level 6 offenders. As a result, Vigo County is obligated to incarcerate this population even after conviction when doing so is indicated. Level 6 cases increased approximately 500%, from 344 to 2069 between 2014 and 2017 as shown in Figure 55. Additionally, felony level 6 cases percent of felonies and total criminal cases increased from 11% to 52%, 2% to 11% respectively in that time period.

Figure 55: Level 6 Felony Cases Increasing.



- 11) **Civil Mental Health Petitions / Cases are Increasing.** There is a consistent upward trend in civil mental health petition cases. Cases increased 163% from 463 in 2010 to 1220 in 2017. Generally speaking, a civil mental health petitions tend seek help for a person with mental illness who is a real or potential risk of harming themselves or others. Petitions may include court intervention to hospitalization the person for evaluation and/or care, administer medications, or involuntarily commit the person to longer-term psychiatric treatment. People with mental illness are at high risk of becoming involved in the jail and criminal justice systems. National studies have found that the mentally ill are disproportionately represented in jail populations compared to community populations. They pose unique challenges and risks when incarcerated and the courts have been very vigilant to protect the civil rights of this inmate population. It is not unreasonable to infer that these large annual increases in petition cases could impact jail bed capacity. Discussions on construction and implementation of a Diversion Center as an alternative to incarceration should move toward action planning. Figure 56 below shows upward trend in these cases.

Figure 56: Mental Health Petitions Increasing.

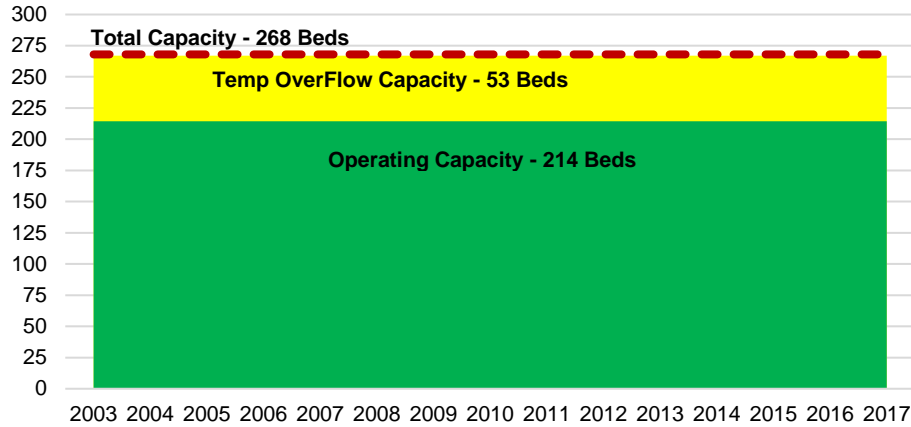




**D. Let the Forecasting Begin:**

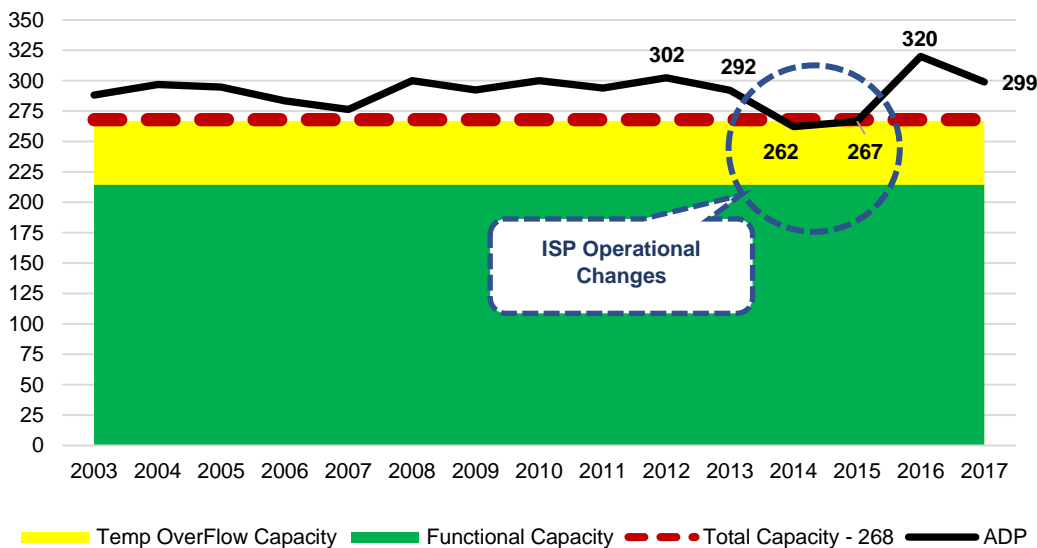
- 1) The Vigo County jail has approximately 268 total beds and an operating capacity of 214, which is 80% of total capacity. There should be approximately 53 beds temporary beds for booking and population overflow, but the facility was not designed as such and chronic overcrowding exacerbates that design flaw. The county's inmate population has continuously exceeded jail's total and operating capacities for several years as previously shown. Figure 57 illustrates current jail capacities.

**Figure 57: Current Jail Capacities>**



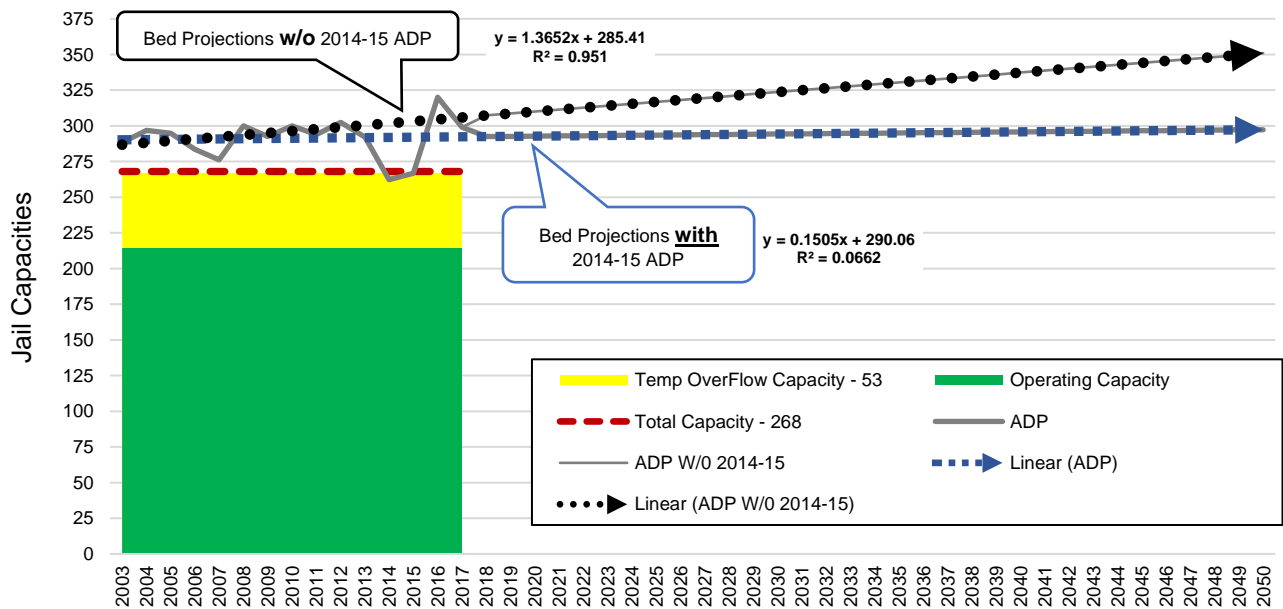
- 2) As shown in Figure 58 below, the County's average daily inmate population exceeded the jail's 268 bed total capacity since at least 2003 except in 2014 and 2015, and far exceeded the jail's operating capacity since at least 2003. According to county officials, it is our understanding that the Indiana State Police station closed in 2014, which would account for some of the large drop in ADP for 2014-15. However, the ADP rebounding in 2016 with a 20% increase – the greatest year-to-year increase since 2003 at 320 county inmates. Figure 58 below is a visual comparison of jail capacities and ADP.

**Figure 58: Jail Capacities and Average Daily Population>**



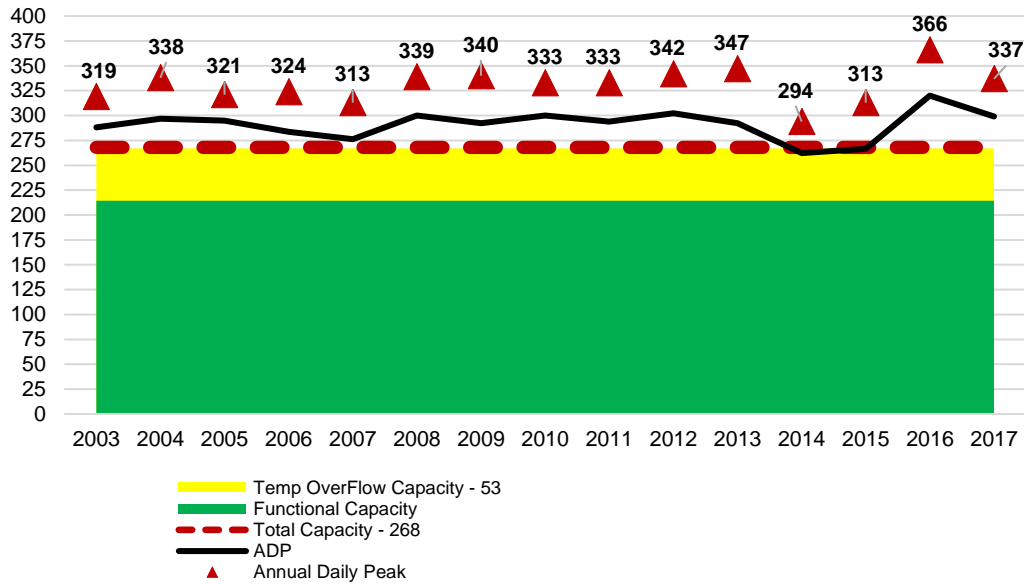
- 3) ADP represents the average number of jail inmates per day. It is not best indicator for forecasting bed needs because there are days when the jail population surges will above the ADP. These high fluctuations in the inmate population are known as “peak” days. Jail bed capacity will always accommodate ADP if it can accommodate population peaks. This is the primary objective of this forecast estimate.
- 4) As shown in Figure 59 below, ADP forecasting to year 2050 is flawed for estimating jail bed needs, even when 2014-15 data are excluded. Linear forecasts indicate an ADP of approximately 300 when 2014-15 data are included and approximately 351 when excluded. Neither of these forecasts account for known peaks as high as 366 (2016) and attempting to include a reasonable and reliable classification factor 15% to 20% that far out is impossible. Adding as much as 20% to both ADP forecast yields a bed capacity of approximately 357 and 421 beds respectively. Neither forecasts accommodate historical population peaks or population peak trends. Forecasting of population peaks becomes the most plausible when a 20% maximum classification factor is used.

**Figure 59: ADP Forecast with and without 2014-15 ADP Data.**



- 5) A jail's operating capacity should accommodate spikes (peaks) in the inmate population to ensure provision of constitutionally adequate levels of confinement even when confinement is temporary or short-term. The peak population is the highest number of county inmates on a given day in a given year (annual daily peak). The Vigo County total (268) or operating (214) capacities have and remain unable to accommodate peak populations for at least the past 15 years as shown in Figure 60 below.

**Figure 60: Jail Capacities and Daily Peak Population.**

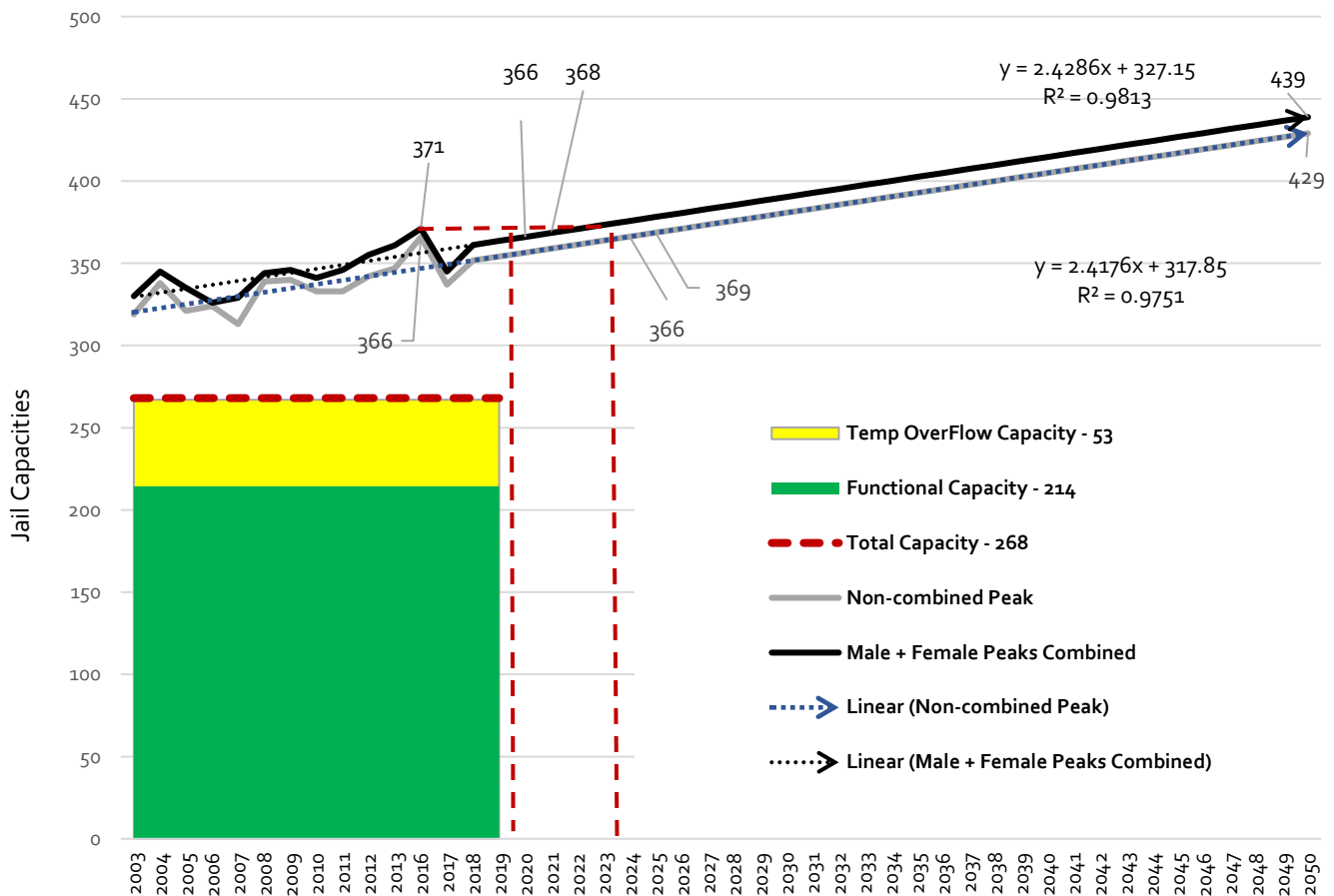


- 6) Three important factors are in play when using population peaks for forecasting bed needs. These include:
- Peak number (actual total number of inmates that comprise annual daily peaks). The peak number is useful for day-to-day population and bed capacity utilization management but is not helpful for knowing how many intake or classification beds are needed by gender, prisoner risk and/or need. It is not possible to understand how ADP influences peaks using peak numbers alone. Attempting to do so will result in misled and erroneous longer-term jail population management and resource utilization decision-making.
  - Percentage of population peak above ADP. The percentage of the Peak above the ADP considers the relationship between ADP and peaks. For example, the highest peak for the jail was recorded at 366 in 2016. That peak is 14% above that year's ADP of approximately 320 inmates. However, the highest percent of the annual daily peak population occurred in 2013 with a peak that was 19% higher than that year's ADP of 292. These percentages ranged from approximately 25% to 51% for females and 10% to 20% for males from 2003 to 2017. It is important to include ADP/Peak percentages to improve clarity in jail management decision-making and bed forecasting.
  - Gender peaks (actual peak numbers for male and female populations). Industry standards and constitutional requirements strictly prohibit cohabitation of male and female inmates in jails. Jails are specifically designed and bed capacities are uniquely

forecasted and established for this purpose in an effort to ensure gender-based provision of constitutional care and custody of all prisoners. Basing a jail bed needs forecast on peak populations without accounting for gender peaks individually is considered reckless and can invite serious inmate management and liability risks when bed capacities cannot reasonably accommodate both genders. Gender peak forecasting will always increase the needed number of beds. This is because annual daily peak population numbers for males and females are added together for a combined peak before a classification factor is include. As stated, this helps to ensure that jail capacity will likely accommodate peaks for both genders, regardless of whether those peaks occur on the same day, which is very rare.

- 7) Figure 61 below compares the jail’s annual daily peaks and combined (male + female peaks) before a classification factor is added. This forecast excludes 2014-15 for consistency in forecasting. As shown, combined peaks are slightly higher than non-combined peaks but accommodate both genders. Forecasts to 2050 of 429 (non-combined peak) and 439 (gender combined peak) are both approximately 22% above the highest forecasted ADP of 351 previously discussed.

**Figure 61: Non-Combined & Gender Combined Peaks Linear Forecast.**

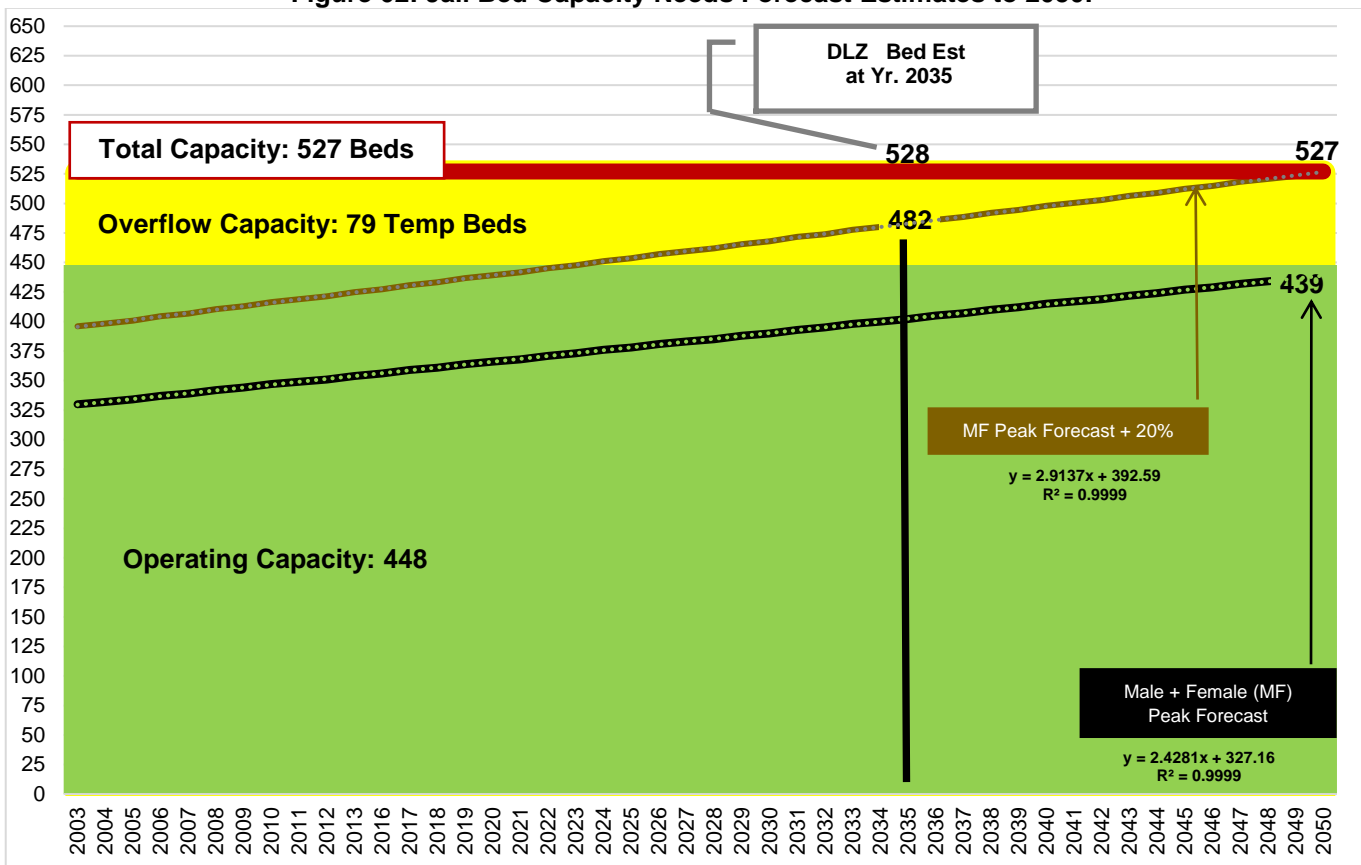


- 8) Gender-combined peaks are the best base from which to build the jail bed capacity needs forecast in order to achieve the primary objective work (jail operating capacity can

accommodate the jail population) and to address the gender-based incarceration issues discussed above.

- 9) A 20% classification factor is the standard used in Indiana according to court records, sheriff's officials, and state jail inspectors. There is no factual or legitimate basis to deviate from that classification factor in forecasting bed needs for Vigo County.
- 10) The combined peak forecast to 2050 is 429 as shown above. A 20% classification factor added to 439 yields an estimated bed capacity of 527 and appears to accommodate combined peak populations when the operating capacity is set at 448 or 85% of total capacity rather than 80%. An operating capacity of 85% seems realistic with a well and flexibly designed and efficient facility. Figure 62 shows bed needs forecast estimate to year 2050 and respective jail capacities.

**Figure 62: Jail Bed Capacity Needs Forecast Estimates to 2050.**



11) Obviously, we concur that the capacity of the current jail is sorely insufficient to achieve and sustain adequate and constitutional levels of inmate care and custody. Based on our assessment of the jail, review of the DLZ study and this analysis, it does not seem economically or operationally feasible or responsible to expand or renovate the existing jail. Construction of a new facility that would more efficiently and effectively achieve and sustain the provision of constitutional care and custody of inmates is recommended.

12) In the final analysis, we concur that new jail construction consisting of an estimated total capacity of 527 beds is adequate to meet Vigo County's jail needs to at least the year

2050. We estimate that this capacity level will allow Vigo County to operate well within the facility's operating capacity and eliminate the need to obligate local tax dollars to house inmates in other county jails.

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## SECTION 11. COST ESTIMATES

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DLZ estimates new construction and planning at approximately \$66,000,000 compared to the initial estimate of approximately \$60,000,000 for a 528-bed facility in 2016. We understand that continually escalating cost of construction is a nationwide event and may increase final costs accordingly. Facility construction cost estimating is not within the scope of this assessment.

It is too early to estimate the operating cost of a new jail. This is because operating costs are directly tied to facility design – the more efficient the design the more efficient it is to operate. Efficiencies can translate in to lower staffing and other specific operating costs. That said, staffing requirements for the existing jail and the most recent new jail design concept are provided below. Staffing requirements for the existing jail of 80 FTE appear realistic. Conversely, staffing requirements of 180 FTE for the most recent design concept are a very unrealistic and tied directly to inefficiencies in that design. A 528-bed facility with an estimated combined peak of 439 inmates should not require near 180 correctional FTEs. It is believed the a much more efficient design concept can greatly reduce staffing requirements without jeopardizing facility safety or security, or sustainable provision of constitutional care and custody of inmates.

Vigo County officials will develop and issue operational cost estimates.

### **A. Staffing Needs: Current and New Jail:**

- 1) Officials need accurate information about the staffing implications of any new jail design in order to make decisions that are informed by estimates of long-term operating costs. Staffing costs often comprise more than 60% of the total costs of building and operating a jail over a 30-year life cycle.
- 2) This report presents:
  - a) Review of current jail staffing implications and staffing shortfall
  - b) Analysis of “Intermittent Activities” that is needed to estimate staffing needs for a new jail
  - c) Analysis of inmate admissions by day, hour, and gender, to be used to estimate staffing needs for a new jail.
  - d) Estimated staffing needs for a new jail (using 2016 DLZ preliminary plan)

### **B. Current Jail Staffing Implications and Shortfall:**

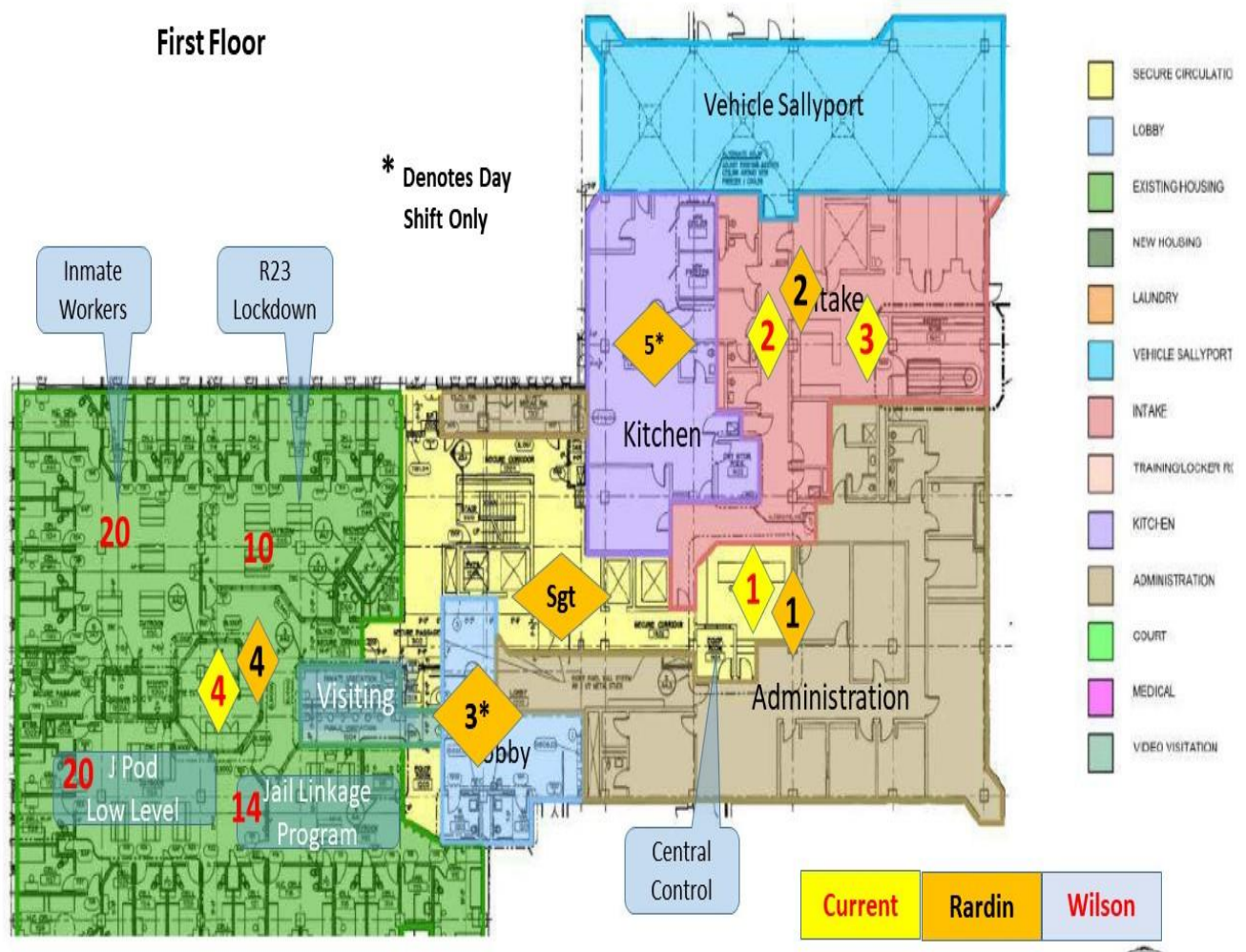
- 1) In the past 10 years, staffing needs for the current jail complex have been evaluated by three entities:
  - a) State jail inspectors, who have consistently found the jail to be seriously understaffed in their annual inspections.
  - b) Robert Rardin, a corrections consultant, who calculated jail staffing needs in 2008
  - c) William Wilson, a jail consultant, who provided a staffing plan in (YEAR)
- 2) County officials have been advised of the need for additional staffing as early as 2003, when Sheriff Jon Marvel began his eight years of service. Now a county commissioner, he continues to voice concerns. Estimates of the degree of the staffing shortfall has varied

somewhat. These following pages summarize the findings of the most recent staffing review, using the methodology developed by the National Institute of Corrections (NIC), U.S. Department of Justice.<sup>29</sup>

**C. Jail Facility:**

- 1) Figures 63 and 64 present detailed diagrams of the current jail complex. These were developed by DLZ, the architects who have been retained by the county to develop long-term jail solutions. These diagrams also identify current staff posts, and the recommended deployment of staff according to the Rardin and Wilson reviews.

**Figure 63:  
First Floor Plan, Current Jail, with Staff Posts Identified.**



<sup>29</sup> Miller, Rod, John Wetzel and James Hart. *Jail Staffing Analysis, Third Edition*. Funded by NIC through a contract with CRS Inc., Gettysburg PA.



Figure 64: Second Floor Plan, Current Jail, with Staff Posts Identified.



- 2) The current jail layout and condition poses serious staffing challenges. Inmates are housed on two levels of the "New Side" of the jail (left side of diagrams), and on the second floor of the "Old Side." The first floor of the Old Side includes the vehicle sallyport, intake and release, master control, kitchen, and the Sheriff's administrative offices.
- 3) Inmate recreation and two program rooms are located on the top level of the New Side. These areas are difficult to effectively supervise because they are remote from the two housing floors. The condition of the spaces shows a great deal of damage and abuse from inmates who were not adequately controlled.

**Figure 65:  
Inmate Bathroom on Top Floor New Side  
(Classrooms, Indoor/Outdoor Recreation).**



- 4) Circulation throughout the secure area of the jail is inefficient and poses many blind spots. The New Side housing units and control room have not been used as originally designed for many years, largely because the design was not considered to be effective.

**Figure 66: New Side Corridor,  
Note Windows that have been Boarded Up.**



- 5) The intake and release area of the Old Side are of antiquated design and are often crowded with inmates who are in various stages of intake or release.

**Figure 67:  
Intake Processing Area, Old Side, First Floor.**



- 6) A detailed physical evaluation of the jail complex is provided in a 2016 DLZ report. It cites many issues with the condition of the facility and its equipment.

**D. Previous Findings:**

- 1) The Rardin report (2008) found that current staffing for “direct supervision of inmates” was 39. Rardin recommended least seven more positions to adequately supervise inmates. It should be noted that Rardin did not attempt to address overall staffing needs, but rather focused on posts that were needed to directly supervise inmates.
- 2) In 2013, William Wilson issued a “Jail Staffing Analysis” report, conducted at the request of Sheriff Greg Ewing. Wilson conducted what is often called a “post analysis” that identified specific posts that are needed, and the number of shifts and days per week that each post should be staffed. Figure 68 presents his summary table.

**Figure 68:**  
**William Wilson's Staffing Position Table.**  
Vigo County Indiana Sheriff's Office Staffing Analysis

Staffing Position Table

Position	Shift 1	Shift 2	Shift 3	Post Total	Relief Factor	Total Staff
Jail Commander	1	0	0	1	1	1
Admin. Comm.	1	0	0	1	1	1
Jail Nurse	1	0	0	1	1	1
Mental Health	.5	0	0	.5	1	.50
Court	7	0	0	7	1	7
Master Control	1	1	1	3	1.66	5
Pod Controls	2	2	2	6	1.66	10
Intake	2	2	2	6	1.66	10
Floor Rovers	7	4	4	15	1.66	25
Transport Staff	2	1	0	3	1.00	3
Recreation Staff	1	1	0	2	1.00	2
Required Staff						65.5
Current Staff						-39
Additional Staff						26.5

- 3) Wilson also reported that authorized staffing at the time of his review was a total of 39 officers, supervisors and other security personnel. He concluded that 65.5 full-time equivalent (FTE) positions were needed, leaving the jail 26.5 FTE' short in 2013.

#### E. Current Estimate of Shortfall:

- 1) After several meetings with jail staff, observation of operations, review of data and reports, and discussions with jail managers, the consultants have estimated the degree to which current staff allocations fall short. These are shown in Figure 69, which provides annotations on Wilson's staffing table. There are two types of additions described in the table:
  - a) Additional staff deployment that are needed (e.g. more posts, or more shifts for which posts are covered)
  - b) "NAWH" adjustment of the math that was previously used to convert relieved coverage hours into Full-Time-Equivalent (FTE) staffing needs. Wilson used a Shift Relief Factor (SRF) that understated the number of FTE's needed to fill a relieved post, based on current data.
- 2) This produces an estimated shortfall of 41 FTE employees, compared to Wilson's 26.5.

**Figure 69:  
Current Estimate of Staffing Shortfall,  
Annotated on Wilson' Staffing Table.**

Vigo County Indiana Sheriff's Office Staffing Analysis

Additional Staff  
Needs Identified

Staffing Position Table

Position	Shift 1	Shift 2	Shift 3	Post Total	Relief Factor	Total Staff		
Jail Commander	1	0	0	1	1	1	+1	
Admin. Comm.	1	0	0	1	1	1		
Jail Nurse	1	0	0	1	1	1		
Mental Health	.5	0	0	.5	1	.50	+1 (medical)	
Court	7	0	0	7	1	7	+1	
Master Control	1	1	1	3	1.66	5		
Pod Controls	2	2	2	6	1.66	10		
Intake	2	2	2	6	1.66	10		
Floor Rovers	7	4	4	15	1.66	25	+2	
Transport Staff	2	1	0	3	1.00	3	+1	
Recreation Staff	1	1	0	2	1.00	2	+2	
Required Staff						65.5	+10 =75.5	
Current Staff						-39	+ 4.5 NAWH	
Additional Staff						26.5	= 80.0 FTE	
							+Classification (2)→	= 41 FTE short

#### F. Summary:

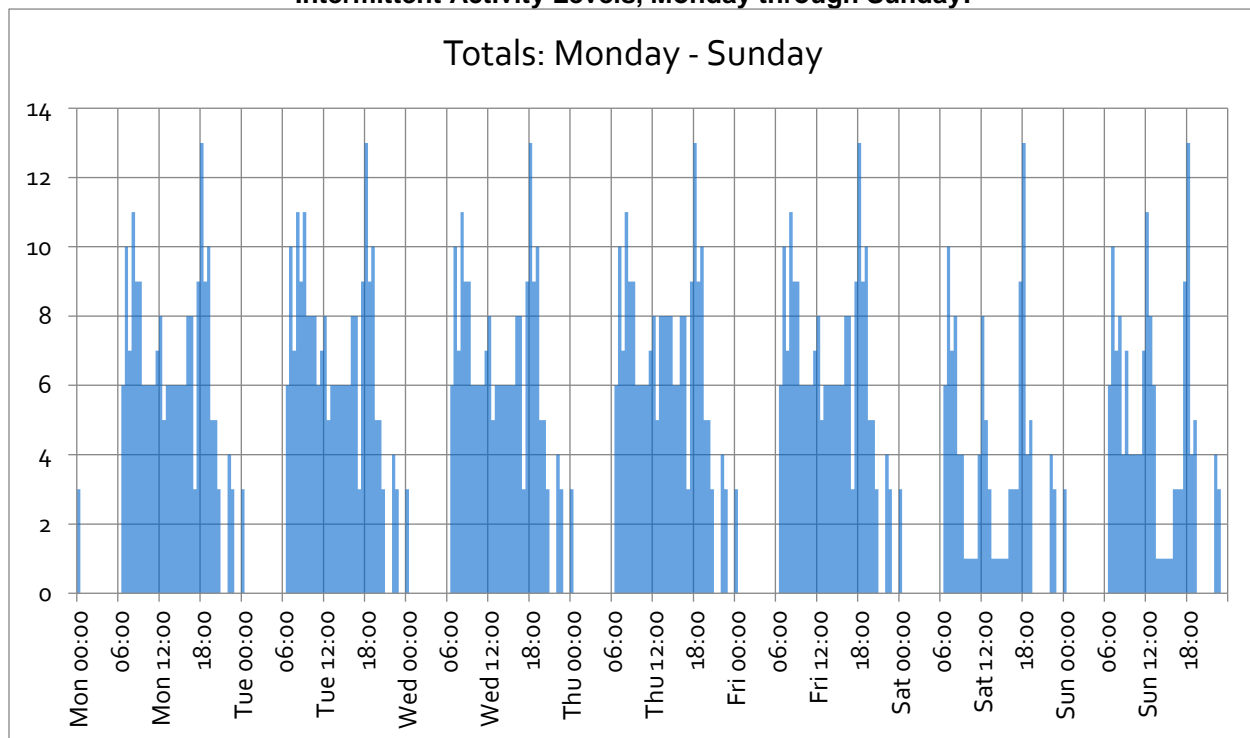
- 1) The current jail complex poses many staffing inefficiencies. In recent years these have been exacerbated by increased inmate occupancy, changes in the types of inmates housed that pose more demands on staff, and the declining condition of the building and its systems.
- 2) For purposes of comparison to a new jail facility, a figure of 80 FTE should be used to describe staffing needs for the current jail.



### G. Staffing the Most Recent Jail Design Concept – Not Feasible:

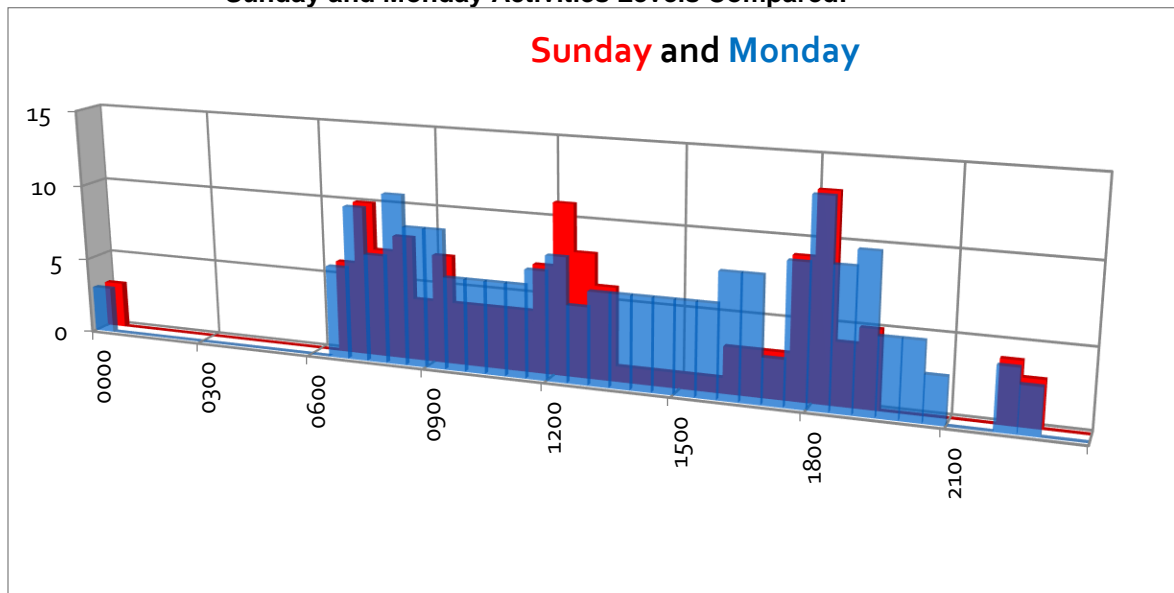
- 1) Identifying and Analyzing “Intermittent Jail Operational Activities”.
  - a) Intermittent activities occur at the same time(s) and day(s) at least once weekly. They include events and tasks such as:
    1. Meals
    2. Medications
    3. Sick Call
    4. Recreation
    5. Programs
    6. Commissary
    7. Attorney Visits
    8. Court
    9. Shift Change
    10. Perimeter Patrols
    11. Religious Services
    12. Laundry
- 2) Figure 70 illustrates the basic intermittent activity patterns that were produced for current jail operations, for a seven-day period that starts on Monday.

**Figure 70:  
Intermittent Activity Levels, Monday through Sunday.**



- 3) Weekend patterns and levels varied markedly from week days, as shown in Figure 71.

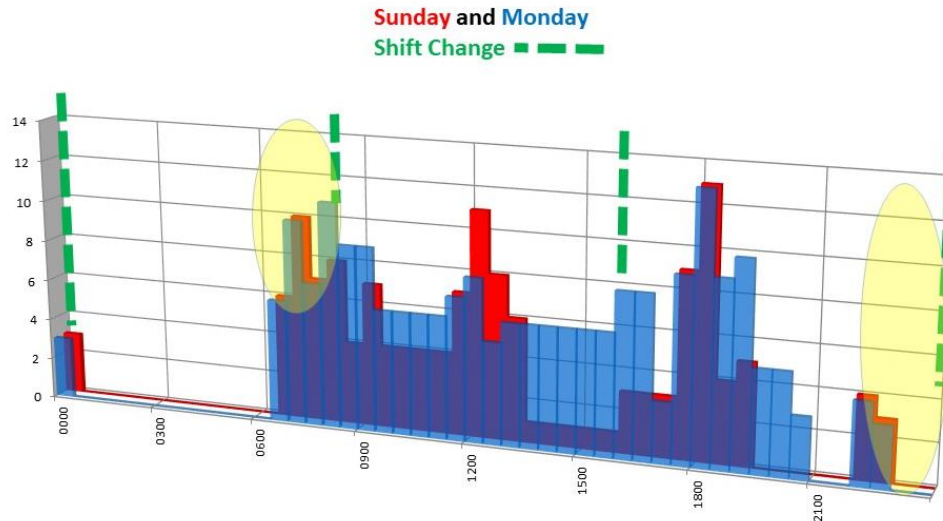
**Figure 71:  
Sunday and Monday Activities Levels Compared.**



- 4) Figure 72 shows the timing of shift changes, and the lack of alignment between the morning shift change (0800) and the activities that begin prior to the start of the shift (highlighted in yellow), and the decline in activities two hours prior to the beginning of the Midnight Shift. Under the current scheduling configuration, the Day Shift starts approximately two hours after activity levels have increased on the Midnight Shift. The Midnight Shift starts more than two hours after activity levels have fallen off on the Afternoon Shift.<sup>30</sup>

<sup>30</sup> There is no need to change the underlying shift configuration (0000, 0800, 1600), but some of the current day and evening staff should be deployed two hours earlier to “ramp up” staffing levels to meet the increase in activities.

**Figure 72:  
Intermittent Activities and Current Shift Start Times.**



- 5) Although the majority of officer hours are generated by 24-hour posts, the intermittent activities operate “on top” of the base operational levels, and if additional staffing is not provided, the fundamental tasks and duties often suffer—starting with the quality and consistency of inmate supervision.
- 6) Although daily operational practices will change in a new facility, the preceding analysis provides a starting point for estimating intermittent staffing needs in a new design.
- 7) Inmate Admission Time and Day of the Week:
  - a) The intake and release area of the jail is difficult to staff because the timing of most admissions, and many releases, is not predictable. Analysis of admit/release data provides some guidance as to the peaks times of activity.
  - b) In addition to the timing of admits and releases, inmate gender must be considered because the admission process requires gender-restricted tasks, such as searches. This will not impact the number of staff needed, but it will identify the minimum gender requirements for deployment.
  - c) The following pages describe all admissions to the facility in 2017 in by gender, hour of day, and day of the week. There were almost 5,000 bookings at the jail in 2017.



**Figure 73: Average Daily Admissions by Hour and Day of Week, Females. 2017<sup>31</sup>.**

Hr.	F Mon	F Tues	F Wed	F Thur	F Fri	F Sat	F Sun
Hr1	0.3	0.4	0.6	0.5	0.8	0.4	0.6
Hr2	0.2	0.2	0.5	0.3	0.5	0.3	0.7
Hr3	0.3	0.2	0.3	0.2	0.2	0.4	0.3
Hr4	0.1	0.1	0.4	0.2	0.2	0.4	0.3
Hr5	0.1	0.2	0.2	0.2	0.2	0.3	0.3
Hr6	0.2	0.0	0.1	0.0	0.2	0.1	0.2
Hr7	0.1	0.1	0.1	0.1	0.0	0.0	0.0
Hr8	0.1	0.0	0.2	0.0	0.2	0.1	0.2
Hr9	0.3	0.3	0.1	0.0	0.3	0.2	0.1
Hr10	0.2	0.2	0.2	0.2	0.3	0.0	0.3
Hr11	0.0	0.3	0.2	0.5	0.3	0.1	0.2
Hr12	0.5	0.5	0.6	0.3	0.3	0.1	0.2
Hr13	0.4	0.4	0.5	0.4	0.2	0.1	0.1
Hr14	0.6	0.3	0.5	0.5	0.2	0.2	0.2
Hr15	0.1	0.7	0.3	0.2	0.2	0.1	0.3
Hr16	0.3	0.3	0.6	0.3	0.5	0.1	0.2
Hr17	0.1	0.5	0.6	0.5	0.4	0.4	0.1
Hr18	0.2	0.5	0.5	0.3	0.5	0.3	0.3
Hr19	0.3	0.1	0.4	0.2	0.5	0.4	0.1
Hr20	0.3	0.2	0.1	0.4	0.2	0.2	0.3
Hr21	0.3	0.3	0.3	0.6	0.4	0.2	0.2
Hr22	0.3	0.1	0.6	0.7	0.4	0.2	0.2
Hr23	0.3	0.2	0.2	0.5	0.4	0.4	0.1

<sup>31</sup> Highest level of admissions is highlighted in green.

**Figure 74:  
Average Daily Admissions by Hour and Day of Week,  
Males 2017.**

Hr.	M Mon	M Tues	M Wed	M Thur	M Fri	M Sat	M Sun
Hr1	1.0	1.3	1.4	1.2	0.9	1.2	1.4
Hr2	1.3	1.4	0.9	0.6	1.3	1.6	1.2
Hr3	0.4	1.0	0.8	1.0	1.2	1.5	1.2
Hr4	0.6	0.7	0.7	1.1	1.3	1.0	1.3
Hr5	0.5	0.4	1.0	0.7	0.8	1.0	0.6
Hr6	0.3	0.3	0.6	0.4	0.5	1.0	0.8
Hr7	0.5	0.3	0.2	0.1	0.1	0.4	0.5
Hr8	0.1	0.1	0.2	0.2	0.3	0.2	0.2
Hr9	0.3	0.3	0.3	0.2	0.4	0.2	0.2
Hr10	0.7	0.8	0.7	0.7	0.8	0.3	0.6
Hr11	1.1	0.8	1.1	1.0	0.6	0.3	0.4
Hr12	0.6	0.8	0.8	1.0	0.8	0.4	0.6
Hr13	0.8	0.8	0.8	1.2	0.7	0.6	0.3
Hr14	0.7	1.3	0.8	1.1	1.3	0.2	0.5
Hr15	1.2	1.2	1.0	0.7	1.0	0.3	0.4
Hr16	1.4	1.8	1.9	1.2	0.7	0.9	0.9
Hr17	0.9	1.8	1.6	1.2	1.3	0.6	0.4
Hr18	1.0	0.9	0.9	0.8	0.9	0.6	1.1
Hr19	0.8	1.4	1.2	1.0	0.6	0.8	0.7
Hr20	0.8	0.7	0.8	0.7	1.0	0.7	0.4
Hr21	1.3	1.3	0.7	0.9	1.1	1.0	0.8
Hr22	0.8	0.9	1.3	1.5	1.1	0.7	1.1
Hr23	0.5	0.8	0.8	1.3	0.9	0.8	0.8

The preceding tables are illustrated for a full week in Figure 75. In this first graph, male and female inmate admissions are “stacked” on top of each other (cumulative), to show the total number of inmates at a given hour.

**Figure 75:  
Average Hourly Admissions by Gender and Day of the Week,  
2017 (Cumulative).**

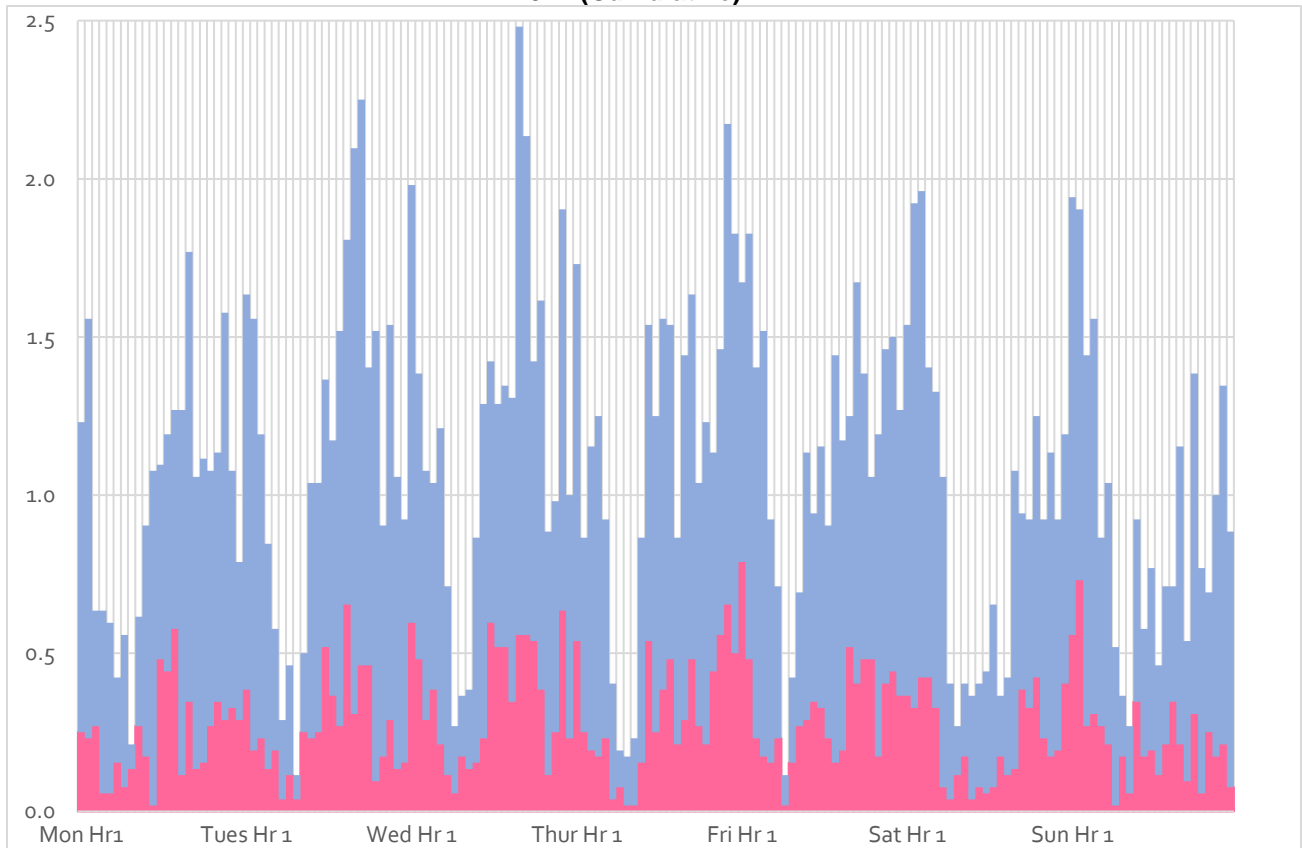


Figure 76 shows the same data, but rather than stacking male and female admits, the female admits are shown in front of the male admits. This provides a view of the male patterns independent of females.

**Figure 76:**  
**Average Hourly Admissions by Gender, Day, and Hour 2017**  
**(Not Cumulative).**

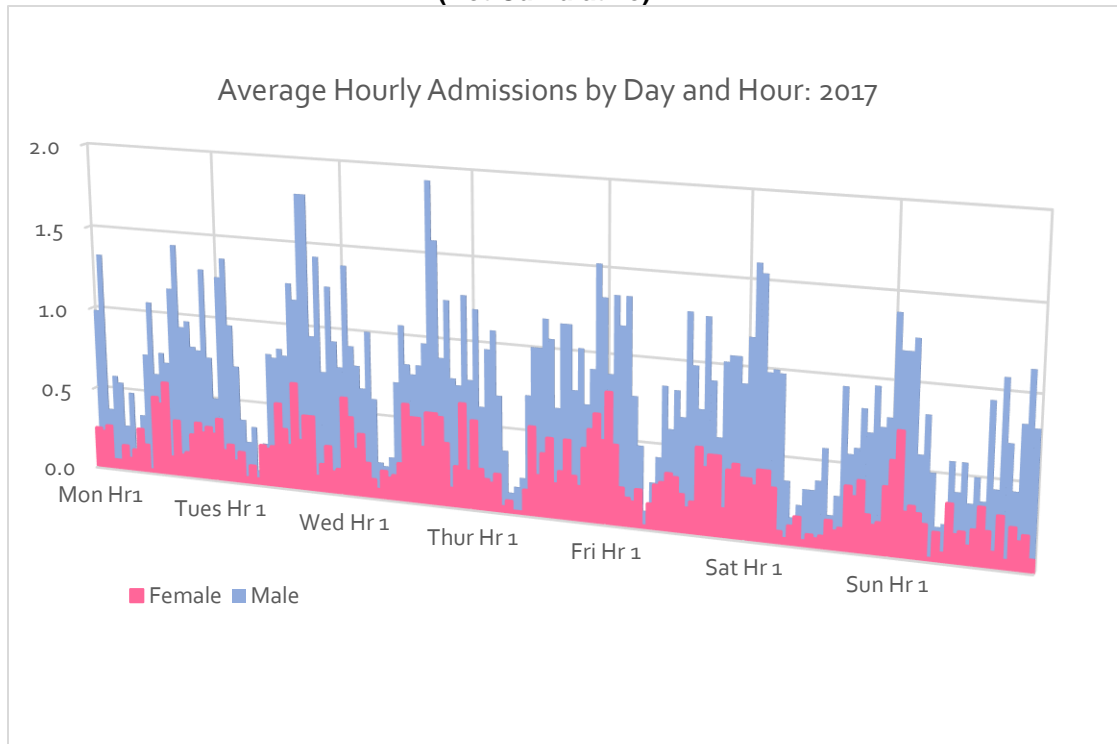


Figure 77 focuses on a single day (Monday) to provide a closeup of the variation in activity. Between 10 a.m. and 4 p.m. admissions increase. This is important to note because this coincides with staffing demands *in* the courts (see Intermittent Activities). By 4 p.m. when male admissions surge, the court security and inmate escort staffing demands have abated, making it easier to handle the surge.

**Figure 77:**

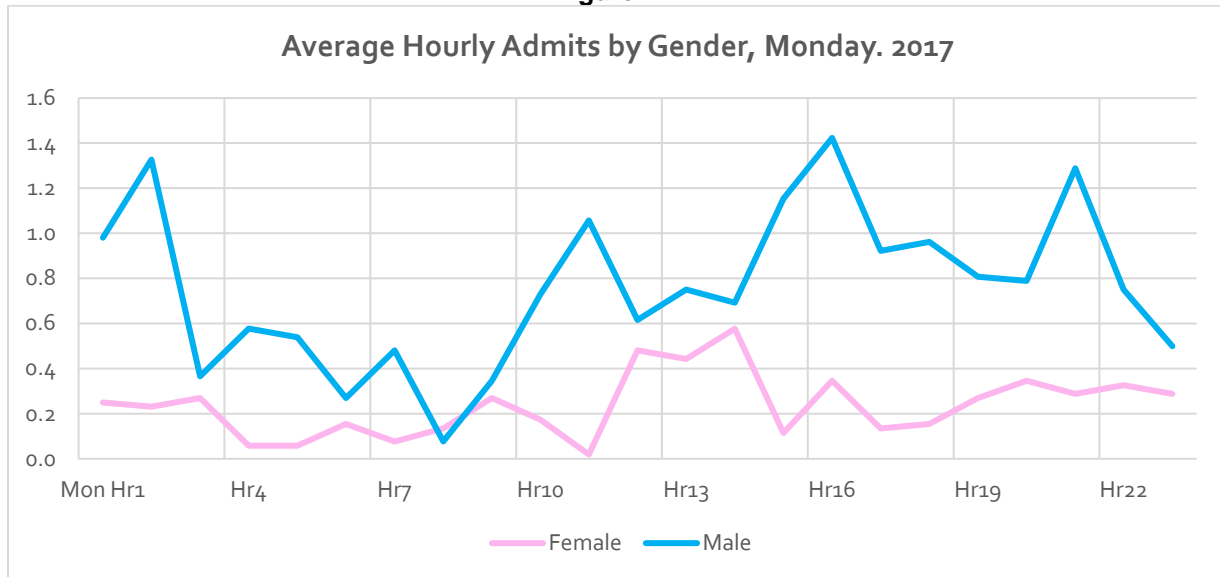


Figure 78 provides a closeup for Thursday, revealing a different pattern in the late afternoon and evening.

**Figure 78:**  
**Cumulative Admissions by Gender and Hour, Thursday 2017.**

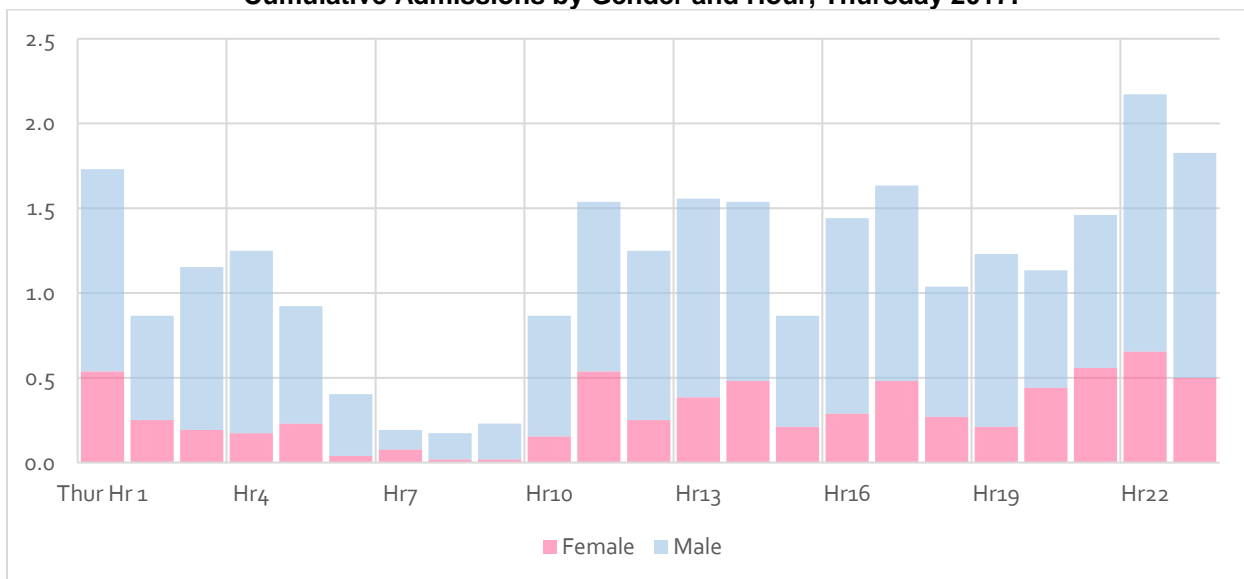
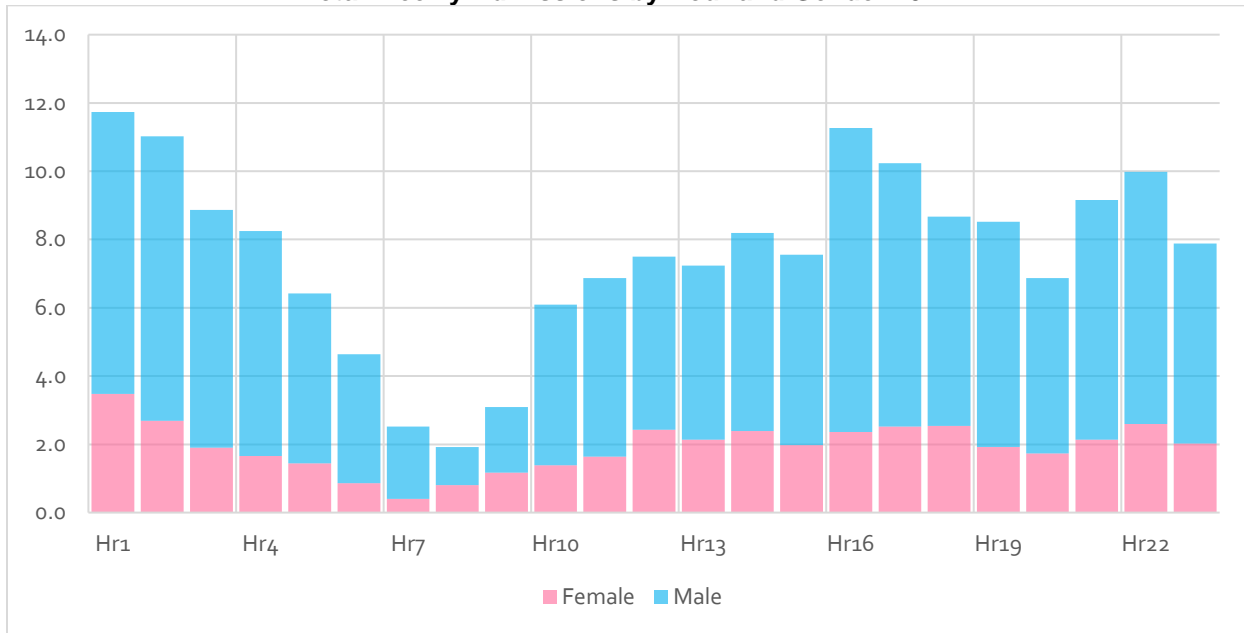


Figure 79 looks at total admissions by hour for an entire week to provide a comparison to the daily patterns. The high number of bookings in the early morning hours occur on the Midnight Shift, and staffing levels must respond to those demands.

**Figure 79:  
Total Weekly Admissions by Hour and Gender 2017.**



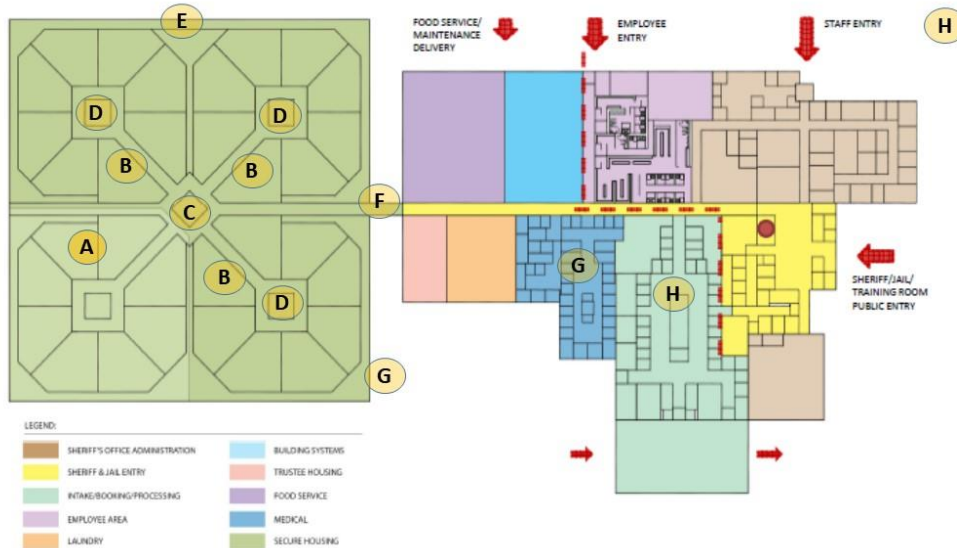
8) Release patterns are also analyzed, and when combined with admission practices to estimate the total workload for the intake and release area of the facility.

## H. Estimated Staffing Needs for the Most Recent Design Concept:

- 1) Staffing costs will comprise the largest component of overall jail costs. Over the first 30 years of a new jail's operation, staffing will represent 60% or more of the total costs, including construction and debt service.
- 2) In 2016 the county's architects, DLZ, worked with officials and staff to develop a detailed architectural program for a new jail and sheriff's office. DLZ also completed an in-depth analysis of the current jail facility, equipment, and technology.
- 3) After the architectural program had been completed, it was used to develop scaled diagrams of various solutions to future jail needs, including use of the current jail, and construction on a new site. The diagrams that were produced were preliminary in nature, and it was assumed that once the county officials decided on a solution, design would begin in earnest.
- 4) Preliminary Drawings:
  - a) The preliminary drawings developed in 2016 used what the architects recently called "a typical new Indiana jail design." This approach has been, and is being used in many counties in Indiana, and also in Michigan. It is based on several key assumptions and priorities:
    1. Creating housing units that encompass approximately 20 inmates or less, providing more opportunities to separate inmates as needed (and thereby precluding the use of "Direct Supervision" inmate management because it would be too costly in such small units).
    2. Use of angled walls for housing units will produce a layout that may be effectively observed by a fixed control post (with few blind spots).
    3. In some instances, providing an indoor/outdoor exercise area as one of the slices of pie in the radial plan.
    4. Use of prefabricated steel cells with all utilities in the back of the cell (plumbing, electrical, HVAC).
    5. Using the outer perimeter of a housing unit to provide maintenance access to the back of cells.
    6. Assigning a low priority to the provision of natural light through a vertical wall and delivering natural light exclusively through skylights in housing dayrooms.
    7. Supervising inmates in their housing units through intermittent rounds made by jail officers (under Indiana Jail Standards most inmates would be seen at least once per hour).
    8. In some cases, location the jail central control room in the center of the inmate housing area to provide views from control into housing dayrooms.
  - b) The preceding approaches have staffing implications that are factored into the following estimates.
- 5) Staffing Implications for 2016 Drawings:
  - a) The following narrative and diagrams highlight some of the key staffing considerations that are generated by the 2016 drawings. Operating assumptions are also identified

as needed. Figure 80 presents the overall plan that was developed for all-new construction in November 2016.

**Figure 80: Overall Plan, November 2016.**



**Comments:**

- A. One of the four housing units will not initially be built. This will pose security issues for the designers and operators. An exterior wall will have to be built where eventually there might be an interior corridor.
- B. Layout of each of the major housing units requires long distance to be travelled in the main corridor before doubling back to the center of the unit.
- C. Control post located in center of the housing building.
- D. Sub-controls located in each of the units.
- E. Exterior mechanical access: (1) creates potential security weakness if outside wall is not fully secure; (2) if a perpetrator gains access to the maintenance chase, every cell is accessible, including large opening for HVAC (3) when repairs require access inside cells, maintenance person must travel a long distance and enter the perimeter, will consume time or require a second maintenance person inside the cell; (4) maintenance corridors will need to be monitored and possibly patrolled; (5) exterior access increases the overall size of the structure, more area to secure.
- F. Set-off between housing building and rest of facility creates additional perimeter wall, and a blind area on the exterior that will have to be monitored.
- G. Medical is located a long distance from housing, requiring time for medical staff to bring meds and services to the housing units, and requiring inmates to be escorted to medical for sick call and other reasons.
- H. Similar concerns about distance between intake/release and long-term housing. 60+% of all inmates will spend less than 72 hours in jail. Also inconvenient for court transports.
- I. Multiple entrances into the structure around three side of the site require monitoring and patrol.



Figure 81: Sheriff's Office.



- J. Staffing for public reception need to be answered.
- K. Long distance between this area and inmate housing, to be travelled by either the inmate or the visit/attorney/etc. Escort for inmates assumed. Possibly escort for public will be required.

Figure 82: Intake/Release/Processing.



- L. 24 separate holding cells arrayed around a large interior perimeter- will any staff posts be located to directly observe any of the cells (booking counter is minimum of 20 feet from closest cell)? Assume every cell must be checked in person every 15 minutes.
- M. Open booking desk area means that entire space—all 24 cells- are acoustically linked together. Add bull pen seating and it will get very noisy (and hard to hear calls for help in cells).
- N. Inmate search and change-out appear to front directly on main corridor. Privacy and control issues.

**Figure 83: Employee Area.**



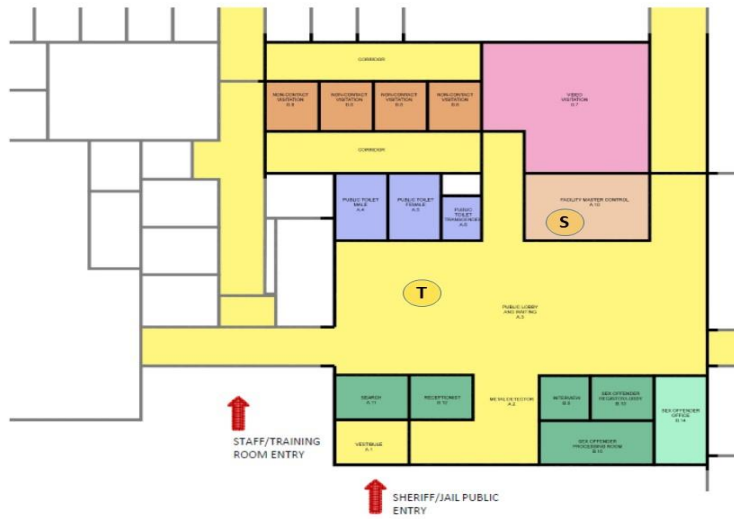
- O. Distance from staff break room to housing will inhibit response time and will require extra break time for staff in housing to travel to break room and back.

**Figure 84: Medical Area.**



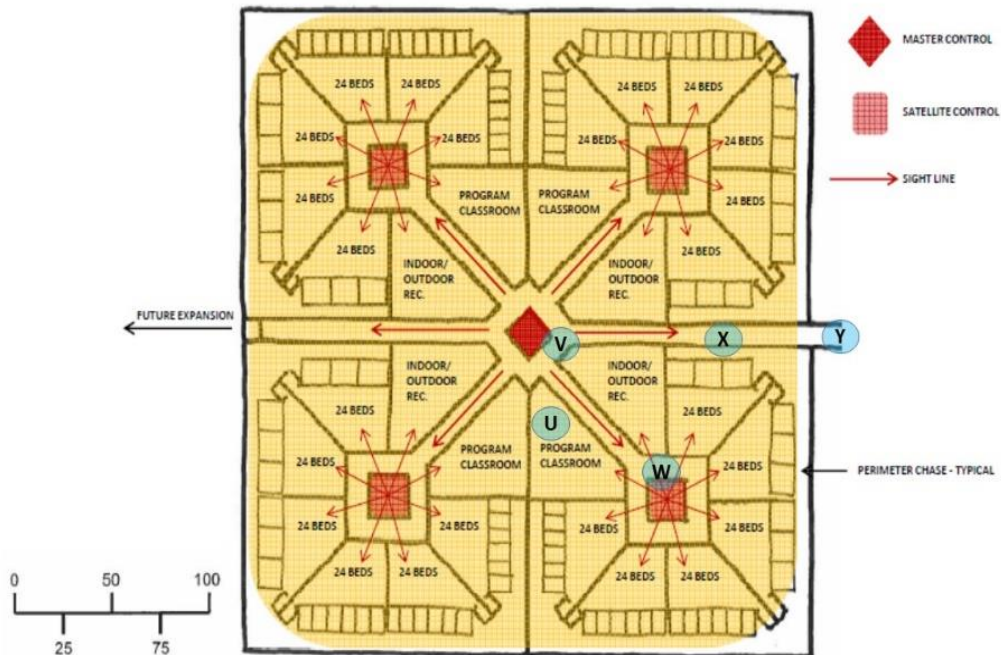
- P. Adjacency to intake/release will be very helpful.
- Q. Self-contained (video visit, indoor/outdoor rec) will cut down on inmate movement.
- R. Assume there is always at least one inmate in residents in the area, staff post will be 24/7

Figure 85: Public Entrance.



- S. Master control location provides no direct line of sight for major corridors or other elements inside perimeter, will have to rely completely on technology; will control have any functions with the public?
- T. Very long distance for public or professional visitors/volunteers to travel to meet with inmates. Assume escort will be required.

Figure 86: Housing Areas.



- U. Is “program/classroom” a single space or is it subdivided?
- V. Do not appear to be smaller rooms for interviews, tutoring, etc. Where would those be found and would inmates have to move to them?
- W. Assume sub-controls operated 24/7.

- X. Smaller housing units provided somewhere to increase ability to use higher proportion of beds?
- Y. Where will security gates be located between housing pod and main corridor, and along main corridor?

**I. Staffing Estimate:**

Relieved Staffing: The following list describes specific *relieved* posts and assignments that operate 24/7 (8,760 coverage hours/year) or 16/7 (5,840 coverage hours/year).

Post #	Location	Post Name	Annual Cov. Hrs		Employee Classif
			8760	5840	
1	Hsg	Core Control	1		CO
2	Hsg	Unit 1 Control	1		CO
3	Hsg	Unit 2 Control	1		CO
4	Hsg	Unit 3 Control	1		CO
5	Hsg	Unit 1 Floor 1	1		CO
6	Hsg	Unit 1 Floor 2	1		CO
7	Hsg	Unit 2 Floor 1	1		CO
8	Hsg	Unit 2 Floor 2	1		CO
9	Hsg	Unit 3 Floor 1	1		CO
10	Hsg	Unit 2 Floor 2	1		CO
11	Hsg	Master Control 1	1		CO
12	Hsg	Hsg Core Rover	1		CO
13	Hsg	Housing Movement 1	1		CO
14	Hsg	Housing Movement 2	1		CO
15	Hsg	Housing Movement 3	1		CO
16	Hsg	Housing Movement 4		1	CO
17	Brks	Breaks to this Point	1		CO
18	Int	Booking Desk 1	1		CO
19	Int	Booking Desk 2	1		CO
20	Int	Receiving / VSP	1		CO
21	Int	Holding Cells	1		CO
22	Int	Intake Movement	1		CO
23	Med	Medical Housing	1		CO
24	Med	Medical Security	1		CO
25	Med	Medical Security		1	CO
26	Med	Medical Movement		1	CO
27	MC2	Master Control 2		1	CO
28	Mov	Main Corridor 1	1		CO
29	Mov	Main Corridor 2	1		CO
30	Per	Perimeter/ Sec Off	1		CO
31	Brks	Breaks to this Point	1		CO
32	SS1	Supervisor 1 Hsg	1		Sgt
33	SS2	Supervisor 2 Intake	1		Sgt
34	Comm	Shift Command	1		L
	FTEs	<b>Cor Officer</b>	<b>137.7</b>	<b>13.6</b>	<b>151.3</b>
		<b>Sgt</b>	<b>10.2</b>		<b>10.2</b>
		<b>Lt</b>	<b>5.1</b>		<b>5.1</b>
					<b>166.6</b>

CO  
relieved  
Sgt  
Relieved  
Lt  
Relieved  
FTEs

## Non Relieved

Jail Admin	1	NR	Civ
Admin Lt	1	NR	Lt
Court	8	NR	CO
Transport	4	NR	CO
<b>TOTAL NR</b>	<b>14</b>	<b>FTE</b>	

<b>Grand Total: 180.6 FTE</b> uniformed/security
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**Contractual:**

Medical  
Mental Health

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## **PART II – SECTION 1 OVERVIEW & SUMMARY OF RECOMMENDATIONS**

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This is Part II of the Vigo County Jail and Criminal Justice Assessment. The primary purpose of Part II is to assist Vigo County improve the effectiveness and efficiency of criminal justice system practices. Additionally, further assessment of the jail planning and design process is provided with best-practice recommendations for final design of the facility. This assessment process involved individual and group meetings and interviews with criminal justice system officials, review of records and data to identify relevant primary recommendations. Best-practices literature follows each section where indicated.

### **A. Summary of Recommendations:**

#### **1) The Court System Recommendations:**

- a) Conduct a one-day case management workshop for all judicial officers [DO FIRST].
- b) Hire an Executive Court Administrator.
- c) Formally establish a Case Processing Committee.
- d) Create Summary Case Management Information Reports.
- e) Create Case Disposition Goals/Case Processing Standards.
- f) Consider implementing Differentiated Case Management (DCM).
- g) Consider creating a criminal courtroom(s) - Pilot Project.

#### **2) Prosecutor's Office Recommendations:**

- a) Perform a comprehensive staffing study, consider creating a full-time office.
- b) Lead the effort to expedite plea negotiations.
- c) Assign two prosecutors to each criminal court (Divisions 1, 3, and 6).

#### **3) Public Defender.**

A Public Defender should be available in-person at first appearance.

#### **4) Community Corrections:**

- a) Explore with judges if Work Release participation can be appropriately expanded.
- b) Utilize a formal assessment to determine risk and appropriateness for Community Corrections programs.
- c) Explore eliminating pretrial release program fees.

- d) Establish the pretrial release program as a separate program. This recommendation also appears in the assessment of probation programs. Both Corrections and Probation supervise pretrial release defendants, but in different manners.

**5) Adult Probation:**

- a) A time study should be conducted to determine staffing needs.
- b) Additional probation officers should be hired.
- c) The Chief Probation Officer position should be that of a full-time supervisor.
- d) Include probation officers on all problem-solving courts treatment teams.
- e) Expand evidence-based programs and practices in the Vigo County Probation Office.
- f) The probation office space should be expanded to accommodate additional staff and for conducting programs.
- g) Establish the Pretrial Release Program separate from the Adult Probation Office.

**6) Other Recommendations:**

- a) Create a Jail Case Expediter Position.
- b) Unify Vigo County Corrections under a single organizational umbrella.
- c) Innovative community responses for helping people with drug addiction - A reference for discussion by the Criminal Justice Coordinating Committee and for groups of concerned citizens who want to contribute to the community.

**7) Jail Planning and Design Recommendations:**

- a) Officials should expeditiously revisit all earlier efforts, securing broader participation and taking the time to visit a variety of new jails in other counties and in other states.
- b) Principles and goals for the new facility, and for the broader criminal justice system, must be developed and used as a foundation for subsequent revisions to plans, design, and operational decisions.
- c) The full range of design and operational approaches should be considered at each step in the process.
- d) Vigo County should take the time to ensure that the new jail is “done right.”



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## PART II - SECTION 2

### INTRODUCTION TO THE ASSESSMENT OF COURTS-RELATED OPERATIONS

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The review of courts-related operations covers the Courts, Prosecutor's Office, Community Corrections, Adult Probation. In addition, the need for a Jail Case Expediter and Unified Correctional Services are addressed.

#### A. Two General Types of Improvements

- 1) There are two general types of improvements that affect the jail population: Quick Fixes and Organizational Improvement. Quick fixes are actions that do not involve major changes in organizational structure and operations. When most of the quick fixes have been accomplished, what remains are infrastructure operations; if refined, could further reduce or control growth of the jail population. Making those changes is complicated. In some instances, new positions will be needed, which is a challenge in the current Vigo County funding environment. Organizational changes also involve the principle that "you never do just one thing." For example, a change in a major operational procedure in the courts could affect multiple staff and one or more interconnected operations.
- 2) The reader must also keep in mind that a lag often exists between the time that a process or operation is improved to the time that a measurable impact can be detected. For example, improvement in the treatment of substance abusers may take at least a year before initial statistics are available to gauge the effectiveness of implementation and efficacy of the change. Often, achievement of an envisioned goal involves an iterative process of refinement.

#### B. Factors Affecting If and When Various Recommendations Will be Implemented

There are at least six factors that can affect if and when recommendations will be implemented:

- 1) **Funding:** Funding is a major issue in Vigo County. Some of the recommendations pertaining to courts-related operations involve new positions.
- 2) **Ease of Implementation:** Some recommendations can be implemented more easily than others. Complex recommendations have more points at which implementation can become stalled.
- 3) **Dependencies in Implementation:** Two types of dependencies exist: (1) Recommendations that depend on implementation of a preceding condition or recommendation and (2) Recommendations that depend on two agencies taking similar or supporting actions in order for the overarching improvement to occur.
- 4) **Differences in Implementation:** Some recommendations may not be implemented as specified due to funding, operational preferences, and internal restrictions. Thus, the outcomes/impacts may be less than anticipated.
- 5) **Preferences:** Some recommendations may not be selected for implementation due to preferences of the agency leaders.
- 6) **Changes in the Regulatory Environment:** The further out in time that implementation

occurs, the greater the possibility of changes in statutes and state agency requirements.

### **C. List of Recommendations Made About Courts-Related Agencies.**

#### **1) Courts:**

- a) Conduct a one-day case management workshop for all judicial officers [DO FIRST].
- b) Hire an Executive Court Administrator.
- c) Formally establish a Case Processing Committee.
- d) Create Summary Case Management Information Reports.
- e) Create Case Disposition Goals/Case Processing Standards.
- f) Consider implementing Differentiated Case Management (DCM).
- g) Consider creating a criminal courtroom(s) - Pilot Project.

#### **2) Prosecutor's Office:**

- a) Perform a comprehensive staffing study.
- b) Lead the effort to expedite plea negotiations.
- c) Assign two prosecutors to each criminal court (Divisions 1, 3, and 6).

#### **3) Public Defender's Office:**

A Public Defender should be available in-person at first appearance.

#### **5) Community Corrections:**

- a) Explore with judges if Work Release participation can be appropriately expanded.
- b) Utilize a formal assessment to determine risk and appropriateness for Community Corrections programs.
- c) Explore eliminating pretrial release program fees.
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#### **6) Adult Probation:**

- h) A time study should be conducted to determine staffing needs.
- i) Additional probation officers should be hired.
- j) The Chief Probation Officer position should be that of a full-time supervisor.
- k) Include probation officers on all problem-solving courts treatment teams.
- l) Expand evidence-based programs and practices in the Vigo County Probation Office.
- m) The probation office space should be expanded to accommodate additional staff and for conducting programs.
- n) Establish the Pretrial Release Program separate from the Adult Probation Office.

**8) Other Recommendations:**

- d) Create a Jail Case Expediter Position.
- e) Unify Vigo County Corrections under a single organizational umbrella.
- f) Innovative community responses for helping people with drug addiction - A reference for discussion by the Criminal Justice Coordinating Committee and for groups of concerned citizens who want to contribute to the community.

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## PART II - SECTION 3 ASSESSMENT OF VIGO COUNTY COURTS

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### A. Introduction.

#### 1) The Status of the Vigo County Courts:

During the course of study of the criminal justice system, the consultants found the judges to be competent and committed to their work. Their ongoing pursuit of new programs, grant funding, and willingness to be innovative is commendable. Within organizations, there is almost always room for improvement. The Vigo County court system has grown beyond the status of a small court system. This is the largest area in need of improvement, but it is not due to a lack of commitment by judges to the duties of their office. Clearly, benefits will be realized from practices and structure better suited to their needs. Such improvement will affect both the timeliness of case processing and the length of time pretrial inmates are detained in jail.

#### 2) Lessons from Research on Caseflow Management:

Years of research and experience in courts across the country confirm that for caseflow management to work effectively in a court, it is essential that there be a solid management foundation that involves the following:

- a) A learning environment enabling the court to be flexible in the face of changing events.
- b) A shared vision of timely justice that is translated into action through proven case management techniques.
- c) The exercise of active management by setting goals, monitoring performance and enforcing accountability
- d) Communications within the court and with lawyers and other institutional participants in the case management process.
- e) Commitment to delay reduction.

Importantly, the commitment to delay reduction is echoed in the American Bar Association's standard relating to delay reduction:

*From the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated. (ABA Standard 2.50)*

#### 3) Putting Improvement Expectations in Perspective:

The recommendations in this report are not quick fixes nor will their impact be immediately felt. Their purpose is to modify an organizational structure that has been in place for years. The current judges, when they entered the court system as new judges, came into a system that was rooted in tradition and practices, complete with beliefs about "how we do business." The judges, for the most part, have identified and are addressing the quick fixes. The recommendations that follow represent the next evolutionary step in modifying the organizational structure that will enable continued improvement in case processing.

## **B. Priorities:**

There are many recommendations in this report that pertain to the courts. Partially, this is in recognition that the courts are the gatekeepers of the majority of the criminal justice system. The sphere of influence of the courts is wide and encompasses prosecuting attorneys, defense attorneys, probation, community corrections, and some operations of the jail and law enforcement. Thus, to help judges enhance their operations is to help, also, other members of the system to improve their operations.

All of the recommendations in this report will have an impact on the jail population. Several will produce measurable results in the short-range future and others will take longer to implement. Not all of the recommendations can or should be undertaken at the same time. For this reason, the consultants have identified four recommendations to initially pursue:

### **1) Conduct a one-day case management workshop for all judicial officers [DO FIRST]:**

Such a workshop conducted by an experienced judge (consultant) with a proven track record of case management improvement will provide new information for consideration and allow the judges to interact and ask questions. Given the innovative behavior exhibited in the past by the judges, this workshop will stimulate thinking about how to undertake the refinements in court structure and operations recommended in this document.

### **2) Hire an Executive Court Administrator:**

An important step in court organizational development must be the establishment of the role of a professional administrator who has the expertise to confront issues, deal with increased complexity, and address the necessity of change and innovation that characterize an evolving court system. Court administrators often are the ones that serve as innovators, "thinking outside the box", change agents, or even entrepreneurs and synchronize efforts with the Chief Judge.

**Implementing this recommendation will take time.**

### **3) Formally Establish a Case Processing Committee:**

Judges implicitly perform the role of system gatekeeper. The consultants are aware that the judges occasionally meet to discuss criminal case processing. This recommendation expands on those actions to provide greater specificity of when and how those meetings occur.

## **C. Description of Priority Recommendations:**

### **1) Conduct a one-day case management workshop for all judicial officers and staff:**

The workshop should be led by a judge who has a proven track record of case management system improvement. The workshop should include discussions on case management techniques from a judge's perspective, use of data in managing cases and resources, impact and reaction to implementing change with the bar and other stakeholders, why make changes, use of CourTools that relate to case management, benefits of system improvement both operationally and politically, explore different

scheduling and case assignment techniques available to judges with limited resources, explore the benefits of implementing a differentiated case management/intensive case management system, and conduct a pre-workshop self-assessment and discuss results during workshop. The final workshop curriculum should be guided by the Chief Judge.

If this recommendation is accepted, securing a faculty member at little or no cost to the court or Vigo County will be identified by the Justice Concepts Inc. consultants.

## **2) Hire an Executive Trial County Administrator:**

Currently, the Court has a person with the title of Court Administrator. However, the duties of that position would be more appropriately categorized as a combination of Chief Financial Officer and staff member to the Probate Courts. This person is overloaded with day-to-day operational issues and would be difficult to replace. In order to differentiate between the current position and the new position described in this recommendation, the reader should think of the new position as an "Executive" Court Administrator.

As will be seen in the document, *The Court Administrator: A Guide to the Profession*, which appears in the appendix, the role of a professional court administrator is very broad in scope. The court administrator's primary role (in this instance, the Executive Court Administrator) is to facilitate the administrative functions of the court under the general guidance of the Chief Judge. Given the rotational nature of serving as Chief Judge in the Vigo Court, the Court Administrator would serve as a constant operational resource over time. The Chief Judge and the Court Administrator would provide the Court with an executive leadership team capable of confronting issues, dealing with increased complexity, and addressing the necessity of change and innovation that characterize an evolving court system. Court administrators are often the ones that serve as innovators, "thinking outside the box", change agents, or even entrepreneurs and synchronize efforts with the Chief Judge.

### a) Benefits of Hiring an Executive Court Administrator:

The following list identifies specific expectations of the position and associated benefits of hiring a court administrator:

#### 1. Leadership:

- ✓ Actively engage in and support the process for trial court strategic planning and the court's vision, mission and tasks.
- ✓ Oversee case management procedures and process, while assisting each judge with their needs in effective case processing.
- ✓ Generate and interpret case management system reports.
- ✓ Identify and prepare responses for the Chief Judge on sensitive administrative issues.
- ✓ Liaison with outside groups.

## 2. Administration:

- ✓ Serve as the subject matter expert in case processing of the trial court.
- ✓ Analyze data on case processing and perform impact studies in areas of the judicial system that are of interest to the Chief Judge and Court.
- ✓ Oversee the preparation and implementation of the annual budget and manage the process of fiscal administration of the court's budget.
- ✓ Prepare and conduct court orientation of new employees.
- ✓ Develop and oversee the emergency management plan and the trial court continuity of operations (COOP) plan.
- ✓ Oversee IT services provided to the trial court.
- ✓ Facilitate development of a Case Management Action Plan
- ✓ Ensure compliance with ADA requirements and requirements associated with language access.
- ✓ Review the purchasing program to enhance purchasing power and provide higher quality of items at reduced pricing.

## 3. Other:

- ✓ Develop alternate funding streams for the court to enhance current programs and develop new initiatives.
- ✓ Facilitate development of external resources, such as partnering with a Paralegal Studies program for intern/externs to assist on Probate Court work; partnering with the college to develop a robust intern program for Specialty Courts, Probation, and other areas of need within the judicial system.
- ✓ Develop procedural manuals in areas of need.
- ✓ Develop new programs/efforts and foster efforts that enhance the public's understanding of the courts system.
- ✓ Serve as the point of contact for needs of each of the judges in the jurisdiction.
- ✓ Develop a best practices reference resource center that supports the court's long-range plan, case management and the like.

### b) Qualifications of an Executive Court Administrator:

Ideally, the court administrator will combine the technical skills of a manager with the knowledge of public administration and an understanding of the duties and problems typical in the courts. Lastly, many of the most successful administrators exhibit the rare combination of having lots of confidence while removing personal ego from the equation.

Specifically, the court administrator should have completed considerable study in the areas of criminal justice, court administration, public and/or business administration or have practical experience in these fields. To this end, many courts require that a court administrator hold a degree in business, public or judicial administration and/or be a graduate of the Court Executive Development Program of the National Center for State Courts' Institute for Court Management or a similar program. If the selected person does not possess these qualifications, there should be a commitment by the Court to support the selectee to obtain such a certification.

c) The Selection Process:

A court administrator may be selected by a process that includes a majority vote of all the judges. The committee, chaired by the chief judge and a representative of the entire bench, can select and/or recommend to the entire bench the hiring of an administrator. Given that the position of Court Administrator is the most important administrative position in the court, each judge should participate in the hiring process, to the extent practical.

To ensure a diverse pool of qualified candidates, the court should launch a nationwide search. The National Center for State Courts, which provides secretarial services to selected professional organizations such as the National Association for Court Management and the Conference of State Court Administrators, lists job openings. Other recruitment avenues (search firm, job boards, job posting sites, recruiting sites) should also be considered to ensure broad outreach to qualified candidates. The process is time-consuming and there are benefits and weaknesses with each type of process and with each outreach resource used.

d) Operational Considerations in Hiring a Court Administrator:

There are a variety of aspects addressed in the process of hiring a court administrator. The following bullet points highlight areas that need to be developed prior to the start-date of a newly hired court administrator:

1. Buy-in of the entire bench needs to be achieved.
2. Buy-in by the funding authority.
  - ✓ Raising the staffing headcount of Court and County and securing the adequate funds is not an easy task.
  - ✓ It should be stressed that having a highly qualified court administrator will have a direct benefit not only to relieving the jail bed numbers, but also to the future of managing the changing complexity of the judicial system.
3. Classification and compensation for a court administrator needs to be determined and agreed upon with the funding authority.
4. A realistic timeline needs to be determined to recruit, interview, select and set a start date. This part of the process should take less than five months after receiving funding approval.
5. Other budget impacts that should be considered include:
  - ✓ Increase training funds (judges, staff and the administrator) that will promote better understanding and subsequently operational enhancement of the entire court organization. Increase contractual funds that will support outsourcing of some needed support services.



6. Adequate office space needs to be secured. Size is not the issue, although enough room should be allowed. Privacy and proximity to the Chief Judge is important. In addition, equipping the office should be included with the budget request.
7. The Chief Judge should be the leader of implementing this change. A staff meeting should be held to outline some of the global changes and transition issues that may occur with the hiring of a court administrator, and to reinforce the need for constant clear communications to ensure that all members of the court team are kept up to date on progress and issues that need to be addressed.

### **3) Formally Establish A Case Processing Committee:**

This recommendation is made with the knowledge that the judges occasionally meet to discuss criminal case processing. Recommendation 3 expands on those actions to provide greater specificity and to set expectations for cooperative work on issues affecting case processing.

Considerations:

- a) The judiciary should decide which judge will chair the meetings and how support will be provided.
- b) The meetings would be scheduled for a specific time each month, e.g., third Wednesday of the month at 3:30 PM.
- c) Membership of the Case Processing Committee would include the Chief Judge, Criminal Court Judges, Chief Prosecutor, Chief Public Defender, Community Corrections Administrator, Chief Probation Officer, Court Clerk, and Jail Case Expediter. The Court Administrator, Jail Administrator, and others can be invited to meetings based on the topic(s) that will be discussed.
- d) The meetings would be closed. Discussions would be private and not released to outsiders, unless all Committee members agree that releasing the information would benefit the issue/initiative/or position taken by the members.
- e) Initial topics of the Case Processing Committee could include for example:
  1. The Jail Case Expediter Position, which is recommended by the consultants: How it will be implemented and interact with members of the criminal justice system.
  2. The recommendation made by the consultants that the Prosecutor's Office should lead an effort to expedite plea negotiations. This discussion would include preparedness of attorneys when asked by judges in court about status of negotiations.
  3. A process for identifying issues and providing relevant statistics (when appropriate and possible) should be developed.
  4. Goals for case processing should be discussed and agreed upon.
  5. A method for assessing achievement of those goals should be discussed and

agreed upon.

6. A manner of assessing speed of case processing should be discussed. (See Recommendations Four and Five)
7. Consideration of creating a dedicated criminal courtroom as a pilot project

**Other Related Recommendations:**

The following recommendations were specifically developed to serve needs identified by the consultants. They are important but were not ranked as first order priorities. They should be placed in a queue for subsequent consideration and implementation.

**4) Summary Case Management Information Reports:**

- a) The Court should consider developing a summary management information report that standardizes and simplifies calendar management issues and is widely circulated among judicial officers and decision makers to create a shared understanding of the current caseload.
- b) Creating and distributing a summary report will not eliminate the need for other more detailed statistics. This standardized report should be used on a court-wide (macro) level. This report provides the big picture rather than individual reports. A sample of such a report follows on the next page (Figure 87). The Case Management Committee should work on finalizing such a report.
- c) If the recommendation is accepted, a request should be made to the information system managers at the state level. Any cost should be absorbed by the state.

Figure 87: Summary Case Management Information Report.

**FILINGS (new cases)**

Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>DISPOSITIONS (resolved cases)</i>				
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>CLEARANCE RATE (dispositions compared to filings)</i>				
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>TIME TO DISPOSITION</i>				
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>x-xx days =</i>	<i>x-xx days =</i>	<i>x-xx days =</i>	<i>x-xx days =</i>	
<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	
<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	
<i>AGE OF ACTIVE PENDING</i>			<i>CASELOAD</i>	
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>x-xx days =</i>	<i>x-xx days =</i>	<i>x-xx days =</i>	<i>x-xx days =</i>	
<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	<i>xx-xxx days =</i>	
<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	<i>xxx-xxxx days =</i>	
<i>TRIAL DATE CERT A (# of times cases disposed by trial)</i>			<i>are scheduled for trial)</i>	
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>CONTINUANCES</i>				
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>Requested by If</i>	<i>Requested by 1f</i>	<i>Requested by 1f</i>	<i>Requested by 1f</i>	
<i>Requested by A</i>	<i>Requested by A</i>	<i>Requested by A</i>	<i>Requested by A</i>	
<i>Joint Request</i>	<i>Joint Request</i>	<i>Joint Request</i>	<i>Joint Request</i>	
<i>Requested by Court</i>	<i>Requested by Court</i>	<i>Requested by Court</i>	<i>Requested by Court</i>	
<i>Total</i>	<i>Total</i>	<i>Total</i>	<i>Total</i>	
<i>REASONS FOR CONTINUANCES</i>				
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year
<i>Reason 1</i>	<i>Reason 1</i>	<i>Reason 1</i>	<i>Reason 1</i>	
<i>Reason 2</i>	<i>Reason 2</i>	<i>Reason 2</i>	<i>Reason 2</i>	
<i>Reason 3</i>	<i>Reason 3</i>	<i>Reason 3</i>	<i>Reason 3</i>	
<i>Reason 4</i>	<i>Reason 4</i>	<i>Reason 4</i>	<i>Reason 4</i>	
<i>Other</i>	<i>Other</i>	<i>Other</i>	<i>Other</i>	
<i>AVERAGE NUMBER OF APPEARANCES</i>			<i>PER CASE</i>	
Month	Year-to-date	Month (Previous year)	Year-to-date (Previous year)	YTD % change from previous year

## d) KEY:

1. Clearance Rate: The number of outgoing cases as a percentage of the number of incoming cases. This is a tight measurement criterion that shows at a glance whether a court is keeping current with its caseload.
2. Time to Disposition: The percentage of cases disposed or otherwise resolved within established timeframes. This measurement criterion will show whether the court complies with disposition goals and standards.
3. Age of Active Pending: The average age of the active cases pending before the court, measured as the average number of days from filing until the time of measurement. It is critical to know how many cases are in a court's pending inventory of active cases and their age. This criterion can also indicate whether a backlog exists and its severity.
4. An additional Summary Report that should be considered displays the various stages by major case type (Figure 88). This report, shown below, identifies the overall averages for all cases in the identified case type. This report serves as a barometer of the pace of litigation and identifies if target goals are being achieved.

**Figure 88: Example of a Summary Report Showing Overall Averages.**

Major Case Type	Stage 1	Stage 2	Stage 3	Stage 4
Felony	Bond Court to Prelim Hearing	Prelim Hearing to Arraignment	Arraignment to Pretrial	Pretrial to Trial
Misdemeanor	Arraignment to Pretrial	Pretrial to Settlement Conference	Settlement Conference to Trial	N/A
Civil	Filing to 1 <sup>st</sup> Hearing	1 <sup>st</sup> Hearing to Motions	Motions to Pretrial	Pretrial to Trial
Family (Divorce)	Filing to 1 <sup>st</sup> Progress Call	Progress Call to Pretrial	Pretrial to Case Management Conference	Case Management Conference to Trial
Juvenile (Delinquency and Dependency)	Filing to Intake Hearing	Intake Hearing to Determination	Determination to Placement	N/A

5. Statistical measures should also be broken further into three categories:
  - ✓ Macro: Overall docket, begin pending, filing, disposition, and end pending.
  - ✓ Micro: Specific cases, time between events, cases nearing time standards.
  - ✓ Related Performance Goals: Number of continuances, cases over the standard, cases with no next event scheduled

**5) Create Case Disposition Goals / Case Processing Standards:**

1. A court needs to set case processing goals for itself, litigants, the Bar, and citizens so it can decide what needs to be done and within what sub-timeframes to achieve those overall goals. A court needs to manage according to where the case is going to be, not on the basis of where it is now (except when due process and achieving justice are at stake). Failure to do so may result in not meeting established objectives. Goals need to be reasonable and reflect the needs and special circumstances of each case type and sub-case type.
2. A Case Management Committee should be the architect of developing these goals in consultation with justice partners - Bar, Office of the Prosecutor, Office of the Public Defender and Jail Administration. While input is necessary, the final decision remains with the Court.
3. Once interim goals/standards are drafted, they need to be road tested via a pilot project involving one or two courts. Lessons learned should provide feedback to the committee, so adjustments can be made.

The following standards should serve as a starting point to begin the dialogue among the judges and justice partners. Only major case categories are in the table.

**Figure 89: Model Time Standards for State Trial Courts<sup>32</sup>.**

Criminal	Felony	75% within 90 days 90% within 180 days 98% within 365 days
	Misdemeanor	75% within 60 days 90% within 90 days 98% within 180 days
Civil	General Civil	75% within 180 days 90% within 365 days 98% within 540 days
Family	Dissolution, Divorce, Allocation of Parental Responsibility	75% within 120 days 90% within 180 days 98% within 365 days
	Order of Protection	90% within 10 days 98% within 30 days
Probate	Administration of Estates	75% within 360 days 90% within 540 days 98% within 720 days
	Guardianship/Conservator of Incapacitated Adults	98% with 90 days
	Civil Commitment	98% within 15 days

Since Indiana does not have published time standards and the Model Time Standards are ambitious for a court just starting down this path, many trial courts set more modest standards with the long-term goal of meeting the Model Time Standards in the future.

<sup>32</sup>Model time standards have existed for more than 40 years. The National Center for State Courts (NCSC), in conjunction with the Conference of State Court Administrators (COSCA) and Conference of Chief Justices (CCJ), revised previous standards using performance data from state courts. The revision, *Model Time Standards for State Trial Courts*, was approved by the CCJ, COSCA, the American Bar Association (ABA), and the National Association for Court Management (NACM).

## 6) Consider Implementing Differentiated Case Management (DCM):

With the increasing volume and diversity of criminal and civil dockets in most courts, and the broad range of case types and case processing requirements presented, the traditional first-in/first-out, one-size-fits-all approach to case management is no longer either feasible or desirable. Differentiated Case Management (DCM) is a technique courts can use to tailor the case management process to the requirements of individual cases. DCM provides a mechanism for processing each case in accordance with the time frame and judicial system resources required. Thus, each case can move as expeditiously as possible toward disposition, rather than waiting in line.

### a) DCM offers three key features:

1. Development of multiple case processing tracks with different events and timeframes that reflect the range of case processing characteristics and requirements presented by the caseload—Shortly after a case is filed, it is assigned to the applicable track based on criteria developed by the local judicial system. Some courts have only three tracks—simple, standard, and complex; other courts have six or more tracks specific to that court and subtracks as needed.
2. Improved organization of court events to ensure that each scheduled event occurs at a time and in a manner that promotes case disposition—Court events such as preliminary hearings, motions, and evidentiary hearings are not automatically scheduled; instead, they are scheduled only for those tracks in which they are appropriate. For example, a predisposition conference would be scheduled for a major drug possession case assigned to a “complex” track, but would not be scheduled for a simple drug trafficking case assigned to a “simple” track. Only events that contribute to the case disposition process are scheduled, and each scheduled event is designed to promote case disposition. Thus, events that do not contribute to case resolution (such as pro forma calendar calls) are eliminated, and events that do contribute to case disposition (such as pretrial conferences) are scheduled at times when issues can be defined or disposition might reasonably be expected to occur.
3. Close case monitoring—Monitoring individual cases ensures that each case stays within track procedures and timeframes as well as identifies unanticipated problems that may warrant track reassignment.

An example of a DCM planning document developed by Tarrant County, Texas is provided in the appendix of this report.

## 7) Consider Creating A Criminal Courtroom(s) – Pilot Project:

Currently each Division handles criminal and civil cases and other matters. As a result of the consultants' review of statistical reports provided by the Court, considering the forthcoming implementation of a pretrial release program and learning of the multiple case management techniques used by each court during the interviews of judges and staff, it is recommended that one (1) or two (2) courts be created which would deal only with criminal cases.

### Benefits:

- a) Facilitates a consistent outline of daily activity to accommodate all facets of managing a criminal caseload and eliminates distractions involved in blending time among other of case types.
- b) Facilitates easier planning with the offices of the Prosecutor and Public Defender to reshape staffing needs to full-time criminal court(s).
- c) Better predictability and consistency of outcomes dealing with pleas, sentencing and the like when dealing with one or two judges rather than five.
- d) The various majority of serious criminal cases (98%) are never tried; rather they are resolved through negotiated pleas. The recommended changes will facilitate attorneys being prepared more often than not, resulting in closing the case. Collapsing criminal matters into one or two courtrooms will enhance the Court to set meaningful court dates that are consistent between the two courtrooms.
- e) Barriers will be easier to address when only dealing with two courtrooms, resulting in more efficient caseload and quicker outcomes.
- f) Best and final offers will be easier to achieve with a team of prosecutors and public defenders and defense bar dealing with two judges, due to predictability of the outcome by the judges.
- g) More of a team approach between the two judges, set prosecutors and public defenders, the more they will begin to develop a higher level of collegiality and will focus on the common goal of moving and disposing of cases and keeping the jail population in check.
- h) Promotes consolidation of support staff and allows functions to be better controlled by those assigned to assist only with criminal cases.



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**PART II – SECTION 4  
PROSECUTOR’S OFFICE OPERATIONS**

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**A. Background:**

- 4) Surveys of state courts by the Bureau of Justice Assistance indicate that about two-thirds of felony defendants are eventually convicted and more than 95% of these convictions were the result of plea bargains.<sup>33,34</sup> Similar statistics would likely apply to felony case processing in Vigo County.
- 5) The Criminal Division of the Prosecutor’s Office is responsible for the prosecution of all criminal offenses and infraction violations that occur in Vigo County. The Office does not handle ordinance violations (violations of municipal code).
- 3) The Office decides which felony charges to file and, subsequently, presents the initial plea offer to the defendant’s attorney. If prosecuting attorneys are slow in making initial offers, the time to case adjudication will obviously take longer. When a plea offer is made to the defendant through his or her defense attorney, the defense attorney must consult with the defendant about whether to take the offer, make a counter offer or go to trial. If the penalty in the initial offer is very severe, a round robin series of back-and-forth negotiations may occur until an agreement is reached. In interviews of judges and attorneys, the manner of making plea offers was discussed. The general consensus was that the way to construct plea offers is to present the best offer first, rather than starting high (as tends to happen in civil cases). This strategy usually reduces the number of round robin negotiations.

**B. Vigo County Prosecutor Office Staffing:**

- 1) The Vigo County’s Prosecutor’s Office is organized according to two types of functions: Case Preparation and Case Prosecution. The case preparation function is divided into specialty areas according to type of crime. The case prosecution function is performed by attorneys who negotiate pleas and try cases in court.
- 2) The current staffing of the office includes:
  - a) 1 Prosecutor (part-time)
  - b) 1 Chief Deputy Prosecutor (full-time)
  - c) 9 full-time Deputy Prosecuting Attorneys - Criminal Cases
  - d) 7 part-time Deputy Prosecuting Attorneys - Criminal Cases
  - e) 1 Deputy Prosecuting Attorney - Juvenile delinquency proceedings.
  - f) 2 Investigators
  - g) 7 Support staff

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<sup>33</sup> “Summary findings” from State Court Processing Statistics. Bureau of Justice Statistics. Downloaded on September 22, 2018. Available at: <https://www.bjs.gov/index.cfm?ty=tp&tid=23>

<sup>34</sup> “In a general sense, plea agreements are a bilateral contract whereby the defendant promised to plead guilty and, in exchange, the State promised to dismiss or reduce charges and/or recommend a certain sentence. Since the sentencing court is not a party to a plea agreement, the Court is not bound by its terms. When a plea of guilty is tendered or received as a result of a prior plea agreement, the trial judge may give the agreement consideration but is not bound by its terms and can reach an independent decision on whether to approve a negotiated charge or sentence concessions.” SOURCE: McNett, D. “A Practical Guide to Plea Agreements in Kansas.” *The Kansas Prosecutor*, Fall 2007, Page 19.

- 3) In interviews of administrators of the Prosecutor's Office, the concern was raised that the office is understaffed and, therefore, unable to provide additional manpower needed to participate in additional activities that would expedite plea bargaining. The question of how many staff are needed cannot be answered without a comprehensive staffing analysis, which is recommended in the next section. Two factors preclude the application of a simple formula to calculate the number of needed attorneys per number of cases: (1) case processing is segmented by function and (2) some attorneys are part-time. Although the standards of the American Bar Association (ABA) recommend that staff should be full-time, at this point in time it is unknown if that strategy would reduce the need for more staff.<sup>35,36</sup>
- 4) Recently, the Prosecutor's Office submitted a request to the County Attorney to change the Juvenile Deputy Prosecutor from a part-time position to a full-time position that would also take on Criminal Case responsibilities. The request proposed that the change be funded with non-tax dollars available to the Prosecutor. The request was assigned to a committee on October 9, 2018, and if passed by the committee, will be heard by the full County Council at the November meeting.

### C. Recommendations:

#### 1) Complete a Comprehensive Staffing Study:

The prosecutor's office should complete a comprehensive staffing study to assess the appropriate number of personnel (both legal and non-legal staff) to perform the functions necessary to fulfill its mission, enable adequate supervision and satisfy the requirement of expeditious case processing of all criminal matters brought before the courts of Vigo County.

- a) The complexity of this study would require obtaining the services of a vendor having experience in such analyses. Very likely this study would take several months.
- b) A quality staffing study would provide an evidence-based review of the various functions of the prosecutor's office, as well as some relevant support functions and investigation staff resources.
- c) The study should identify the number of work units (workload requirements) to determine (1) how many full-time staff positions would be needed and (2) if such conversion is viable under the current budget allocation.
- d) The conclusions should be based on data provided by the prosecutor's office and verified by the selected vendor. If the data are insufficient to complete an accurate analysis, a plan and format for job analyses and data collection should be developed by the selected vendor.
- e) The study should assess the functional structure of non-attorney job assignments and ascertain how their structure affects performance of the agency, and if an alternative structure or additional resources could enhance efficiency, e.g., adding investigators or paralegal staff.

<sup>35</sup> In Indiana statute (IC33-39-6) provides that the chief prosecutor can election to serve as full- or part-time.

<sup>36</sup> *ABA Standards: Prosecution Function*, Standard 3-2.3(b). Available at [https://www.americanbar.org/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pfunc\\_blk.html#2.3](https://www.americanbar.org/publications/criminal_justice_section_archive/crimjust_standards_pfunc_blk.html#2.3)

- f) As a result of the study, changes that are implemented should be continually evaluated.
- g) The study should consider Recommendations 2 and 3, which follow.
- h) Consideration: A 2002 report by the American Prosecutors Research Institute (APRI), "How Many Cases Should a Prosecutor Handle" concluded that national prosecutorial caseload standards cannot be determined.<sup>37</sup> The U.S. Department of Justice, Bureau of Justice Assistance funded APRI to conduct weighted caseload studies in 56 prosecutors' offices across the nation to determine if national prosecutor caseload standards could be derived. APRI concluded that, "it is not feasible to develop national caseload and workload standards."<sup>38</sup>

## 2) Lead an Effort for Plea Negotiations:

This recommendation draws on a model for expediting plea negotiations that was developed in a Texas county.<sup>39</sup> The model should be modified through collaboration with the Judges and Public Defender to fit into Vigo County court case processing.

- a) Basic Concept: Two mornings a week would be provided for prosecution and defense attorneys to meet to negotiate pleas. This would allow time for attorneys to communicate with clients and finalize the negotiations on the second day. The two-day window would also raise the likelihood that a defense attorney would be able to attend at least one of the two days.
- b) Considerations: This would be tried on a pilot basis with one or two courts. The judge(s) would volunteer to have their court(s) participate.
  1. Cases suitable for this process would be relatively low in complexity.
  2. Experienced judges and attorneys generally know which types of cases would be amenable to this process. An example of how to specifically articulate the categorization of cases is shown in the appendix (*Tarrant County Differentiated Felony Case Management: Expedited and Basic Tracks*).
  3. Thursday and Friday from 9:00 to noon is suggested.
  4. On those days and times ensure an available meeting space, such as a vacant jury room, is not in use.
  5. Court would not be held on those two mornings.
  6. There would be no schedule requirements for these two times/days. Prosecution attorneys would bring their relevant case files to the designated room and meet with defense attorneys who show up. This would accommodate defense attorneys

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<sup>37</sup> The American Bar Association (ABA) does not have national standards for prosecution caseloads as was claimed in 2015 South Carolina Study on prosecution caseloads performed by the South Carolina Commission on Prosecution Coordination.

<sup>38</sup> Carroll, D. *ABA Clarifies Caseload Standards for South Carolina Prosecutors*. Sixth Amendment Center, December 18, 2014. Available at <http://sixthamendment.org/aba-clarifies-caseload-standards-for-south-carolina-prosecutors/#>

<sup>39</sup> Source of information: Blake Glover, Prosecuting attorney in Collin County, Texas and currently defense attorney on a panel of defense attorneys serving Douglas County, Kansas. Thus, he has an appreciation of the concept from his experience as both the prosecuting and defense attorneys. Mr. Glover worked with Dr. Beck in describing the process for expediting plea negotiations

who may be engaged in court in another courtroom.

- Under the current court scheduling, there are instances in which an attorney may not be available at a particular time or on a particular day.
  - By providing open periods of 9:00 to noon on two days, the likelihood is raised that an attorney could meet on one of the two days, thereby, requiring fewer continuances.
  - The open sessions would allow time for defense attorneys to communicate about the plea offer and return either later in the morning or the next day to finalize the plea.
7. The judge(s) would not need to sit on the bench during this time. They would be free to work on other court-related issues in their chambers.
  8. When a plea is finalized, the judge could briefly return to the bench to hear the plea. Options would be to identify a judge who could take pleas or set up a plea docket time.
  9. In the instance that a continuance is needed to meet with a client, the case could be continued to the next week's open session on Thursday or Friday.

c) Benefits:

1. Judges would not have to call attorneys to court events in which plea negotiations have not finalized.
2. The need to assemble the parties in a case only to result in a continuance would be greatly reduced.
3. The judge's need to second-guess court event scheduling would be reduced, thus saving costs, reducing possible security issues, and the like.
4. The result of the meeting of attorneys would identify, with greater likelihood, those cases which would not be settled with a plea and thereby enable the judge to schedule a trial with greater certainty.

**3) Assign Two Prosecutors to Each Criminal Court:**

a) Currently the prosecuting attorney assignments are a hybrid mixture. One full-time attorney is assigned to each of court divisions 1, 3, and 6 (these courts have the largest numbers of felony criminal cases). Specialty attorneys, such as those prosecuting sex crimes, are brought in on an as-needed basis.

b) Details of the Recommendation:

1. A second full-time prosecuting attorney would be added. The role of specialty attorneys would not be affected. One of the two full-time attorneys would deal with complex cases and the other with less complex cases. Discussion with the Public Defender suggests that similar staffing may be possible to arrange.
2. Not all criminal cases take the same length of time from arrest to disposition. Obviously, the more complex the case, the longer expected time to disposition. One

manner of differentiating between complexity of cases is by offense levels: levels 1 to 4 (complex) and levels 5 and 6 (less complex).

3. Another option for differentiating complexity of cases is to employ a version of Differentiated Felony Case Management (DFCM), such as that developed by Tarrant County, Texas. This model considers the amount of evidence, witnesses, etc. A copy of their method of differentiation is attached in the appendix of the document on assessment of the court.

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**PART II – SECTION 5  
PUBLIC DEFENDER’S OFFICE**

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**A. Introduction**

- 1) The Vigo County Public Defender’s Office is staffed with part-time (80% time) attorneys. The State reimburses the County for a percentage of their salaries and operating expenses. The attorneys also receive employment benefits under this arrangement. Reportedly, there are times when the attorneys may need to draw on their private support staff when unusually demanding public defense cases are involved.
- 2) The staffing of the Public Defender’s Office is not comparable to the Prosecutor’s Office with regard to case assignments. The Public Defender’s Office has three public defenders assigned to Superior Courts 1 and four public defenders assigned to Superior Courts 3 and 6. There is a capability of appointing the lower level cases to one of the public defenders in each of the courts, while the other public defenders are appointed the higher felonies without necessitating a full-time position.

**B. Providing Counsel at First Appearance:**

- 1) In Indiana, the right to counsel attaches at the time of arrest (Taylor v. State, 1997). Indiana’s right provides greater protection than earlier cases, such as Rothgery v. Gillespie County. In Rothgery v. Gillespie County (2008), the Supreme Court held that the right to counsel attaches at “a criminal defendant’s initial appearance before a judicial officer, where he learns the charge against him and his liberty is subject to restriction.”
- 2) Initial Appearance is a critical stage in a criminal proceeding. The court determines at this point whether to incarcerate or release an individual and what, if any, terms, conditions or bond might be appropriate.
- 3) In instances in which a case involves co-defendants, more than one Public Defender attorney will be required.

**C. Recommendation: A Public Defender should be available in-person at first appearance.<sup>40</sup> (ABA Standard 4-2.3) (National Legal Aid & Defender Association Standard 13.1).**

1) Staffing Needs:

The Public Defender’s Office needs at least two part-time attorneys (new positions) to be present when newly arrested individuals are brought before one of the County’s six criminal courts. These new positions could be classified as administrative positions and would be available for maximum state reimbursement. To be free of conflicts in their availability, the new attorneys would not carry ongoing criminal caseloads.

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<sup>40</sup>“First Appearance” and “Initial Appearance” occur interchangeably in the literature. In this document these terms refer to the case processing event at which the defendant first appears before a judicial officer.

2) Operational Considerations:

a) Assessment of Indigency:

Representation by a public defender necessitates assessment of indigent status at the earliest possible time after booking. The jail booking officer should present the necessary paperwork to newly arrested persons at time of booking. The completed form can be transmitted via fax or by scanning the document for electronic transmittal via email to the public defender's office.

b) Strategies for Providing Representation:

Strategies employed by other jurisdictions to prepare the Public Defender attorney for adequate representation at first appearance include the following:

1. A Public Defender Investigator comes into the jail early in the morning to read the arrest report and interview the defendant. The Vigo County Chief Public Defender may have to assign one or more of the contract defense attorneys in both roles as an "Investigator" and designated counsel at first appearance.
2. In the instance that a defendant(s) has not completed the assessment of indigency at time of booking, the Investigator interviews the person(s). If an adequate system of assessing indigency at the time of booking cannot be established, the Investigator may have to interview all newly booked inmates.

c) Other Considerations:

A defense attorney is not only necessary to provide the accused with advice prior to initial appearance, but also to timely initiate the defense investigation and to preserve exculpatory evidence. In the absence of immediate mental health screening, these attorneys may be able to initially detect serious mental health problems and facilitate timely intervention of mental health care providers. Thus, the provision of early contact by defense attorneys would result not only in quicker and more just case resolutions, but also promote a more humane problem-solving approach to dealing with mentally ill defendants.

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**PART II – SECTION 6  
ASSESSMENT OF PROGRAMS IN THE VIGO COUNTY  
DEPARTMENT OF COMMUNITY CORRECTIONS**

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**A. Introduction:**

**1) How the Assessment was Performed:**

The assessment of programs in the Vigo County Community Corrections Department involved the inspection of the community corrections facility; interview with the Executive Director, William Watson; examination of program information and data; and follow-up conversations for clarification of information.

**2) Recommendations from the Analysis in this Document:**

- a) Explore with judges if Work Release participation can be appropriately expanded.
- b) Utilize a formal assessment to determine risk and appropriateness for Community Corrections programs.
- c) Explore eliminating pretrial release program fees.
- d) Establish the pretrial release program as a separate program. This recommendation also appears in the assessment of probation programs. Both Corrections and Probation supervise pretrial release defendants but in different manners.

**3) Enabling Legislation and Structure of the Community Corrections Department:**

The Community Corrections Act was enacted in Indiana in 1979 for the purpose of diverting certain offense categories of offenders from prison. Vigo County implemented its Community Corrections programs in 1990. Currently, the Community Corrections Department operates a facility containing programs for both sentenced and pretrial release defendants. The Courts can sentence offenders to Work Release and/or Community Restitution. The Work Release Program has a capacity of 130 persons, but has been consistently underutilized by the court. Pretrial defendants may be assigned by the Courts to Home Detention/Electronic Monitoring or Work Release as a condition of their pretrial release while awaiting adjudication of their cases.

**B. Community Corrections Program Components:**

- 1) **Home Detention:** Home detention may be ordered by the Court for defendants on pretrial release and sentenced offenders in lieu of prison. Participants are placed on Global Positioning System (GPS) tracking and allowed to reside in their residences, to go to work, and go to special appointments such as for medical and other treatment. The program is operated under the concept of self-pay. The initial program fee is \$315, which includes the cost for hook-up and for the first 13 days in the program. Thereafter, the fee is \$15 per day.



- 2) Residential Work Release:** The Community Corrections facility contains dormitories for housing work release participants. Meal service is provided by the jail. Both sentenced offenders and pretrial defendants can be ordered into the program by the court. Program participants are allowed to leave for work. Unemployed participants are helped by staff to obtain employment.

Persons assigned to the program have a percentage of their checks, up to \$91 per week, to pay for participation in the program. According to the director, indigent placements have been historically less successful in the work release program and have a high percentage of absconders from this program.

- 3) Community Service Program:** Participants in the community service program are ordered by the court to complete a specified number of hours as a condition of their probation/community corrections sentence to give back to the community in reparation for their crimes. Generally, participants are assigned to a designated non-profit, state, or government agency to perform work. Community Corrections staff monitor their progress and assure they complete all hours ordered. In addition to reparation, two goals of community service work are for participants to learn new skills and work ethics and at the same time gain insight into their criminal behavior and its impact it on the community.
- 4) Vivitrol Opioid Treatment Program:** Recently, a (MAT) Medically Assisted Treatment, Vivitrol Opioid Program has been implemented.

- a) Vivitrol is one of the brand names for naltrexone, and it is unique because of its route of administration and duration of action. Rather than being taken orally in pill form every 1-3 days, it is an extended-release injection, often referred to as 'the Vivitrol shot'. This shot is an intramuscular injection that is given into alternating buttocks each month by a health care professional. The main benefit of the drug is that it only needs to be administered once every four (4) weeks, which helps to increase compliance with treatment and, as a result, substance abstinence. Vivitrol is an effective part of medication-assisted treatment, which is a method of addressing addiction that combines therapy with medication. Vivitrol helps to both reduce cravings and lower the risk of relapse.<sup>41</sup>
- b) Vigo County's Vivitrol MAT program is a collaboration between Community Corrections, the Vigo County Sheriff's Department, and the Hamilton Center. While in jail, pretrial defendants are screened. Those who qualify can voluntarily choose to enter to program. Case management and Vivitrol treatment is provided by the Hamilton Center. The Community Corrections facility provides secure housing and meals. The program is 90-days in length and funded by a \$380,000 treatment grant from the Indiana Department of Corrections. Those who qualify for the program may enter the program as a condition of a plea agreement. Successful completion of the program may merit a favorable sentence recommendation from the prosecutor. Currently, the first potential participants are being evaluated for placement in the program. Program capacity is thirty-five persons.

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<sup>41</sup> Patterson, E. *Vivitrol Use in Drug Addiction Treatment*. Available at <https://drugabuse.com/library/vivitrol>

5) **Ancillary Programming:** In addition to the programs listed above, other programs are available to residents at the facility, including:

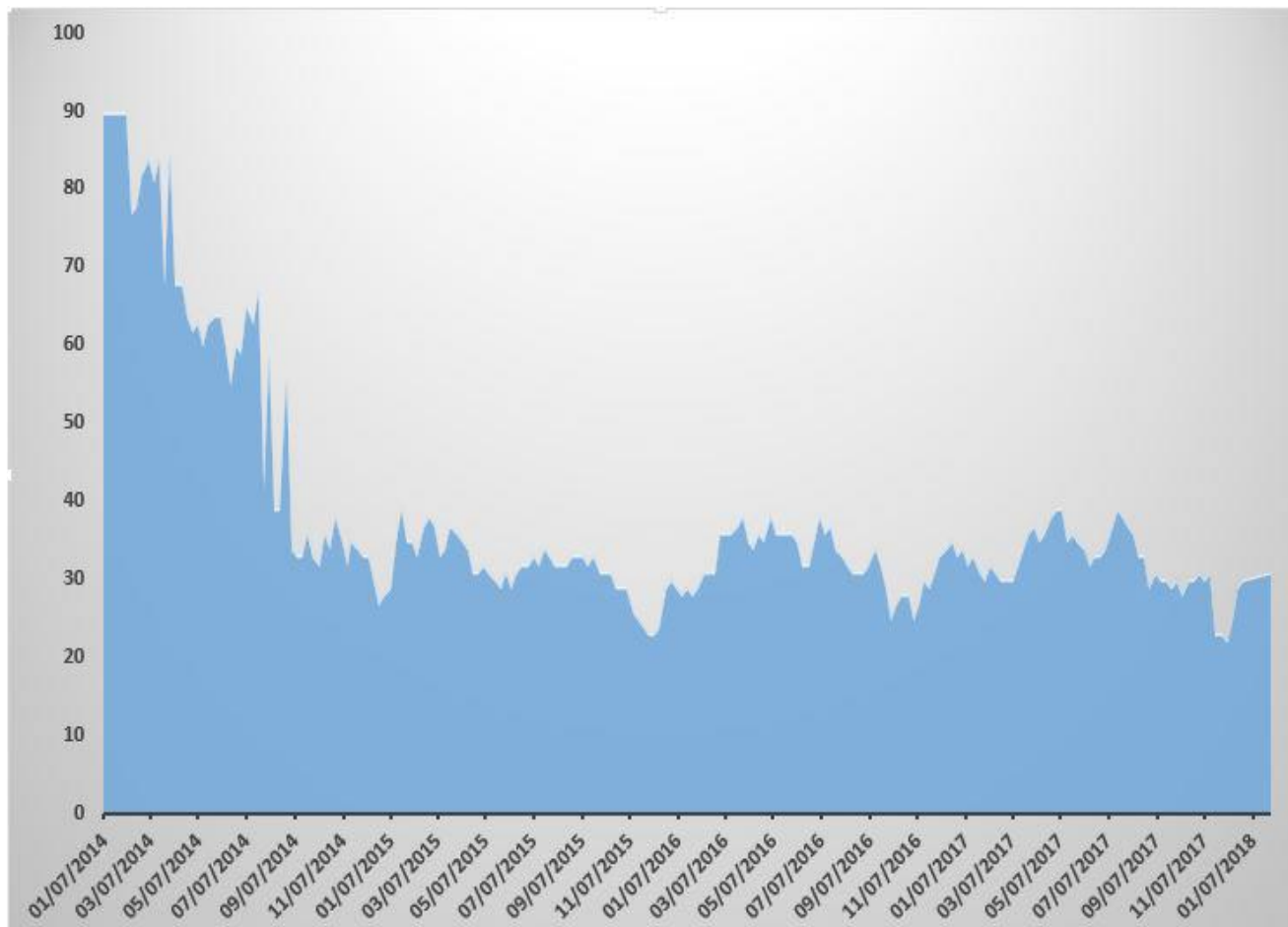
- a) Adult Literacy
- b) Cognitive Restructuring-True Thoughts
- c) Motivational Interviewing
- d) Substance Abuse Matrix Program
- e) Employment Assistance

### C. Recommendations:

#### 1) Explore with judges if Work Release participation can be appropriately expanded:

- a) Statistical data in Figure 89. below indicate that the usage of Work Release dropped from about 90 program participants at the beginning of 2014 to about 30 at the beginning of 2018.

**Figure 89. Weekly Count of Felons and Misdemeanors in Work Release Program.**  
(01/07/2014 to 01/07/2018)



- b) The graph demonstrates that empty Work Release beds exist while the jail is full and excess inmates are being shipped to other counties. The reasons for decline in Work Release usage should be explored with the judges to ascertain if the vacant beds can be appropriately filled. Possibly, the decline in usage was the result of development of more appropriate sentencing and pretrial release options.

## **2) Utilize a Formal Assessment to Determine Risk and Appropriateness for Community Corrections Programs:**

Potential participants for community corrections programs are assessed, while in custody, to determine their appropriateness either for PTR or post-conviction community corrections programs. During the interviews, which are conducted by a case manager from community corrections, the inmates are asked a series of questions to determine if they meet specific program criteria. However, no assessment instrument is used to ascertain their risk level associated with release. When judges, prosecutors and defense attorneys are making decisions regarding sentencing, it is always advantageous to have as much information as possible about the defendant. The IRAS (Indiana Risk Assessment System) contains a pretrial component which should be used in concert with the informal interview to determine risk and appropriateness for release to programs. Although, this will take more time to complete the assessment, it will provide critical decision-making information about risk to the community and how to match supervision strategies to deal with that release.

## **3) Explore How to Eliminate Pretrial Release Program Fees:**

Pretrial defendants who are assigned to community corrections programs are assessed fees, either for work release or home detention. The County has implemented a process to pay the fees for indigent defendants, but not for others. Unfortunately, the County has not fully funded the pretrial release program, which means that the program must resort to charging fees. Although the concept of “offender self-pay” has been often applied to programs for sentenced offenders, it is not a sound rationale for funding pretrial release programs.

### **a) Considerations:**

The imposition of pretrial release (PTR) program monitoring fees are problematic for two reasons:

1. Monitoring fees can amount to imposing financial penalties on defendants for judicial delays that are beyond their control.
  - ✓ A major downside of charging a pretrial defendant for electronic monitoring is that it can be a significant cost burden, i.e., the longer the courts take to adjudicate a defendant’s case the more the defendant must pay. This condition is one of the major criticisms of programs that operate on daily self-pay basis - defendants are paying for inefficiencies in the speed of case processing.

2. Monitoring fees are problematic because the defendant is charged non-refundable fees.
  - ✓ Defendants who are released on unsecured bail pay no such fees. Furthermore, a fundamental principle of our justice system is that pretrial defendants should be assumed to be innocent. If a defendant in the pretrial release program has their charges dropped or is found not guilty, the fees are rarely refunded.
  - ✓ The short-term solution to eliminating PTR program fees would be to find state grants. In the long run, the County will have to budget sufficient pretrial release program funds.

#### **4) Establish the Pretrial Release Program as a Separate Program:**

- a. Note that this recommendation also appears in the report section on probation programs. Both Community Corrections and Probation supervise pretrial release defendants but in different manners. The text of this recommendation is somewhat different because of differences in focus of the two organizations.
- b. Judges in Vigo County are currently releasing defendants from the jail on pretrial release with "supervision" being provided by the Adult Probation Office or Community Corrections. The downside of the current practice of supervising PTR defendants by probation and community corrections is that the "offender supervision mindset" carries over into working with PTR defendants.
- c. Pretrial defendants should be "monitored" to ensure that they (1) refrain from additional criminal activities and (2) appear at all scheduled court dates, nothing more. Indiana has specified that PTR programs should use the IRAS to identify the risks of committing new offenses and failure to appear in court. This report resulting from the assessment process should inform judges of the risk and relevant monitoring conditions to deal with the assessed risk.
- d. Indiana is in the process of establishing a statewide pretrial program that is being piloted in five counties at this time. The consultants understand when new programs are rolled out it takes time to gather information and statistics on what works and what needs improvement. The judges are in the process of working with the state to establish a pretrial program in Vigo County. The exact configuration of the program has not been established at this time.

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**PART II – SECTION 7**  
**ASSESSMENT OF THE VIGO COUNTY ADULT PROBATION OFFICE**

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**A. Introduction:**

**1) How the Assessment was Performed:**

a) The assessment of the Vigo County Probation Department involved onsite visits of Vigo county Probation Offices, interviews, examination of probation data, travel to visit other probation offices in Indiana, and follow-up calls. The purpose of contacting other counties was to ascertain how Indiana policies and procedures affect local probation operations and to compare their programs and functions with those of Vigo County.

b) Persons Interviewed:

1. Chief Adult Probation Officer, Diane Frazier
2. Assistant Chief Probation Officer, Kathy Minger
3. Chief Adult Probation Officer, Linda Brady, in Monroe County
4. Chief Adult Probation Officer, Cindy McCoy, in Grant County.

**2) Recommendations from the Analysis in This Document:**

- a) A time study should be conducted to determine staffing needs.
- b) Additional probation officers should be hired.
- c) The Chief Probation Officer position should be that of a full-time supervisor.
- d) Include probation officers on all problem-solving courts treatment teams.
- e) Expand evidence-based programs and practices in the Vigo County Probation Office.
- f) The probation office space should be expanded to accommodate additional staff and for conducting programs.
- g) Establish the Pretrial Release Program separate from the Adult Probation Office.

**B. Probation Office Staffing:**

**1) Overview of Vigo County Probation Staffing and Caseloads:**

- a) The importance of caseload size to the effectiveness of probation supervision cannot be overstated. Offender supervision is a human capital-intensive activity. Caseloads must be of a size that provides officers with enough time to devote to each offender in order to achieve supervision objectives. Probation officers with overly large caseloads can do little more than monitor the offenders and return the non-compliant ones to court.
- b) Studies of probation caseload size have shown that large caseloads are associated with higher recidivism and more frequent technical violations (failure to abide by

- probation conditions). For example, a study that involved the reduction of caseloads by adding staff (approximately 54 medium to high-risk probationers per officer who were trained in evidence-based practices) found that smaller caseload size reduced the rate of recidivism by roughly 30% and technical violations by 4%.<sup>42</sup>
- c) The Vigo County Probation Office has nine probation officers, including the two supervisors, who supervise approximately 200 cases each. This includes felony and misdemeanor probationers and pretrial defendants. In addition, a tenth probation officer is dedicated solely to completing Presentence Investigations (PSIs). Preparation of a presentence report requires an average of eight (8) hours to complete, i.e., one day's time.<sup>43</sup> In 2017, the office prepared 322 reports which equates to 322 work days. Given that there is an average of 260 work days for government employees per year, more than one full-time PSI position is required to complete all of the PSIs ordered by the courts. Because the PSI officer often has more presentence reports to write than can be accomplished, probation officers who supervise caseloads are called upon to assist.
- d) Annual probation statistics indicate that the number of Vigo County offenders under supervision has increased every year since 2011. In the first quarter of 2011, 1,033 persons were being supervised. By September 2018, the number of persons under supervision had increased to 1,799 persons, including 124 pretrial defendants. Pretrial defendants are supervised by probation officers in the same manner as sentenced offenders.

## 2) General Manner of Determining Number of Probation Officers:

- a) Staff are generally allocated to the probation office based on the number of offenders under supervision and their level of supervision; however, there are other aspects involved with determining work units and how many staff are required to complete all required tasks. A comprehensive time study and work analysis is essential to determine how long it takes to accomplish each required task during the supervision of an offender. A time study was conducted by the state in 1992, which set Workload Measurement guidelines. Another study was conducted in 2012, Indiana Workload Evaluation: A Multi-Methods Investigation of Probation Supervision. Over the years a number of factors have changed the amount of time it takes to supervise an offender. Changes in technology require probation officers to track more data and to perform more comprehensive assessments of risks and needs. Officers are also involved more in specialized treatment courts and community initiatives than in the past.
- b) In 2017, Grant County established new work unit measures based on current tasks required by probation officers. Those measures were used to establish how many additional staff would be necessary in the Vigo County office.

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<sup>42</sup> Sarah Kuck Jalbert & William Rhodes (2012) "Reduced caseloads improve probation outcomes," *Journal of Crime and Justice*, 35:2, 221-238, Mar 20, 2012. Available online at <https://www.tandfonline.com/doi/abs/10.1080/0735648X.2012.679875?src=recsys&journalCode=rjcj20>

<sup>43</sup> This is a collective estimate of time because the tasks involved in a presentence investigation cannot be accomplished in a single, continuous undertaking.

## C. Recommendations:

### 1) A Time Study Should Be Conducted to Establish Staffing Needs:

- a) A time study is needed to establish the standard to complete each task, e.g., supervision, home visits, presentence investigations. Once the time standards are established they can be used to determine how many cases each officer should be assigned based on risk level. This will serve as a basis for determining how many additional staff are needed.
- b) Effective case management is critical to supervising offenders and requires adequate time to identify risks and needs and address criminogenic needs.<sup>44</sup> Supervision levels of probation are categorized by risk level, low, medium and high. Probation Officers use the Indiana Risk Assessment System (IRAS)<sup>45</sup> to determine the offender's risk/needs level and determines at what level they will be supervised. The addition of more probation officer positions will allow officers to spend the time necessary to effectively supervise the offenders on their caseloads. The ability to perform all required duties to effectively supervise offenders will ultimately lead to lower recidivism and promote public safety. When caseloads are too high officers are unable to spend time working with offenders face-to-face to address criminogenic needs and make appropriate referrals to treatment. They also must have time to investigate violations and complete reports for the Court.
- c) Calculation of Staffing Requirements (Work Units as of September 2018):
  1. The Vigo County Probation Office currently consists of a Chief Adult Probation Officer, Assistant Chief Probation Officer, eight probation officers and three support staff.
  2. Total of 1,799 probation cases, including 124 pretrial cases, PSI's (322 completed in 2017).
  3. The following breakdown of Vigo County probation officer caseloads is based on work unit measures developed in Grant County in 2017. Previous workload numbers used by the Vigo County Probation Office were developed in 1992, and numerous changes to workload requirements have taken place since then. The caseloads breakdown is shown in Table 1 on the next two pages. Note that the analysis is based on a 150-hour work month.

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<sup>44</sup> When trying to determine causes of criminal behavior, part of that analysis examines the criminogenic needs of the offender. An assessment examines such implicit questions as 'If the offender had this (something the offender clearly needs and is lacking), would he have still committed this crime?' Criminogenic needs are characteristics, traits, problems, or issues of an individual that directly relate to the individual's likelihood to reoffend and commit another crime.

<sup>45</sup> The Indiana Risk Assessment System (IRAS) was adopted by the state in 2010 from the Ohio Risk Assessment System which was developed by the University of Cincinnati, Center for Criminal Justice Research. It has since been adopted by a number of states. The tool is a dynamic risk/needs assessment system used with adult offenders.

Figure 90. Calculation of Probation Officer Staffing Requirements.

Person 1	DF (Chief Probation Officer) - SHOULD NOT HAVE A CASELOAD							
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload	Caseload
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>	<u>Overage</u>
	High	155	30	4,650	78	150	0.5	
	Medium	90	27	2,430	41	150	0.3	
	Low	20	49	980	16	150	0.1	
	Admin	15	1	15	0	150	0.0	
				8,075	134.6		0.9	1
Person 2	KM (Asst Chief Probation Officer) - SHOULD HAVE ONE-HALF CASELOAD							
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload	
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>	
	High	155	48	7,440	124	150	0.8	
	Medium	90	56	5,040	84	150	0.6	
	Low	20	97	1,940	32	150	0.2	
	Admin	15	3	45	1	150	0.0	
				14,465	241.1		1.6	1.1
Person 3	AL							
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload	
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>	
	High	155	64	9,920	165	150	1.1	
	Medium	90	78	7,020	117	150	0.8	
	Low	20	104	2,080	35	150	0.2	
	Admin	15	2	30	1	150	0.0	
				19,050	317.5		2.1	1.1
Person 4	JP							
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload	
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>	
	High	155	67	10,385	173	150	1.2	
	Medium	90	67	6,030	101	150	0.7	
	Low	20	92	1,840	31	150	0.2	
	Admin	15	20	300	5	150	0.0	
				18,555	309.3		2.1	1.1
Person 5	KH							
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload	
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>	
	High	155	76	11,780	196	150	1.3	
	Medium	90	73	6,570	110	150	0.7	
	Low	20	71	1,420	24	150	0.2	
	Admin	15	7	105	2	150	0.0	
				19,875	331.3		2.2	1.2



Person 6	AH								
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload		
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>		
	High	155	30	4,650	78	150	0.5		
	Medium	90	58	5,220	87	150	0.6		
	Low	20	62	1,240	21	150	0.1		
	Admin	15	38	570	10	150	0.1		
				11,680	194.7		1.3		0.3
Person 7	AZ								
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload		
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>		
	High	155	38	5,890	98	150	0.7		
	Medium	90	50	4,500	75	150	0.5		
	Low	20	129	2,580	43	150	0.3		
	Admin	15	10	150	3	150	0.0		
				13,120	218.7		1.5		0.5
Person 8	WW								
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload		
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>		
	High	155	26	4,030	67	150	0.4		
	Medium	90	20	1,800	30	150	0.2		
	Low	20	228	4,560	76	150	0.5		
	Admin	15	6	90	2	150	0.0		
				10,480	174.7		1.2		0.2
Person 9	TP (New officer - not yet assigned full caseload)								
		Minutes	(Clients)	Minutes	Hrs	Monthly	Workload		
	<u>Case Type</u>	<u>Time/Case</u>	<u>Caseload</u>	<u>Per Mo</u>	<u>Per Mo</u>	<u>Avail Hrs</u>	<u>Measure</u>		
	High	155	15	2,325	39	150	0.3		
	Medium	90	17	1,530	26	150	0.2		
	Low	20	0	0	0	150	0.0		
	Admin	15	10	150	3	150	0.0		
				4,005	66.8		0.4		-0.6
	<b>NUMBER OF ADDITIONAL OFFICERS NEEDED</b>								5.9
	<b>NOTES:</b>								
	Transfer caseload of Chief Probation Officer								
	Transfer 1/2 caseload of Assistant Chief Probation Officer								
	Not included: Reduction in caseload time available if Drug Court becomes fully functional program.								

## **2) Additional Probation Officers Should Be Hired:**

Based on the work units for the current caseloads in the probation office, it would suggest that at least six additional officers are needed to level out the caseloads closer to 100%. It should be noted these numbers are current as of September 9, 2018, and do not include the additional work unit hours to complete presentence investigations. As noted above, all officers, with the exception of one new officer, are currently supervising more cases than they should and three have twice the caseload they should. With this shortage of staff, the Chief Adult Probation Officer is supervising a full caseload, leaving her little time to attend to her own duties as an administrator. The Assistant Chief Probation Officer also carries a caseload in addition to supervising staff.

## **3) The Chief Adult Probation Officer Position Should Be That of a Full-Time Supervisor:**

The Chief Adult Probation Officer is currently supervising an entire caseload in addition to her expected activities. Spending time on these activities instead of the duties of a Chief Probation Officer, she is unable to make changes to the office including improvements to policy and procedures, coaching, training and evaluation of staff and data collection that will advance the performance of the office and improve outcomes.

## **4) Include Probation Officers on All Problem-Solving Courts Treatment Teams:**

Specialty Courts continue to expand in Vigo County, and with the recent award of funding more people can be assigned to these innovative court programs. One critical aspect of these courts is the treatment team, which commonly consists of the judge, prosecutor, defense attorney (Public Defender), treatment court coordinator, treatment provider and probation officer. In Vigo County there currently exists a Drug Court, Mental Health Court and Veteran's Treatment Court. Although probation officers do participate on the Drug Court and Veteran's Court team, they seemingly only participate on a part-time basis or peripheral level. They should be fully engaged in the team, as they supervise many of the offenders in the program. Specialty Court officers should have exclusive caseloads with no more than 25 to 30 cases at a time, as they are considered highly intensive cases. This, of course, would necessitate the addition of more staff to the probation office.

## **5) Expand Evidence-Based Programs and Practices in the Vigo County Probation Office:**

Indiana has instituted Evidence-Based Practices (EBP) throughout the state and requires that all probation offices fully adopt those practices. Evidence-based policy and practice is focused on reducing offender risk, which in turn reduces new crime and improves public safety. Of the many available approaches to community supervision, a few core principles stand out as proven risk-reduction strategies. Though not all of the principles are supported by the same weight of evidence, each has been proven to influence positive behavior change.

One area of note in the last DOC audit in November 2017 of the Adult Probation Office was the need to increase the number of evidence-based policies and practices. At this point, many Evidence-Based Practices have been integrated into the probation office by means of Motivational Interviewing and Cognitive Restructuring but are not yet fully implemented. Many conditions are necessary to implement EBP and take time and consistency. With the lack of adequate staff to fully invest and implement, ongoing practices may be difficult. They have

been introduced to the principles of EBP and some policies have been modified to include EBP strategies. Studies have shown if EBPs are not fully implemented, they will have little to no effect on supervision outcomes.<sup>46</sup>

**6) The Probation Office Space Should Be Expanded to Accommodate Additional Staff and for Conducting Programs:**

The Vigo County Probation Office is located at 104 South 1st Street and shares the building with Community Corrections, (1st floor), Indiana Parole Office and a private treatment provider. The office is very small. Every room is in use and the conference room is utilized as storage and does not provide for adequate space to conduct staff meetings or groups. If more officers are added there would be no space to house them. The addition of extra space would also allow staff to conduct groups like employment or cognitive restructuring, which are important when addressing criminogenic needs.

**7) Establish the Pretrial Release Program Separate from the Probation Office:**

- a) Note that this recommendation also appears in the assessment of Community Corrections programs. Both Community Corrections and Probation supervise pretrial release defendants but in different manners. The text of this recommendation is somewhat different because of the focus of the two organizations.
- b) The Vigo County Probation Office currently supervises 124 pretrial defendants (Sept 2018) in addition to people on probation supervision. There is a difference between pretrial and post-conviction supervision and the two have separate focuses. While both are types of conditional release, because probation is a correctional sentence, it has fundamentally different purposes from those allowed when considering pretrial release. Thus, conditions at probation may be set with a focus on public safety and rehabilitation as well as other relevant goals. When working within pretrial release, there are only two constitutionally valid purposes for limiting pretrial freedom: (1) public safety and (2) court appearance during the pretrial period. There is no focus on rehabilitation, and indeed, even articulating a purpose normally associated with punishment, such as deterrence, retribution, or incapacitation would likely be considered an unconstitutionally improper purpose.<sup>47</sup> When the two are supervised in the same setting, pretrial release defendants who have not yet been adjudicated receive similar services as those having already been adjudicated. This may not be a conscious effort on the part of the probation officers supervising their cases but an unintentional result of the fact that they tend to treat all people who report to their office the same. The establishment of a separate pretrial office will alleviate that issue and at the same time reduce the number of people being supervised in the probation office.

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<sup>46</sup> Jalbert, S., et. al. *A Multi-Site Evaluation of Reduced Probation Caseload Size in an Evidence-Based Practice Setting*. Abt Associates Inc. June 2011. Available at <https://www.ncjrs.gov/pdffiles1/nij/grants/234596.pdf>

<sup>47</sup> Schnacke, T. *Pretrial Release and Probation: What is the Same and What is Different?* National Association of Pretrial Services Agencies. August, 2018, p. 16. Available at <https://napsa.org/eweb/DynamicPage.aspx?Site=NAPSA&WebCode=Pubs>

**8) Create A Jail Expediter Position:**

- a) During the consultants' interviews with judges and the Public Defender, the need for an expediter was raised. For example, the courts rely on the Public Defender's Office to create lists of defendants in jail because information provided by the jail is sometimes incorrect. While this task is necessary, it is a function that should be performed by an expediter rather than adding to the Public Defender's clerical staff workload. The Public Defender previously raised the need for an expediter to County Administration, but no action was taken.
- b) The need for a Jail Case Expediter was also raised in interviews with court staff. The following example was provided to illustrate the need: A judge signed a release order in the morning. The release paperwork was shortly, thereafter, transmitted to the jail. However, the individual was not released until the next day. Although, this is an example of just a day's delay, the resulting delay in acting resulted in unnecessary bed occupancy. A major function of an expediter would be to detect and resolve various types of delays which, collectively, would free up a significant number of beds.
- c) Nature of the Position:
  - 1. A Jail Case Expediter is also referred to as a Jail Population Control Manager or simply, Jail Population Manager. Many criminal justice systems have such a dedicated staff position that is recognized as a best practice. An expediter is an individual who tracks the status of cases as they move through the system and ensures that they do not fall through the cracks or become delayed in processing. The expediter may also work to resolve unique problems that affect timely processing of defendants and sentenced offenders.
  - 2. The establishment of an expediter position will have the secondary impact of raising the awareness of system officials about errors and delays. An added benefit is that expediters often serve as a hub for communication by judges, court staff, attorneys, and the jail for identification and resolution of case processing problems.
  - 3. An employee assigned to this classification would be responsible for monitoring inmate flows, identifying and analyzing problems resulting from processing delays within the jail and in other agencies in the criminal case processing system, determining best practice methodology, and interacting with various administrators and staff of criminal justice agencies and treatment service providers. This person would develop, implement and coordinate processes to monitor inmates admitted from all stages of the system to steer the most expeditious means of release. A sample job description is provided on the next page.
  - 4. Manner of Establishing the Position: County Administration should create and fund a position of Jail Expediter. The most appropriate location of this position is the Jail, although it could be placed elsewhere if express permission is obtained to work with jail staff.

## Job Description Jail Expediter

### GENERAL DESCRIPTION OF DUTIES

An employee assigned to this classification is responsible for monitoring inmate flows, identifying and analyzing problems resulting from processing delays within the jail and in other agencies of the criminal case processing system, determining best practice methodology, and interacting with various administrators and staff of criminal justice agencies and treatment service providers. This employee will develop, implement and coordinate processes to monitor inmates admitted from all stages of the system to steer to most expeditious means of release.

Work is performed under direction of a higher-level supervisor and is reviewed through examination of written work products, such as reports on problem analyses and inmate caseflow, through conferences, observation of interaction in problem-solving meetings, and observation of results.

### DUTIES

#### Problem Analysis

1. Identifies problems in processing and/or moving inmates (transferring or releasing) jail inmates. This is accomplished by interacting with criminal justice system officials, including the Administrative Judge, courts staff involved in relaying court orders related to release or transfer of pretrial defendants and sentenced offenders, Prosecutor, Public Defender, Pretrial Release Program staff, Court Administrator, Court Clerk, Department of Corrections, local law enforcement agencies, and treatment service providers about problems in processing and/or moving inmates.
2. Identifies types of inmates who are often delayed in criminal case processing and establishes procedures to track the inmates and requisite data collection forms, if not available in the Jail information system.
3. Develops a list of inmates whose processing should be expedited due to special needs not provided in the jail.
4. Verifies that the system of daily counting of inmates is accurate, particularly with regard to their legal status.
5. Monitors the speed of case processing of all other groups/types of inmates.
6. Prepares jail population reports used in decision-making meetings on such aspects as:
  - a. Monthly average length of time from booking to disposition for various categories of detained defendants. This will include individual graphs of these times.
  - b. Description of the impact, supported by data, of changes made by various criminal justice agencies and treatment providers to improve the speed of case processing and inmate movement out of the facility.
7. Prepares brief reports describing how various criminal justice system processing

problems affect the size of the jail population. These reports are not meant to cross into the decision-making prerogatives of administrators of the various criminal justice agencies but to provide supportive information that will help clarify problems and propose solutions.

### Evaluation

8. Tracks the number of inmates released from jail by each type of program in order to explicitly identify impacts of the programs in reducing the jail population.
9. Evaluates jail programs that have a goal of reducing recidivism.

### Planning

10. Responds to requests by the Criminal Justice Coordinating Committee or other criminal justice agency planning groups to gather data and information to aid in decision-making.
11. Analyzes the jail population to support planning of new and enhanced alternatives to incarceration. This would involve sorting inmates according to hypothesized eligibility criteria, thereby providing estimates of the number of eligible inmates. Such information is important in assessing the need (and caseload size) for new and enhanced programs.
12. Interacts with current and potential treatment service providers to identify how to expand and/or create ways to serve more detained offenders, thereby reducing the jail population.
13. Develops a plan for the assembly of information on practices used in other jurisdictions and in other states for the control of jail growth and jail population reduction. This plan should also examine the types of data collected and analyses used to support such practices. The results of this effort will be provided on an ongoing basis to the interagency work group.
14. Makes presentations on jail population management problems, issues, and needs when requested.

### Other Functions

15. Interacts with various sections within the Jail in performance of duties.
16. Participates in department staff meetings and development of department goals and policies.
17. Attends national conferences, such the annual American Correctional Association and American Jail Association, meetings to learn about new developments, alternatives to incarceration, and best practices in reducing managing and reducing jail population growth.
18. Participates in skill building courses (see section on supplemental training)

## KNOWLEDGE, SKILLS AND ABILITIES

- a. Must have working skills in use of computer-based spreadsheets.
- b. Must be proficient in analysis of computerized data using statistical software.
- c. Must be knowledgeable in operation of the criminal justice system.
- d. Must have good interpersonal skills.
- e. Must have good report writing skills.
- f. Must be willing to learn techniques of program evaluation through training, seminars, and self-education.

## SUPPLEMENTAL TRAINING

Just as new law enforcement officers must attend a training program to learn specific skills related to the job, the position of Jail Expediter requires special knowledge not generally taught in college or in traditional law enforcement training.

Two courses are essential to this position. Both of these courses are available through the Institute for Court Management (ICM). The concepts in these courses will help the Population Control Manager learn tools for analyzing case processing as it relates to the jail population and how improvements in criminal caseflow processing can reduce the size of the jail population. The information in these courses will also provide an important base of understanding needed to interact with the Court Clerk, Administrative Judge, Prosecutor, Public Defender, and private attorneys in a problem-solving manner.

(1) Course Title: Research and Evaluation Methods

- This course will help develop knowledge about research-based approaches to problem solving; knowledge and skills in the various methodological components of the research process; and appreciation of the need for research to improve caseflow processes.

(2) Course Title: Fundamental Issues in Caseflow Management

- This course teaches how to assess timeliness of case processing and strategies to create or enhance caseflow management. An emphasis of the course is on reducing delay in processing.

## PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to talk and hear, and use hands to finger, handle and feel. Dexterity in using a computer keyboard is essential. The employee will be required walk through all areas of the jail and to go to meetings in a wide variety of buildings and locations.

Specific vision abilities required by this job include close and distance vision.

## **MINIMUM QUALIFICATIONS**

- Bachelor's degree in Criminal Justice, Business, Public Administration or related field.
- Four years progressively responsible experience in criminal justice.
- Master's Degree in related field or Juris Doctorate may be substituted for two years of experience or a Court Executive Development Program Fellow of the Institute for Court Management.
- Must satisfactorily complete local, state and national criminal history and fingerprint checks.
- Applicants within six months of meeting the education/experience requirement may be considered for trainee status.



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**PART II – SECTION 8**  
**UNIFICATION OF VIGO COUNTY CORRECTIONS - RECOMMENDATION**

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**A. Introduction:**

This section describes a recommendation to unify the services of community corrections, probation, and new pretrial release program under a single administrative umbrella. To unify correctional services in Vigo County would obviously be a big undertaking that will take time to plan, to integrate the various operations, and to secure necessary funding. Since both Community Corrections and Probation are already funded, the addition of a new Pretrial Release Program will require the largest initial infusion of funding.

**B. How the Assessment Was Performed:**

As part of the assessment of correctional services operations in Vigo County, the consultants reviewed unified correctional departments in Grant and Monroe Counties. This assessment provided insights into the reasons for unifying departments under a single administrative umbrella, the benefits, organizational structure, and how they approached implementation. Grant County Correctional Services is administered by Cindy McCoy and Monroe County Circuit Court Probation Department is administered by Linda Brady. Both departments are structured differently to meet the needs of their respective counties.

**C. Current Structure of Probation Services and Community Services in Vigo County:**

When government entities, whether local, county, state or federal agencies focus on their own mandates, they often lose sight of how their operations impact the "system" as a whole. Some departments work as if they are in different silos instead of collaborating as one unified system. In Indiana, the legislature has taken steps to unify the courts and much progress has occurred.

In Vigo County, probation and community corrections seem to be operating in their own silos even though they are working with the same client population. As a result, mutual problem solving, efficiencies in programming, and sharing of resources go unrealized.

**D. Benefits of a Unified System:**

Four benefits of unifying correctional services include the following:

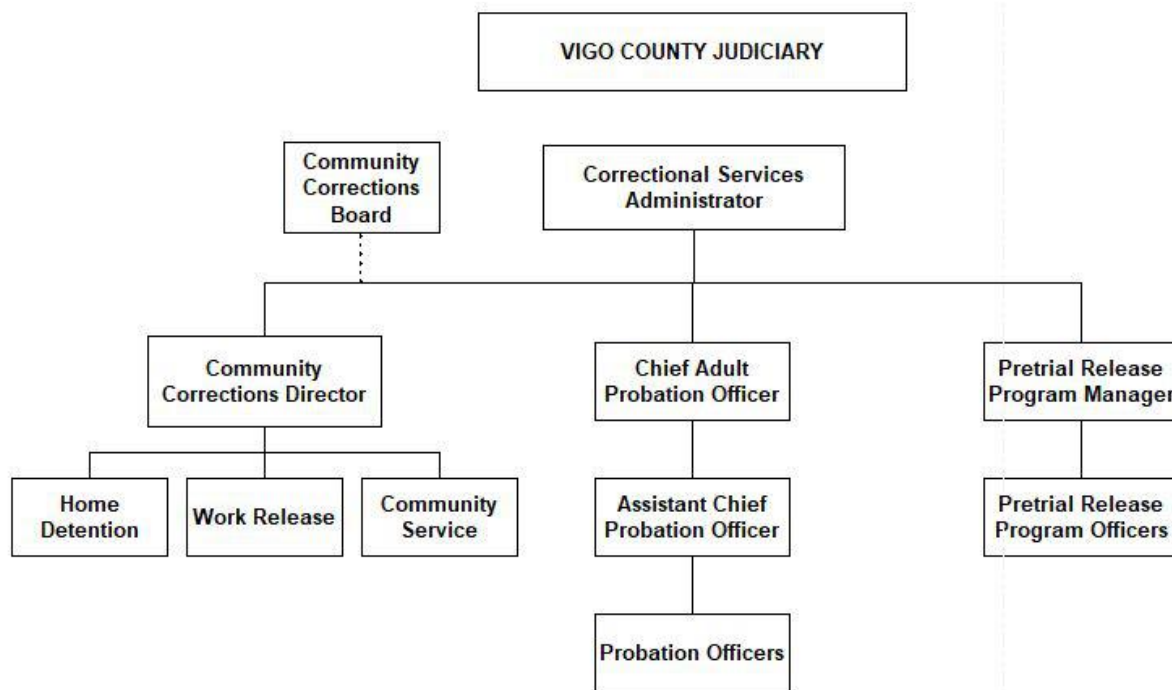
- 1) A departmental structure having improved administrative capabilities for interacting with the courts, dealing with issues affecting more than one of the programs, planning and continued development.
- 2) Shared mission, vision and values.
- 3) Coordinated services which to maximize treatment resources that can be shared.
- 4) Shared case management database.

**E. Configuration of a Unified System:**

- 1) The structure of any department must be logical and function with a common purpose. Figure 91, which follows, provides an example of a Unified Structure which would include Probation, Community Corrections, and the new Pretrial Release Program. This structure

will require the creation of a new position to serve as the administrator. The position would be responsible for the day-to-day operations and would work closely with the Courts to maximize the use of the programs and be accountable for the outcomes.

**Figure 91: Example of an Organizational Chart for Vigo County Correctional Services.**



- 2) Two more examples of organizational design of unified correctional services in Monroe and Grant Counties follow as an appendix at the end of this section. The Monroe County organizational structure is much more detailed than that of Grant County's and reflects differences in administrative linkages. Although the Grant County chart is not as legible, it does reflect the key point that the organization is more horizontal (less vertical) in structure than Monroe County's.
- 3) Importantly, Vigo County criminal justice officials must decide what type of structure works best for their unique needs.

## F. Characteristics of a Unified Organization:

### 1) Shared Mission, Vision and Values:

Staff should have one shared mission, vision and values. A clear vision and shared values are the key elements of high-performing organizations and teams. They inspire and motivate employees to bring their best to the organization by providing the picture of future success, the operating focus for the present and the guideposts for how the organization will work together for success.<sup>48</sup>

After Adult Probation and Community Corrections have established their missions and visions,

<sup>48</sup> *Shared Vision, Mission and Values*. Insight Leadership (website). Available at <http://www.insightleadership.net/organizational-development/individual-team-accountability/>

it will be necessary to integrate their shared mission, vision and values into a collaborative document.

## **2) Coordinate Services to Maximize Resources:**

- a) Both Adult Probation and Community Corrections offer services to offenders and pretrial defendants. While their programs are different, they have a shared goal, i.e., supervise offenders and protect the community. Community Corrections is able to offer more in-house programming than probation, primarily due to having more available space. With the addition of a new pretrial release program, the scope of coordinated services would extend from time of detention after arrest through post-adjudication programming. In addition, Indiana has opted to implement one assessment tool, the Indiana Risk Assessment system (IRAS), for pretrial release and correctional programs.<sup>49</sup> This will further add to the ability of staff to consistently assess and manage the risk at each stage of "supervision."
- b) By coordinating program services under a unified organizational umbrella, the Pretrial Release, Community Corrections, and Adult Program will be able to maximize often-scarce resources, such as treatment programming, contracted services, and funds and to more effectively "hand-off" supervision of individuals as they move through the criminal justice system.

## **3) Maintain a Shared Case Management Database System:**

- a) Community Corrections and Adult Probation currently use the Odyssey Case Management System, a statewide system.<sup>50</sup> A new feature for probation is the ability to enter and track the following: drug screens and medications, reports on case activity, sanctions and administrative hearings, referrals, contract management, and the ability to add documents to the case such as presentence and predisposition reports. However, Vigo County Adult Probation is exploring changing to a different system, the Supervised Release System (SRS). Such a move could splinter the effort to improve coordination of services, which would be possible under a unified correctional service structure.
- b) Having a shared system will allow for easy access to information and the integration of reports from pretrial through disposition and post-disposition programming. This would allow for a uniform and collaborative effort by the entire department.

## **G. Considerations in the Planning of a Unified Program:**

If the recommendation for developing a unified organization is undertaken as an active consideration, the consultant suggests that the following aspects be included in planning:

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<sup>49</sup> Indiana Risk Assessment System (IRAS) was adopted by the state in 2010 from the Ohio Risk Assessment System which was developed by the University of Cincinnati, Center for Criminal Justice Research. It has since been adopted by a number of states. The tool is a dynamic risk/needs assessment system that contains five separate instruments for use at specific stages of case processing in order to identify an offender's risk of reoffending and his/her criminogenic needs.

<sup>50</sup> The Odyssey Case Management System is a web-based, integrated system which interfaces with other agencies and systems allowing staff to access criminal cases in other Indiana counties. Further information is available at: <https://www.in.gov/judiciary/admin/2666.htm>

- 1) Work with the Vigo Criminal Court Judges, County Commissioners, and Community Corrections Board to ascertain their level of consensus about moving ahead with unification.
- 2) A team or single individual should be appointed to lead the exploratory planning.
- 3) The exploratory team should study and visit counties where unification has been implemented.
- 4) Additional funding streams should be explored to assist with any expenses that could be incurred during the process, i.e., office space, additional staff, equipment.
- 5) An initial plan for implementation should be developed and submitted to the Vigo County Judiciary. This plan would consider phased implementation of unification.

## ATTACHMENTS

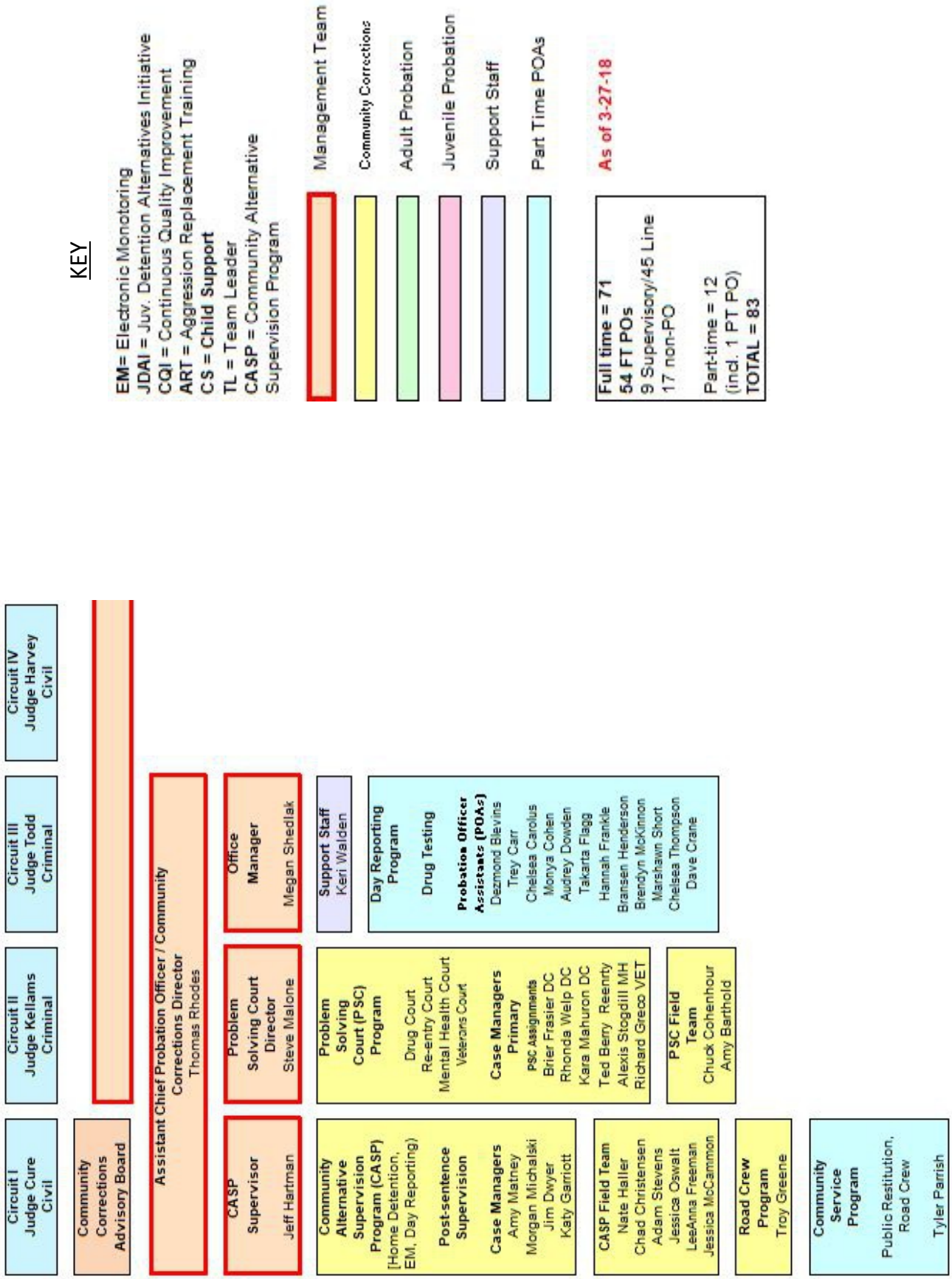
### **Exhibit A. Organization Chart of Monroe County Correctional Services**

- This chart is too large to display on a single page and, therefore, is divided on two pages.

### **Exhibit B. Organizational Chart of Grant County Correctional Services**

- This chart was provided in a format that could not be modified to make it legible.
- The intent of showing this chart is to display the horizontal organizational structure.

# EXHIBIT A. Monroe County Correctional Services - (Left Half of Organizational Chart)



## KEY

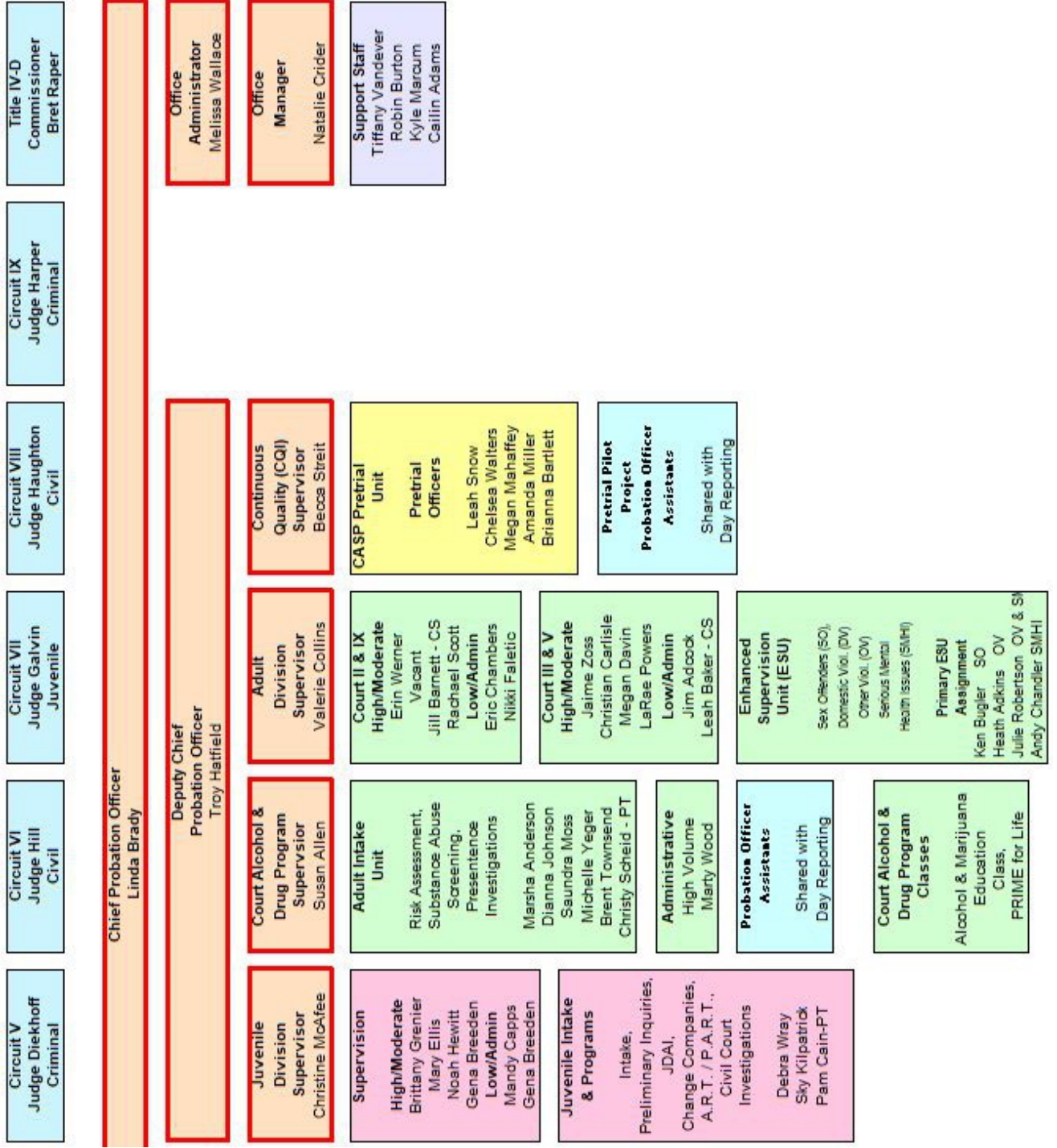
- EM= Electronic Monitoring
- JDAI = Juv. Detention Alternatives Initiative
- CQI = Continuous Quality Improvement
- ART = Aggression Replacement Training
- CS = Child Support
- TL = Team Leader
- CASP = Community Alternative Supervision Program

- Management Team
- Community Corrections
- Adult Probation
- Juvenile Probation
- Support Staff
- Part Time POAs

As of 3-27-18

Full time = 71
54 FT POs
9 Supervisory/45 Line
17 non-PO
Part-time = 12 (incl. 1 PT PO)
TOTAL = 83

# Exhibit A. Monroe County Correctional Services - (Right Half of Organizational Chart)









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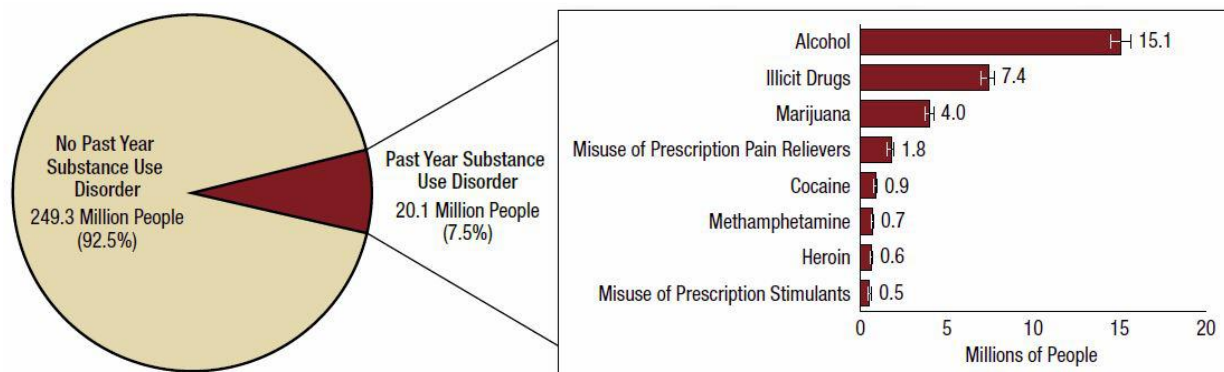
**PART II – SECTION 9  
INNOVATIVE COMMUNITY RESPONSES  
FOR HELPING PEOPLE WITH DRUG ADDICTION**

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**A. Introduction:**

- 1) The information in this chapter addresses the issue of how to deal with the problem of substance abuse. If some members of the community only obtain their information about substance abuse by watching television, they may be of the opinion that dealing with substance abuse is the responsibility of the government. This opinion fosters the belief that substance abuse is a law and order and government-funded treatment issue – Failure to reduce substance abuse is therefore a failure of government. This system of belief also tends to hide the prevalence of substance use disorders (SUDs) in the local community. Very likely, nearly every person in the community has a family member or friend who has a drug problem. A national survey of people (age 12 and older) in 2016 disclosed that about one in thirteen (1 in 13) persons has a substance use disorder (SUD) of some kind.<sup>51</sup>
- 2) The types of substances designated as falling in the SUD category are shown below.

**Figure 92. Numbers of People Aged 12 or Older with a Past Year Substance Use Disorder: 2016** <sup>52</sup>.



Source: Ahrnsbrak, R., et. al. *Key Substance Use and Mental Health Indicators in the United States: Results from the 2016 National Survey on Drug Use and Health*, Substance Abuse and Mental Health Services Administration (SAMHSA), September 2017.

- 3) The 2017 SAMHSA document from which Figure 1 is taken uses 2016 data that may slightly underestimate the incidence of illicit drug use, prescription use disorder, and heroin use disorder. The utility of the information in this discussion is that of helping to provide insights into the likelihood that local community members will have personal knowledge of someone within their sphere of family and friends who has a serious drug use problem.

<sup>51</sup> The estimate of 1 in 13 was calculated by the consultant using data in Figure 1.

<sup>52</sup> The estimated number of people refer to people aged 12 or older in the civilian, noninstitutionalized population. The numbers also do not include people with no fixed household address, such as people in the military or the homeless. Also, the estimated numbers of people with substance use disorders are not mutually exclusive because people could have use disorders for more than one substance.

- 4) Given this information, community members cannot afford to hand off all responsibility for addressing the drug problem to the government. People who have serious drug problems are all around us. They should not be the “unmentioned” members of the community that we do not like to talk about. This is a more personal issue that the community should address through discussions, through advertisements, handouts in public places, by joining in and supporting individual and group initiatives, as well as supporting discussions and planning by members of the criminal justice system.
- 5) This document provides a resource to stimulate thinking and action. It is not exhaustive. At the least, it is a starting point for discussion of ideas that are based on the efforts of community members in other states.

## **B. Recommendations:**

- 1) The Criminal Justice Coordinating Committee (CJCC) should discuss the concepts in this chapter and explore ways of pursuing relevant program development within the criminal justice system and city and county agencies.
- 2) The CJCC should explore ways of mobilizing greater community involvement and support, perhaps through community forums and discussing concepts with existing community organizations.

## **C. Housing Options That Promote Recovery:**

Several of the options in this section provide not only a place to live, but recovery support such as a sponsor and vocational experience.

- 1) **Renovation of Old Building for Use as a Substance Abuse Recovery Center:** Adams County PA is renovating a building that was used to care for wounded during the Battle of Gettysburg. The former Mercy House in downtown Gettysburg will include a drop-in center with offices for individual and group counseling and four apartments for six recovering addicts. The county hopes to have the center operating in 2019, and expects it to be sustained through state funding and rental income. (Source: Gettysburg Times)
- 2) **Place to Stay, a Job, and Sponsor:** Allegheny Serenity Houses: Gus DiRenna, a former heroin user and drug dealer, offers a simple formula for recovery: a private room, an honest job and a sponsor. He believes he's found a sustainable model that does it all. He houses people in recovery, charging them reasonable rents for single rooms. He connects them to others with more experience in recovery. Also, he employs some of them in the hard work of converting other properties into shelters for persons with similar problems. (Source: Pittsburgh Post-Gazette)
- 3) **Recovery and Transitional Housing:** Genesis House is a transitional home in Fayette County that provides a room for parolees and ex-offenders who have completed their sentences. About a dozen men in different stages of addiction recovery currently live in the house. Genesis also operates a construction business made up of house members who learn and apply trade skills while generating money to keep the house open. (Source: Herald-Standard)

- 4) **Oxford House, Inc., Recovery Housing:** The Oxford House Organization has homes across the U.S. for those in recovery. Oxford House is a concept in recovery from drug and alcohol addiction. In its simplest form, an Oxford House is a democratically run, self-supporting and drug free home. Oxford House™ is a nonprofit, 501(c)3 corporation that is an umbrella organization for a network of more than 2,200 individual Oxford Houses. All Oxford Houses are rented as ordinary single-family houses in good neighborhoods. There are Oxford Houses for men and Oxford Houses for women, but no co-ed houses. The average number of residents per house nationally is about eight (8), with a range per house of six (6) to 16. Oxford House is listed as a best practice on the National Registry of Evidence-based Programs and Practices (NREPP) and was singled out as an effective tool for long-term recovery in the U.S. Surgeon General's report: "Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health, 2016. More information on Oxford House is available at [www.oxfordhouse.org](http://www.oxfordhouse.org)
- 5) **Recovery Apartment Community:** Liberty Way offers quality, affordable housing in a safe, secured, supportive, sober environment. Apartments are either one- or two-bedroom units which come fully furnished. Other amenities include washer/dryer in unit, dishwasher, central heat and air, secured entrance, and utilities are included in rent. Also, there are no credit checks. The Recovery Apartment Community is based on a hybridized Oxford House model. <https://www.facebook.com/LibertyWayWichita>

#### D. Initiatives that Facilitate Treatment:

- 1) **Elizabeth Loranzo iCare Foundation, A Local Initiative by a Survivor to Help Others:** Wendy Loranzo's commitment to help others is an example of how a single individual in a community can positively make a difference in raising public awareness and support of community organizations and government agencies. On March 19, 2017 Wendy's daughter, Elizabeth Loranzo, died of an accidental overdose from taking heroin laced with fentanyl. In response, Wendy created the Elizabeth Loranzo iCare Foundation, a nonprofit organization that provides support, financial and otherwise, to people who are battling addiction, depression, anxiety, domestic abuse and alcoholism. As a side note, Elizabeth's fiancé, Kyle, hasn't used heroin since the day Elizabeth died. Further stimulating ideas about Wendy's work can be found on her Facebook page: [https://www.facebook.com/pg/ICarePA/posts/?ref=page\\_internal](https://www.facebook.com/pg/ICarePA/posts/?ref=page_internal) and by doing a web search on the foundation name.
- 2) **Moms of Cherished Angels: A Local Initiative by a Survivor to Help Others:** A Luzerne County woman founded the support group, Moms of Cherished Angels, after her 22-year-old son died in August 2017 from an accidental overdose. A few weeks into their meetings, the women decided talking wasn't enough. They decided to fill backpacks with toiletries and donate them to those entering rehabilitation centers. They wanted to do something to both keep their children's memories alive and help others who are suffering. Personal notes of encouragement are included in the packages of toothpaste, shampoo, and notebooks. (Source: Hazelton Standard-Speaker)
- 3) **Warm Hand-Off:** The Armstrong-Indiana-Clarion Drug and Alcohol Commission has tried a variety of commonly used tools to combat the overdose death epidemic, including participation in the "Warm Hand-Off Program." This program provides consultation and resources from certified recovery specialists to help get addicts into treatment — sometimes directly from hospital emergency rooms following an overdose. (Source:

Leader-Times).

**4) Groups to Provide Family Support and Keep Hope Alive:** There are several support groups for families and partners of addicted mates. Drug addiction affects the entire family, from parents to children, brothers and sisters, and sometimes even close friends. While substance abuse affects each family differently, there are many common adversities among families facing drug addiction, including financial difficulties, legal difficulties, emotional distress, and domestic violence. In addition to serving as a vital resource for families, they also help to keep hope alive that people with substance use disorders can recover. Recovery takes good treatment, hard work, ongoing support and keeping hope alive. People with addictions do get on the path to recovery – but it is difficult to predict when it will happen. For some it is early, even after one or two rehabilitation programs. For others it may take five, 10 or 20 rehab programs, and the pain and suffering of many relapses. Persons affected, their families and clinical providers need to sustain hope that recovery can happen during what can be a protracted and very dark time. The darkest moments, the deadliest in terms of suicide risk, are when hope evaporates, and when there is exile from family, friends and communities. Community organizations, such as churches, hospitals, and members of the criminal justice community can promote local support organizations. Examples of support groups that can be supported and/or developed in a community include the following:

- a) Al-Anon Family Groups
- b) Nar-Anon Family Groups
- c) Families Anonymous (a 12-step program)
- d) Learn to Cope (a peer support group)
- e) SMART Recovery Family and Friends (a science-based, secular alternative to programs like Al-Anon.
- f) GRASP: Grief Recovery After a Substance Passing.

Further information about these programs can be found at ProjectKnow (an American Addiction Centers Resource), <https://www.projectknow.com/research/support-groups-families-drug-addicts/>.

**5) Recovery Groups and Mentors:** Club Serenity (Narcotics Anonymous) in Charleroi, PA, has more members than it initially envisioned and continues to grow. The Club's mission is to provide peer support and mentoring for those battling addictions. The Club has a 24-hour addiction help line to speak with a placement specialist. Their 12-step meetings often attract as many as a staggering 500 people. (Source: Herald-Standard and Club website at [http://www.drugstrategies.org/NA-Meetings/Pennsylvania/Charleroi/Club-Serenity - 1877](http://www.drugstrategies.org/NA-Meetings/Pennsylvania/Charleroi/Club-Serenity-1877)).

**6) Faith-Based Help:** Local churches, the Salvation Army and other faith-based organizations are on the front lines in the battle against opioid and other drug addiction in Erie County, P.A. The Salvation Army nationwide operates more free residential treatment programs than any other addiction rehabilitation service. In Erie, its downtown center can house as many as 50 men. While the therapy is faith based, everyone is welcome. (Source: Erie Times-News).

- 7) **Christian Ministry Reentry Program:** Working Men of Christ offers housing and mentoring to those coming out of incarceration to help them become productive and healthy members of the community and positive family members. Program members believe that a healing approach to all those affected by crime and incarceration can contribute to healthy, prosperous communities. ([www.workingmenofchrist.org](http://www.workingmenofchrist.org)).

#### E. Helping Children of Addicted Parents / Caretakers:

- 1) **Connecting with Children Who Observed an Overdose in the Home:** Children and Youth staff in Harrisburg, PA have become more proactive in the midst of the drug abuse crisis. They have been dispatching a staffer to the scene of any overdose where children are present. Officials have ramped up pill-collection drives in an attempt to clear homes of drugs that could be abused by senior citizens as well as younger family members who live in the home. Also, organizations such as Hope for Broken Hearts offer an ear and strength in numbers for those who have lost loved ones to the epidemic. (Source: PennLive/Patriot News).
- 2) **Supporting Children:** An intervention effort led by the Tioga County Opioid Coalition has dramatically improved coordination between agencies and schools dealing with families affected by opioids. Quick responses by children and youth caseworkers are working as a form of much needed early intervention. Their ability to get into homes allows staff to reach more people, because not everyone who overdoses ends up hospitalized. (Source: PennLive/Patriot News).
- 3) **Neonatal Care:** The tiniest victims of the opioid epidemic — babies with neonatal abstinence syndrome — have found passionate advocates in Indiana County, PA. Josh and Stephanie Rosenberger speak from experience as they counsel other local couples deciding whether to become foster parents for addicted babies. The need for foster homes is great and the Rosenbergers want to see the formation of a mentorship program. (Source: Indiana Gazette).

#### F. Assistance for Obtaining Employment:

Helping a recovering addict obtain employment is an important step in improving the sense of resiliency and staying drug-free. Initiatives by individuals and community members can help to promote employment by local companies and to expand employment options.

- 1) **Community-Based Pilot Program:** Fulton Behavioral Health in McConnellsburg, PA is developing a pilot program that will help patients find meaningful work. (Source: PennLive/Patriot News)

- 2) **Willingness of Individual Employers to Provide Employment Opportunities:** Individuals in a wide spectrum of areas have offered jobs to ex-offenders and recovering addicts. The information below can be used as an informal resource for community organizations that are considering helping in finding jobs.
- a) A county commissioner (Fiscal Court member)
  - b) A Florida judge who pays to have his property mowed and various aspects of maintenance performed
  - c) Farmers
  - d) Trucking companies (many offer Second Chance jobs)
  - e) Restaurants
  - f) Hospitality Jobs

A website created by Eric Mayo, *Companies that Hire Ex-Offenders and Felons*, contains an extremely long list of companies that hire ex-offenders, a video, and name of the author's book: *From Jail to a Job: Get the Edge and Get Hired!* (Nov 20, 2017), which is available in Kindle version on Amazon for \$2.99. (<http://www.jailtojob.com/companies-hire-felons.html>) This website is also a good resource for ex-offenders to use for employment ideas.

## F. Community Coalition Building:

### 1) Building Coalitions:

- a) On Sept. 14, 2016, the formation of the Cambria County Drug Coalition was announced as an effort to combat illegal drug use and alcohol abuse in the community. The Coalition will work to reduce and ultimately eliminate overdose deaths, reduce illegal drug use, expand prevention efforts, address treatment options for those who are addicted, and reduce crime.
- b) "There are already several entities working on the problem of drug abuse in our region," said Kelly Callihan, district attorney for Cambria County. "The Coalition will allow us to coordinate and expand their efforts as we work to address this growing problem through prevention, law enforcement and treatment."
- c) The Coalition was created after the 1889 Foundation and the United Way of the Laurel Highlands coordinated several meetings to lay the groundwork for a collaborative working relationship among several organizations within the county. Stakeholders involved in the meetings included the district attorney; the vice president for business development and government affairs for Conemaugh Health System; the president county commissioner; the chief of police; president of the 1889 Foundation; and president of the United Way of the Laurel Highlands.
- d) Input was sought from the former president commissioner of Somerset County, and the former human services coordinator for Somerset County, to gain insight into Somerset County's experience with Drug Free Communities, a similar coalition. (SOURCE: <http://www.cambriacountydrugcoalition.org/about/>)

Information about the Substance Abuse and Mental Health Services Administration (SAMHSA) Drug-Free Communities Support Program can be found at <https://www.samhsa.gov/grants/grant-announcements/sp-18-002>.

## **2) Volunteer Coalition – Focus on Adults and Youth:**

The Coalition for a Brighter Greene was formed as an outcome of a 2015 Greene County Town Hall Meeting on substance abuse. It is an all-volunteer organization working with community leaders, schools, churches, public organizations and citizens to alleviate the drug abuse problem in the county. Since its founding, the Coalition has sponsored the March for Greene, twenty-two Drug Awareness Movie Nights, four quarterly Coalition Update meetings, four Neighborhood Watch/Greene Zone start-up meetings, and instituted the Botvin Life Skills Substance Abuse Prevention Curriculum in all five Greene County School Districts, serving 2,750 students, Grades 3-9. The group is also working on a host of new initiatives, including a help line and truancy mediation.

(<http://www.coalitionforabrightergreene.org/about>)

## **3) Task Force of Community Leaders:**

Community leaders in Carbon County meet each month with the goal of eliminating overdose deaths. The group is striving to understand how the opioid epidemic is impacting the county and what they can do to make a difference. (Source: Standard Speaker)

## **4) Community Action - Not One More:**

Communities across Pennsylvania are embracing the need to focus on prevention and treatment in addressing the drug crisis. In Crawford County, the local chapter of the advocacy group “Not One More” says it has seen growing community support for getting help for those battling addiction. (Source: Meadville Tribune)

Information about the “Not One More” national initiative can be found at: [notonemore.net](http://notonemore.net)

## **5) Roundtable of Stakeholders:**

In Sykesville, PA a town hall meeting worked to educate the community on aspects of the drug problem. People on the front lines of the fight against drug abuse shared insights during a roundtable. Many in the audience were searching for information on drug rehabilitation and ways family members can encourage friends or coworkers to seek help. (Source: The Punxsutawney Spirit)

## **6) Personal Outreach Through Pharmacies:**

People who pick up opioid prescriptions and syringe packages from pharmacies do not get any information about where to find immediate and long-term help for addiction. Michael Arcangeletti, a recovering addict clean for almost a decade and graduate student studying social work, is changing that. He printed 1,000 information cards and is working with pharmacies to have the cards included with prescriptions. The cards contain phone numbers, addresses and website for medical providers and organizations that offer addiction help. (Source: The Times-Tribune).

## 7) Coalition of Community Planning:

Community organizations, government agencies, business and health systems held a quarterly session that brought welcome news: Overdose deaths in the county dropped from 47 in January through March 2017 to 36 in the same period in 2018. Beyond the meetings, the coalition has conducted an extensive needs analysis, produced a strategic plan, and started a public awareness campaign. (Source: LNP News.)

## G. Criminal Justice System Responses:

1) **Timing of intervention:** Pathways to Treatment — Time is very important when someone asks for help in recovering from drug addiction. Bucks County, PA justice system representatives are meeting to explore innovative ways of providing treatment and support for substance involved individuals in a timely manner.

2) **Creating a Greater Sense of Community for Those Who Have Completed Programs:** Courting Sobriety – A new drug treatment program, built on a deep commitment by the Berks County, PA, court system, is seeing strong results. A team of judges, probation officers, public defenders and assistant district attorneys meets monthly to brainstorm ideas. They've already begun new programs, including exercise groups, a book club and garden club. Their aim is to create a greater sense of community for those who have completed the programs. (Source: Reading Eagle)

3) **New Forms of Drug Courts:** Cumberland County's opioid intervention court is the first in Pennsylvania and the second in the country to address the connection of opioid overdose victims and their relationship with the criminal justice system. The program looks to help, including medication assistance, in a strict format as offenders work their way through the system, often on non-drug-related charges, such as theft. (Source: The Sentinel)

Lawrence County Drug Court has morphed into a treatment court. A mental health component has been added to help people through the emotional part of the journey back from addiction, and help them cope with other problems in their lives while they are going through the renaissance. More than 100 people have gotten help through treatment court to break free from illegal pursuits and start living normal, balanced and productive lives. (Source: New Castle News)

4) **Community Reentry Mentoring Panel for High Risk Offenders:** This strategy draws upon both community members and criminal justice system representatives. The strategy is relevant to high risk substance abusers and jail inmates reentering the community, particularly those who have violence in their backgrounds, as well as substance abuse. The concept is a variant of “Community Panels” implemented in Kansas City, Missouri to provide support for high risk offenders reentering the community from prison. There are three elements of the program:

- a) Identification of high-risk offenders sentenced to jail. This could be accomplished by jail program staff.
- b) Contact with inmate while still in jail by a volunteer. The purpose would be to interact and become familiar with the person and, subsequently, to explore the inmate’s post-release goals.
- c) Referral to a contact person for the panel.



d) Monthly meetings of the panel and the offender.

Missouri developed “Community Panels” which provided mentors to offenders returning to the community after incarceration. The panels were composed of community members, local law enforcement, clergy, and probation officers. During the meetings, panel members helped the individuals focus on their goals, offer suggestions and identified resources that could help the individual meet their goals. The meetings were held monthly to provide support and to promote accountability for reaching goals. This form of mentoring was designed for serious and violent offenders, many of whom have substance use problems.

#### H. Law Enforcement and NGO Responses:

**1) Program Initiated by Law Enforcement to Help Addicts:** Angel Program - The Angel program allows an individual struggling with drug addiction to walk into a police department during regular business hours and ask for assistance. If accepted into the Angel Program, the individual will be guided through a professional substance abuse assessment and intake process to ensure proper treatment placement. An “Angel” volunteer, who is a member of the local community, will be present to support the individual during the process, and to provide transportation to the identified treatment facility. The program has been implemented in multiple states.

- A good description of the Angel Program can be found at [https://www.michigan.gov/msp/0,4643,7-123-72297\\_34040\\_77095-394452--,00.html](https://www.michigan.gov/msp/0,4643,7-123-72297_34040_77095-394452--,00.html).

**2) Stimulating Innovative Law Enforcement Perspectives on Community Drug Programs:** Law enforcement officers and recovering addicts once had a strictly adversarial relationship. In York County, PA, when the two groups sat down for a conversation, it helped change perspectives on relapse and drug treatment held by law enforcement members. The meet-up was organized by the York area chapter of Not One More, a national support group that works to raise awareness and prevent drug abuse on the local level through education and community partnerships. (Source: York Daily Record)

**3) Inmate Relapse Prevention - Cognitive Behavior Therapy Approach:** Inmate relapse prevention—Wait time is an enemy of addiction recovery and, too often, a delay of days or weeks between leaving jail and landing an open spot in a rehabilitation program is enough to facilitate a relapse. Union County launched a relapse prevention education program at its jail aimed toward helping inmates stay sober upon release before beginning therapy. Up to eight inmates attend 90-minute sessions more than eight weeks with a drug and alcohol counselor from White Deer Run in Lewisburg. Inmates undergo cognitive behavioral therapy, studying stages of change — from the initial stage of not recognizing one's addiction exists to the final stage of maintaining sobriety. (Source: The Daily Item)

**4) Inmate Relapse Prevention - Vivitrol Assisted Preparation for Release:** Vivitrol was approved for opioid treatment in 2010. Today, it is used in jail and prison programs in 28 states. But Vivitrol is no wonder drug. A study published in the New England Journal of Medicine showed the effects of Vivitrol tend to wane after treatment stops, which is why maintaining care is important.

a) In Barnstable, MA, Sheriff Peter Koutoujian leads a similar drug abuse program at

Middlesex County Jail, which has also partnered with the University of Massachusetts. One of his main concerns is helping inmates with health insurance. "Before I became sheriff," Koutoujian says, "we'd hand them a packet so they could sign up for their own Medicaid," a long and complicated process.

- b) Koutoujian's Vivitrol program assigns social workers to help in the transition out of jail, making sure the largely poor, drug-addicted inmates can continue treatment at low or no cost to them. Of the 64 people who finished the program, 56 were enrolled in the state's Medicaid program, called MassHealth. The results are positive. At both Barnstable and Middlesex County jails, recidivism rates have dropped significantly. (SOURCE: <http://www.wbur.org/hereandnow/2017/03/30/opioid-addicted-inmates-vivitrol>)

**5) Medication Access:** Medication assisted treatment is among the most promising solutions to the opioid epidemic. Studies show people trying to recover from addiction using one of three potent anti-addiction drugs are 50% less likely to die of an overdose than those who try to recover without it. They also stay in treatment longer, and are more likely to return to treatment if they relapse.

**6) Clinics at hospitals:** One of the newest treatments to combat the opioid crisis in Luzerne County is the Medication-Assisted Treatment Addiction Clinic at Geisinger South Wilkes-Barre hospital. The clinic is similar to a methadone clinic but uses buprenorphine (Suboxone) or naltrexone (Vivitrol) to help suppress withdrawal symptoms and cravings for opioids. Unlike methadone, those drugs can be administered in an office setting or prescribed to take home. The opening of the new clinic came during a year when Luzerne County experienced a record number of 151 drug overdoses, most of them tied to opioids like heroin and fentanyl. (Source: The Citizens' Voice)

**7) Naloxone Overdose Prevention:** Bradford County, PA, Coroner Tom Carman has seen the number of drug deaths triple compared to this time last year, but says there's a lot that's making a difference at the local level. This includes first-responders and schools arming themselves with Naloxone. (Source: The Daily Review)

**8) Post Overdose Follow-up:** Two or three days after a person suffers an overdose, Lehigh County police officers and addiction recovery specialists visit that person's home to encourage them to seek treatment. Before the launch in February of the Blue Guardian program, officers were frustrated they couldn't do anything after reviving someone, especially because that person will likely return to their addiction. (Source: The Morning Call).

## I. Links to Additional Resources

- 1) Source of newspaper articles noted in parentheses: Associated Press Study of Pennsylvania Response to opioid Crisis: <http://www.mcall.com/news/opioids/mc-nws-state-of-emergency-county-capsules-20180626-story.html>
- 2) National Re-entry Resource Center, <https://csgjusticecenter.org/nrrc/media-clips/re-entry-week-programs-for-formerly-incarcerated/>
- 3) Volunteers of America - Re-entry Programs-[www.voa.org/correctional-re-entry-services](http://www.voa.org/correctional-re-entry-services)

- 4) National Registry of Evidence-based Programs and Practices (NREPP).  
<https://www.samhsa.gov/nrepp>
- 5) Website that provides employment tips and an extensive list of employers that hire ex-felons: <http://www.jailtojob.com/companies-hire-felons.html>
- 6) Information about the Substance Abuse and Mental Health Services Administration (SAMHSA) Drug-Free Communities Support Program can be found at <https://www.samhsa.gov/grants/grant-announcements/sp-18-002>.

List of Reentry Programs by State: <https://helpforfelons.org/reentry-programs-ex-offenders-state/>

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**PART II – SECTION 10  
COMMUNITY INPUT INTO THE ASSESSMENT PROCESS**

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**A. Meeting with Citizens for Better Government on February 21, 2018.**

**1) Introduction:**

- a) The Consultants participated in several dinner meetings with members of the Citizens for Better Government. The purpose of these meetings was to identify their concerns about the jail study and related criminal justice system operations.
- b) A method was employed to document concerns of the meeting participants. Three-by-five notecards were passed out and the participants were asked to record up to five of their concerns on the cards. After that, Dr. Beck did a serial take-up, verbally, from the participants of the concerns that he or she had written on their cards. In this process the first person read all five of their items. The second person read items on their card that had not been read by the first person. As the process moved from person to person, the number of items read decreased until there were no more new items to be read. The cards were then collected and later compiled in the consultants' office. The method of compiling the information involved categorizing the responses and identifying the number of times a particular issue was mentioned. This information was shared with other project team members as considerations to be kept in mind during the study process.

**2) Concerns and Issues Raised During the Meeting:**

The issues are categorized below. If an item was mentioned more than once, the frequency is identified in brackets following the text of the item.

- a) **Alternatives to incarceration or access to services which will keep people out of jail :**
  - a. Mental health services in community
  - b. The jail is looked at in isolation, without consideration of mental health alternatives
  - c. Drug abuse and corrections
  - d. Use of other public services for mental health, drug abuse, and corrections
  - e. Are other higher education institutions adequately providing quality grade for mental health services, drug abuse, and corrections?
  - f. There is little or no data analysis (that we are aware of) that supports solutions other than just putting people in jail.
  - g. How can we add programs and services that help people and prevent their being incarcerated?
  - h. No real rehabilitative effort
  - i. We need more home detention.
  - j. We need alternatives to incarceration [3]
  - k. Effectiveness: Is jail best option for treatment?
  - l. Community corrections- not filled to capacity

**b) Lack of or insufficient jail programs:**

1. Limited medical services in jail
2. Limited mental health programming in jail

**c) Inefficient and/or Ineffective criminal justice system operations :**

1. No collaboration between county agencies
2. Our city/county system is based on patronage and cronyism, which contributes to the status quo, lack of interest in improvement
3. Criminal justice advisory commission has 3 judges and 3 commissions, not representative of the community
4. We have so many police. Are they arresting just because they are bored?
5. Our units do not talk to each other.
6. "This is how we always do it"
7. Waste of resources, such as trial deputies that don't do trials
8. Getting bad representation
9. We need to treat people humanely when they do offend
10. Significant amount of lying
11. Lack of process
12. Lots of turf issues: How can we work together and get over turf?
13. Main concern/observation throughout the county/city is a group of status-quo politicians/contractors/families profiting off the (something) without actually serving our needs.
14. Elected officers reject fact and logic
15. The attitude that we already are doing all we can

**d) Too many poor and black people in jail/minor offenses/long jail times before trials:**

1. People are locked up for minor offenses
2. Prisoners are kept in jail for long periods of time before their trials
3. I fear that our local economic status opportunities will make improvement and change difficult (people don't have a lot of options)
4. "Debtor's prison"
5. We have a pauper's jail
6. Why do I see bookings for small claims court?
7. Too many cases are delayed
8. Prosecutor office not pushing cases – bad pleas
9. Jail is full of the poor and African Americans at a disproportionate rate to the county population
10. We need bail bond reform
11. Equality: County courts rely on cash bonds with fee schedules based on the charges. Several courts routinely refuse to allow 10% or reduced bonds, further keeping the jail full of poorer folks.

**e) Too punitive/punishment does not fit the crime:**

1. When clearly the national environment shows the hope of change, our county leadership strongly prefers to continue incarcerating as many as possible
2. Solutions are proposed without actually thought to actual cause

3. A criminal justice system whose main purpose is to profit off the system and increase patronage
4. Fellow citizens being denied civil rights and poorly served.
5. Attitude that punishment is the answer
6. Attitude that arrest is best
7. Disdain for concern about causation

**f) Budget:**

1. Jail construction is not looked at without consideration of other big-ticket projects in the county
2. Building a bigger jail without justification
3. We need to pay for lots of things in our county. We have to be smart using our resources.
4. Economies: Will the community be able to fund a big jail and still afford other necessary services?
5. Sucking resources from other needed reform

**g) Transparency:**

1. No transparency of government or due process
2. Transparency: Closed process. How can we help make sure recommendations have impact?
3. Reform: Transparency where the community is informed – back room deals
4. Community is misinformed.
5. No one asks the question, “What do we want to do about the criminal justice system?”

**h) Issues about a possible new jail:**

Leaving design and size up to builder/architect (not involving experienced and expertise in design efficiencies and for support best-outcomes).

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**PART 2 – SECTION 11  
JAIL CAPACITY & NEW JAIL DESIGN**

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**A. Jail Capacity – Clarification of Part 1 Findings:**

In Section 10 of Part 1, a detailed descriptive analyses and discussion of jail and jail population data and information from 2003 thru 2017. Salient characteristics are examined in that section to understand jail population patterns and trends in an effort to reasonably estimate current and future jail capacity needs to the year 2050, as requested by county officials. That forecast determined that new jail construction consisting of an estimated total capacity of 527 beds is adequate to meet Vigo County's jail needs to at least the year 2050. We estimated that this capacity level will allow Vigo County to operate well within the facility's operating capacity and eliminate the need to obligate local tax dollars to house inmates in other county jails.

On August 8, 2018, Vigo County Commissioners and Council requested an opinion from Dr. Kenneth Ray regarding options for new jail construction bed capacity. This request was made by Vigo County Commissioner's attorney, Mr. Michael Wright. Specifically, the Commissioners and Council asked Dr. Ray, "*Can the new facility start with fewer beds while alternatives are optimized to determine how alternatives will impact jail capacity?*"

In answering this question, Dr. Ray stated that to answer this question meaningfully, it is important to first correct possible misinterpretations and inaccurate conclusions being made from the recently submitted report titled, Part 1: Indiana Public Law 1034-2018 Jail Feasibility Study:

1. The jail bed capacity estimate of 527 is forecasted for 30 years. The report does not state that Vigo County "must" build that capacity initially.
2. The forecast estimate intends to help ensure that overcrowding does not again occur through 2050 and that the Vigo County jail population seldom, if ever, exceeds the jail's operating capacity over the 30-year forecast. The report does not state, nor infer, that an initial construction of fewer beds jeopardizes Vigo County's ability to operate the jail within the operating capacity over the next several years.
3. The report encourages Vigo County officials (and the community) to... *"be aware of at least six trends and issues that be cannot be reliably factored into this forecast estimate, but could impact the veracity of any jail capacity forecast. These trends include: 1) increasing CHINS (Children in Need of Supervision) cases, 2) increasing Juvenile and Status Offenses, 3) increasing felony and misdemeanor criminal cases, 4) increasing level 6 felony cases, 5) increasing mental health petitions / cases, and 6) an estimated 2700-3000 outstanding (not served) felony and misdemeanor criminal warrants."* The report provides salient official data intended to demonstrate the size and seriousness of these issues relative to determining potential future bed capacity needs. The report does not state or infer that these issues should prevent Vigo County from initially building fewer beds for the reason given.
4. As discussed and reported, Vigo County has a wide array of very effective alternatives to incarceration that have had significant positive impacts on reducing the jail population over the years. It is important to stabilize those programs and maximize their effectiveness, regardless of whether a facility is constructed. Nothing in the report states or infers that these programs have been fully optimized or that a Diversion Center will have no impact

on further reducing the daily jail census. To the contrary, we believe that full optimization of current alternatives and the implementation of a well-planned and managed Diversion Center can have positive impact on the jail population.

The Question: *“Can the new facility start with fewer beds while alternatives are optimized to determine how alternatives will impact jail capacity?”*

Dr. Ray then advised Vigo County they can and should seriously consider initial new jail construction of fewer beds while stabilizing and improving current alternatives to confinement strategies and court processes. This is a common strategy in the planning and new construction, but it does “roll the dice” somewhat. If Vigo County finds it needs more beds after maximizing alternatives, the cost for additional construction may be higher than if all beds were built at onset. Notwithstanding that concern, building fewer beds while concurrently “tuning up” alternatives and court processes may very well reduce the need for additional construction for several years.

There are basically two options: 1) build the total 2050 estimate or 527 beds, or 2) strategically build fewer beds depending on months/years required to fully implement improvements in criminal justice system processes, alternatives to confinement, and jail population management strategies. Assuming the new jail construction process begins in 2019 and can be completed in 36 months (by year-end 2021), figure 93 below shows estimated jail beds needed from the forecast according to the number of months/years expected to realize substantive improvements in criminal justice system and alternatives to confinement practices. For example, it is estimated that new construction of approximately 466 beds is needed if 10 years from 2019 is required to improve/implement various jail population management practices and programs.

**Figure 93: Estimated Number of Beds Needed by Year.**

Year Ending	Est Beds Needed	Months from 2019 Construction Start	Years	Jail Operating Capacity	2034	480	192	16	408
2021	442	36	3	375	2035	482	204	17	410
2022	445	48	4	378	2036	486	216	18	413
2023	448	60	5	380	2037	488	228	19	415
2024	451	72	6	384	2038	492	240	20	418
2025	454	84	7	386	2039	494	252	21	420
2026	457	96	8	389	2040	498	264	22	423
2027	460	108	9	391	2041	500	276	23	425
2028	462	120	10	393	2042	503	288	24	427
2029	466	132	11	396	2043	506	300	25	430
2030	468	144	12	398	2044	509	312	26	432
2031	472	156	13	401	2045	512	324	27	436
2032	474	168	14	403	2046	515	336	28	438
2033	478	180	15	406	2047	518	348	29	441
					2048	521	360	30	443
					2049	523	372	31	445
					2050	527	384	32	448



**B. New Jail Design Findings and Recommendations:**

... conditions at the Jail violate both the Eighth and Fourteenth Amendments to the United States Constitution, the Court finds that it is appropriate and necessary to enter permanent injunctive relief...

All parties – and the Court – agree that building a new jail is the only way to alleviate the violation of Plaintiffs' constitutional rights in the long term....

The below enumerated injunctive relief is predicated on Defendants abiding by their expressed statements that they will be building a new jail.

Hon. Jane Magnis-Stinson, Chief Judge,  
U.S. District Court for the Southern District of Indiana  
October 10, 2018

**1) Summary of Findings:**

- a) The latest proposed design for a new Vigo County Jail, if constructed, will pose many of the problems that are encountered in the *current* jail:
  1. Providing effective *inmate supervision* will be difficult and costly.
  2. *Conditions of confinement* and staff working conditions will fall short of prevailing advanced practices.
  3. *Program* delivery will be constrained.
- b) The latest design fails to provide a setting that takes advantage of many *opportunities* to create a progressive and productive jail setting, including:
  1. Opportunities to motivate inmates to follow rules
  2. Opportunities to provide incentives for inmates to engage in productive activities
- c) Properly staffing the proposed design will prove difficult, if not impossible:
  1. Current staffing levels would have to increase four-fold (from 45 to 180).
  2. Even if Vigo County could fund for the additional staff, it is unlikely that enough qualified employees could be hired and retained.

**2) Recommendations:**

- e) Officials should expeditiously revisit all earlier efforts, securing broader participation and taking the time to visit a variety of new jails in other counties and in other states.
- f) Principles and goals for the new facility, and for the broader criminal justice system, must be developed and used as a foundation for subsequent revisions to plans, design, and operational decisions.
- g) The full range of design and operational approaches should be considered at each step in the process.

h) Vigo County should take the time to ensure that the new jail is “done right.”

**3) Learn from the Experience of Lucas County, Ohio:**

a) Lucas County, Ohio, opened a new jail in 1976, in response to a federal civil rights lawsuit that found constitutional violations in the old jail. After the new jail opened, the federal judge assigned to the case lamented:

*“In and of itself, the construction of a new \$12,000,000 jail has remedied only very few of the problems which led to the original order in this case; indeed, in a number of important respects the new facility has compounded these problems.”*

Hon. Don J. Young, Judge  
U. S. District Court, Northern District of Ohio  
July 29, 1977

b) Lucas County commissioned a comprehensive staffing analysis of all elements of the Sheriff’s Office in 2012.<sup>53</sup> The analysis identified many elements of the jail’s design that diminished the efficiency of staffing efforts. The study found that sufficient staff were provided, but deployment practices should be revised in light of current conditions.

c) Lucas County officials asked the consultant to estimate how many more jail beds could be operated in a new jail, without increasing current staffing levels. According to the report:

*“The existing jail facility is poorly designed. Compared to other jail designs, the Lucas County jail requires more staff for basic operations. For example, a 450-bed jail in Indiana, recently evaluated by the National Institute of Corrections (NIC), requires 42% fewer staff for basic inmate supervision and facility security. Compared to the Indiana facility, Lucas County spends \$2.9 million more [annually] for a comparable inmate population because of its inefficient design.”*

d) The findings prompted the County to begin the process of planning a new jail. The county vowed to “do it right” this time and they are making good on that promise. The County has participated in several training and technical assistance events provided by the NIC, teams have toured jails throughout the United States, and the breadth of participation in the process has proven effective.

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<sup>53</sup> Sheriff’s Office Staffing Analysis and Operational Review, Lucas County, Ohio. Sept. 2012. CRS Incorporated, Gettysburg PA

#### 4) Review of Jail Design Activities and Documentation:

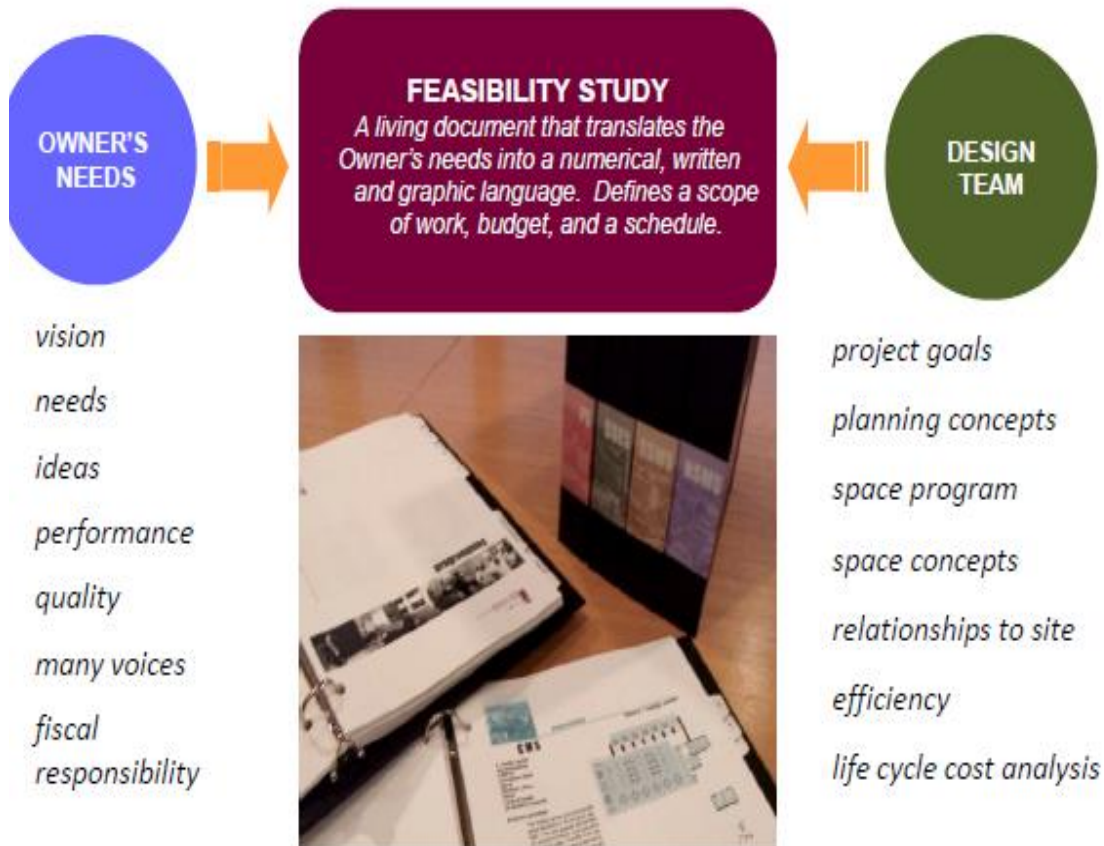
- a) The following pages review work that has been completed on the planning and design of a new Vigo County jail. The consultants offer their opinions where appropriate. Guidance for “next steps” is also provided, as well as identification of resources that will aid county officials and their design team as they move forward.
- b) During the final months of this project, Rod Miller offered to work with the County and its’ design team to revisit the work that had been completed to date, without success. He continues to extend the offer of assistance, *without fees*, following the submission of this report.
- c) Planning and Design Efforts to Date (does not include any recent design activities of which these consultants have not been apprised):

##### 1. 2015 Facility Assessment and Feasibility Study

- ✓ This project started in 2015, when an architectural firm (DLZ) was retained to complete an initial needs assessment. DLZ submitted the “Jail Facility Assessment and Feasibility Study” in April 2015. The 120-page report:
  - Examined the current jail facility and its condition (pages 29-72)
  - Projected the *number* of jail beds that might be needed in the future (pages 73 – 97)
  - Described the *types* of jail beds needed (pages 98 – 100)
  - Reviewed the advisability for renovating and expanding the current facility (page 101)
  - Offered “conceptual solutions” to provide needed beds, including-
    - Renovation and expansion of current jail (pages 102 – 110)
    - New jail (pages 111 – 113)
  - Estimated probable construction costs for –
    - Renovation/expansion (\$20 – 23 million in “hard” construction costs)
    - New jail (\$28.5 – 32.5 million hard construction costs)
  - Predicted a project schedule following submission of the feasibility study (page 119)
- ✓ The scope of the DLZ study was defined by county officials. Several key elements not included in that process that are usually included in such studies, are described in the following narrative.

Figure 94: Excerpt from 2015 Feasibility Study Report.

## WHAT IS A FEASIBILITY STUDY

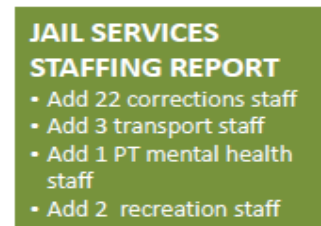
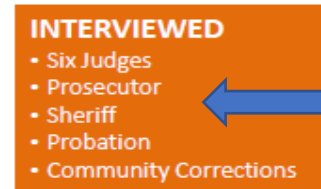


- d) While the preceding diagram accurately identifies many elements of a feasibility study, the subsequent work did not implement all elements (or if it did, the work is not described in the work products.) Some of the missing pieces include:
1. A statement values what a jail is expected to accomplish, and how it is designed and operated
  2. A broader definition of the criminal justice system's needs, beyond just beds
  3. Identification of the full range of approaches that should be considered
  4. Performance criteria for the criminal justice system and the jail solution
  5. Outcomes that could be measured to provide evidence of the effectiveness of the jail
  6. Participation- hearing from "many voices" in the critical early stages of the process, and during subsequent work
- e) Figure 95 provides an excerpt from the DLZ report, describing the scope of interviews that were conducted. Figure 96: Diagram from 2015 Report, "The Interview Process" (arrow added).

**Figure 96: Diagram from 2015 Report, “The Interview Process”.**

## THE INTERVIEW PROCESS

- Jail has been overcrowded for 20+ years – *last addition of rated beds was full within just a few months*
- Pending ACLU lawsuit
- High count was nearly 330 (268 rated beds)
- Judges meet regularly to control Jail numbers
- Have an ‘unofficial’ bond schedule
- Mixed results with use of video arraignment – *not all Judges use it*
- Intake area is very small



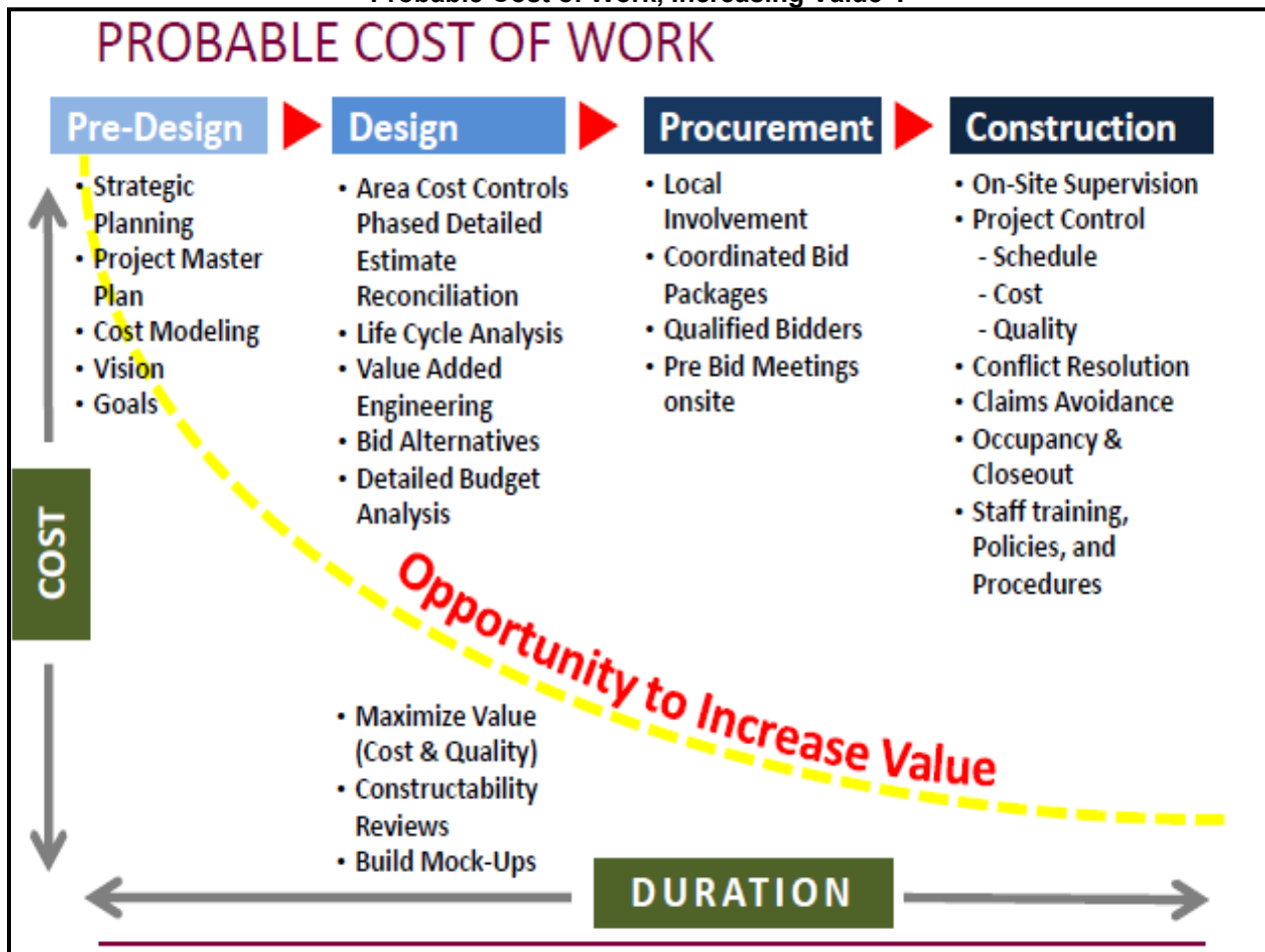
- f) The list of persons interviewed is missing many key criminal justice stakeholders, as well as county policymakers, such as:
1. Court administrator
  2. Bail/bond providers
  3. Defense bar
  4. Law enforcement officials
  5. Indiana Department of Corrections
  6. County Council (fiscal authority)
  7. County Commissioners (administrative authority)
  8. Inmate advocates, such as Indiana Civil Liberties Union
  9. Community members
- g) The National Institute of Corrections (NIC) has promoted “Total Systems Planning” methods for more than 30 years. This approach was described to county officials and stakeholders in 2005 during the technical assistance event that provided a “local systems assessment.” NIC has developed many resources to inform the planning process. These are identified at the end of this section of the report. Resource TSP, PONI, What Officials Need...
- h) Many counties throughout the United States have followed the NIC process, usually creating a broad-based advisory committee that provided input throughout the planning process. This has not happened in Vigo County, in 2015 or at any time since then. However, the County is developing a Criminal Justice Coordinating Council that will providing ongoing coordination and innovation. Figure 97 identifies the varied participants in the Dekalb County (Indiana) jail feasibility study.

**Figure 97: Members of DeKalb County (IN) and Alpena County (MI) Jail Advisory Committees.**

<b>DeKalb County, Indiana</b>	<b>Additional members in Alpena County, Michigan (2017)</b>
Chief Deputy Community Corrections Staff, Board Members Community representatives County Commissioner(s) County Council Department of Homeland Security Health Department Indiana State Police Jail Commander and Assistant Jail Commander Jail Maintenance Staff Judge(s) Police Chief Probation Prosecutor Public Defender Sheriff	Chamber of Commerce City Planner Community Foundation Council of Churches County Clerk Higher Education Human Services Jail Officer Jail Sergeant Mayor Mental Health Services Public Schools Regional Education Agency State legislator Substance Abuse Treatment Town Council Township Supervisor

- i) The consultants discussed involving the community in the process with county officials, and the initial reaction was positive. Later, one official said “I don’t want the community *telling* me what to do!” Done right, involving the community generates suggestions, not imperatives, and all parties—and the project—are enriched by the process. In NIC’s programs they tell officials that “people support what they help to create.”
- j) Although the County did not invite the community into the planning process, it is clear that there was a great deal of interest in the process and the outcomes. It was the community that posed many questions after the needs assessment and design package were completed, eventually bringing the process to a halt and inspiring county officials to go back and complete missing steps. This study is the result of the community’s intervention. Figure 98, also from the feasibility study, illustrates declining opportunities to impact costs as the planning, design, and construction phases of work move forward.

Figure 98: Illustration from Feasibility Study  
 “Probable Cost of Work, Increasing Value”.



k) Figure 98 (above) applies to more than just the *value* of jail project measured as costs. It also applies to the sharply decreasing opportunities to impact other elements of the project as the process moves forward, including:

1. Opportunities to identify and fill gaps in the criminal justice system, often reducing the demand for future jail beds—a criminal justice master plan, not just a project master plan
2. Opportunities to articulate a true vision for the project, elevating discussions and looking beyond bricks and mortar into the needs and values of the community
3. Opportunities to establish meaningful vision and goals for the project that include desired outcomes, not just processes to be implemented
4. Meaningful participation by Vigo County residents, officials, and personnel that would bring new ideas to the table, and would generate meaningful support for the broader initiative

- l) Figure 100 presents a diagram from the Needs Assessment, highlighting the *findings* from the interviews that were conducted.

**Figure 100: Feasibility Report Illustration of Findings from Interviews.**

## THE INTERVIEW PROCESS

- Work Release program works well – could be expanded to help with additional bed needs – *currently about 75 in a 134 bed facility*
  - If a new jail, there is a difference in opinions of possible location
  - Likely need Hearing Room(s) if built offsite
  - Poverty is above State average
  - Increased addiction issues in County
  - Need more mental health and addiction resources / treatment facilities
  - Currently sending some inmates to other counties (+/-30) at \$35 per day (+/- \$375,000)
- MUST ADDRESS**

  - Mental Health
  - Addictions
  - Pushing inmates thru the system as quickly as lawfully possible
  - Alternative sentencing
- 
- Design a facility that meets the needs of Vigo County for the next 20+ years**

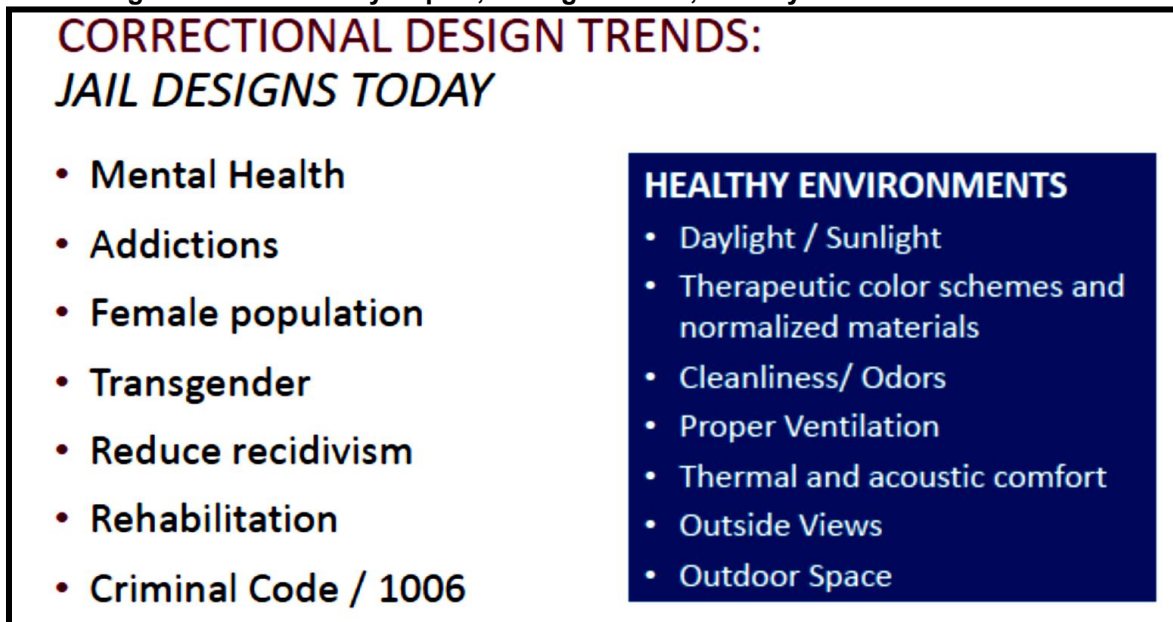
- m) The diagram is a mix of findings, design implications (hearing room), and imperatives (must address). The “must address” list should be reflected in subsequent planning and design efforts, but some elements were not carried forward. Some examples of how the design could respond include:

1. Mental Health- conditions of confinement should be designed to –
  - ✓ Reduce stress (for staff and prisoners)
  - ✓ Increase privacy (cells not dorms, single or double cells)
  - ✓ Provide inmates with some control (such as light switches)
  - ✓ Provide a variety of housing unit sizes to allow separation as indicated by classification and screening
  - ✓ Facilitate screening at intake and thereafter
  - ✓ Provide rooms that can be used for interviews, testing, and case management (preferably near housing)



2. Addiction:
    - ✓ Providing housing that promotes a sense of community and facilitates treatment activities in or near the housing unit.
    - ✓ Facilitate screening and assessment at intake.
    - ✓ Provide short-term holding areas that may be used while newly-admitted inmates are sobering up.
    - ✓ Provide 72-hour housing, in or near the intake area, to allow inmates time to be assessed and prepared for housing in the general population.
  3. “Pushing” inmates through the system:
    - ✓ Provide for efficient intake screening and assessment.
    - ✓ Provide communication with family and the community to plan for release.
    - ✓ Use video visitation and video court to connect newly-admitted inmates with the community and the courts.
  4. Provide 72-hour housing to keep some inmates near intake until their release is finalized, rather than having to process them into the general population.
- n) The design team informed county officials about *some* of the trends in jail design, as shown in Figure 101.

Figure 101: Feasibility Report, “Design Trends, Healthy Environments”.



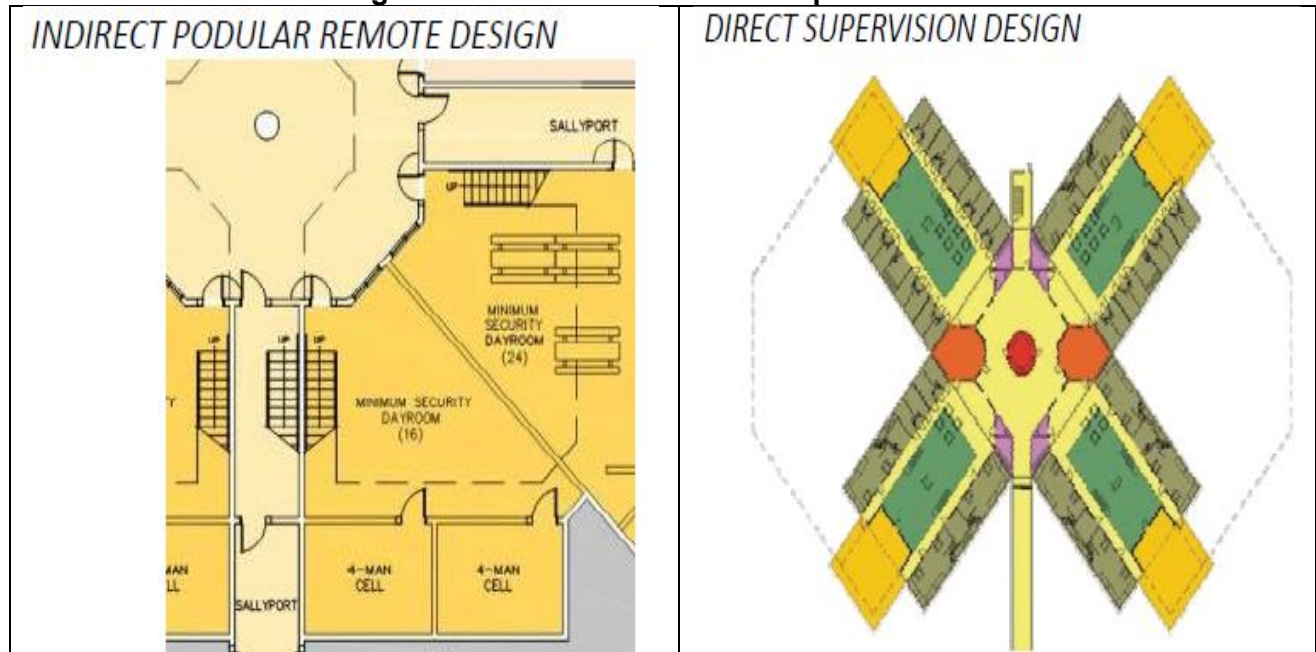
- o) But the jail design does not appear to respond to some of these imperatives:
- ✓ “Daylight/Sunlight” in the housing areas is limited because inmate cells are placed against a wall that is used as access to cell utilities and equipment, leaving only the use of skylights to bring natural light into the housing units

- ✓ “Outside Views” are precluded by the utility corridors that are between housing and the outside walls

p) Inmate Supervision

The current plan provides for “indirect” (podular remote) inmate supervision. The diagrams in Figure 101 is from the feasibility study report, and attempt to illustrated the two primary modes of inmate supervisions.

**Figure 101: Indirect and Direct Supervision.**



- q) The following definitions more accurately describe inmate supervision options.
1. **Intermittent Surveillance** (usually used in linear designs)<sup>54</sup>: Intermittent surveillance approaches, such as those used in linear jails, do not assume that staff will observe housing units constantly and therefore place no special requirements on grouping the various units around a constantly staffed post. The use of intermittent surveillance allows housing clusters to be dispersed for physical, sight, or sound separation. However, intermittently monitored facilities tend to have greater operational problems dealing with assaults, suicides, escape attempts, and vandalism. Consequently, if this approach is adopted in lieu of constant surveillance or supervision, the separation of inmates should be more discriminating to ensure minimal density in each housing area and physical separation of inmates who pose security or management risks. However, physical separation cannot fully compensate for a lack of staff presence. It is recommended that facilities using intermittent surveillance design the building with higher security construction.
  2. **Remote Surveillance** (“Second Generation”): Design that allows the constant view of inmates by staff in remote surveillance settings (commonly referred to as “podular remote” or “podular indirect” design) helps mitigate some differences in classification that call for separation of certain groups. However, although superior to intermittent surveillance in terms of reduced operational problems, remote surveillance poses a challenge to attaining necessary physical, sight, and sound separation between the different housing units under the supervision of the staff post. The presence of staff behind a barrier tends to minimize the effect of such separation problems, but it does not mitigate the fact that staff sitting in a control post or making periodic rounds through a housing unit find it difficult to manage the behavior of inmates or to take a proactive role in managing the pod.
  3. **Direct supervision** (“New Generation”): Direct supervision is a very effective approach for managing the behavior of inmates. It allows staff to be in total control of all spaces and activities within the jail. Inmates are under constant staff supervision. The principal effect of direct supervision on inmate classification is positive because it allows for the merging of some populations that otherwise might not be housed together. For example, there may not be a need to create a medium security group and to separate it from a minimum-security group. In addition, with direct supervision, there is less concern about slight variations in the makeup of the population as it changes over time.
- r) In a recent meeting with the design team and county officials, the commissioners’ corrections advisor asserted that the County “...can’t afford Direct Supervision.” We contend that the County can’t afford to *ignore* Direct Supervision and other developments that have proven effective. One member of the design team spoke highly of the new addition to the Kent County Jail in Grand Rapids, Michigan. It is based on Direct Supervision management, and brings large amounts of natural light with views into housing areas via the dayrooms. There are other new jails in the region that show designs that are markedly different than the Vigo County Jail design. As one of the design team

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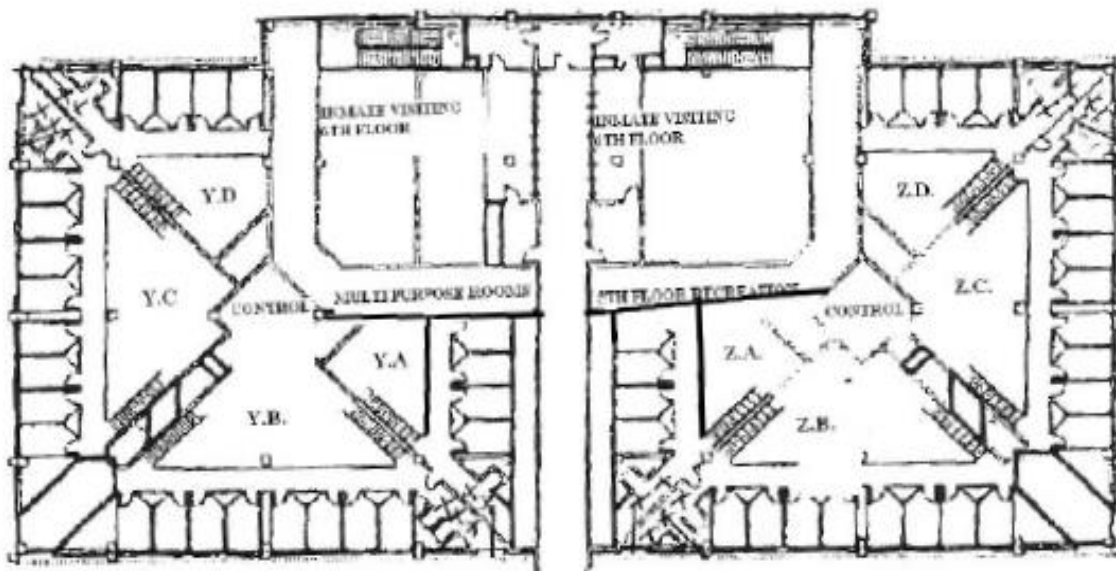
<sup>54</sup> Kimme, Dennis, Gary Bowker, Robert Deichman. *Jail Design Guide, 3<sup>rd</sup> Edition*. U.S. Dept. of Justice, Washington D.C. 2011.

members put it in a meeting, referring to the current design: “This is how we build jails in Indiana.”

s) Lake County, Indiana- A Case Study:

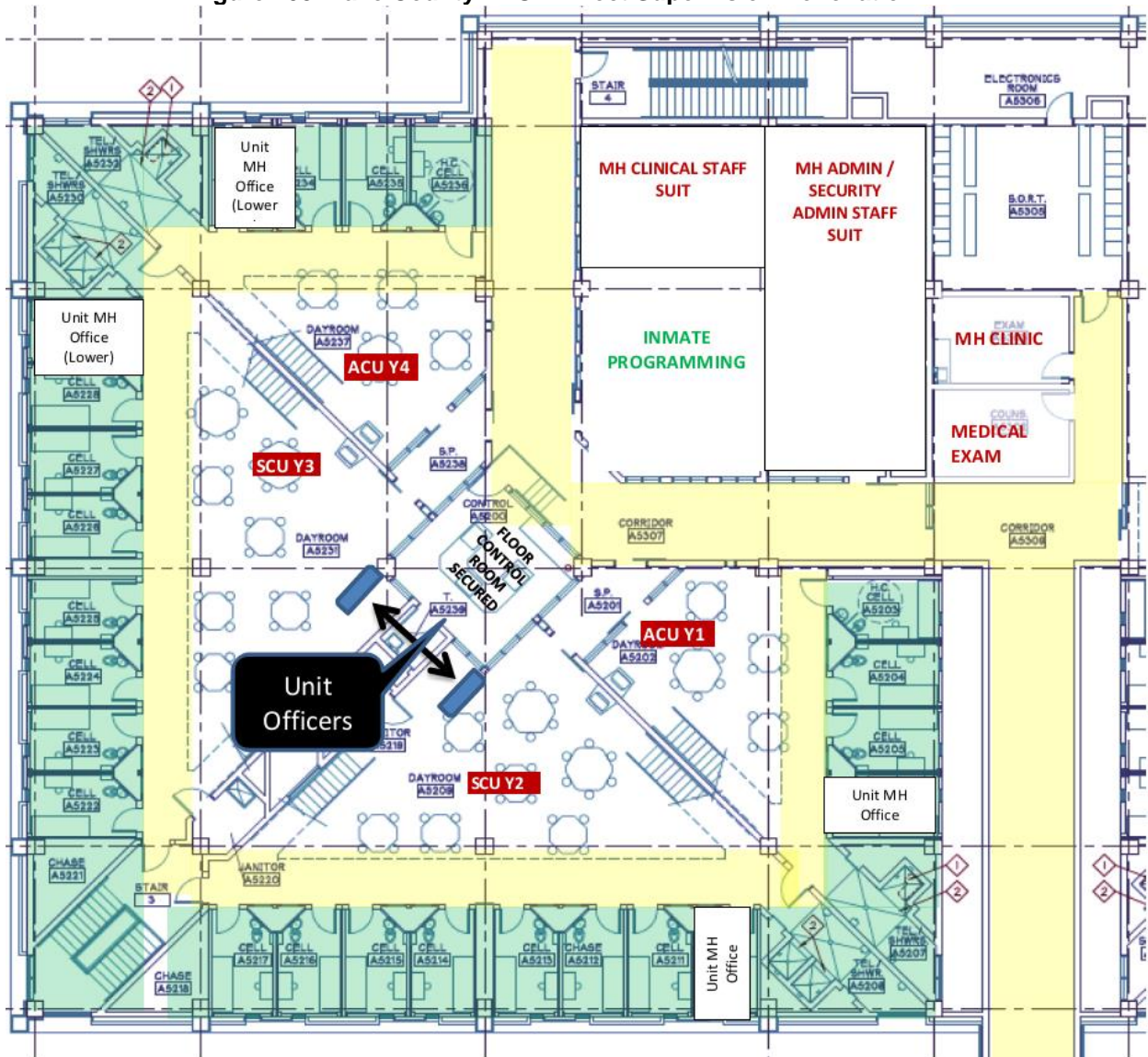
Lake County constructed an indirect (podular) addition to their jail. But when they opened it, they found that the staffing levels predicted by the designers were not sufficient. The County was sued by the U.S. Department of Justice in 2010 and entered into a wide-ranging consent agreement that is still being implemented. The county commissioned a comprehensive staffing analysis that found that an additional 65 full-time positions were needed, an increase of 36.3%. The designers’ staffing plan did not provide for effective supervision of inmates in their housing units, only remote observation in fixed posts, behind glass.

**Figure 102: Lake County Addition, Indirect (Podular).**



The situation in Lake County is similar to those encountered in many other jurisdictions that have built podular/indirect jails—observation is not the same as *supervision*. However, in an effort to meet mental health requirements of their federal consent order, Lake County officials leveraged the proven benefits of direct supervision and renovated the Y Pod (above left) into a direct supervision integrated behavioral health unit for male and female inmates suffering from acute and chronic mental illness and suicide risk (Figure 103).

Figure 103: Lake County YPOD Direct Supervision Renovation.



- t) Dona Ana County, New Mexico (Las Cruces) had to add staff because their original approach provided remote observation but no effective supervision. As a result, inmates were in control of housing units which resulted in violence and inmate deaths.
- u) Allegan County, Michigan built a jail that was very similar in design to the proposed new Vigo County Jail. Designers predicted staffing needs, but an independent study prior to finalizing the design found that substantially more staff would be needed. The County followed the designers' advice. The Michigan Department of Corrections recently reduced the authorized capacity of the facility due to staff shortages.
- v) Marion County, Indiana, added more than 60 staff as a result of a staffing analysis because staff had not been entering housing units.

- w) It is now well-established that inmate *supervision* requires barrier-free interaction between staff and inmates. Whether this is intermittent or continuous, staff must enter housing units and interact with inmates.
- x) The Lake County, Allegan County, and Dona Ana County studies were conducted by Rod Miller, principal author of NIC's staffing analysis texts and tools, and co-author of this report. His estimate of 180 full-time employees to operate the proposed new jail is based on the same methodology as previous studies.
- y) Preliminary Design Package, December 2016:
  - ✓ In mid-2016 the design team was asked to pursue preliminary designs for a new jail and to provide cost estimates. The team implemented an accelerated process that centered around a series of six work sessions over a period of two months. An extraordinary amount of work was accomplished in a short time, but resulted in truncating the critical early segments of the design process. The compression of the process also limited the number and types of participants who were directly involved.
  - ✓ In July 2018, detailed staffing plans for the current and proposed jails were submitted as part of the Phase One report.
  - ✓ The review of the proposed new jail provides detailed insights into the design elements that poses challenges to effective inmate supervision and efficient staffing. Annotated drawings were provided. These will be helpful when the new jail design is revisited in the near future.



### C. Deciding New Jail Design and Functionality:

#### 1) New Jail Design – Shifting Away from 200 Years of Ineffective Designs:

1983 was a milestone that signaled a departure from nearly 200 years of jail design philosophy. In that year the concept of direct supervision was formally recognized by the National Institute of Corrections, NIC. Subsequently, the concept and its design implications were endorsed by the American Jail Association (AJA), American Correctional Association (ACA), and the Committee on Architecture for Justice of the American Institute of Architects. Even though "new generation" jail concepts have gained wide acceptance among informed professionals, there are many law enforcement, jail, and county officials who have not had the benefit of being in the communication channel on reforms in jail planning, design, construction, activation, and operations.

Unfortunately, jail design becomes easily entangled in moral debates which push the issues of staff safety and rights of the confined to the background. As will be pointed out in this article, new generation jails are much safer than old style jails. In addition, decision makers must hold in mind that their jails will house un-convicted as well as convicted persons. About 60% of most jail populations consists of un-convicted defendants, many of whom are held on relatively low bonds and would be out on bail if they had the money.

Planning about the design of a new jail may be difficult for county commissioners because of the unfamiliarity of concepts about jail design and inmate supervision. The path to selecting a jail design is filled with the risk of embracing mistakes that will affect liability, safety of staff and inmates, efficiency in daily operations, and effectiveness in functioning. Long after the dollar savings obtained by selecting a less expensive, flawed design have been forgotten, the problems of a bad design will remain as painful and costly reminders of the shortsightedness of county officials' decisions. Counties with such a sore memory are plenty.

This article will investigate three strategies for inmate supervision and their impact on jail design. Graphically, jail designs will be displayed, how these designs are employed will be discussed, and various considerations in decision making about selecting designs will be examined.

#### 2) The Guiding Principles of Jail Design:

##### a) Jail design should be based on direct or indirect supervision of inmates. Linear design should be absolutely avoided:

As will be explained in this article, this principle acknowledges that one of the basic tenets of new generation jail design is the need for continuous observation of inmates. The Standards of the American Correctional Association, ACA, for example, are very specific in this regard:

*Written policy and procedure should require that all living areas be constructed to facilitate continuous staff observation, excluding electronic surveillance, of cell or detention room fronts and areas such as dayrooms and recreation spaces.*

*Continuous observation of inmate living areas is a fundamental requirement for maintaining safe, secure custody and control. The physical plant should facilitate*

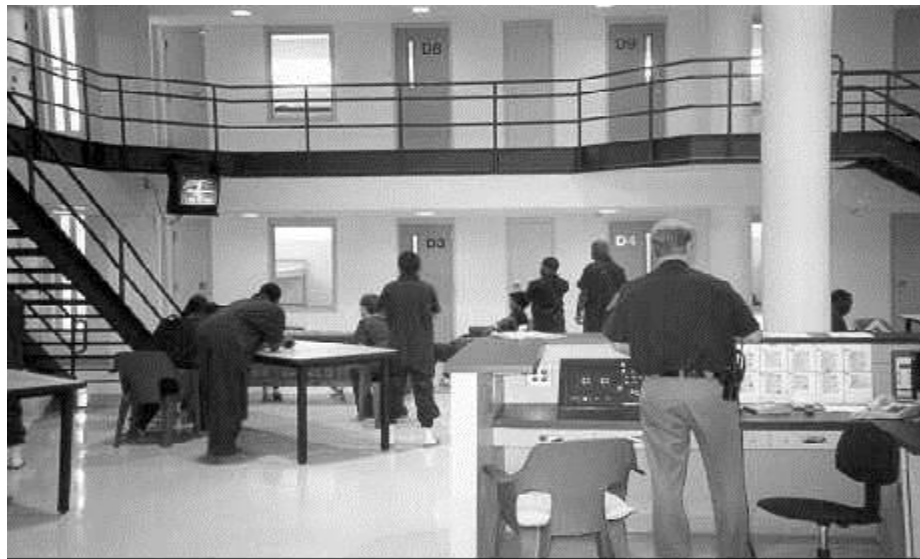
*the performance of this operational function.*<sup>55</sup>

The reader should be aware that the ACA is not just a small interest group, but the largest organization of correctional professionals in the United States. Standards of this organization are based on substantial study by special ACA committees. Adherence to ACA standards is one of the best ways to insulate against legal challenges about jail conditions.

### 1. Direct Supervision Design:

Continuous observation is provided in two types of design, direct and indirect supervision. Direct supervision places the correctional officer's station within the inmate living area, or "pod" as it is often called. This is shown in figure 103.

**Figure 103: Direct Supervision in a Medium Custody Housing Unit.**



In this picture the officer is shown standing before an in-pod control station. By placing the officer in the pod, he or she has immediate visual observation of inmates and unrestrained ability to receive information from and speak to inmates. During the day, inmates stay in the open area (dayroom) and are not usually permitted to go into their rooms except with permission and must quickly return. The officer controls door locks to cells from the control panel. Functions of this panel can be switched to a panel at a remote location, usually known as "central control," when the officer leaves the station for an extended time. The officer also is wearing a small radio on his shirt-front that permits immediate communication with the jail's central control center if the need should arise. In addition, the dayroom area is covered by a video camera that is also monitored in the central control room.

By placing the officer in the pod, there is an increased awareness of the

<sup>55</sup> 1. American Correctional Association, *Standards for Adult Local Detention Facilities*, 3rd Edition. Lanham, MD. 1991, Standard 3-ALDF-2B-03, p. 32.



behaviors and needs of the inmates. This results in creating a safer environment for both staff and inmates. Since interaction between inmates is constantly and closely monitored, dissension can be quickly detected before it escalates. Inmates who show signs of becoming unruly also can be quickly identified and removed to a more secure living unit/pod. In addition, maintenance costs are lower in direct supervision pods because the close supervision reduces misuse and harm to equipment, furnishings, and walls. This style of inmate supervision performed by well-trained officers creates a more positive environment than other types of supervision methods. The stress on officers and inmates alike is greatly reduced. From a liability standpoint, the jail and county's liability will be reduced as a result of less litigation arising from unobserved behavior, e.g., suicide, fights, sexual assaults, accidents, and unexpected medical emergencies.

In summary, direct supervision involves three important aspects. First, the inmates are aware that they are being constantly supervised. Second, they are aware that if they create problems they will be quickly removed to a higher custody pod having fewer privileges, such as ability to come out of their cells. Third, they are aware that the officer is backed up by a personal radio alarm system and video monitoring.

Direct supervision design is most relevant to the housing of medium and minimum supervision inmates. These are inmates who are not considered to be violent or disruptive in the jail environment. This design is not usually employed for the supervision of maximum custody inmates.

## **2. Indirect Supervision Design:**

Indirect supervision, sometimes called "remote surveillance," also provides continuous observation of inmates. The layout of the inmate living area is similar to that of direct supervision. The design is "indirect" in that the officer's station is separated from the inmate living area.

**Figure 104: Indirect Supervision Housing Unit.**

The officer's station is inside a secure room. Observation is enabled through protective windows in front of the console/desk. A microphone, long black tube, is visible in front of the right portion of the console. Microphones and speakers inside the living unit permit the officer to hear and communicate with inmates.

An indirect supervision pod, when used for medium and minimum custody inmates, is similar in design and size to direct supervision pods. However, indirect supervision in a maximum supervision pod shown above usually involves a smaller housing area. In a maximum pod, inmates are not permitted to congregate in an open dayroom, but must spend most of their time in their cells and are let out individually to exercise. For this reason, maximum cells are usually larger and require more durable hardware, doors, and fixtures.

Sometimes the indirect design is arranged so that an officer can observe and control two or more adjacent pods. The adjacent pods are configured so that the officer can see into them but the inmates have no visual or auditory access between pods.

In indirect supervision, as in direct supervision, the officer does not leave his/her post and has an uninterrupted view of inmates at all times. As might be expected, the indirect design does not foster the same immediate capability of controlling inmates that is achieved through direct supervision.

### **3. Linear Design:**

Linear design, also known as "intermittent surveillance design," does not provide continuous observation. The design is similar in concept to that of a hospital in which long rows of rooms are placed along a corridor. A common variation is to

situate housing units, instead of individual cells, along the corridor. Figure 105 shows such a linear design found in an older jail.

**Figure 105: Linear Positioning of Housing Units.**



The jail officer, barely visible at the back of the corridor, must patrol the hall and look through windows to observe each housing unit. A set of narrow observation windows for one of the housing units has been labeled with a "1" and the entry door, also containing a window, is marked with a "2." While walking the corridor the officer may look into a unit or enter as part of the surveillance. Sounds from within the units are muffled by the closed doors and are not readily heard in the hallway.

This design introduces an element of high risk into the management of inmates because interpersonal problems between inmates is most likely to occur when staff are not present. Thus, inmate problems cannot be detected early and prevented from escalating. Video surveillance cannot make up for the problems arising from this type of design. Due to the intermittent nature of staff supervision, inmates are essentially in control of the living area. Studies show that the linear design is associated with an increased frequency of contraband, coercion of inmates by other inmates, assault, rape, suicide, and even homicide.<sup>56</sup> A drawback of this design is that, in practice, the jail officer may not patrol constantly, perhaps only every 20 to 30 minutes and sometimes longer. As a

<sup>56</sup> A critique of linear design is found in the *Small Jail Design Guide*, Washington, D.C.: National Institute of Corrections, U.S. Department of Justice, March 1988, pp. 3-37 to 3-42.

result, officers may become involved in other activities such as escorting inmates, supervising cleanup in another area of the jail, and assisting in booking. Such involvement turns their attention from supervision of inmates and extends the times between surveillance patrols of cell areas.

Electronic surveillance has been used to attempt to compensate for the weakness of the linear design. Experience with video surveillance cameras indicates that the officers monitoring banks of video screens are often unable to maintain effective constant watchfulness due to fatigue, preoccupation with other activities, and too many cameras to view. Furthermore, the effectiveness of video surveillance is compromised when inmates determine what is and is not being monitored. When this happens, trouble makers move their illicit activities to off-camera areas. The use of video surveillance in lieu of the presence of jail officers is commonly associated with efforts of decision makers to drastically reduce staffing costs. Such efforts often contribute to serious security problems because when problems arise, as they more often do in this type of jail, there may be an insufficient number of officers available to effectively respond.

Well-informed jail administrators and officials know to avoid the linear design. Architects who advocate the linear design claim that it is less expensive to build and staff than direct or indirect designs. However, the same argument could be used for other problematic designs, such as tents.

#### **4. How the Design of Housing Units Is Properly Used:**

The cornerstone of effective jail security lies in the classification of inmates according to their supervision needs. The most obvious classification-driven housing assignment is that of separating inmates according to gender. Similarly, hostile inmates should be separated from non-hostile inmates. The identification of who will be difficult to control is achieved through a system of jail classification that includes ongoing observation and reevaluation. Under such a system, classification screening begins when an inmate enters the jail. After the initial classification decision is made using an objective, i.e., written and validated, assessment instrument, the inmate is constantly observed so that staff can quickly remove him/her to a different, usually more restrictive, pod if disruptive behaviors are exhibited. In this manner, housing units (living areas) of a jail designed as minimum, medium, and maximum supervision can be filled with appropriately matched inmates. Without this system, the supervision of inmates will be marked by inconsistent and poorly justified inmate management practices.

#### **5. The Interplay Between Jail Design and Staff and Inmate Behavior:**

Within the inmate population will be persons having varying levels of social maturity and, thereby, differing abilities to control their behavior. Immaturity of social behavior has parallels in both adults and children. For example, placing ten small children in a room in which there is no parent or other adult, will usually result in the outbreak of problems. Even sporadic monitoring by an adult who occasionally opens the door is not as effective as a constant presence. This does not mean that all children are bad, but that the dynamics of interaction can be influenced by the whims and antisocial behavior of one or two persons. Similarly, groups of inmates often contain one or more socially immature individuals, who

because of their physical size or manipulative capabilities, will contribute to dissension within the group if there is not a supervising staff member present. The presence of a jail officer combined with the ability to remove inmates to other housing areas, is much more effective in controlling fights and assaults on correctional officers than sporadic monitoring. Thus, direct supervision in combination with classification provides a safer environment for both staff and inmates. A safer jail is not only beneficial in light of reduced legal liability but contributes to a better work environment and lower staff absenteeism.

Indirect supervision does not afford the same level of control over inmate behavior as direct supervision. The correctional officer loses much of the immediate sensitivity about communication within the inmate group by being separated in a control room. Such separation, of course, is appropriate in the design of maximum custody housing units. To compensate for separation of the correctional officer, a "rover" should be used. A rover moves in and out of several housing units in order to temporarily make personal contact with the inmates. This arrangement improves the performance of indirect supervision, but is still not equivalent to direct supervision in inmate management effectiveness.

## 6. Which Design Approach to Choose?

Making the choice between direct and indirect supervision should be based upon several considerations. Of course, selecting a linear design is not an option considered by the astute decision maker.

**Consideration One: Staff Preference** -- For several reasons, staff preference should not be the deciding factor in selecting a jail design. First, experience has shown that administrators and staff who have worked only in old style linear jails, are usually unfamiliar with other designs and are unaware of how to supervise inmates in new generation jails. Generally, biases against direct and indirect supervision are based on minimal knowledge. Jail administrators who have been exposed to well-run direct and indirect supervision jails or have been through training/familiarization with those types of facilities will relinquish preference for linear design. Second, the experience of working in a linear design jail often results in the development of a "negative correctional culture" that is marked by self-created fictions about how inmates should be treated and managed. Since fights among inmates and verbal and physical assaults on officers are more frequent in linear design jails, jail staff tend to develop a negative, fearful, and more punitive attitude about inmate management. In turn, this negative attitude is often expressed in ways that reinforce hostility among the inmates. Thus, ineffective behavior management often creates some of its own problems. Among trainers of jail staff, this phenomenon has come to be recognized as the negative culture of linear jails. This culture, once established, is difficult to change, even when a new direct or indirect supervision jail is constructed. Not only will training be required to alter this culture, but staff changes may also be required.

**Consideration Two: Size** -- Size of the jail will affect the relevancy of direct and indirect designs. As the size of a jail's capacity moves beyond 180 to 200 inmates the applicability of indirect design diminishes. In a small jail, indirect supervision pods are often designed to house 8 to 16 inmates. In larger jails it is more practical to expand the capacity of pods to house about 40 to 50 inmates than it is

to build more of the small pods. From an architectural standpoint, small pods are more readily configured around an enclosed observation station than are large pods. Also, from an inmate management standpoint, small groups are easier to control from an external officer's station than larger groups. As a rule of thumb, as the size of a jail's capacity increases, the relevancy of direct supervision design increases. For this reason, direct supervision pods generally range from about 24 to 50 beds.

**Consideration Three: Cost** -- Given the ability of indirect supervision to manage several small living units, it is not generally considered to be cost-effective to use direct supervision in small jails. However, the cost advantage diminishes as jail size increases.

### 7. Dormitories:

A dormitory is different from the designs described previously. New jails will usually have fewer dormitories than medium and maximum pods. Cost-wise, dormitories are much less expensive to build. However, their applicability is limited to the housing of minimum custody inmates, such as trustees and persons on work release.

The term "dormitory" usually implies a different style of housing than a pod. As might be expected, a dormitory is a large room into which a number of single or bunk beds are placed. However, instances can be found in which the term "dormitory" is applied to rooms in a podular-design housing unit that have been configured to accommodate four to eight beds. Figure 106 shows a new, unfurnished dormitory that will contain 24 beds.

**Figure 106: A Large Dormitory Before Being Furnished.**



Management of inmates in a dormitory can be accomplished by either direct or indirect supervision. In the dormitory shown above, the layout is a modified direct-indirect supervision design. Two dorms are situated across a hallway from each other. Observation into the dorms is through a window shown at the right rear of

the picture. Next to the window is a doorway. An open officer's station (not enclosed as in an indirect supervision pod) is placed so that an officer can view both dorms and have immediate access through the doorways. In this particular layout the officer's station is located at the end of the hall so that no one will be approaching from the back of the station. This design is feasible because the lower custody level of inmates reduces the need to place an officer in the living area or to enclose the external observation station.

In a small jail, a small dormitory could be arranged around an indirect supervision station along with one or more medium and maximum custody pods. Although many old-style jails use intermittent surveillance for dormitories, the same concerns about adequacy of supervision, previously discussed, would apply.

### **8. Be Guided by Best Practices:**

The design should abide by ACA's Standards for Adult Local Detention Facilities.<sup>57</sup> These standards provide important guides for both minimum design features and operational practices in jails. Such standards are particularly important because a local detention facility must provide for the custody and care of persons accused but not convicted of a crime, as well as those who are sentenced. The standards are respected not only by correctional professionals but by the courts as well. The easy to read format of the standards will help county decision makers, as well as jail administrators, understand what should be included in a jail design, such as:

- ✓ Occupancy and space requirements for inmate sleeping areas
- ✓ Space requirements for dayrooms
- ✓ Furnishings
- ✓ Special management housing
- ✓ Housing for the handicapped
- ✓ Light levels (natural and artificial)
- ✓ Noise levels
- ✓ Indoor air quality
- ✓ Law library
- ✓ Food service

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<sup>57</sup> American Correctional Association, *Standards for Adult Local Detention Facilities*. 3rd Edition. Lanham, MD. 1991. Updates of the 3rd Edition are contained in the *Standards Supplements* for 1994 and 1998 which are companion publications. To obtain these publications call ACA at (800) 222-5646, ask for the Publications Department.



Using the standards as guidelines for investigation, a jail committee and/or county commission should challenge architects both during the selection process and during the process of designing their new jail. The committee should request that the architect(s) explain how the proposed design concepts will respond to ACA standards. By making a simple checklist of the standards, county decision makers can intelligently pursue this investigation.<sup>58</sup> <sup>59</sup>Such steps are merited because, most likely, the county will be party to a suit in instances of legal problems fostered by poor design.

### **Evidence-Based Design & Correctional Architecture:** By Richard Wener, PhD

In putting together the chapters for my book on psychology and correctional design (*“The Environmental Psychology of Prisons and Jails: Creating Humane Spaces in Secure Settings,”* Cambridge University Press, August, 2012) I reviewed all the research I could find on ways that design affects the behavior, perceptions and attitudes of those inside – inmates and staff. I won’t try to distill hundreds of pages of text in these few, but there are several basic principles that may be useful to point out.

First, is the notion of “Evidence-Based Design” – a term that first took hold in the context of health care settings (Ulrich, et al., 2008). The concept is very simple – where good evidence on the impacts of design on behavior is available, those findings should be taken into account in program and design decisions. I would argue that this in no way limits the creative ability of the architect. To the contrary, by making needs and requirements even more clear and explicit, it may have a freeing effect, allowing designers to do what they do best while knowing the limits and parameters within which they must work.

There is a considerable body of evidence from environment-behavior research that is important for the design of jail and prison facilities. In this brief space I’m going to pass over some of the most discussed and well-known studies that help provide some of this evidence base, such as research on the effectiveness of direct supervision designs, or on the effects of crowding and isolation, which take up multiple chapters in the book. Rather, I want to mention findings related to areas that all architects know from their experience are critical yet are consistently problematic in jails and prisons - noise, lighting, and access to nature.

Many who work in prisons and jails attest to the fact that noise is pervasive, disruptive and disturbing (Carter, 2004; Rostad, Meister, & Wener, 1996). Meeting ACA Standards may not be any guarantee of having a good acoustic space since these standards don’t directly address intelligibility or the likelihood that noise will be bothersome and disruptive (Rostad & Christoff, 2006). Many facilities combine cavernous spaces with hard surfaces resulting in extraordinarily high reverberation times and uncomfortable acoustic conditions.

Noise can directly affect operations. It is hard to communicate well when your words compete with a constant din of machine and human sounds. Work requiring concentration, group meetings, studying, or counseling sessions all become harder in poor acoustic environments.

The indirect effects of noise can also be significant and these effects are worse when the noise is variable and uncontrollable – as is commonly true in jails and prisons. Noise has been shown to inhibit the ability to learn (children’s reading scores in noisy settings are measurably lower), increase stress (undoubtedly true for both inmates and staff members), reduce prosocial

<sup>58</sup> For detention facilities of 50 beds or less, ACA’s *Standards for Small Jail Facilities* should be used.

<sup>59</sup> Some counties have opted to hire a special project manager to ensure their concerns about ACA and other construction standards are followed.



behavior, and increase the potential for conflict and aggressive behavior (see Luxon & Prasher, 2007).

Good lighting, as any designer knows, is a critical part of environmental design, yet jails and prisons commonly have poor lighting, both in quantity and quality. Without exposure to high intensity light during the day (sunlight or its equivalent) inmate body clocks (circadian rhythms) may go out of sync. Good sleep depends on both enough light during the day and enough dark at night – both difficult conditions in many facilities. Along with noise, these conditions can lead to sleep deprivation which has considerable negative impacts on health, mood, irritability, cognitive performance, and the likelihood of accidents and injury. Good lighting makes a difference for staff in their ability to complete work and conduct surveillance, as well as in their ability to adjust to the difficulties of shiftwork (Lockley, Brainard & Czeisler, 2003).

Sufficient outdoor window space is one way to help provide good lighting. Research in health care settings shows significant benefits of natural light for health (Walch, 2005). Windows, of course, provide views out as well as light in, and there is also a solid and growing body of evidence on the benefits of physical or visual access to nature – grass, trees, plants, animals – and the negative effects of deprivation of these (Ulrich, 2006). Few human settings are as deprived of nature views as are many jails and prisons – and some staff spaces (look at almost any central control room!) are among the most shut off from the outside.

While many people have long believed that natural environments are among the most restorative of settings, their actual power is being revealed in recent research. Nature access or views have been shown to be important in helping people cope with stress and recover from mentally fatiguing experiences (Kaplan, 1995). Problem solving is poorer and verbal and physical aggression higher when people are deprived of nature. Inmates in cells with nature views have fewer sick calls (Moore, 1980; West, 1986) and one study we conducted in a jail showed that the simple modification of adding large nature murals to a busy intake area resulted in measurably reduced physiological indices of stress for officers who worked in that space (Farbstein, Farling & Wener, 2009).

Some may correctly note that none of the above points – that noise is unpleasant, lighting is important, or nature is good - are startling. What is new, though, is an evidence base that says that these are not merely annoyances of the “no one ever said that prison was a day at the beach” variety. These conditions affect the lives of those who live and work there as well as issues that are critical to institution managers, such as the likelihood of stress, tension and aggression, the health of inmates and staff, and utilization of services. A greater focus on these issues is needed by all concerned – researchers, designers, administrators – and by those who set standards.

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*NOTE: Cambridge University Press Cambridge University Press (CUP) is publishing "The Environmental Psychology of Prisons and Jails: Creating Humane Spaces in Secure Settings," (2012) and anticipates the book will be available for purchase in August 2012. Available in hardcover for \$90, you can purchase through Amazon, the CUP Website, or, you can order through any bookstore. A paperback is expected 12-18 months after initial release*

#### *About the Author:*

*Dr. Richard Wener is an Associate Professor of Psychology at the Polytechnic Institute of NYU. Professor Wener's research and consulting have focused on the way correctional architecture affects facility operations and the perceptions and behavior of staff and inmates. This work began in 1975 with evaluations of the then new federal Metropolitan Correctional Centers in Chicago and New York. He has since conducted evaluations of dozens of prisons and jails and several large nationwide surveys of correctional facilities. He has consulted in the area of facility design and planning for adult and juvenile detention and corrections facilities. Prof. Wener's writings have largely dealt with identifying design and management features which serve to reduce violence, vandalism and stress in correctional settings by understanding the lessons of successful direct supervision facilities. He has studied the impacts of crowding and noise in jails and led a team that conducted a social impact assessment of a proposed detention facility. Prof. Wener was a team member that studied the impact of nature views on staff stress reduction in a jail intake area – funded by the National Institute of Corrections and was co-principal investigator for a National Institute of Corrections funded study to examine best policies and practices used by direct supervision jails in dealing with overcrowding. He served as consultant to "Cost and Design Implications for Third Edition Conditions of Confinement Standards." This effort, funded by the National Institute of Justice, resulted in a manual used in implementing changes to the American Correctional Association Standards for Adult Correctional Institutions. He was a co-developer for*

*a Standardized Environmental Evaluation System for Correctional Environments for the National Institute of Corrections and the National Institute of Justice.*

**Appendix: Best Practices Literature Attached:**

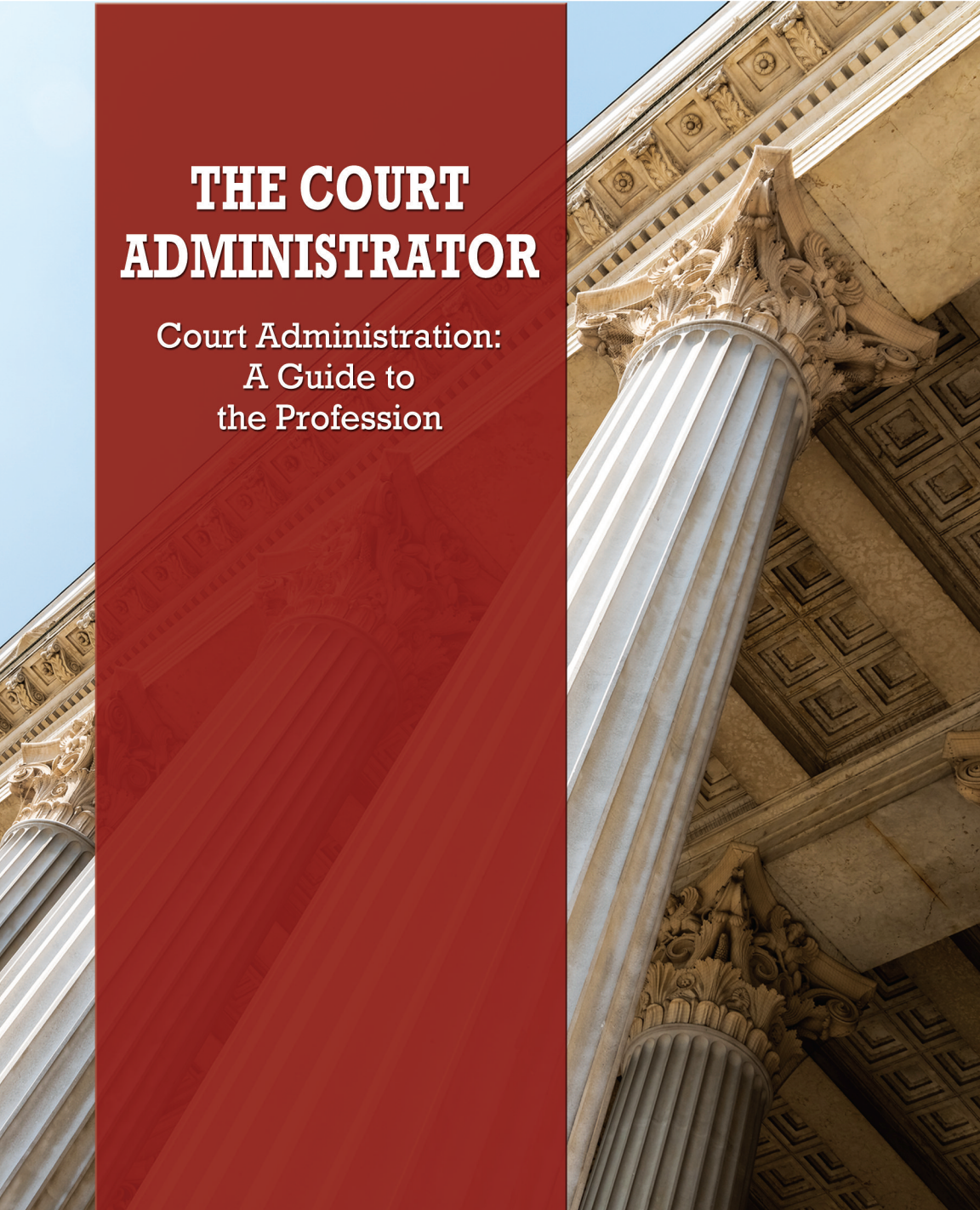
1. *The Court Administrator, Court Administration: A Guide to the Profession.* Publication of the National Association for Court Management. This publication is provided in an appendix of this report.
2. *Core Competency Curriculum: What Court Leaders Need to Know and Be Able to Do.* Publication of the National Association for Court Management.
3. *Steps to Reengineering: Fundamental Rethinking for High-performing Courts.* Publication of the National Association for Court Management.
4. Tarrant County, TX *Differentiated Felony Case Management.*



National Association  
for Court Management

# THE COURT ADMINISTRATOR

Court Administration:  
A Guide to  
the Profession



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## **Court Administration: A Guide to the Profession**

### **Guide Workgroup**

**Paul DeLosh, Chair**  
Virginia

**Tracy J. BeMent,**  
Georgia

**Christopher Bleuenstein, Ph.D**  
Arizona

**Janet G. Cornell,**  
Arizona

**Mark Dalton,**  
Pennsylvania

**Tracy Schatza,**  
Arizona

**Jeffrey Tsunekawa,**  
Washington

**Bob Zastany,**  
Illinois

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# Introduction

The National Association for Court Management (NACM) is a non-profit organization dedicated to improving the quality of judicial/court administration at all levels of courts nationwide, with its scope expanding internationally. The purpose of NACM is to provide a forum for court professionals and more importantly to promote the fair and impartial administration of justice. The association offers court managers an ethical code of conduct that promotes professionalism and competence, as well as aids in the navigation of the independent and interdependent relationships that court professionals face. The association improves the profession through education, provides opportunities for members to exchange information and ideas, and develops publications to guide the application of best practices in court management.

Court administrators have a responsibility to identify and implement initiatives that increase the public's understanding of the judicial system and provide for equal access to justice for all. Court administrators also ensure that the independence of the judiciary as the third and independent branch of government is maintained while cultivating relationships with the other branches of government and stakeholders.

NACM has prepared this Guide to provide a better understanding of court administration for judicial officers, court professionals, and other interested parties. It describes the history and significance of professional court administration and the role of the court administrator, including the qualifications and resources for selecting court administrators.



## History of Court Administration

A heightened awareness in the early 1970s of the need for professional management to direct the multi-faceted operations of courts has resulted in the profession of court administration. Over the years, court administrators have become an integral part of judicial management because the effectiveness of the judiciary resides in organizational competence. Courts must keep pace with increasingly complex caseloads and the increasing focus on the performance of the judicial system. The ability to address those and other challenges requires effective management by judges within the courtroom as well as by administrators outside of it.

In August 1969, soon after he became Chief Justice of the United States Supreme Court, Warren E. Burger observed, “The courts of this country need management, which busy and overworked judges, with drastically increased caseloads, cannot give. We need a corps of trained administrators or managers to manage and direct the machinery so that judges can concentrate on their primary duty of judging. Such managers do not now exist, except for a handful who are almost entirely confined to state court systems. We must literally create a corps of court administrators or managers and do it at once.”

As a result of Chief Justice Burger’s efforts, and those of other leaders in the field, court administrators have become an essential part of the federal, state, and local courts.

***“The dignity and stability of government in all its branches, the morals of the people, and every blessing of society depend so much upon an upright and skillful administration of justice... ”***

***– President John Adams***

## Why Court Administration?

Courts need professional administrators to organize and manage operational matters in conjunction with leadership from judges, just as city managers, school superintendents, and hospital administrators manage their institutions. Virtually every expert in the field of judicial administration has stressed the need for management by educated and trained professionals.

This concept of court administration has been endorsed by the American Bar Association, the National Advisory Commission for Standards on Court Organization, and many other national associations, conferences and commissions. It is a validation of the importance of strong organizational leadership. The field of court administration emanated from the growing need to professionally manage internal operations, deal with organizational system complexity, large workloads and volumes, and ever-increasing expectations for organizational performance and accountability. Court administrators ensure that those ever-increasing expectations are valued and demonstrated not only for the benefit of those external to the organization but also for those within it.

Professional court administrators may have a variety of working titles including: court or district administrator, court executive, court manager, court executive director, clerk of court, chief administrator, or court director. Professionally educated and trained administrators – thoroughly disciplined in judicial procedures and modern administrative practices, whether in practice or through universities – provide court systems with the administrative competence courts traditionally have lacked and needed. Court administrators work in an executive component or productive pair relationship with a chief

judge. The term chief judge is used in this Guide and is meant to indicate the person holding administrative oversight of the court. Some courts may refer to this as chief judge, presiding judge, administrative judge, senior judge or numerous other titles. Some courts may have such oversight performed by a governing group or council of judges.

The administrator's primary role is to facilitate the administrative functions of the court under the general guidance of their chief judge. Together, they provide the court with an executive leadership team capable of confronting issues, dealing with increased complexity, and addressing the necessity of change and innovation that characterize a modern and evolving court system.

Court administrators also fulfill roles as supervisors, managers, or leaders and each role serves a different purpose:

- Supervision, perhaps the most narrow of the roles, is the function of watching and directing a set of activities and actions, essentially providing oversight to the activity.
- Management involves coordinating the work, actions, and efforts of people to accomplish, or in support of, defined goals and objectives. Coursework on management often includes an acronym that illustrates management functions (POSDCORB); it represents the traditional duties of a manager – planning, organizing, staffing, directing, coordinating, reporting, and budgeting.
- Leadership involves higher level, and more complex, functions such as establishing a vision, promoting and sharing the vision and goals, and then providing support via information, knowledge and methods to

realize the vision. It also involves skill in anticipating or keeping current on emerging challenges, trends, and proficiencies within a profession.

At any given time, a court administrator may provide supervision, management, or leadership. It is leadership however, that is the hallmark of a professional and of the modern court administrator. These leadership abilities allow the court administrator to effectively partner with the chief judge and all judges as well as their staff, to respond to the growing demands upon a court and the increasing expectations for performance.

Court administrators may also be called upon to be innovators, “out of the box” thinkers, change agents, or even entrepreneurs. The duties of court administrators vary, depending on the jurisdiction, location, size of the court, and perhaps the particular focus of the court or division in which they are employed.

The court administrator typically functions in administrative areas, rather than legal areas, and therefore requires the specialized skills of any professional position with managerial responsibility. One chief judge stated, “We have plenty of lawyers in the court. What we need is someone who has a managerial background and knows what management is.” This Guide elaborates on skills and functions performed by court administrators, and the crucial foundational knowledge, skills and abilities detailed in NACM’s Core<sup>®</sup>.

## Relationship of the Administrator to the Bench

Judges and court administrators work in a complex legal environment characterized by both ambiguity

and adherence to local custom - both cultural and organizational. Within that environment, one of the most significant relationships is that between the judges and the court administrator. Judges are ultimately responsible for the court's effective administration. Frequently, constitutions and statutes make this duty clear, while at other times the duty is implied. In either case, effective administration takes place when the judicial officers and the court administrator lead the court together providing a roadmap that court staff can successfully follow. Effective systems of administration provide for the participation of all staff (to varying degrees) within the organization in the development of policy and planning for the court. Through the collaborative efforts of the court administrator and the chief judge, court policy is defined, implemented, monitored, sustained, and/or revised.

## A Dual Function

The court administrator serves the dual function of increasing the amount of time a judge has for adjudication (i.e., hearing and handling cases) and bringing management knowledge and ability to the judiciary. In any court, judges must divide their time between judicial and administrative functions. With ever-present caseloads and ongoing demands for expedient case resolutions, judges often have little time to direct the daily operations of the court system, plan for the implementation of new technologies, or integrate new procedures that can improve system performance.

A court administrator, along with a chief judge (or to those the court administrator reports to), comprises the court leadership team. Some courts include an appointed or elected clerk or probation chief as part of the



senior leadership team. A court administrator can help the court develop and recommend policies and coordinated work processes that enhance system performance, while maintaining the independence of individual judges and operations. Court administrators can also develop goals for the courts, prepare and execute budgets, recognize changes in caseload or demographics that will affect court operations and funding, manage court personnel and programs for their professional development, improve jury systems, increase access to justice and services to the public, implement automated information systems, plan for facility requirements, administer systems for assessing and collecting fees, and establish procedures for handling information requests.

Court administrators are often called on to address high level issues - budgets, media, irate consumers and interagency negotiations to name a few. As such, court administrators are often the liaison between the court, the public and governmental stakeholders. Likewise, some issues facing the courts can be very delicate and

require special attention. A court with an effective court administrator working closely with their bench can successfully manage any issue or crisis. In certain matters the chief judge may not wish to be directly involved and in other matters there may be ethical considerations precluding the judge from having direct involvement; nonetheless the partnership between administrator and judge will foster solutions that will benefit the judicial system.

## Chief Judges and Court Administrators – A True Partnership

The attitudes and perceptions of the judiciary, especially those of the chief judge, are of key importance to a court administrator. Likewise, the functions and performance of the court administrator are critically important to the court and should be a prime focus of the chief judge. Usually, a court administrator serves as an appointee of the entire court but is subject to the supervision and direction of the chief judge. In addition, many functions performed by a court administrator were traditionally duties of the chief judge. Therefore, the perspective of the chief judge regarding the court administrator's role will determine (to a great extent) the particular duties of the court administrator in actual practice.

For instance, if the chief judge views the functions of the court administrator as those of a member of the leadership team – rather than as separate and supportive of his or her own functions – the judge may be more likely to entrust the administrator with broad responsibilities. In this situation, a chief judge sees the court administrator as a professional and as the main source of support, advice, and information on managerial matters facing the court. The chief judge and the court administrator

can increase each other's effectiveness by establishing a relationship based on mutual respect for one another while utilizing the unique skills each brings to the task at hand. If the courts are not already functioning in this way, this is where they ought to be as high-performing organizations.

## **Job Success Factors**

The court administrator's success in assuming administrative and managerial responsibility for the court's operational activities and institutionalizing a high-performance approach within the court depends on several factors. The court must actively support the administrator. Acceptance and support for the position are achieved most easily when the role of the court administrator is well-defined. The judges must be willing to entrust the court administrator with those duties that do not involve legal decisions. The judges should understand that assigning duties and responsibilities does not constitute a loss of control. As policymakers, they collectively manage the activities of the court administrator and, through the administrator, the administrator's staff and all court personnel. Judges will discover that their knowledge of court operations will increase because a professional administrator provides an excellent communication link. The success of a court's administrator depends on a clearly defined role, acceptance by the judges, good communication between the court administrator and others in the court system, and the competencies of the individual fulfilling that role.

## **Selecting a Court Administrator**

Having made the decision to employ a court administrator, the court needs to answer the following questions:



What exact functions does the court want the court administrator to perform? What knowledge, skills, and abilities will suit the court? What competencies and traits are important to the success of the court? What role does the administrator play in the court organization? It is essential that the court clearly address these questions and identify the role and duties expected of the court administrator and publish them in the job announcement.

There are as many titles for “administrator” as there are courts and people in these roles. The title reflects the scope of responsibility and authority the court assigns to the role and the title should be closely aligned with the job description and position title. Ideally, the court administrator will combine the technical skills of a manager with the knowledge of public administration and an understanding of the duties and issues typical in the courts.

Specifically, the court administrator should have completed considerable study of public and/or business administration or have practical experience in these fields. To this end, many courts require that a court administrator hold a degree in business, public, or judicial administration and/or be a graduate of the Fellows Program of the National Center for State Courts’ Institute for Court Management (ICM) or have certification from a similar program. In addition, the court administrator should be familiar with courts and government as well as with organizational and operational management. If the position manages personnel, prior management experience should be required.

A court administrator may be selected by a process that includes a majority vote of all the judges in a multi-judge court. In very large urban courts, a selection committee chaired by the chief judge and a representative of

the entire bench can select and/or recommend to the entire bench the hiring of an administrator. The position of court administrator is the most important administrative position in the court; therefore, each judge should participate in the hiring process, to the extent practical.

Many courts delegate appointment and removal authority to the chief judge. Because the court administrator serves the entire court, a policy of majority appointment and removal ensures continuity and insulates the court administrator from decisions that arise from a short tenure as chief judge or rotation from that role, if and when a change of the chief judge occurs. The court administrator's term is usually indefinite as a court administrator typically serves at the pleasure of the court.

A nationwide search for a court administrator ensures a diverse pool of qualified candidates. The National Center for State Courts (NCSC), which provides secretariat services to selected professional organizations such as NACM and the Conference of State Court Administrators (COSCA), maintains a list of job openings. Other recruitment avenues (search firms, job boards, job posting sites, and recruiting sites) should also be considered and used to ensure broad outreach to qualified candidates. The process is time-consuming and there are benefits and weaknesses with each type of process and with each outreach resource utilized.

## **Preferred and Minimum Qualifications**

The years of experience sought should be based on the size and structure of the court organization. In some instances, the job announcement will note a minimum number of years of experience required, and preferred qualifications often will be stated. The position frequently will require a number of years of progressively

responsible management experience. Examples of qualifications may include: a graduate degree in judicial administration, public administration, public policy, business administration, or law with management experience in a court for multiple years, with proven competency in administration and management.

## Core Competencies of a Court Administrator

As part of an organized profession, NACM members endeavor to demonstrate certain qualities attributed to a profession; they include specialized knowledge and education, a code of professional ethics, and expected standards of performance.

NACM has asserted that a court administrator should have these qualifications:

- Administrative ability demonstrated by substantial experience in progressively responsible management positions in government or the private sector;
- Experience in current business and management techniques, including use and implementation of case management automation and information technology;
- A demonstrated ability to observe, identify issues, gather data, analyze and offer recommendations to improve court administration, implementing when approved;
- Good judgment, understanding, and being tactful and effective in maintaining working relationships with other courts and with local, state, and federal government officials, members of the Bar, and the public;

- High-level of willingness to cooperate with and have trust in justice partners and stakeholders;
- The ability to conduct conferences and meetings and communicate clearly in writing and speech to employees, judges, representatives of government agencies, industry, and the public;
- Formal training and educational qualifications in court administration and managerial experience, in addition to familiarity with court procedures and functions;
- Creativity, leadership, planning ability, organizational skills, initiative, decisiveness, and dedication to make productive changes in the unique court environment;
- Ability to understand, promote and model high ethical standards;
- A fundamental understanding of Constitutional principles and adherence to the court's purpose and goals as a separate branch of government;
- Ability to follow as well as lead in the implementation of policies created by the judiciary; and
- Respect for the requirements of confidentiality and loyalty when entrusted with the confidence of judges.

In 2015, NACM released the Core<sup>®</sup> updating the long-standing core competencies that, for over twenty-five years, provided the foundation of national, state and



local court management educational programming. The field of court management has become increasingly professionalized and diverse. With increasing responsibilities, new demands, and changes in the environment in which court administrators work (e.g., political, economic, and technological), NACM recognized a need to review and update the original competencies. The

Core<sup>®</sup> is intended to be forward-looking to encourage not only competencies for professionals working in court administration but also to promote excellence in the administration of justice.

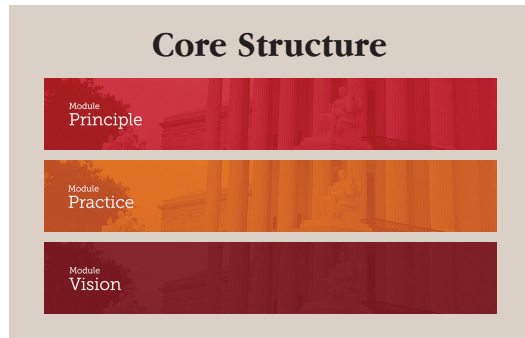
## What Are Core Competencies?

Being a competent court administrator means that an individual has a demonstrated capacity to carry out required responsibilities in a manner that is consistent with producing effective performance. The Core<sup>®</sup> is designed to help court administrators become court leaders who understand what it means to demonstrate capacity in all aspects of court administration. Overall, the Core<sup>®</sup> is a comprehensive and detailed description of what individuals working in the field of court administration need to know and effectively be able to do. The Core<sup>®</sup> is not intended to be static indicators of performance but rather dynamic and adaptable to different types and levels of courts.

Court leaders, managers, and their staff will find the Core<sup>®</sup> is organized to reflect the types of knowledge and skills needed to be effective at all levels of court management. Recognizing that the Core<sup>®</sup> provides an opportunity to assist both young professionals new to the field, as well as those looking to advance in the field and improve their overall performance. NACM's approach provides a roadmap for the profession of court administration—from the foundational knowledge essential to every individual in court management to the more complex and advanced areas required to be an effective manager and court leader.

As such, the Core<sup>®</sup> is organized into three modules: **Principle**, **Practice**, and **Vision**. Within each are

competencies an individual requires to be an effective staff member, manager, or court leader, whether in a current position or advancing to positions of greater responsibility and authority.



The **Principle** module focuses on the fundamental and enduring principles that every person working in the courts should be knowledgeable of and demonstrate competency in, regardless of the individual functions or tasks they perform for the court. The competencies within the Principles module are relevant at all experience levels—whether as a newly hired employee, a seasoned professional moving into the courts from other disciplines or agencies, or as a long-time member of the court community.

The **Practice** module defines the competencies that a court leader should have to effectively perform both the day-to-day and long-term functions of the position. Although not every court leader will individually be responsible for performing each specific function, it is important to have an understanding of why the function is important, what critical skills are needed to be effective, and how to apply the skills.

The competencies in the **Vision** module detail what a court leader needs to be able to do to effectively develop and manage a strategic vision for the court. Court leaders must be able to identify and address emerging issues that have an impact on the administration of justice, and

they must be able to navigate changing political and economic environments. To perform these functions, the court leader must demonstrate creativity, determination, drive, conceptual and analytical skills and the ability to execute. These traits position the court leader to work with judicial officers and other system leaders as part of a leadership team, to assess and respond to trends and to promote overall court capacity and effective court governance.

## Application and Use of the Core Competencies

The Core<sup>®</sup> is designed to provide a framework of the critical competencies needed to be an effective staff member, manager, or court leader regardless of the type of court in which a person works. The Core<sup>®</sup> can be used by the court administrator in many different ways:

For individual professional development

- By individuals within the judicial system to evaluate their own competence
- By individuals to advance their competency levels to promote individual growth and development into a court manager, or other leadership positions

For staff development

- As an orientation tool for new staff members
- As a tool for identifying areas of deficiency or gaps in competence within the office as a whole

For advancing the field of court administration and management

- As a guide for national training programs in court administration

- As a measure of how the profession is changing over time

Regardless of how the Core<sup>®</sup> is used, it has been structured to provide consistent information across all competencies. This consistent structure defines and reviews the indicators of competence and also how the competency is demonstrated in the daily responsibilities of the court administrator. These competencies of the Core<sup>®</sup> include:

## Public Trust and Confidence

Public trust and confidence is integral to the credibility of the judicial branch. To be effective at managing trust and confidence, court leaders must be able to maintain an organizational culture that fosters integrity, transparency and accountability for all court processes and proceedings.

## Purposes and Responsibilities

While the Purposes and Responsibilities competency requires knowledge of and reflection upon theoretical concepts, their history, and development over time, it is practical in nature. The Purposes and Responsibilities competency gives meaning to court





management and the other twelve competencies in the Core<sup>®</sup>. The other competencies are defined by Purpose. Purposes and Responsibilities guide courts on how to achieve their overarching mission of the administration of a fair and accessible system of justice.

## Caseflow and Workflow

Caseflow Management is the process by which courts carry out their primary function of moving cases from filing to disposition. The management of caseflow is critical because it helps guarantee every litigant receives procedural due process and equal protection. This also requires the balance of individual justice in individual cases and justice delayed is justice denied. Workflow management involves the coordination and support of all tasks, procedures, resources (human and otherwise) necessary to guarantee the work of the court is conducted efficiently and is consistent with the court's purposes and responsibilities. An effective court administrator understands that effective caseflow and workflow management makes justice possible both in individual cases and across the judicial system.

## Operations Management

Court administrators must manage and support complex environments which are comprised of an array of departments, units and functions that need to be maintained on an ongoing basis to support court operations. The range and nature of these functions and activities varies significantly, depending on court jurisdiction; and the unique ways individual courts are organized and operate. Regardless of the nature of the court (urban or rural, large or small, general or limited jurisdiction,

specialty or problem solving, federal, tribal, administrative, or international), these elements of operational management are vital and court leaders will have some level of responsibility. Effective court leaders understand the court's operations and, regardless of who has formal authority over them, work to ensure they are well managed. Among the operational areas (not included in other Core<sup>®</sup> areas) are jury oversight, facility management, security, space planning, emergency preparedness, technology oversight, records management, and information technology responsibilities.

## **Public Relations**

If the courts are to be accessible, open, responsive, affordable, timely, and understandable, courts must learn from and educate the public. To interact effectively with the public, court leaders must understand the impact the media can have on forming the public's understanding and perception of the courts. Understandable courts, skillful community outreach, effective intergovernmental relations, and informed public information all contribute to improved court performance and enhance public trust and confidence in the judiciary.

## **Educational Development**

Educational development can help courts improve court and justice system performance to achieve their desired future. Education development programs are aimed at judicial and court administration staff, especially those in and aspiring to leadership positions and many others with whom the court interacts, both internal and external to the courts. Because judicial branch education helps bring about all other competencies and helps

courts maintain balance between the forces of change, enduring principles, and predictable processes, court leaders take responsibility for it. Judicial branch education needs to be strategic and emphasize education and development.

## Workforce Management

Courts need people who are competent, educated, professional, ethical, and committed. Effective human resource management not only facilitates exceptional performance it also increases morale, and the employee's perception of fairness and self-worth. People who work in the courts take on an important role and are held to a high standard. With proper leadership, court human resources management contributes to a meaningful work environment.

## Ethics

Ultimately effective court leadership requires ethical actions. Court leaders must be ethical in order to preserve the public's trust and confidence in the judiciary and the rule of law. At a minimum, court leaders must uphold the ethical standards demanded of the citizens, but court leaders must also maintain a higher ethical standard as stewards of judicial administration and the institution of the courts. Ethics are the expression of a personal and professional commitment to the principles of citizenship and justice.

## Budget and Fiscal Management

The acquisition, allocation, and management of a budget impacts every aspect of court operations and can

determine how well a court can achieve their mission. Resources are rarely sufficient to fund everything of value to courts, but when resource acquisition and allocation are skillful, courts have the opportunity to preserve their independence as the third branch of government, and build and maintain public trust and confidence.

## **Accountability and Court Performance**

Court leaders are accountable to both the judiciary and the public to maintain a high performing court, which means court administrators must be able to measure and manage performance. This may include actions to monitor case management systems and provide research and advisory information. The skillful collection and analysis of case management information ensures that court leaders are able to factually demonstrate through data the actual performance of caseload management in a court. All court organizations want better outcomes, and the best way to achieve better outcomes is by measuring the performance of processes that support court programs and related services, and then utilize the data to make improvements. Accountability and performance management is a process that allows the court to answer questions such as:

- How good are we at achieving our goals and objectives?
- Are we improving?
- What do we define as success? And, how do we know we've achieved it?

## **Leadership**

Effective court leaders create, implement, and nurture a clear and compelling vision for the court, bringing a

strategic perspective to their work, while staying attuned to daily operations. The combination of leadership and proactive management enable the court to fulfill the public's trust in the judiciary through service and adherence to the rule of law. The effective court leader is ultimately measured by the judiciary's performance in key areas: procedural due process, the protection of rights, transparency, access to justice, the stewardship of scarce resources, and the achievement of timely justice in individual cases. Effective court leadership delivers on these promises through a well-defined and fully operational governance structure. Leaders in the courts may take a variety of roles as an innovator, motivator, communicator, collaborator, visionary, strategist, and diagnostician.

## Strategic Planning

Strategic planning is a process that involves principles, methods, and tools to help court leaders decide what to do and how and when to do it. The strategic planning process is directional and linear. Strategic planning translates the court mission, core functions, and the vision into plans and action. Strategic planning invites court leaders, their justice partners, and the community, first to imagine and then to deliver the future they prefer.



## Court Governance

Court Governance is the framework by which courts operate, managing day-to-day operations and developing long term strategies. Effective court governance provides

consistency and predictability of operations, increases transparency and accountability, and promotes meaningful input into the decision-making process. It is essential as it supports judicial independence, enhances public trust and confidence in the courts, and improves the overall administration of justice.

To learn more about the Core<sup>®</sup> visit the Core website – <http://nacmcore.org>.

## Why Participate in a Professional Organization?

NACM is the largest court management association of its kind and is an organization for court professionals. It was formally established in 1984 by consolidation of the National Association of Trial Court Administrators (NATCA) and the National Association for Court Administration (NACA), officially merging in September 1985.

NACM provides professionals in the field of court management with the tools and resources necessary to succeed in a rapidly changing environment. One of NACM's objectives is to distribute information received from scholars, technicians, researchers, and experienced court administrators.

The ranks of the association are comprised of a wide range of leaders from all types of courts, a number of whom have pioneered innovative systems for resolving major administrative problems. Members include judges, supervisors, managers, human resources directors, educators, researchers, students, and a variety of other professionals working in and around courts.

Through participation at meetings and via correspondence, publications, and standing committees, NACM

members network, innovate, and solve problems of court operations. Members are kept informed of developments in the field through the *Court Manager*, NACM's official quarterly publication, and the *Court Express*, a bimonthly electronic newsletter. NACM also publishes many other guides on topics of interest, posts information on its website, and conducts periodic surveys to monitor trends in the court and profession and provide detailed reports on the findings to its members.

Among NACM activities are conferences, webinars, and educational programs. The highlight of each conference is the educational program. Meetings of the association's committees, the annual business meeting, and the election of board members are also conducted. NACM's work on professional administrator competencies provided the foundation of the ICM program and complements others such as the Michigan State University Judicial Administration Program and court administration curricula in universities throughout the country. Altogether, they represent landmarks in the movement that now recognizes the profession of court administration and court management.

NACM partners with many other organizations and associations all of whom share a common goal of improving the quality of judicial administration. These professional associations operate at the national, regional, and state levels and represent courts of every type, whether federal, state, or local. Those seeking information on NACM partnerships, educational offerings, and topics related to court administration can visit the website – [www.nacmnet.org](http://www.nacmnet.org).

***“We need to promote the concept of management in the courts as a noble calling. Both the art and the science of management are essential ingredients in ensuring the administration of justice.”***

***– Sandra Day O’Connor (Retired)  
Associate Justice, US Supreme Court***

## Model Code of Conduct for Court Professionals

NACM recognizes the importance of ethical conduct by its members in the administration of justice. NACM members hold positions of public trust and are committed to the highest standards of conduct. NACM members observe these standards of conduct to preserve the integrity and independence of the judiciary. The NACM Model Code of Conduct embodies a dedication to upholding and increasing the public’s confidence in the judicial branch of government and also reflects a commitment to promoting integrity within the association and profession.

***“Ethics is knowing the difference between what you have a right to do and what is right to do.”***

***– U.S. Supreme Court Justice Potter Stewart***

The NACM Model Code of Conduct follows, in summarized form. The Model Code of Conduct may be found at <http://www.nacmnet.org/ethics/index.html>. Included are definitions, comments, real-life scenarios and expanded commentary on aspects of the Model Code. Links are included to provide information about other pertinent codes.



# NACM Model Code of Conduct for Court Professionals

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## **Canon 1: Avoid Impropriety and the Appearance of Impropriety in All Activities**

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1.1 - Performance of Court Duties	Work diligently, efficiently, equitably, thoroughly, courteously, honestly, truthfully, and with transparency. Carry out properly issued court orders and rules, and act within the court professional's authority.
1.2 - Avoid Impropriety	Avoid improper influences and activities that would impugn the dignity of the court.
1.3 - Fairness	Conduct work without bias or prejudice.
1.4 - Respect of Others	Treat those interacting with the court with dignity, respect, and courtesy.
1.5 - Involvement in Actions Before a Court	Notify authority when self or other personal relation is arrested, named as a party, or otherwise formally involved in any action pending in any court.
1.6 - Avoid Privilege	Use official position solely for intended purpose and do not exploit access to judges and court.
1.7 - Assist Litigants	Respond to inquiries regarding standard court procedures and provide legal advice only if part of official duties.

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## **Canon 2: Perform the Duties of Position Impartially and Diligently**

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2.1 - Independent Judgment	Avoid relationships that impair impartiality and independent judgment, and remain vigilant of conflicts of interest.
2.2 - Personal Relationships	Recruit, select, and advance personnel based on demonstrated knowledge, skills, and abilities. Avoid supervising or influencing the hiring or advancement of personal relations. Constantly monitor work relations with personal relations and take remedial action at earliest sign of problem.
2.3 - Misconduct of Others	Expect colleagues to abide by these canons and report violations.

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2.4 - Attempts at Influence	Immediately report any attempt to compel violations of these canons.
2.5 - Properly Maintain Records	Do not inappropriately destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any records within the court's control.
2.6 - Legal Requirements	Maintain legally required confidentiality of the court and disclose information only to authorized individuals.
2.7 - Discretion	Be respectful of the personal lives of both employees and those involved with the court system. Only use and provide information that is verified and within the parameters of disclosure.
2.8 - Proper Use of Public Resources	Manage resources, property, and funds judiciously.

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**Canon 3: Conduct Outside Activities to Minimize the Risk of Conflict with Official Position**

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3.1 - Outside Business	Avoid outside activities that reflect negatively upon the judicial branch and on one's own professionalism. Maintain clear boundaries between court work and other professional/personal interests.
3.2 - Compensation and Post-Employment Restrictions	During or following employment with a court, do not engage in business with same court unless both the employment and commercial interests are fully disclosed to and approved by the court.
3.3 - Avoid Gifts	Do not solicit, accept, agree to accept, or dispense any gift, favor, or loan that would influence an official action of the court.
3.4 - Financial Disclosure	Disclose all financial interests and dealings required by law, rule, or regulation.

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**Canon 4: Refrain from Inappropriate Political Activity**

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4.1 - Refrain from Inappropriate Political Activity	Participation in political activity, including campaigning for a court position, is limited to non-court hours, using only non-court resources. A court position should be resigned if there is a conflict of interest, or interference with the performance of duties.
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## Court Administration Internationally

Courts around the world perform the critical function of upholding the rule of law in the administration of justice. Each court system represents a diverse set of mandates, structures, and organization, reflecting the different cultures, history, legal traditions, and needs of each nation. In addition, there are several international courts and special tribunals for specific situations. Courts around the world rely on effective court administration to succeed, thus the demand for professional court administrators exists globally.

NACM has a strong tradition of collaborating and supporting international court administration through both partnerships and the individual efforts of NACM members who perform consulting and technical assistance projects worldwide. Resources are available on the NACM website: <https://nacmnet.org/international>.

## The Future of Court Administration

In order to be successful, court administrators will need to focus on collaboration and dialogue with all aspects of the justice system and other professionals. They will increasingly deploy and use technology to perform court functions and satisfy the expectations of the public. Future court administrators will be required to navigate interdependencies that accompany complex organizational structures. They must successfully manage inherent system intricacies, continually evaluate and reengineer processes for efficiencies, economies of scale, and operational improvement, and be adept at change management to master these collaborations.

Generational changes will influence how the courts are managed. Court administrators and thus court administration will be led by millennials who were inspired from a young age to collaborate, innovate and share. The foundation will be built upon skills of leading teams, entrepreneurial spirit and collaborative networking with high capacity of being an integrator with a high level of specialization in a technical world. The evolution of court administration and the need to meet the expectations of a new workforce of the future requires the need to recognize that multiple viewpoints are better than one and that micro-managing and negative feedback stifles creativity. The building blocks for the future of court administration and court managers are:

- **Transparency** – judicial employees must be able to apply the values of, and have line of sight and involvement in, the vision of the court organization.
- **Flexibility** – successful court organizations and court managers have to have the capacity to embrace change.
- **Collaboration** – newer generations are growing up on social media and have a more collaborative approach to work – moving from the top-down structure and embrace a flatter management and reporting structure.
- **Empowerment** – jobs/careers and personal life are an integrated pair of experiences that foster collaboration and innovation, court leaders ought to nurture their sharing personalities.
- **Host (Not Hero)** – the role of the court manager is more like a host than a hero—drawing people together around an issue or challenge, engaging them and getting results through others.

## **APPENDIX B**

Tarrant County: Differentiated Felony Case Management

# **Tarrant County**

## **DIFFERENTIATED FELONY CASE MANAGEMENT**

### **PREAMBLE**

The following Differentiated Felony Case Management (DFCM) system is the result of a collaborative effort of a task force consisting of representatives from the following entities: the Tarrant County criminal district judges, the Tarrant County criminal district court coordinators, the Tarrant County District Attorney's Office, the Tarrant County Criminal Defense Lawyers' Association, the Tarrant County Sheriff's Office, the Tarrant County District Clerk's Office, the Tarrant County Community Supervision and Corrections Department, and the Tarrant County Information Technology Department. The task force has met weekly over the course of several months to develop the DFCM system.

The DFCM system is a result of the need to increase the use of information technology in the processing of criminal cases, to increase the efficient use of court time and resources, and to standardize the practice among the criminal district courts. The goal of this process is to create an efficient and fair system for the disposition of felony cases taking into consideration such diverse factors as local jail population, the Fair Defense Act, judicial discretion, and the individual interests of the various participants in the criminal justice system.

Central to the theme of the DFCM system is the concept that each court event should involve timely action and meaningful progress toward case disposition. The system recognizes the need to administer different categories of cases based on their individual issues and complexity.

The system seeks to enhance public confidence in the Tarrant County criminal justice system, and to foster a sense of pride among the professionals who administer it.

## THE CASE TRACKING SYSTEM

For purposes of court administration, felony cases filed in the criminal district courts will be divided into three case tracks by offense category. The three case tracks are:

1. The Expedited Case Track
2. The Basic Case Track
3. The Complex Case Track

While there are necessary differences in the administration of the three case tracks, there are also numerous similarities.

### CASE FILING DATE

The date that the case is filed by the Tarrant County District Attorney's Office is the triggering date for the Initial Appearance Setting within the DFCM system. Each filed case will be randomly computer-assigned to one of the ten felony district courts. At that time each individual case will also be assigned to a case track based upon the offense code at time of filing.

The trigger date for setting probation revocations is the date the defendant is arrested on the petition. Probation revocations will only be included on the track through the CS, then will be set for hearing or other disposition during a non-jury week.

Based upon individual case factors, the case track for a given case may be changed at any time by the trial judge after consultation with the parties.

The DFCM system will automatically send notice to the defendant, bail bondsman and defense attorney for each court setting based on the filing date and case track. The courts and state will receive notice of the settings by way of the setting dockets.

### THE INITIAL APPEARANCE SETTING

The first setting for each felony case is the Initial Appearance Setting (IAS). The purpose of the IAS is to ensure that each defendant has an attorney on all pending cases. A case will not progress to the next case setting until the defendant is represented on all cases.

All IAS will be conducted in the magistrate's court. In cases where the defendant is in custody, the IAS will be conducted within four days of the filing date.

Where the defendant is on bond, the IAS will be conducted within 15 days of the filing date.

If the assigned court or magistrate's court has received notification that a defendant is represented by retained counsel before the IAS, the defendant and counsel will be excused from the IAS. Notification may be delivered by fax, email or letter.

If an attorney is retained before a case is filed, the attorney is expected to notify the Office of Attorney Appointments so that the attorney's name can be coordinated with the case when filed.

If a defendant is not represented by counsel at the IAS, the magistrate will inquire into the reason for the lack of counsel and require the defendant to complete the "Election

of Counsel” form. If the defendant requests court appointed counsel, the magistrate will require the defendant to complete the “Affidavit of Indigency.” After the defendant has completed this form, the magistrate will conduct a thorough indigency hearing. If the defendant is on bond, the magistrate will not complete the hearing until the defendant has produced the documents required by condition of bond. The failure or refusal of the defendant to produce the required documents at the IAS may result in the re-arrest of the defendant.

If the magistrate finds that the defendant is indigent, the defendant will be appointed an attorney from the felony court appointment wheel. The magistrate will then enter an order requiring any defendant with appointed counsel to make payments toward appointed attorney fees through the District Clerk’s office where it is determined that the defendant is financially able to make such payments.

If the magistrate finds that the defendant is not indigent, the magistrate will urge the defendant to hire an attorney and may reset the case for another IAS.

The magistrate will also review all cases for appropriate bond conditions and modify the conditions accordingly. If a defendant is in custody, the magistrate will also review the bond amount and may, based on individual case factors, reduce the bond to an amount consistent with the current bond schedule set by the criminal district judges.

### THE CONSULTATION SETTING

The next setting for each case is the Consultation Setting (CS). The CS will be conducted in the assigned district court and will include all of a defendant’s then pending cases. Later cases filed against a defendant will be scheduled with the earlier filed cases.

All attorneys accepting appointments from the felony court appointment wheel shall comply with all required settings pursuant to the requirements of the Felony Public Appointment Guidelines of the Tarrant County Criminal District Courts.

In all cases where a defendant is represented by retained counsel, the CS will occur as soon as practical following the date of the return of an indictment, allowing for reasonable notice to all parties.

In all cases where a defendant is represented by appointed counsel, the CS will occur pre-indictment in order to allow the opportunity to meet and consult with appointed counsel with the State and its files available for discovery and meaningful consultation in order to allow, if possible, a prompt and just resolution of the case. Continued compliance with all bond conditions and the Felony Public Appointment Guidelines will also be monitored at this setting.

Prior to the CS the assigned prosecutor will be expected to thoroughly review the case(s) and arrive at a considered and educated plea agreement offer, at least on cases within the Expedited and Basic case tracks. The Tarrant County District Attorney’s Office has agreed that their file will be open to the attorney of record on all cases. The defense attorney will be expected to have thoroughly reviewed the state’s file, to have consulted with the defendant, and to have begun any necessary investigation. At the CS the defense attorney will be expected to convey the plea agreement offer to the defendant and to present any motions necessary to complete investigation of the case.

If a plea agreement is reached at the CS, the parties will be expected to complete a “Written Plea Admonishment Document.” After this is done the parties can proceed



through the plea proceeding and sentencing, proceed through the plea proceeding and defer sentencing or defer the plea proceeding and sentencing. All unindicted cases in which an agreement is reached and where sentencing is not completed at the CS will require the execution of a “Waiver of Indictment and Acceptance of Plea Agreement Offer”. All deferred plea proceedings will be conducted during non-jury weeks.

If there is no indictment and no plea agreement is reached at the CS but the defendant waives indictment in writing, the Tarrant County District Attorney’s Office has agreed that the CS plea offer will remain available to the defendant for at least 45 days after the CS.

If a plea agreement is not reached on a probation revocation case at the CS, the court coordinator will schedule the case for a hearing during the next available non-jury week.

If no plea agreement is reached on a case by the conclusion of the CS, the case will be scheduled for an Evidence Exchange Setting.

### THE EVIDENCE EXCHANGE SETTING

The Evidence Exchange Setting (EES) will be conducted in the assigned district court.

By the EES the state will be expected to have completed all necessary laboratory investigation, to have consulted with any necessary persons, and to have the relevant reports available in court.

At the EES the state will be required to disclose the existence of biological or other complex evidence the testing of which could require that the case be moved to the Complex Case Track.

Any agreed discovery must be completed before the parties are excused from the setting.

Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the Consultation Setting.

If no plea agreement is reached on a case by the conclusion of the EES, the case will be scheduled for a Motion Setting.

### THE MOTION SETTING

The Motion Setting (MS) will be conducted in the assigned district court. The state and defendant must file all non-constitutional motions ten or more days before the MS as required by the Texas Code of Criminal Procedure. At the MS, the trial court will conduct a hearing on all motions as requested by the parties. Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the Consultation Setting.

If no plea agreement is reached following the MS on Expedited Case Track cases, the court will set the case for trial. If no plea agreement is reached on Basic or Complex Case Track cases, the parties will receive a Status Conference date.

## THE STATUS CONFERENCE

The last case setting before trial is the Status Conference (SC). Meaningful plea negotiations are encouraged at the SC. At the SC, the court may accept negotiated and non-negotiated pleas of guilty. After the SC, the court may refuse to accept any negotiated guilty plea. If no plea of guilty is entered at the SC, the parties will be required to complete a “Status Conference” form. The defendant will also be expected to execute necessary trial motions such as an application for probation and an election of punishment. After completion of the forms, the case will be scheduled for trial.

## THE CASE TRACKS

### THE EXPEDITED TRACK

The following types of state jail and third degree felony offenses are included in the expedited track:

Burglary of a building	Prostitution-4th
Credit/debit card abuse	Theft
Criminal nonsupport	Aggravated perjury
Evading arrest with vehicle	Bail jumping
False alarm or report	Escape from felony offense
Forgery	Unauthorized use of a vehicle
Possession of prohibited weapon	Tampering with evidence
UCW on licensed premises	Probation revocations
Fraudulent use or possession of identifying information	Unauthorized absence from CCF or CC

If any of the above listed offenses is filed as a habitual offender, the defendant's cases will be moved to the Basic Case Track.

The following table shows the progression of settings under the Expedited Case Track in number of days:

File date=(F); Indictment date=(I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial Appearance (IAS)	F+4	F+15	F+15
Consultation (CS)	F+10	F+30	I+15
Status Conference (SC)	I+15	I+15	I+60
Trial		within 4 weeks following MS	

## THE BASIC TRACK

All felony offenses not included in the Expedited or Complex Case Tracks, including but not limited to the following, are to be included in the Basic Case Track:

Cruelty to animals	Obstruction/retaliation
Engaging in organized crime	Possession firearm by felon
Improper photography or visual recording	Possession weapon –prohibited place
Injury to a child, elderly, disabled causing bodily injury	Stalking
Interference with child custody	Unlawful restraint
Tampering with witness	Violation of protective order
Terrorist threat	Aggravated assault
Unlawful restraint of child	Aggravated kidnapping
Delivery CS, PG1 < 1 gr.	Arson
Possession CS, PG1 <1 gr.	Bribery
Delivery marihuana > ¼ oz.	Burglary of habitation – theft
Possession marihuana > 4 oz.	Burglary of habitation – assault
Delivery CS, PG1A, <20 units	Escape causing bodily injury
Possession CS, PG1A, <20 units	Improper relationship-student/teacher
Assault	Indecency with child – contact
Deadly conduct	Robbery
DWI-3 <sup>rd</sup>	Sexual assault
Enticing child	Trafficking of persons
Improper contact with victim	Aggravated robbery
Indecency with a child--exposure	Aggravated sexual assault
Intoxication assault	Burglary of habitation – other
Kidnapping	Escape with deadly weapon
Evading arrest with SBI	Attempted capital murder
Manslaughter	Solicitation of capital murder
Injury to a child, elderly, or disabled with serious bodily injury	Criminal negligent homicide
Aggravated assault-serious bodily injury	Evading arrest with death
	Intoxication manslaughter
	Escape with serious bodily injury

The following table shows the progression of settings for cases in the Basic Case Track in number of days:

	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
File date (F); Indictment date (I)			
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	F + 10	F + 30	I + 15
Evidence Exchange (EES)	I + 15	I + 30	I + 90
Motion Setting (MS)	I + 90	I + 90	I+ 150
Status Conference (SC)	I + 135	I + 135	I+ 200
Trial		within 4 weeks of SC	

## THE COMPLEX CASE TRACK

The Complex Case Track includes the following offenses:  
Murder; Capital Murder; and any case that in the opinion of the court involves complex legal or evidentiary issues

The following table shows the progression of settings for these cases:

File date (F); Indictment date (I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	I + 15	I + 15	I + 15
Evidence Exchange (EES)	I + 100	I + 100	I + 100
Motion Setting (MS)	I + 150	I + 150	I + 150
Status Conference (SC)	I + 200	I + 200	I + 200
Trial		within 6 weeks of SC	

In capital murder cases, the state will elect whether it will seek the death penalty at the Consultation Setting.

If no agreed plea is negotiated following the Consultation Setting it may be necessary for the judge to enter a "Scheduling Order". The parties will not be excused from this setting until this issue has been settled.

## MISCELLANEOUS PROVISIONS

The state has agreed to bring all of the defendant's pending case files including misdemeanor files to all settings in district court to facilitate global resolution of cases.

All district courts have agreed to use only uniform written plea admonishment forms for pending cases and probation revocations.

All defendants in custody should be present at all court settings.

The district courts will schedule court settings (except trial settings) as follows:

Monday: 396<sup>th</sup>, CDC2, 372<sup>nd</sup> and 432<sup>nd</sup>

Tuesday: CDC3 and 297<sup>th</sup>

Wednesday: 371<sup>st</sup>

Thursday: CDC4

Friday: CDC1 and 213<sup>th</sup>

Hearings on property seizures and expunctions will be heard in the assigned court during non-jury weeks.

The designated court coordinator and the Office of Attorney Appointments must receive a vacation letter at least 45 days prior to the beginning of the requested vacation or it is void.

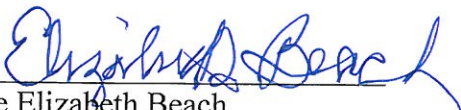
A motion for continuance must be in writing, under oath, and presented in open court with all parties present, as required by the Texas Code of Criminal Procedure. A continuance may only be granted for the prosecution or the defense for sufficient cause shown, as defined by statute.

Applications for the DIRECT program or the District Attorney's Deferred Prosecution Program should be made at the earliest possible time.

**ORDER**

The undersigned judges approve and ORDER the implementation of the Differentiated Felony Case Management System as set out above on September 16, 2013.

Signed this 6<sup>th</sup> day of February 2015.



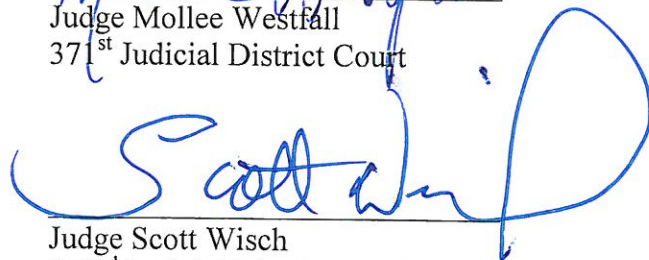
Judge Elizabeth Beach  
Criminal District Court No. One



Judge Mollie Westfall  
371<sup>st</sup> Judicial District Court



Judge Wayne Salvant  
Criminal District Court No. Two



Judge Scott Wisch  
372<sup>nd</sup> Judicial District Court



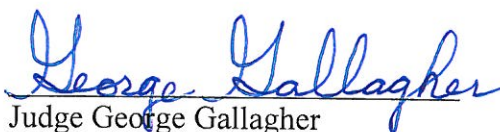
Judge Robb Catalano  
Criminal District Court No. Three



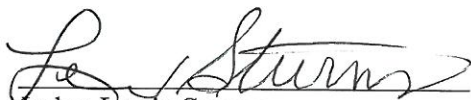
Judge David Hagerman  
297<sup>th</sup> Judicial District Court



Judge Mike Thomas  
Criminal District Court No. Four



Judge George Gallagher  
396<sup>th</sup> Judicial District Court



Judge Louis Sturns  
213<sup>th</sup> Judicial District Court



Judge Ruben Gonzalez  
432<sup>nd</sup> Judicial District Court

# INTRODUCTION AND OVERVIEW

## HISTORY

The National Association for Court Management (NACM) Core Competency Curriculum Guidelines flow from a process begun in 1990 when NACM undertook a Delphi survey of all its members to evaluate its goals, priorities, and services. Survey results reported to the NACM Annual Conference in 1991 and in the fall 1991 issue of *The Court Manager* clearly indicated that the nation's trial court managers wanted more national programs that were:

- Accessible and affordable,
- Relevant to daily practice, and
- Reflective of the full range of court manager responsibilities.

NACM responded by adding regional mid-year conferences in the spring to complement their summer annual conferences and by

initiating planning toward a multi-year education and professional development action plan.

Among other initiatives, the NACM Professional Development Advisory Committee (NACM/PDAC) was formed in 1992. Drawing on the 1990 Delphi survey, this committee began work toward improved NACM educational programming by reaching consensus on the core areas of court management skill and responsibility. An initial list of 14 was re-formulated into 10 core competencies, areas in which court managers should have acceptable levels of knowledge, skill, and ability (KSAs). Over 10 years, these core areas evolved into 10 interrelated and interdependent core competencies:

FIGURE 1



### **Core Competency Curriculum Guidelines: What Court Leaders Need to Know and Be Able to Do**



With funding from the State Justice Institute (SJI) and the Bureau of Justice Assistance (BJA) and in cooperation with the National Center for State Courts Institute for Court Management (NCSC/ICM), the Justice Management Institute (JMI), and others, NACM/PDAC then refined the 10 core areas. The first step was a survey of 200-plus experienced court managers, designed to produce KSAs for each of 10 core competencies, and several focus groups attended by leading court managers, researchers, and academics.

Next, 90 carefully selected court administrators, court management faculty, and researchers built on the results of the initial survey and focus groups to delineate the initial structure and substance of the 10 Core Competencies. A third survey of 250 experienced respondents then: 1) evaluated how essential (important) the 10 Core Competencies and related KSAs, as well as 12 general management KSAs, are; 2) estimated the proportion of court managers who had substantial performance inadequacies with regard to each of the Core Competencies and KSAs; and 3) selected the 10 KSAs with the highest priority for NACM educational programming.<sup>1</sup>

With staff support from JMI and in cooperation with NCSC/ICM, NACM then applied for and received SJI funding<sup>2</sup> approval for, among other deliverables, development and publication of Core Competency Curriculum Guidelines. This phase, which began in late 1996, culminated in this publication. From 1996 to the present, the Guidelines were produced and disseminated under the supervision of the reconstituted NACM/PDAC.<sup>3</sup> NACM/PDAC project goals were ambitious and the results were significant.

The NACM Core Competency Curriculum Guidelines provide for the first time a comprehensive statement of **what court leaders need to know and be able to do**. Acceptance and use of the Guidelines is already widespread. Written comments and requests for technical assistance have been received from 43 states, the District of Columbia and Puerto Rico, Canada, Nicaragua, Australia, Palau, Singapore, and Hong Kong. Presentations and programs have been made at NACM Annual and Mid-Year Conferences since 1997, at National Association for State Judicial Educators (NASJE) and Middle Atlantic Association for Court Management annual conferences, and statewide professional association and state judicial branch education programs in Arkansas, Arizona, California, Connecticut, Colorado, Florida, Georgia, Michigan, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Texas, Vermont, Washington, Wisconsin, Canada, and Hong Kong, among other jurisdictions. National providers including JMI, the NCSC/ICM Court Executive Development Program (Phases I and II), the National Judicial College, as well as several universities, built from the Guidelines to plan and deliver workshops, seminars, and graduate programs.

Prior to this publication, initial drafts of the Guidelines were published in *The Court Manager* beginning with the original versions of this Introduction, and the Caseflow Management and Resources, Budget, and Finance Curriculum Guidelines in the 1998 Winter Issue, which was issued in early 1999. Through dissemination of the Guidelines in *The Court Manager* and international, national, regional, state, and local education programs, court leaders, with help from judicial educators, judicial branch education faculty, consultants, and academics, have been able to assess their learning needs and to improve their performance and the performance of their

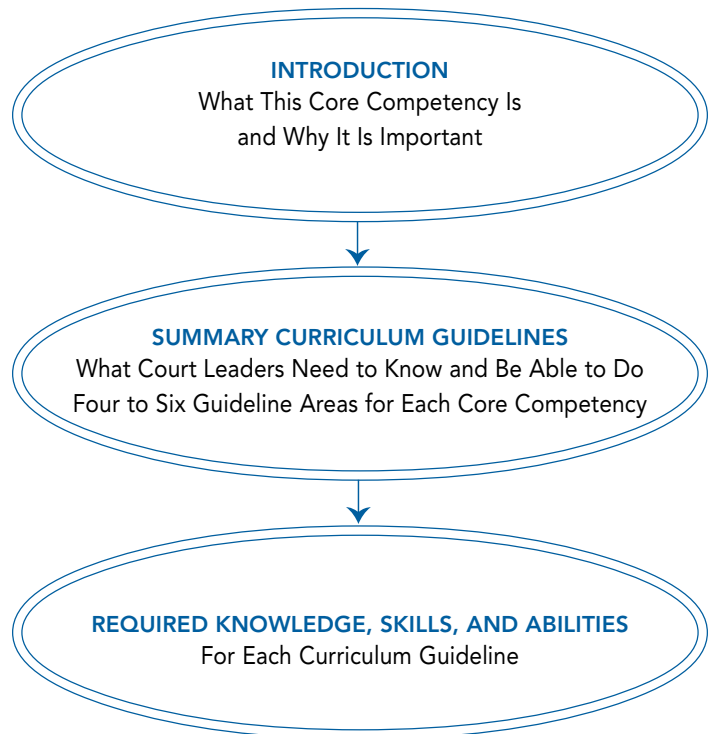
courts. This honors NACM's belief that continuing professional and personal development is the essence of professionalism.

## STRUCTURE AND UNDERLYING ASSUMPTIONS

Each of the 10 Core Competency Curriculum Guidelines moves from the general to the specific in three steps beginning from: 1) Introduction: What This Competency Is and Why It Is Important, followed by 2) Summary Curriculum Guidelines: What Court Leaders Need to Know and Be Able to Do. Section II for each Core Competency presents four to six Curriculum Guidelines for each Core Competency. Each Guideline then concludes in Section III with, 3) Required Knowledge, Skills, and Abilities for each Curriculum Guideline.

FIGURE 2

Structure of Core Competency Curriculum Guidelines



Understanding and effective use of the 10 Core Competency Curriculum Guidelines requires knowing what the Guidelines are **not**. The 10 Core Competency Curriculum Guidelines are **not** a final statement of any one, much less every, court leader competency. The Guidelines must evolve as the field's issues and challenges change. Moreover, the Curriculum Guidelines are **not** curricula or lesson plans. NACM/PDAC took pains **not** to cross the "curriculum development line." The Guidelines presented lay out what court leaders need to know and be able to do, leaving curriculum development to others and to later project phases.

Purposes and Responsibilities of Courts sits in red in the center of the Core Competency Curriculum Guidelines wheel (see Figure 1 above) for a reason. The centrality of purposes to the substance of both the entire set of 10 Core Competencies and to each of the 10

Guidelines became apparent as the early Guidelines were being drafted, reviewed, and approved. Early on, NACM/PDAC concluded that the Guidelines and the competencies they articulated must be grounded by the purposes and responsibilities of the courts. The presumption is that court leader competency is a means to an end. Courts do not exist so their leaders can manage them. For this reason, purpose is central to all 10 Guidelines, which means there is substantive overlap between the Guidelines.

Besides the centrality of the purpose and responsibilities of courts in every Guideline, overlap and redundancy between the 10 Guidelines is present for two other reasons. While distinct, the 10 competencies are interrelated. And redundancy and overlap is present because each Core Competency Curriculum Guideline was drafted so that it could stand on its own.

The intended audience of the Guidelines and curricula built around them is court leaders, including elected and appointed court managers, senior staff and aspiring juniors with both technical and administrative responsibilities, **and** judges who are in and who aspire to leadership positions.

The Guidelines assume a court executive leadership team that includes both court managers and judges. The team relationship between court managers and judges in leadership positions that is presumed, and even advocated, throughout the Guidelines emerged after considerable reflection and discussion. The selected model assumes that judicial administration is a team sport played by interdependent professional peers.

Two extreme models of the relationship between judges in leadership positions and court managers were considered and rejected by NACM/PDAC as the structure and substance of the Guidelines took shape in the drafting and approval of the first Curriculum Guideline, Caseflow Management. The first model to be rejected was a firm hierarchical boss/subordinate relationship. In this rejected model, decisions and direction flow down from the judge(s) in charge to court managers and other staff. Judges unilaterally decide and direct and court managers and staff listen, obey, and implement judicial mandates. While assumed and carefully practiced in more than a few courts by more than a few administrative judges and court managers, this was **not** the model selected by NACM/PDAC. This model neither reflects the nature of the realities that challenge courts and their leaders nor the relationships and responsibilities of distinct professionals in high-performing courts. The second rejected model was a relationship of complete equality in which leadership and policy and final decision authority were equally shared between judges and court managers. This model is likewise flawed practically and politically. The model assumed in the Guidelines is a partnership between professional peers in which one party, the judge(s) in charge, has ultimate formal authority. The Guidelines are designed to help elected and appointed court managers **and** judges in and aspiring to leadership positions. Thus the inclusive term **court leader** rather than court manager.

The Core Competency Curriculum Guidelines are also not intended, nor are they appropriate, to test or to grade either practicing or aspiring court managers or their judicial superiors. Rather, their purpose is **self-assessment and self-improvement**. Use of the Core Competency Curriculum Guidelines to evaluate the perfor-

mance of a practicing court manager or the judge(s) whom they serve is neither intended nor appropriate. While all 10 Core Competencies, and related Curriculum Guidelines and KSAs, are crucial, NACM does **not** assume that any single court leader has or could master every Core Competency, much less every Curriculum Guideline and KSA, nor, given the team concept, do they need to.

The Core Competency Curriculum Guidelines are **not** self-executing in two important respects. First, when using the Core Competency Curriculum Guidelines for self-assessment and the planning of education, training, and development programs, court leaders and those responsible for their educational programs still must decide which Core Competencies, Guidelines, and KSAs are most in need of development, taking into account: 1) the needs of individual learners, 2) the needs of the target audience as a whole, and 3) the impact of existing performance and knowledge gaps on court performance.

Second, much-needed curricula do not exist. With this and earlier publications, NACM aims to stimulate development of needed curricula and, obviously, multi-year educational programs built around the Guidelines.

Despite these limitations, the NACM/PDAC Core Competency Curriculum Guidelines move forward the court management profession and its literature. Court reform from the turn of the century through the late 1980s was driven by the unified court concept. The unit of analysis was court systems as a whole. Key issues included the structure and organization of the court system, its funding, and authority relationships between the chief justice, the central administrative office, and two or more levels of courts and court leaders.

The **Trial Court Performance Standards** produced by the National Center for State Courts with Bureau of Justice Assistance funding in 1990 was the next significant set of organizing ideas and concepts to ground the field of judicial administration. Attention shifted from the court system's structure, organization, funding, and authority relationships, to what trial courts should produce, and their performance, regardless of structure, organization, funding, or authority relationships. The unit of analysis shifted focus from the court system as a whole to trial courts as organizations.

The NACM/PDAC Core Competency Curriculum Guidelines expand the past focus on the court system as a whole and trial courts as organizations by directing attention to the individuals responsible for the court's leadership. The Guidelines recognize that neither court systems nor their constituent courts can operate efficiently or effectively without competent court leaders, professionals who understand that their and their staff's continuing personal and professional development is a necessity, not a luxury. Personal and professional development of court leaders and their successors and staff is an investment that pays dividends year after year.

Prior to a brief review of the 10 Core Competencies, a word on three ways they can be used. First, public, not-for-profit, and for-profit national, regional, state, and local educational providers can organize court management educational programs and specific workshops and workshop modules around them. Curricula built around the Guidelines have been and, no doubt, will continue to be delivered face-to-face at NACM, regional, and state association conferences and elsewhere, and from remote sites through electronic

self-paced and other “distance” learning, and during national, regional, state, and local train-the-trainer programs. Second, and closely related, the Core Competency Curriculum Guidelines provide a reliable tool for court leaders to assess their own, their staffs’, and their colleagues’ professional development needs and educational priorities. Third, and as or more important than educational programming and self assessment, the Guidelines are meant to be read and reflected upon by practicing and potential court leaders and others from the judiciary, the academy, and elsewhere as a source of information, knowledge, and perhaps even increased understanding of courts, their purpose, processes, practices, and the people who lead them.

## TEN CORE COMPETENCIES IN BRIEF

The 10 Guidelines are described in brief below in the order in which they are presented in this publication. We begin with **Purposes and Responsibilities of Courts** because this competency properly grounds and orients the other nine Core Competencies. **Caseflow Management**, the first Curriculum Guideline developed and published by NACM/PDAC, is second because it reflects the most basic thing courts do — process cases from filing to closure. Next is **Leadership**, the energy behind every court system and court accomplishment. Court leaders use **Visioning and Strategic Planning** tools to avoid stagnation and keep focused on purpose, core values, and continuous improvement. **Essential Components** constitute the many services and programs managed by the judiciary and others, which while critical to court performance, are not dealt with by the other competencies. **Court Community Communication** link the courts to those they serve. **Resources, Budget, and Finance** is a core management function that impacts every court operation. It is followed by **Human Resources Management**, which is linked in order of presentation and as a matter of practice in high-performing courts to **Education, Training, and Development** — judicial branch education. Last, **Information Technology Management**, which while not an end unto itself, is essential because if managed well it can help all courts do what they do faster, cheaper, and better.

### Purposes and Responsibilities of Courts

Purposes and Responsibilities of Courts are the epicenter of the NACM Core Competencies. Purposes and Responsibilities of Courts provide the reason, the root, and the foundation for the other nine Core Competencies. Purposes gives legitimacy to the exercise of Leadership, informs Visioning and Strategic Planning, and orients the practice of Caseflow Management and the other six more technical competencies.

### Caseflow Management

Caseflow Management is the process by which courts carry out their primary function: moving cases from filing to closure. This includes all pre-trial events, trials, and increasingly, events that follow disposition to ensure the integrity of court orders and timely completion of post-disposition case activity. Effective caseflow management makes justice possible not only in individual cases, but also across judicial systems and courts, both trial and appellate. Caseflow Man-

agement helps ensure that every litigant receives procedural due process and equal protection. Properly understood, Caseflow Management is the absolute heart of court management.

### Leadership

Leadership is the energy behind every court system and court accomplishment. Fortunately, and contrary to some received wisdom, leadership is not a mysterious act of grace. Effective leadership is observable and, to a significant extent, learnable. Academic debate about the difference between leadership and management has resulted in consensus that a difference exists, which is not a matter of “better” or “worse.” Both are necessary “systems of action.” In the memorable words of Warren Bennis: “Managers do things right. Leaders do the right things.”

### Visioning and Strategic Planning

Visions are holistic, inspirational future snapshots. They look forward and reach back to core values: the ends of justice and service and the means of judicial independence, substantive and procedural due process, equal protection, access, and the fair and efficient application of the law to the facts. Visioning invites court leaders, their justice partners, and the community, first to imagine and then to deliver the future they prefer. Strategic planning is a process — involving principles, methods, and tools — to help court leaders decide what to do and how and when to do it. Strategic planning translates vision into plans and action.

### Essential Components

Courts and judges do not just consider evidence provided by the parties, rule on motions, and decide cases on the merits. Increasingly, information is provided to the court by programs annexed to the court or the case rather than by the parties to litigation. Courts must deliver and use this information as well as manage other Essential Components, which range from the relatively mundane such as court security, courtrooms, clerks, and reporters, to the sophisticated such as child custody evaluations, legal research staff, and indigent defense. These and other services, programs, and infrastructure not dealt with by the other Core Competencies constitute the court’s Essential Components. Effective court leaders understand the court’s Essential Components and, regardless of who has formal authority over them, work to ensure they are well managed.

### Court Community Communication

If the courts are to be accessible, open, responsive, affordable, timely, and understandable, courts must learn from and educate the public. To interact effectively with their many publics, court leaders must understand the media and its impact on the public’s understanding of and satisfaction with the courts. Understandable courts, skillful community outreach, and informed public information improve court performance and enhance public trust and confidence in the judiciary.

### Resources, Budget, and Finance

The allocation, acquisition, and management of the court’s budget impacts every court operation and, arguably, determines how well, and even whether, courts achieve their mission in the American political system. Resources are rarely sufficient to fund everything of

value the courts or any other organization might undertake. When resource allocation and resource acquisition are skillful, courts preserve their independence, ensure their accountability, both internally and externally, improve their performance, and build and maintain public trust and confidence.

### Human Resources Management

Courts need good people, people who are competent, up-to-date, professional, ethical, and committed. Effective Human Resources Management not only enables performance but also increases morale, employee perceptions of fairness, and self-worth. People who work in the courts are special. Their jobs and the work of the courts are not too small for the human spirit. With proper leadership, court Human Resources Management contributes to meaning and pride over and beyond the reward of a paycheck. Excellent Human Resources Management is unlikely in an otherwise mediocre court.

### Education, Training, and Development

Education, Training, and Development help courts improve court and justice system performance and achieve their desired future. Education, Training, and Development programs are aimed at judges, court staff — especially those in and aspiring to leadership position — as well as others on whom the court depends, both inside and outside the courts. Thus, the term judicial branch education, as opposed to judicial education. Because judicial branch education helps actuate all other competencies and helps courts maintain balance between the forces of change and enduring principles, effective court leaders take responsibility for it. It is not merely remedial and limited to training. Rather, judicial branch education is strategic and involves Education, Training, and Development.

### Information Technology Management

While it is decidedly not an end unto itself, Information Technology can help all courts do what they do faster, cheaper, and bet-

ter. Computerization allows courts to dispense justice in the face of increased expectations of efficient and instant service; significant changes in people's mobility and the social, political, and economic environment; and increased caseload volume and complexity. Court leaders who effectively manage Information Technology know its limitations and the challenges it presents. They also know if its promise is realized, Information Technology can improve court and justice system operations, public access to the courts, and the quality of justice.

### NACM/PDAC OVERSIGHT, PRIME AUTHORS, REVIEWERS, AND THE DEVELOPMENT PROCESS

The National Association for Court Management Professional Development Advisory Committee (NACM/PDAC) oversaw and guided the development of the Core Competency Curriculum Guidelines. At the close of this volume, the current and past NACM/PDAC members along with the prime authors of the 10 Core Competency Curriculum Guidelines, reviewers of early drafts and the process used to develop the Core Competency Curriculum Guidelines are detailed. [CM](#)

#### NOTES

1. See John Hudzik, *Background and Design of the NACM Court Management Education Project*, Michigan State University JERITT Project, Lansing, Michigan. The Hudzik findings, while significantly refined and elaborated in the Guidelines, are the base for all but two of the Guidelines published here. The exceptions are Purposes and Responsibilities of the Courts and Education, Training, and Development, which were built from scratch.
2. In late 2001, the funding source for the project shifted from SJI to the Bureau of Justice Assistance.
3. At the close of this publication, there is a listing of the past and current NACM/PDAC members, as well as the individuals who were the prime authors of the 10 Guidelines.

The National Association for Court Management Board of Directors gratefully acknowledges grant funding from the State Justice Institute (SJI) — grant SJI-96-N-148 — and the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice — grant 2002-DD BX-00008 — for the NACM Core Competency Curriculum Guidelines project.





# PURPOSES AND RESPONSIBILITIES OF COURTS

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

While the Purposes and Responsibilities of Courts Core Competency requires knowledge of and reflection upon theoretic concepts, their history, and development over time, this competency is practical. The Purposes and Responsibilities Competency gives meaning to, in fact properly grounds, day-to-day judicial administration and the other nine Core Competencies. Absent knowledge of the judiciary's enduring purposes and continuing responsibilities, court leaders, both judicial and managerial, can lose their way as they and their court drift among seemingly unrelated issues and demands.

The need for an **impartial** and **independent** judiciary is rooted in the human condition. Life is not or does not always seem to be fair. Neither individuals, corporations, their officers, nor the government always do the right, or even the legally correct, thing. Even when they play by the rules, or honestly think they do, there are conflicts and disagreements about legal obligations, rights, and wrongs. When cases are moved from filing to disposition in such a way to ensure, among other court purposes, individual justice in individual cases and the appearance of individual justice in individual cases — consistency and predictability in the application of law and procedural rules — courts resolve ever present private and public conflicts.

Achieving independence and impartiality is, therefore, as complicated as society and as simple as legally right and legally wrong. Pushes and pulls flow from the requirements of the adversarial process balanced against the strength of informal, consensual dispute resolution. Courts reinforce the authority of the state and the legitimate use of force and protect individuals against the arbitrary use of governmental power. The tension between individual freedom and social order is perpetual. First-rate court leaders understand there is almost never one truth or one best way to proceed. They thrive on ambiguity and opposite but true mandates. Accomplished judicial administration is an uncanny marriage of incompatibles, a fusion of contradictions.

Court leaders respect the other branches and their leaders because, in our compound republic, each of the branches is necessary in and of itself and acts as a check and balance on the other branches and their leaders. In the words of James Madison in *Federalist 10*, "If men were angels, no government would be necessary." And, in a limited government of laws rather than men, Alexander Hamilton, in *Federalist 78*, agrees with Baron de Montesquieu: "there is no liberty if the power of judging be not separated from the legislative and executive powers."

Purposes and Responsibilities of Courts should never be confused with efficiency or even the constitutional means of the separa-

tion of powers, judicial independence, and the inherent powers of the courts. Courts exist to do justice, to guarantee liberty, to enhance social order, to resolve disputes, to maintain rule of law, to provide for equal protection, and to ensure due process of law. They exist so that the equality of individuals and the government is reality rather than empty rhetoric.

Efficient and even effective judicial administration is not an end unto itself. Courts do not exist so that court leaders, either judicial or civilian, can manage them. Rather, courts must be managed well so that judges and others acting in their stead and in their shadows can do justice.

Effective court leaders have a passion for justice and courts as institutions. Whether or not they are formally trained in the law, competent court leaders understand the legal, constitutional, and historical underpinnings of the American judiciary. They know that absent purpose, court management is mere "administrivia." Court leaders take risks in the interest of justice and the courts as institutions.

Competent court managers cooperate with others, but they are tenacious, even stubborn, in their personal service to justice under law. They recognize as well that purposes, separation of powers, independence, and inherent powers demand courts that are efficient and accountable to others, both inside and outside the government. They blend purpose into each and every judicial process, office, activity, and function.

The Caseflow Management Core Competency is at the heart of everyday judicial administration because the core function of courts is to process cases from filing to closure. Leadership is the energy that drives courts and court processes. Visioning and Strategic Planning provides for forward momentum and is an antidote to a stagnant status quo. But the Purposes and Responsibilities of Courts is the epicenter of the NACM Core Competencies. All other nine Competencies are defined by purpose. Purposes and Responsibilities of Courts is the reason, the root, and the justification for the practice of Caseflow Management and other technical Competencies. Purposes motivate and inform Visioning and Strategic Planning and give legitimacy to the exercise of Leadership.

## SUMMARY: PURPOSES AND RESPONSIBILITIES OF COURTS CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able to Do

The Purposes and Responsibilities of Courts Core Competency includes five areas, each of which assumes a link between theory and practice; concept and behavior; and idea and application:

- Why Courts Exist
- Courts As Institutions



- Rule of Law, Equal Protection, and Due Process
- Accountability
- Interdependence and Leadership

### Why Courts Exist

Only the judiciary can definitively determine who is to prevail in the inevitable conflicts that arise between individuals; between government and the governed, including those accused by the state of violating the law; between individuals and corporations; and between organizations, both public and private. The atmosphere surrounding courts and court events is formal and peculiar, because the courts are unique. They resolve disputes by applying the law to the facts of particular cases independently and impartially. When the law is applied to the facts in courts, every party has the absolute right to an arbiter who is independent of the parties to that case and their advocates.

Court processes must reflect established court purposes such as individual justice in individual cases, the appearance of individual justice in individual cases, provision of a forum for the resolution of disputes, the protection of individuals against the arbitrary use of governmental power, and the making of a record of legal status. Individual cases must receive individual attention. The law must be correctly applied to the facts. Regardless of economic or other status, there must be equal access. Everyone who comes to and before the court must be treated respectfully, fairly, and equally. Case processing and the application of the law to the facts in individual cases must be consistent and predictable.

### Courts as Institutions

When they are impartial and independent, courts earn public trust and confidence as they balance needs for social order and individual freedom in the “ordinary administration of criminal and civil justice.” (*Federalist 17*) Justice requires courts whose ordinary everyday administration reflects the legacy of the Declaration of Independence, the U.S. Constitution, America’s compound republic, and the public’s respect for and voluntary adherence to the law and judicial decisions in individual cases.

Courts are separate from the executive and the legislative branches of government. But, at bottom, the constitutional and statutory basis of their authority dictates interdependency and independence, not autonomy. Competent court managers understand the historical basis for judicial independence, judicial authority, concepts of jurisdiction and venue, and the inherent power of the courts. Whether exercised through management and restrained activism or via adversarial relations with the other branches, the courts self-consciously protect their decisional processes and maintain their distinctive political and administrative boundaries.

Because the Trial Court Performance Standards persuasively and thoroughly articulate what courts should accomplish with the resources available to them, competent court leaders know what they say and take them seriously.

### Rule of Law, Equal Protection, and Due Process

The promise of equal justice under law and the constitutional guarantees of equal protection and due process of law ground day-

to-day judicial administration. Courts protect all persons equally without bias or discrimination of any type. This is equal protection. Proper judicial administration demands protection of private rights through regular administration according to prescribed rules, processes, and forms. This is due process. Elements of due process on the criminal and civil side include notice, discovery, right to bail, counsel, lawful and regular process, confrontation, cross examination, the right to call witnesses, the privilege against self incrimination, and public and timely resolution, among others.

Court management competency requires an informed understanding of equal protection and due process and their historical evolution from rights first granted by the English king to the Lords of the Realm, to rights now guaranteed to all Americans. Rule of law, equal protection, and due process have profound practical implications. The ends of judicial administration are not autonomy or even judicial independence, but rather liberty, social order, equal access, the equality of individuals and the state, and justice.

### Accountability

Purposes and Responsibilities of Courts require balance between independence and external and internal accountability. Courts do not serve their enduring purposes or continuing responsibilities unless their structure, governance, operations, programs, processes, and performance lead to the reality and deserved public perception that the judiciary is accountable. The justification for court control of the pace of litigation, the tracking and reporting of case disposition times, and adherence to judicial decisions is not merely efficiency. Rather it is the courts’ responsibility for the proper use of public money to ensure rule of law, equal protection and due process, individual justice in individual cases, and the appearance of individual justice in individual cases.

Court managers establish, explain, and maintain the court’s use of public resources. They report on court performance to the judiciary, the public, and the judiciary’s political co-equals. Judges and court staff recognize the public’s right to an accountable judiciary, which demonstrates service excellence.

### Interdependence and Leadership

*Federalist 51* declares that a “contriving ... interior structure of government ... is ... essential to the preservation of liberty.” Contriving interdependency and overlapping power assume on-going relationships and, plainly, conflict. The judiciary’s relationships have a distinctive flavor in needed balance between interdependency and responsiveness to others, independence and distinctive boundaries, and leadership of the judiciary, individual judges, and the justice system.

Courts depend on the executive and legislative branches for resources. The judiciary cannot process and resolve even simple disputes without the cooperation of others who have conflicting responsibilities. Courts oversee an adversarial process as the way to truth and justice. Court leaders remain above the fray even as they actively manage cases, work to improve the justice system and court performance, and build public trust and confidence. Judicial communications and interventions are subject to public and governmental accountability. But the judiciary should never be subservient. The judicial voice must be strong and steady, yet modest and measured.

The judiciary must lead the justice system in resolving criminal, civil, and family matters.

Advanced courts have leaders who not only know what the enduring purposes and continuing responsibilities are, they live it. Enduring values are acted upon, risks are taken in the interest of justice, and leadership is exercised in the interest of justice and the courts as institutions. Effective leaders are comfortable with ambiguity and with their affirmative responsibility to lead. Absent leadership, courts cannot structure and maintain distinctive relationships. Likewise, leadership allows courts to build and protect judicial authority. Authority

requires understanding and effective communication of the proper purpose behind judicial prerogatives, emoluments of office, legal and administrative processes, programs, offices, and activities.

In Hamilton's words, "the judiciary has neither FORCE nor WILL, but merely judgment..." (*Federalist 78*) Judicial administration is a high calling. With their passion for justice and courts as institutions, court leaders motivate others and bring pride to everyday routines and responsibilities. They demand integrity and ethical conduct. They know that the court's integrity must be pure.

## PURPOSES AND RESPONSIBILITIES OF COURTS CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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### WHY COURTS EXIST

### COURTS AS INSTITUTIONS

### RULE OF LAW, EQUAL PROTECTION, AND DUE PROCESS

### ACCOUNTABILITY

### INTERDEPENDENCE AND LEADERSHIP

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#### WHY COURTS EXIST

Courts and only courts can definitively resolve society's inevitable conflicts. When they resolve disputes between individuals; between individuals and the government, including those accused by the government of violating the law; between individuals and corporations; and between organizations both public and private, they do so in ways that preserve the court's independence and impartiality, enduring purposes, and continuing responsibilities. The courts mediate society's interest in opposite but true mandates, in particular the tension between social order and individual freedom.

- Knowledge of accepted purposes underlying judicial process and the management of cases from filing to disposition, the heart of everyday judicial administration:  
1) individual justice in individual cases; 2) the appearance of individual justice in individual cases; 3) provision of a forum for the resolution of legal disputes; 4) protection of individuals from the arbitrary use of governmental power;

5) a formal record of legal status; 6) deterrence of criminal behavior; 7) rehabilitation of persons convicted of crime; and 8) separation of some convicted people from society.

- Knowledge of the historical role the courts have played in balancing efficiency, stability, and social order against individual rights; preserving the equality of the individual and the state; bringing law in line with everyday norms and values; establishing the legitimacy of the law; and in guiding the behavior of individuals and organizations;
- Knowledge of the historical context which provided impartial and independent courts as a protection from the abuse of governmental power and as a safeguard of individual rights;
- Knowledge of each and every judge's independent responsibility for case decisions, the essential elements of judicial decision making, and judicial immunity;

- Knowledge of the implications of the court as an institution and judicial decisions as immune from challenge versus the court as an organization and a bureaucracy;
- Ability to maintain judicial and staff awareness that courts were not intended to be popular;
- Knowledge of the perpetual tensions inherent in the Purposes and Responsibilities of Courts, including social order versus liberty, the adversarial process versus consensual or efficient case process, and the authority of the state versus the protection of individuals against governmental power.
- Knowledge of various judicial selection methods and their theoretic and practical impact on the courts and their accountability;
- Knowledge of the jury system and other public participation and presence in the courts;
- Knowledge of therapeutic and restorative justice, current alternative approaches such as problem solving courts and alternative dispute resolution for civil and family cases, and their relationship to court purposes;
- Ability to translate the values inherent to the Declaration of Independence, the Founders Theory, the U.S. Constitution, and the Bill of Rights into everyday practice.

## COURTS AS INSTITUTIONS

Impartiality and independence demand courts that are separate from the executive and the legislative branches. But court purposes reflect a rich historical legacy that dictates both distinctive boundaries and interdependency. Competent court leaders understand separation of powers, judicial independence, and the inherent power of the courts'. Alternative organizational arrangements to maintain the courts boundaries and to permit their effective management are likewise known. Direction provided by the Trial Court Performance Standards guides day-to-day court management.

- Knowledge of the Trial Court Performance Standards, their values, and underlying principles: 1) Access to Justice; 2) Expedition and Timeliness; 3) Equality, Fairness, and Integrity; 4) Independence and Accountability; and 5) Public Trust and Confidence;
- Knowledge of the founders' theory, the *Federalist papers*, the Declaration of Independence, the U.S. Constitution and the Bill of Rights, separation of powers, judicial independence, and the parameters and constraints of the inherent powers of the courts;
- Knowledge of Roscoe Pound's 1906 American Bar Association speech, "The Causes of Popular Dissatisfaction with the Administration of Justice" and its profound implications for understanding courts as institutions and everyday judicial administration;
- Knowledge of historical changes in the roles of state and federal supreme courts, intermediate courts of appeal, and trial courts;
- Knowledge of alternative governance structures for courts, including chief judges, judge committees, and joint public, executive, and legislative branch committees;
- Knowledge of alternative structures for organizing courts, cases, and calendars;

## RULE OF LAW, EQUAL PROTECTION, AND DUE PROCESS

Effective court leaders understand and help courts deliver on the promise of the rule of law, equal protection, and due process. They know the theory, the history of the common law, and important concepts such as venue, justiciability, rule of law, equal protection, and due process and their practical implications. All types of cases, their processing, and typical forms and procedures are understood.

- Knowledge of the concept of the rule of law, growth of the common law, the common law adversarial system and other court-developed processes for truth-finding, discovery, narrowing the issues, and doing justice;
- Knowledge of differing legal traditions (civil law, common law, and socialist law) and conflicting concepts of justice;
- Knowledge of the processes by which the law is developed;
- Knowledge of the concepts of equal protection, due process, venue, justiciability, case in controversy, and standing;
- Knowledge of different types of jurisdiction;
- Knowledge of all case types and the basis for organizing disputes in categories, and the processes and procedures that courts use to resolve disputes;
- Knowledge of criminal and civil procedure and differing burdens of proof in criminal and civil cases;
- Knowledge of the essential elements of due process of law in both civil and criminal cases, including but not limited to notice; discovery; probable cause; bail; the right to counsel; confrontation; cross examination; the right to witnesses; privilege against self-incrimination; speedy, timely and public disposition of disputes; jury trial; and appellate review;



- Ability to guide the organization and management of the court's structure, administration, procedures, alternative dispute resolution, and traditional case processing by the concepts of rule of law, equal protection, and due process.

## ACCOUNTABILITY

Courts must be accountable. Accountability provides the rationale for court control of the pace of litigation, the tracking of case disposition times, and adherence to law and judicial decisions in individual cases. The judiciary establishes and maintains its boundaries, but it also assesses and reports on its performance, its use of public resources, and its conformance with its assigned responsibilities and the law.

- Ability to design court structure, programs, processes, and daily operations consistent with the purposes and responsibilities of courts, public needs, and the court's internal and external integrity and accountability;
- Ability to articulate why the courts and their programs exist;
- Ability to find ways to broaden access to justice, to increase the fairness and efficiency of the system, and to decrease public dissatisfaction with the courts;
- Knowledge of our multicultural society, differing cultures, and the public's understanding of and satisfaction with the courts;
- Ability to make courts more understandable, accessible, and fair through application of hardware and software;
- Ability to bring everyday judicial administration and case management in line with the purposes of courts, equal protection, due process, and the public's right to timely and affordable justice;
- Knowledge of why judicial decisions must be carried out as ordered;
- Ability to deliver on the promise of the rule of law, equal protection, due process, and respect for all individuals, at the counter, on the phone, electronically, and at the bench and the bar of the court;
- Ability to develop and use appropriate standards and measures of court performance and to assess and report on court performance internally, to funding authorities, the public, and the media;
- Ability to align court performance, court structure, court operations, and court processes with court purposes.

## INTERDEPENDENCE AND LEADERSHIP

The "contriving" American constitutional structure gives the judiciary's relationship with its co-equal partners a distinctive flavor. Court leaders must be both independent and cooperative. They must be above the fray even as they build and maintain boundaries and seek and achieve public trust and confidence. Court leaders have passion for justice and court purposes and responsibilities, and bring pride to everyday routines and jobs. They require ethical conduct and ensure that the court's integrity is pure.

- Skill in leading the third branch and the justice system and in engaging the judiciary, the public, and the other branches in collaborative problem solving and needed change;
- Skill in working effectively with the leaders of the other branches without sacrificing the judiciary's independence and impartiality and in drawing the line between judicial autonomy and judicial independence;
- Ability to balance judicial independence, the inherent powers of the courts, and impartial judicial case processing and decisions with the judiciary's need to cooperate with others;
- Ability to focus staff and judges on issues which will impact the court's purposes and responsibilities, its core processes, and justice system issues;
- Ability to be committed, passionate, courageous, and energetic about court purposes and responsibilities and the courts as institutions;
- Ability to recruit, hire, and educate staff to maintain the court's independence, impartiality, and integrity;
- Skill in instilling in court staff an understanding of the role, purposes, and responsibilities of courts, how they guide their everyday work, and why court management is a high calling;
- Knowledge of ethics and conflict of interest concepts, regulations and laws that constrain lawyers, judges, and court managers, including the ABA Code of Professional Conduct (for lawyers), the ABA Canons of Judicial Ethics (for judges), the Federal Code of Conduct, and the NACM Model Code of Ethics for Court Managers;
- Ability to inspire others in the court family to act and to appear to act with high ethical standards, before, during, and after the court day;
- Ability to lead the judiciary and the justice system and to take risks to fulfill the role of courts and justice. [CM](#)

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Caseflow management is the process by which courts move cases from filing to closure. This includes all pre-trial phases, trials, and increasingly, events that follow disposition to ensure the integrity of court orders and timely completion of post-disposition case activity.

Effective caseflow management makes justice possible not only in individual cases but also across judicial systems and courts, both trial and appellate. Effective caseflow helps ensure that every litigant receives procedural due process and equal protection. The quality of justice is enhanced when judicial administration is organized around the requirements of effective caseflow and trial management.

Crucial issues that impact the effective movement of cases from filing to closure include:

- court system and trial court organization and authority relationships, including the management of judges by judges;
- the identification, development, selection, and succession of chief judges and court managers, chief judge/court manager executive leadership teams, and the best use of these and other multi-disciplinary executive teams;
- allocation of court resources: judges, managerial, technical and administrative staff; budgets; technology; and courthouses, courtrooms, and other facilities across courts, court divisions, case types, and particular types of hearings;
- application of court technology and the court's research, data, and analytic capability; and
- coordination with the judiciary's justice system partners.

Caseflow management is the process by which courts convert their "inputs" (cases) into "outputs" (dispositions). This conversion process, caseflow management, determines how well courts achieve their most fundamental and substantive objectives and purposes. Properly understood, caseflow management is the absolute heart of court management.

## SUMMARY: CASEFLOW MANAGEMENT CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able to Do

Working as a court executive leadership team, professional court managers and the judge(s) who head court systems and appellate and trial courts facilitate caseflow management. The six areas of

needed personal and technical knowledge, skills, and abilities (KSAs) are:

- Court Purposes and Vision
- Fundamentals
- Leadership Teams and System-Wide Effectiveness
- Change and Project Management
- Technology
- Personal Intervention

### Court Purposes and Vision

Caseflow management is a justice not an efficiency driven activity. Caseflow management makes possible equal access, individual justice in individual cases, equal protection, and due process — the appearance of individual justice in individual justice — predictability and regularity in case processing. Justice delayed is justice denied because unnecessary delay destroys the purposes of courts. The reasons are straightforward.

Excessive, unregulated time from filing to disposition and from court event to court event does not impact the parties equally. Consequently, once cases are filed, impartial and independent courts and judges must take and maintain control over case progress by managing the time from filing to disposition and from event to event. Related, in a witness dependant adversarial system, undue delay inevitably leads to the loss of memory. When memory is lost, litigants and their advocates can neither remember nor find the facts. When the facts are lost or forgotten, justice is impossible. The objective of caseflow management is not faster and faster and more and more, it is justice.

And moving cases from filing to disposition is the most basic thing courts do. This is what every other court work process supports. Consequently, court leaders must conceive, communicate, and implement vision concerning effective and efficient case processing. Effective court and justice system leadership means organizing and managing the court, its resources, and workflows around caseflow management. Justice and the courts' enduring purposes and responsibilities are served by vision and action concerning caseflow management.

### Fundamentals

Understanding the relationship between the purposes of courts and effective caseflow and trial management is a fundamental as are time standards, alternative case scheduling and assignment systems, and case management techniques, including differentiated case management (DCM) and alternative dispute resolution (ADR). While there are underlying caseflow principles, differing case types have differing case processing steps and dynamics. Competent court lead-

ers, both judges and court managers, understand the general principles, all case types, and how the principles apply to each case type. They keep current with the successes and failures of other courts and know how to leverage external resources, current research, and others' experience to case and trial management in their own court.

### Leadership Teams and System-Wide Effectiveness

Caseflow management is a team sport that requires an effective court executive leadership team that includes the judge(s) in charge and court managers. Effective case processing is a cooperative effort of judges and court staff and public and private litigants and lawyers, as well as law enforcement, social services, health, detention, and correctional organizations. As court managers and judges in charge work together to improve case processing and jointly lead their court and justice system, they must understand that while caseflow management requires early and continuous court control of individual cases, the courts are dependent on others who have independent and distinct responsibilities in an interdependent justice system. Competent caseflow management leadership requires recognition of the need for both interdependence and independence throughout the court and the justice system.

### Change and Project Management

Effective caseflow is a moving target. While the underlying purposes and case processing principles are constants, so are change and projects to bring about improvements. Techniques and programs that once were innovative and effective do not work forever and require constant monitoring. Caseflow management competency

means skillful and continuous evaluation and problem identification. Court leaders must oversee the evaluation of caseflow management problems through qualitative information and quantitative data and statistical analysis. Once problems are identified and solutions are crafted and communicated, court leaders must successfully initiate and manage change.

### Technology

Application of technology to caseflow is critical. Tying information technology to caseflow management involves creating and maintaining records; supporting court management of pre-trial, trial and post-dispositional events, conferences, and hearings; monitoring case progress; flagging cases for staff and judge attention; tracking trends; and providing needed management information and statistics. To oversee the application of technology to caseflow, court leaders must understand both technology's potential to improve case processing and its limitations. Leading and managing what one does not understand at all is problematic at best.

### Personal Intervention

Effective leadership of caseflow cannot be passive. Neither day-to-day routines nor required change are self-executing. Complex and interdependent processes carried out by people, departments, and organizations with independent responsibilities demand skilled and credible leadership. To effectively lead the court, court leaders, especially the judge(s) in charge, must take responsibility for caseflow management and skillfully communicate with and manage others. To do this, personal intervention is mandatory.

## CASEFLOW MANAGEMENT CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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COURT PURPOSES AND VISION

CASEFLOW MANAGEMENT FUNDAMENTALS

LEADERSHIP TEAMS AND SYSTEM-WIDE EFFECTIVENESS

CHANGE AND PROJECT MANAGEMENT

TECHNOLOGY

PERSONAL INTERVENTION

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## COURT PURPOSES AND VISION

Court leaders must understand court purposes and promote vision and action throughout the court and justice community organized around the impact caseflow management has on justice. Acceptable court performance is impossible without effective caseflow management.

- Knowledge of the Purposes and Responsibilities of Courts Curriculum Guidelines and how to apply them to caseflow management;
- Knowledge of the Trial Court Performance Standards, particularly the Expedition and Timeliness and Equality, Fairness, and Integrity Standards;
- Knowledge of the inherent powers of the court, which give courts the authority to set and enforce rules, including rules designed to improve case processing;
- Knowledge of the adversarial system and the values it supports;
- Knowledge of judicial and court manager ethics and their relevance to day-to-day caseflow management;
- Knowledge of the independent responsibilities of the three branches of government and how interactions among the branches impact funding of caseflow management, timely pre-trial, trial, and post-disposition case processing, and the enforcement of court orders.
- Ability to conceive, build, communicate, and implement a clear vision and sense of purpose for the court and the justice system that incorporates caseflow and trial management;
- Skill in developing, communicating, and using caseflow and trial management goals that flow from a court- and justice system-wide vision and mission;
- Ability to translate vision into effective public communications, promotional material, procedural memoranda, and court rules to inform the public and the justice community about how caseflow management improves the quality of justice.

## FUNDAMENTALS

Fundamentals include the relationship between the purposes of courts and effective caseflow and trial management, leadership, time standards, alternative case scheduling and assignment systems, and case management techniques, including differentiated case management (DCM) and alternative dispute resolution (ADR).

- Ability to link the broad purposes of courts to the goals of accessible, equal, fair, prompt, and economical resolution of disputes and effective caseflow and trial management;
- Knowledge of how the organization, jurisdiction, and funding of courts impact day-to-day caseflow management;
- Knowledge of how core management functions impact caseflow management, including human resources, budget and finance, information technology, records, and facilities;
- Knowledge of case processing time standards and other caseflow management performance indicators;
- Skill in tying time standards to the number and types of cases that must be processed to meet time to disposition goals for all case types — by year, month, week, day, and judicial division, team, and judge;
- Knowledge of basic caseflow axioms and principles such as early and continuous judicial control and how they produce timely and fair dispositions through staff and lawyer preparation and meaningful events;
- Knowledge of all case processing steps, sequences, and dynamics for all case types, including how lawyers, their clients, and *pro se* litigants make decisions concerning filing, case processing, and settlement; and the economics of the practice of law for criminal, civil, domestic relations, juvenile, traffic, administrative, and appellate cases;
- Knowledge of alternative case assignment and scheduling systems and how to set up and manage daily court calendars by judge, type of case and hearing, day of the week, and time of the day;
- Knowledge of differentiated case management (DCM) and its application to all case types;
- Knowledge of alternative dispute resolution (ADR) and how to integrate ADR into the court's case management system(s);
- Knowledge of psychological factors that impact case processing and scheduling, and active judicial management of pre-trial conferences, trials, and post-dispositional activity;
- Ability to learn from others' CFM successes and failures, to keep current with research findings about effective CFM and the causes and cures for delay, and to leverage available external resources to improve caseflow management.

## LEADERSHIP TEAMS AND SYSTEM-WIDE EFFECTIVENESS

Court managers and the judge(s) in charge of the court (including the judges who head specialized court divisions) must work together to improve case processing and jointly lead the court and justice system. Understanding that while caseload management requires early and continuous court control of individual cases, system-wide caseload effectiveness is a cooperative effort of public and private litigants and lawyers, law enforcement, social services, health, detention and correctional organizations, and judges and court staff.

- Ability to create and maintain a court executive leadership team that effectively addresses caseload management;
- Ability to develop effective CFM teams consisting of judges, court staff, and others throughout the court and the justice system;
- Knowledge of differing leadership styles and skills and how to build caseload management executive teams around judges and court managers with diverse administrative experiences, interests, and capabilities;
- Knowledge of the agencies and individuals, both inside and outside the court, with whom the court must work successfully to bring about effective CFM, and their independent CFM responsibilities and objectives;
- Skill in establishing and maintaining effective working relationships and finding the right balance between oversight of others with independent case management responsibilities, delegating authority to them, and micro-management;
- Ability to help court officials and others understand their roles in the larger justice system and how they affect others, and to tie CFM to system-wide benefits, costs, and consequences;
- Skill and political acumen when working with funding authorities and the executive branch to improve case processing;
- Skill in allocating available resources and in preparing, presenting, lobbying, and negotiating realistic budgets to improve caseload management;
- Knowledge of how to ensure the integrity of judicial orders, particularly processes that enhance revenue (fee and fine) collection;

- Ability to maintain effective partnerships among courts, the public and private bar, community groups, and the executive and legislative branches, without a loss of either the required tension between the branches or the adversarial system.

## CHANGE AND PROJECT MANAGEMENT

Courts must skillfully and continuously evaluate caseload with qualitative information and data and statistics, identify problems, and successfully build support for implementing and managing change.

- Ability to forecast and anticipate societal and justice system changes and trends that will impact filings and case processing;
- Knowledge of data needed for both continuous systemic evaluation and day-to-day caseload management, and how to acquire and analyze needed data;
- Skill in using statistics and objective data as well as anecdotal information when assessing CFM, drawing appropriate conclusions, and differentiating between causes and effects when identifying and diagnosing CFM problems and challenges;
- Knowledge of basic strategic planning techniques, including how to use statistics to draw appropriate conclusions about the current status and the future of the court's caseload and trial management system;
- Ability to use data to inform and, as appropriate, to influence judges and others about what is and is not working, and to persuade the bench, staff, and justice system partners, when appropriate, of the need to make changes and the feasibility of proposed solutions;
- Skill in mediation, conflict resolution, and creative problem solving when addressing caseload management challenges and needed change;
- Ability to stimulate action and funding support through appropriate comparisons and analyses and to present data for maximum CFM impact, education, and information;
- Knowledge of the change process, how to plan change, and how to apply sound project management principles and techniques to caseload management;
- Skill in managing CFM projects personally and through others, including those under and outside direct court control and supervision;



- Ability to conceptualize, gain funding, and oversee court construction, court renovation, and office and office furniture upgrades which enhance caseflow management;
- Skill in bringing about continuous evaluation with the understanding that caseflow problems are never solved once and for all.

## TECHNOLOGY

Technology supports caseflow management through creation and maintenance of records concerning case processing and schedules, structuring management of pre-trial, trial, and post-dispositional events, conferences, and hearings; monitoring case progress; flagging cases for staff and judge attention; enabling verbatim records of court proceedings; and providing needed management information and statistics.

- Knowledge of the caseflow functions to which technology can be applied and which caseflow problems can and cannot be solved through technology;
- Ability to translate user information and experience into effective caseflow technology applications and systems and to prepare succinct and focused caseflow functional requirements;
- Knowledge of the case management functional standards being developed by the National Consortium on Court Automation Standards through NACM and the Conference of State Court Administrators;
- Ability to distinguish between fads and unstable hardware and software and reliable caseflow technology;
- Ability to lead technical people supporting caseflow management, whether in-house, central judicial (e.g., administrative office), executive branch, or outsourced and contractual;
- Ability to evaluate contractor responses to caseflow technology RFIs (Requests for Information) and RFPs (Requests for Proposals) and to get the right answers to the right questions before signing a contract;
- Knowledge of the uses and misuses of the Internet and Web pages for caseflow management;
- Knowledge of telecommunication options and their practical impacts on caseflow management;
- Skill in conveying the reasons for changes and technical information to insiders and outsiders, including higher judicial authorities, funding authorities, and those who actually process and manage cases;

- Knowledge of alternative methods to produce verbatim records of court hearings, and their potential to expedite trial and appellate processes;
- Knowledge of technology to store, index, and access archival and active court records;
- Ability to convince funding authorities of the need for caseflow technology applications based on cost-benefit or other analysis, and to complete funded projects on time and within budget;
- Ability to stay current with the state of the art and to update the court's application of hardware and software to caseflow management and to respect the fact that today's technology innovation is inevitability tomorrow's tired solution.

## PERSONAL INTERVENTION

Court leaders need to personally intervene, communicate, and negotiate to bring about just and efficient case processing for all case types from filing to closure and court event to court event.

- Ability to think strategically about caseflow challenges and to act proactively to address them by intervening at the right time with the right people;
- Ability to inspire the trust and cooperation that is absolutely necessary to improve caseflow management;
- Ability to assess the needs, demands, desires, skills, and performance of individual judges and to implement caseflow plans and programs that are understood and supported by the judges;
- Ability to model desired behaviors, particularly listening and teamwork with judges, court staff, and justice system caseflow partners;
- Ability to communicate CFM issues and goals clearly and concisely, both orally and in writing;
- Knowledge of the print and electronic media and what they need to cover court processes, cases, and decisions fairly and effectively without interfering with the process itself;
- Skill in gaining positive media coverage of exemplary CFM projects and achievements, and rewarding reporters for positive CFM coverage;
- Ability to make decisions, to act decisively, and to exert leadership with respect to caseflow management. [CM](#)

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Leadership is the energy behind every court system and court accomplishment. Fortunately, and contrary to what many believe, leadership is not a mysterious act of grace. Effective leadership is observable and, to a significant extent, learnable. Academic debate about the difference between leadership and management has resulted in consensus that a difference exists, but it is **not** a matter of better or worse. Both are systems of action. In the memorable words of Warren Bennis, “Managers do things right. Leaders do the right things.”

Management deals with complexity. Leadership deals with change and growth. Managers oversee and use control mechanisms to maintain predictability and to ensure coordination, follow-through, and accountability. They know how to get things done. Leaders think about, create, and inspire others to act upon dreams, missions, strategic intent, and purpose. Courts have an obvious need for both management and leadership.

While leadership involves power and its use, at its best it is an influence relationship among leaders and followers that reflects mutual purposes and collective results more than hierarchy, and relations between superiors and inferiors. Clearly, many can and must be leaders. Leadership is defined by specific situations, contributions to enterprise-wide purposes, and relationships.

Leadership that creates and sustains improvements has an ethical and inspirational dimension. Among many others, James MacGregor Burns in *Leadership* correctly asserts that “leadership exists, when one or more persons engage others in such a way that leaders and followers raise one another to higher levels of motivation and morality.” Court leaders, both judges and court managers, **must** work well in judicial executive teams. They must influence and be influenced by others.

When circumstances demand it, leaders use power to guide the thoughts and actions of their followers, both inside and outside the court. Often, however, followers don’t need or want to be led. Good leaders understand this. Leaders listen to, empower, and are moved by others. There is, however, more to court leadership than power, listening, empowering, and relating to others. Courts need leaders who at once create, protect, and maintain routines **and** take risks, question the status quo, and stimulate growth and change. Courts that succeed have leaders with enough intellectual and emotional intelligence to resist unwarranted intrusions on established routines and relationships in the short run **and** to insist on change

that interrupts established routines and relationships in the interest of improved court performance in the long run. James Thompson, in his classic *Organizations in Action*, calls the necessary continuous striving for both certainty and flexibility “the paradox of administration.” Courts need leaders equal to this challenge.

Effective court leaders create, implement, and nurture a clear and compelling vision for the court. Leaders embody ethics and recognize and reward excellence on both sides of the predictability and flexibility challenge. Leaders model behavior courts need inside and outside the organization. Leaders empower others and encourage their hearts. Leaders understand themselves, work well with others, use effective group processes, and communicate effectively.

Competent leadership improves people and tasks, two key variables in courts and court systems. Absent leadership excellence, courts and court systems cannot take or maintain effective action.

## SUMMARY: LEADERSHIP CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able to Do

Leadership competency includes five areas which encompass personal characteristics and acquired knowledge, skill, and ability developed and refined through study, reflection, observation of others, practice, and, very importantly, experience. These five areas are:

- Be credible in action
- Create focus through vision
- Manage interdependencies and work beyond the boundaries
- Produce a high performance environment
- Do skillful and continual diagnosis

All can be improved through study, reflection, observation, practice, and experience.

### Be Credible in Action

Character matters. Likewise trustworthiness, honesty, integrity, accountability, and ethics are important. By the widest margins, in every NACM survey of experienced court managers, these attributes were found to be both essential and in great need of attention and improvement. This squares with the research of others. Knowledge of one’s limitations, personal style, values, and one’s impact on others is essential. Leaders communicate policies and procedures clearly, honestly, and consistently. Self-understanding and personal credibility determine whether or not peers, subordinates, and outsiders will accept one’s leadership, especially over the long term. Effective court leaders are action-oriented and transparent. They say what they mean, they do what they say, and everybody knows it.

## Create Focus Through Vision and Purpose

Survey after survey instructs that workers often, and perhaps even usually, do not know what is expected of them. Organizational goals, objectives, and responsibilities are seldom communicated. If there is communication, it is often done poorly. Purpose is missing. Motivation flows from perceptions that court work is important and contributes to worthy court purposes. There are no insignificant court jobs. Leaders align individual performance and broad court purposes. They create vision, establish action plans that flow from that vision, and, with the help of others, clearly communicate the roles of departments and individuals in attaining that vision. Power and participation are balanced. Leaders think in the long term and focus their own efforts and the efforts of others on core court purposes and the need to transition from the present to an inspired future.

## Manage Interdependencies: Work Beyond the Boundaries

Judicial independence is an indispensable means to the ends of liberty, social order, due process, equal protection, and justice under law. Neither theory nor practice should ever confuse judicial autonomy with judicial independence. The framers of our federal Constitution affirmed, valued, and reinforced the tension between independence and interdependency. When arguing for ratification of the Constitution in the *Federalist Papers*, they recognized concurrent powers and declared in *Federalist 51* that "Every department should have a will of its own," and in *Federalist 78* that "...the judiciary... has neither force nor will, but merely judgment."

System interdependencies place power and resources needed by courts in the executive and legislative branches. Operating and decision-making interdependencies with other justice organizations, the private bar, insurers, and, increasingly, public and private social service providers, among others, must be managed if even simple cases are to be resolved and disposed efficiently and fairly. Court managers must lead beyond the boundaries of the court. Effective judicial leaders and their executive teams understand constitutional separation of powers, the adversarial process, and politics. They

anticipate developments that will affect court operations and create and support coalitions to maintain routines, to produce just dispositions, and to make positive change.

## Create a High-Performance Work Environment

Change and complexity demand effective court leadership at all levels. High-performance courts recruit, select, and develop their personnel knowing that thought, decisions, and discretion are best not concentrated at the very tip of the judicial hierarchy, whether at the level of the state or its constituent trial and appellate courts. Initiative is encouraged in the understanding that courts must leverage scarce resources, both human and otherwise. Innovation is not only allowed and encouraged, it is expected.

To inspire trust and teamwork, court leaders must understand group process and group facilitation methods and how, when, and where to use teams. Judges and managers, whether elected or appointed, model effective partnerships. What they do benefits and reflects the needs of others outside and inside the court and its hierarchy. They understand and practice "servant" leadership.

## Do Skillful and Continual Diagnosis

There is no one best way to manage courts or any other organization. Cookie-cutter solutions are impractical. Effective court leaders, therefore, value and use processes and skills that measure court performance and progress toward stated goals. They want to know and continually ask and seek answers to the "How well are we doing?" question.

Through use of Visioning and Strategic Planning tools and other means, effective court leaders use forecasts of future needs and conditions. They act on the needs and expectations of the public and regular court users. They analyze political conditions and anticipate developments. They seek and use hard and soft performance data. They have the ability to separate unimportant facts from important findings, trivial and self-serving observations from critical data, and insignificant readings from vital signs.

# LEADERSHIP CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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BE CREDIBLE IN ACTION

CREATE FOCUS THROUGH VISION AND PURPOSE

MANAGE INTERDEPENDENCIES: WORK BEYOND THE BOUNDARIES

CREATE A HIGH PERFORMANCE ENVIRONMENT

DO SKILLFUL AND CONTINUAL DIAGNOSIS

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## BE CREDIBLE IN ACTION

Effective court executives are action and results oriented. They understand themselves and demonstrate personal integrity. Judicial insiders and outsiders know what successful court leaders believe in and what they will do. They are transparent. Clearly court leaders without technical skills are not credible. Just as clearly, however, character, trustworthiness, honesty, accountability, and ethics create credibility, regardless of the court leader's brainpower or technical skills.

- Ability to demonstrate integrity, trustworthiness, honesty, accountability, ethics, and integrity in one's actions;
- Knowledge of one's strengths and limitations;
- Knowledge of codes of conduct, including judicial and court manager codes in relevant federal, state, and local jurisdictions; the National Association for Court Management Model Code of Conduct; the model code for court managers developed by the American Judicature Society; the ABA Canons of Judicial Ethics for judges; and the ABA Code of Professional Conduct for lawyers;
- Knowledge of ethical issues and legal regulations when dealing with legal, personnel, and human resource issues, contracting, purchasing, and the management of court funds;
- Skill in projecting competence and professionalism;
- Ability to maintain objectivity, neutrality, and freedom from bias of any type toward any group or individual;
- Skill in clear, direct, and consistent communication;
- Ability to model desired behaviors; and
- Knowledge of personal values, how these values and personal style impact others who work in and around the courts, and how values and style set the culture and tone of the court.

## CREATE FOCUS THROUGH VISION AND PURPOSE

Without vision, people and organizations stagnate. More courts fail from a disconnect from fundamental court purposes than from a lack of resources, technical knowledge, or even effort. Effective court leaders understand that vision and purpose are critical and practical. Strategic plans and initiatives are created, communicated, understood, and implemented. Resources are concentrated on critical priorities. Leaders use the power of their office to motivate and to focus individual and departmental contributions to courts and court systems. They allow, require, and inspire individuals to contribute to the judiciary's enduring missions and values.

- Knowledge of the Purposes and Responsibilities of Courts;
- Ability to work with others to create a clear vision and sense of purpose for the court, its departments, and employees;
- Ability to communicate strategic intent, vision, and sense of purpose for the court and establish and execute action plans that reflect that vision;
- Ability to forecast future needs and conditions of the court and to think in the long term;
- Ability to analyze political and social trends and to anticipate their impact on court resource needs and operations;
- Knowledge of how to integrate short-term objectives into longer-term strategic plans;
- Ability to prioritize and to focus and concentrate individuals and resources on the most critical court needs;
- Skill in recognizing, communicating with, and motivating judges, administrative staff, attorneys, and others on whom the court depends to achieve its objectives; and
- Ability to communicate court mission, goals, and vision and to build deserved public trust and confidence in the judiciary.

## MANAGE INTERDEPENDENCIES: WORK BEYOND THE BOUNDARIES

Judicial independence requires effective management and coordination of the court's interdependencies with the executive and legislative branches and myriad public and private organizations in the interest of court performance and effective justice. While judicial independence is essential to liberty and justice and while impartiality on a case-by-case basis must be absolute, active leadership of and collaboration with others, both inside and outside the court, is mandatory.

- Knowledge of the basis for the judiciary's assertions of judicial independence and inherent powers and their relationship to the ends of liberty, social order, due process, equal protection, and justice under law;
- Ability to create coalitions for effective routines and needed change;
- Ability to develop and foster system-wide cooperations including strong affirmative relationships between elected and appointed court leaders, the public and private bar, law enforcement agencies, and other private, local, and state-based social service and justice providers;

- Knowledge of the roles and resulting motives of actors in various subsystems inside and outside the court;
- Skill in effective communication of court requirements and accomplishments to external authorities;
- Skill and political awareness when working with executive and legislative funding authorities;
- Ability to minimize turf battles without losing turf;
- Knowledge of political and interpersonal skills relevant to the court's negotiations and lobbying;
- Ability to marshal resources and to establish collaborative programs and partnerships, both public and private; and
- Skill in leading, surviving, and thriving in the face of conflicting mandates, ambiguous jurisdiction, and overlapping responsibilities.
- Ability to motivate justice partners and staff contributions to the court's mission;
- Ability to delegate and to avoid getting bogged down in details and micro management;
- Ability to lead and to manage change;
- Skill in listening, coaching and mentoring, and developing effective court teams;
- Skill in balancing professional, family, and personal needs and in helping others see the value in achieving balance between their work and personal lives; and
- Ability to support and advance innovation and improved court performance.

### DO SKILLFUL AND CONTINUAL DIAGNOSIS

Because there is no one best way to manage courts, court managers must use hard and soft data to analyze unique court management circumstances and conditions. Reliable data and informed analysis produce the basis for accountability and continual improvement.

- Knowledge of information and data needs; national, state, and local databases; how to acquire needed information; how to analyze necessary data; and how to use statistics, analytic staff, and reports;
- Ability to be inquisitive about and to scrutinize court performance openly, honestly, and continually;
- Skill in problem recognition and definition, diagnosis, analysis, and in finding alternative solutions;
- Ability to use objective data and anecdotal information when considering or conducting performance assessments;
- Skill in thinking logically and outside the box;
- Knowledge of the Trial Court Performance Standards and the accompanying assessment and measurement system;
- Skill in using performance measurement, resource allocation tools, and benchmarking to measure program costs, court performance, and outcomes;
- Knowledge of strategies, techniques, and skills such as total quality management and current management tools; and
- Skill in making adjustments based on assessments of how well the court is doing. [CM](#)

### CREATE A HIGH-PERFORMANCE WORK ENVIRONMENT

Leadership differs from management, yet they go hand-in-hand in high-performance courts. Leadership is necessary to vision and to promote needed change and growth. Management is required to pace it, to deal with complexity, and to coordinate disparate work processes. Effective courts and court executive teams stand out both in maintaining routines and bringing about needed change. Power is used, but it is a team and court-wide effort. Successful courts have leaders who inspire trust and teamwork and who understand group process and use groups well. Initiative is encouraged. Innovation is pushed. Excellence is demanded, recognized, and rewarded. Leaders understand other's needs and talents. They excel in "servant" leadership. They both lead and serve others.

- Knowledge of the judicial executive team concept and its practical importance for acceptable court performance;
- Ability to forge an effective court executive team and to model effective judge and court manager partnerships;
- Ability to work effectively with management and technical staff and teams to develop effective caseload and other work processes;
- Knowledge of the classic and current management and leadership literature;
- Ability to inspire trust, teamwork, and high court performance;
- Ability to use power, to make decisions, and to act decisively;
- Knowledge of motivational principles and methods and how to provide timely and constructive feedback;

# VISIONING & STRATEGIC PLANNING

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Effective court leaders take time to vision the future because visioning impacts the bottom line. Visioning and strategic planning help courts and court leaders avoid isolation, create and maintain momentum for change, and improve day-to-day court management.

The urgent often drives out the important in all organizations, courts included. Visioning and strategic planning counteract natural tendencies toward inertia — activity rather than accomplishment — by focusing courts on: their enduring purposes and responsibilities, preferred futures built around these commitments, and strategic direction and realistic action steps.

These proven management and leadership tools help presiding judges and their court managers focus themselves and others on the court's primary purpose — or mission — as well as establish both long-term goals and shorter term improvement priorities. Strategic planning, which usually includes a visioning component, is an ongoing, systematic process used in organizations of all types to critically and creatively: (1) assess where it is now, (2) define where it wants to be in the future, and (3) develop comprehensive strategies to move the organization in a desired direction.

While complementary, strategic planning and visioning differ. Visioning is a creative, collaborative process that asks court leaders and their justice partners to articulate a preferred future: what the court will look like and be doing when performing at its very best. A vision statement, which is the outcome of a visioning process, describes that future. Research suggests that vision statements are most effective when they “tell a story” of a new reality — a lucid and detailed preferred future. Effective vision statements elevate and compel action because they are both bold and inspirational and believable and achievable.

Strategic planning includes other vital elements, specifically: defining a court's mission — or purpose — and fundamental values; environmental scanning or trends analysis; a SWOT (i.e., strengths, weaknesses, opportuni-

ties, and threats) analysis; identifying strategic issues or key performance areas; long-range goals (i.e., end targets); objectives (i.e., means to achieve the goals); and short-term priority projects.

Implementation consistent with the strategic plan and monitoring and evaluating progress and outcomes round out the essential elements of long-range strategic planning. These steps help ensure that visioning and strategic planning are more than a cerebral exercise. Implementation and monitoring progress and evaluating results are all critical. They ensure that the projects and activities that flow from visioning and strategic planning produce the desired outcomes.

Courts that have completed either internal or community-based visioning and strategic planning processes report improvements in the following areas: (1) case management practices; (2) access to the courts and justice; (3) use of technology to enhance services and access; (4) community outreach and education; (5) cultural diversity and providing culturally responsive court services; (6) court governance and structure; and (7) the internal work environment so as to attract, retain, and motivate a skilled workforce.



Court leaders invest time in visioning and strategic planning processes and their follow up because:

1. Strategic planning supports local trial court autonomy by placing the onus for change and the responsibility for creating it squarely on the trial court's judges and staff.
2. The processes help build consensus within the court and between the court and its justice partners and community leaders about **what** the court will become, and **when** and **how** it will do it.
3. A strategic plan develops priorities and goals that are clear and accepted throughout the court and justice system.
4. A vision of the future, the long-range strategic plan, and its implementation help ensure continuity when the leadership of the court changes.
5. Strategic planning is an acceptable change and alignment mechanism modeled by courts across the nation.
6. Strategic planning supports a positive response to public demand for increased court accountability.

In sum, visioning and strategic planning can help court leaders shape their courts and organizational environments by:

- Challenging court and justice system practitioners to think beyond day-to-day problems and crises;
- Fostering, developing, and sustaining internal and external cooperation, collaboration, and partnerships;
- Allocating and using limited resources strategically;
- Improving day-to-day court management practices;
- Enhancing court-community communications and increasing public understanding of and satisfaction with the courts and the justice system; and
- Creating futures driven by the judiciary's deepest commitments: equal justice under law; independence and impartiality; equal protection and due process; access to justice; expedition and timeliness; accountability; and public trust and confidence.

### SUMMARY: VISIONING AND STRATEGIC PLANNING CURRICULUM GUIDELINES

#### What Court Leaders Need to Know and Be Able To Do

Court leaders can enhance the courts' capacity to define and deliver desirable court futures, even in the face of profound challenges. There are five Visioning and Strategic Planning Guidelines:

- Court Purposes, Environment, and Processes
- Fundamentals
- Organizational Foundations
- Change and Alignment
- Strategic Thinking

#### Court Purposes, Environment, and Processes

While Purposes and Responsibilities of Courts are relevant to every court and court system, they do not automatically translate into action for any specific court or court system. When Visioning and Strategic Planning are employed, court leaders initiate a translation process during which they and their many court and justice system partners look back to enduring court purposes to articulate a shared preferred future for their jurisdiction. To do so, court leaders need a firm grasp of the court purposes and responsibilities as well as the structure, organization, environment, judicial processes, and performance of their court. Understanding of any particular court and court system is strengthened by knowledge of other courts and judicial processes. From this base, a distinct, preferred, and challenging future can be discerned. Absent this base, the future may merely be a glance out the rear view mirror. The aim is a big but realistic and relevant future picture of the court's purpose and how it can work with others to deliver on the American promise of equal justice under law. Whether writ large or small, plans must take into account the court's purposes and responsibilities and its current jurisdiction, structure, and performance, including case processing and the types and numbers of cases being processed.

#### Fundamentals

Visioning and Strategic Planning is a discipline that draws upon well-tested principles, methods, tools, and techniques. In the past decade, these fundamentals have been applied to courts in more than 30 states. Court leaders need not start from scratch regarding the application of future thinking tools and techniques including trends; scenarios; environmental trends, stakeholders' needs and expectations, and the courts strengths and weaknesses; or projections and forecasts. To oversee the use of varied and powerful tools, court leaders must have a basis for the evaluation, selection, and use of the right processes and techniques. Staff and consultants are very useful in this process but need oversight and direction from the time the process is organized, including appointment of the steering committee, recruitment and orientation of staff and other participants, to conclusion of the process. Leadership of visioning and strategic planning is critical. Leaders must understand the fundamentals. They must move the participants past a sense that things need to be improved and visioning and strategic planning may be helpful. The end result is a shared, clear, powerful preferred vision, strategic direction, and, very importantly, improved court performance.

#### Organizational Foundations

Absent a strong organizational foundation, efforts to build a long-term strategic direction will move in fits and starts or even stall. A critical assessment of the existing capacity is critical **prior** to making the significant investments of leadership's time, political capital, and staff and other resources. Is a court executive leadership team in place and able to lead the court and the justice system? Does the court need to build internal understanding of and competency in strategic planning? Is the required time and commitment understood by all the critical parties? An inclusive and collaborative visioning and planning process is not possible absent a foundation that can support understanding and commitment about **what** the court, their

justice partners, and the community wish to achieve, **how** they will do it, and **when**.

### Change and Alignment

Visioning and Strategic Planning assume change and better alignment of court personnel and other resources and its many workflows. Adequate organizational foundations are critical to starting the process. Change and alignment is what happens after the visioning and strategic planning process is completed. If the vision and plan are as comprehensive as they need to be to improve the court, their implementation necessarily means change and organizational realignment. Everything that needs to be done cannot be done all at once. Based on understanding of the change process, implementation must be sequenced so that the court and its leadership team, judges, staff, and their justice partners move in a common direction toward shared commitments. The project must evolve from reliance on temporary task forces into a new court structure. Court leaders must understand the change process, clearly commu-

nicate expectations, monitor progress, and reward those who do what is needed for the preferred future to be realized.

### Strategic Thinking

Visioning and Strategic Planning require strategic as opposed to operational thinking. When beginning, the court leadership team must be able to distinguish between problems and issues that are routine from those that affect the courts capacity to deliver over time. This means seeing the implications of seemingly unrelated events and time-bound crises to what the court and the justice system could be at their best. Leaders who can think and act strategically understand the importance of listening to and empowering others in the planning and change process. Partnerships both inside and outside the court are very important. They know the importance of staying the course in the face of inevitable but unknown challenges. Strategic thinking enables leaders to anticipate, promote, and sustain change.

## VISIONING AND STRATEGIC PLANNING CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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### COURT PURPOSES, ENVIRONMENT, AND PROCESSES

#### FUNDAMENTALS

#### ORGANIZATIONAL FOUNDATIONS

#### CHANGE AND ALIGNMENT

#### STRATEGIC THINKING

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### COURT PURPOSES, ENVIRONMENT, AND PROCESSES

Visioning and Strategic Planning require understanding of the purposes of courts and how court management delivers on the American promise of equal justice under law, due process, and judicial independence and impartiality. Visioning and Strategic Planning help court leaders and their justice and community partners ensure that the future of the courts and the justice system matches their enduring purposes and responsibilities. Their plans take into account alternative and current court jurisdiction, structure, and performance; case processing; and the types and numbers of cases being processed.

- Knowledge of Purposes and Responsibilities of Courts Curriculum Guidelines and their implications for Visioning and Strategic Planning;

- Knowledge of the Trial Court Performance Standards: 1) access to justice; 2) expedition and timeliness; 3) equality, fairness, and integrity; 4) independence and accountability; and 5) public trust and confidence and how they help define the ends to be served by Visioning and Strategic Planning;
- Knowledge of fundamental court system values such as: 1) access; 2) fairness and impartiality; 3) judicial independence; 4) responsiveness; 5) accountability; 6) effectiveness; and 7) accessibility;
- Skill in linking the concepts of due process of law and equal protection and independence and impartiality to Visioning and Strategic Planning;



- Ability to draw upon the inherent powers of the court and the authority it provides for the court to take charge of its future;
- Ability to take account of the culture of the judiciary and the political, fiscal, and organizational environment in which the court system and its constituent courts are imbedded;
- Knowledge of the jurisdiction, structure, and management of court systems and courts and how they impact court visioning and strategic planning;
- Knowledge of limited and general jurisdiction courts, intermediate courts of appeal, and supreme courts, their day-to-day management, and how their distinct responsibilities shape visioning and strategic planning;
- Ability to carry out visioning and strategic planning in ways that are relevant to how courts actually function, their fundamental work processes, and all case types.

## FUNDAMENTALS

When implementing Visioning and Strategic Planning, court leaders, future commissions, and staff draw upon proven principles, methods, and techniques. They and others they oversee use the most appropriate Visioning and Strategic Planning tools.

- Knowledge of visioning, futures thinking, and foresight, including trends, scenarios, visions, and strategies, and how to apply them in court settings;
- Knowledge of prior court futures projects, their successes, and shortcomings;
- Ability to identify the court's mandates and to assess their long term implications on the court and justice system;
- Skill in assessing court stakeholder needs and expectations through direct contact, focus groups, and surveys;
- Knowledge of strategic planning principles and techniques, and their best uses in court settings;
- Knowledge of the technology and software that can support and help structure court improvement through Visioning and Strategic Planning;
- Skill in establishing formal mechanisms for monitoring trends and anticipating their potential implications for the court's strategic direction;
- Knowledge of statistical and analytical tools such as forecasting, environmental scanning, scenario construction,

and related research techniques including descriptive and inferential statistics;

- Knowledge of how to gather and to use data in court settings and to project and assess important environmental trends for courts;
- Skill in applying available local, state, and federal data to court Visioning and Strategic Planning;
- Ability to assess the court's capacity (strengths, weaknesses, opportunities, and threats) to respond to current and likely future demands and expectations;
- Ability to focus on both the court's strategic direction and day-to-day problems.

## ORGANIZATIONAL FOUNDATIONS

The court must have the capacity to produce a long-term strategic direction built through an inclusive and collaborative visioning and planning process. Adequate organizational foundation produces understanding and commitment about **what** the courts, their justice partners, and the community wish to achieve, **how** they will do it, and **when**.

- Ability and willingness to lead the court and the justice system;
- Ability to form and sustain court leadership executive teams to exert the leadership that gives courts vitality and organizational cohesion;
- Ability to develop a cadre of judges and staff who are competent in visioning, strategic planning, and project implementation;
- Ability to communicate the purpose, focus, and scope of Visioning and Strategic Planning for the court, the justice system, and the community;
- Ability to educate judges and others about the "why" of Visioning and Strategic Planning; the risks and costs in time and dollars; the benefits of these processes; and the required time, energy, and other resources and their current availability;
- Skill in obtaining needed resources and in leveraging existing resources to initiate and sustain Visioning and Strategic Planning;
- Ability to critically assess court readiness for change with respect to both the technical and human sides of change and transition;

- Skill in engaging the effective and appropriate mix of judicial, political, and community leaders and standing, ad hoc, and new committees in Visioning and Strategic Planning;
- Skill in selecting the appropriate mix of staff and clearly defining the responsibilities and roles of the staff and the court's committees and work groups;
- Knowledge of effective group processes and their necessity if court Visioning and Strategic Planning are to succeed and to promote teamwork and to maintain continuity between work teams and planning sessions;
- Ability to manage Visioning and Strategic Planning, including initiating and agreeing on the process, creating steering committees, maintaining resource commitments and momentum, and the implementation plan and monitoring;
- Ability to maintain top leadership visibility, understanding, and participation in Visioning and Strategic Planning processes and implementation.

## CHANGE AND ALIGNMENT

Visioning and Strategic Planning facilitate change; link visioning, planning, and action; and move the court, its judges, staff, and their justice partners in a common direction toward shared commitments.

- Ability to align day-to-day activities and the court's strategic direction and to sequence improvement activities;
- Ability to solicit community and court stakeholder and staff feedback on completed and planned work;
- Ability to help court insiders and outsiders understand how needed changes will impact them;
- Skill in communicating the court's vision and plans to the print and electronic media;
- Skill in involving the community and building its understanding of the court's vision and strategic plans;
- Ability to monitor the court's progress toward achieving goals and outcome-based measures as well as being able to take corrective action if needed;
- Ability to use existing court and justice system committees and work groups to achieve long-term goals;

- Knowledge of organizational change and project management dynamics and their application to court visioning and strategic planning;
- Ability to make clear what is expected during and after change and to reward achievement and effort and to align performance and rewards;
- Ability to inspire others (e.g., judges, staff, diverse court coalitions) to work together both to achieve the court's vision as well as to implement the shared vision.

## STRATEGIC THINKING

When carrying out Visioning and Strategic Planning, court leaders think and act futuristically and strategically by anticipating and promoting change.

- Ability to distinguish between routine problems and strategic court issues;
- Ability to develop and modify plans to address strategic issues;
- Ability to understand the implications of seemingly unrelated events for the courts;
- Ability to identify the potential system-wide implications of court activities;
- Knowledge of the power of empowering and collaborating with others in creating a preferred court future, which moves thinking past current constraints to what a court might be at its best;
- Skill in soliciting and listening to other's ideas about how the court is and should be functioning;
- Ability to recognize and use new approaches proposed by court and justice system insiders, other jurisdictions, and national authorities;
- Ability to create a forum to involve the community in Visioning and Strategic Planning rather than reacting and reaching out only when the court is faced with an internal or external crisis;
- Ability to build coalitions and partnerships — public and private — to address long-term needs;
- Knowledge of the value and implications of staying power, patience, and tenacity when conceiving and implementing court improvement plans and projects. [CM](#)

# Essential Component ESSENTIAL COMPONENTS

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Judges do not only consider evidence provided by the parties, rule on motions, and decide cases. Increasingly, information used to make a judicial decision is provided to the court by programs and services annexed to the court and the case rather than by parties to the litigation. Effective courts must be able to accept and use this information and to manage other programs and services ranging from the basic, such as court facilities, clerks and reporters, and court security, to the more specialized, such as child custody evaluations, legal research staff, and indigent defense. These services, programs, and infrastructure constitute the court's Essential Components.

Essential Components greatly impact court performance and the quality of justice. Court leaders must, therefore, understand the need, nature, level of service, and how Essential Components are delivered. Competent court leaders understand and keep pace with the scope and the essence of all such activities, programs, and services and ensure their proper management even if these components are not under the direct authority of the court.

Without effective Essential Components, court performance is compromised and litigants neither feel nor are well served. When aligned with the court's role and vision, and well managed, these activities, programs, and services contribute as much to prompt and affordable justice, equal access to justice, judicial independence and accountability, and public trust and confidence as caseload management, the budget process, human resources, and information technology.

Essential Components are of several types and serve several functions. They are grouped here according to how and when they occur and how they contribute to the court and the judicial process in: 1) case preparation, 2) adjudication, 3) enforcement, and 4) court infrastructure.

**Case Preparation:** Better prepared cases and litigants mean cases can be presented more quickly and succinctly, reducing use of judicial resources and the cost of litigation and improving the pace of litigation. Better prepared cases can improve the quality of justice and result in a stronger perception that justice is being done. These Essential Components include the gathering and preparation of information to file a case, social interventions on behalf of parties prior to and in support of litigation, representation of some parties to litigation, and assisting parties who cannot afford a lawyer or who choose to file cases without a lawyer representing them.

Essential Components also include programs that identify and gather evidence and information after the case has been filed. These activities both supplement and replace information gathering by the parties and its presentation to the court. This reflects a paradigm shift away from a pure adversarial process to a process that encour-

ages, if not requires, information gathering by a third party neutral working for and being supervised by the court rather than the parties. A faster and less expensive fact gathering process contributes to public trust and confidence as well as more equal justice, especially to the extent it counteracts real and perceived resource and power imbalances between parties.

A related aspect of Essential Components is education of litigants, particularly those who may come to court without lawyers, about how to proceed, what will be expected of them, and what they can reasonably expect from the judicial process.

While such services challenge traditional thinking and the court's managerial skills, neutral fact gathering can contribute to faster, cheaper, and more equal justice. These services and programs aim to: 1) reduce litigation costs and time, 2) enhance the traditional processes, and 3) improve the quality of life of individuals and communities.

**Adjudication:** The judiciary resolves disputes. This can occur a number of ways. In most cases, the parties and their lawyers resolve the dispute. Increasingly, however, others are engaged by the parties and/or are appointed by the court after cases are filed to help resolve disputes without formal judicial processes. Alternative dispute resolution (ADR) such as mediation and arbitration, or use of masters or hearing officers supplements, enhances, and even replaces traditional adjudicatory processes for civil cases. New approaches to criminal and other litigation include problem solving courts such as drug courts, community courts, mental health courts, and teen courts. These programs may or may not be part of the court and may be arranged by the parties and their lawyers with or without court involvement.

If none of these approaches are used, or they are not successful in resolving the dispute, parties resolve their dispute through the traditional adversary process, up to and including trial. The traditional process also includes functions and activities that support and facilitate completion of hearings and trials. In many cases, the parties are entitled to a jury trial, so there must be a program that provides qualified trial jurors to courts. Parties or witnesses may not understand English sufficiently to allow them to understand, much less to participate meaningfully in the judicial process, so interpreters must be provided.

The traditional process includes reporters and clerk staff who facilitate the process and "make the record" of the court proceedings — what the court heard and decided. This includes the documents and exhibits that form the court's file and which contain the court's decision, and the verbatim record, electronic or paper, of what was said in court. The record not only provides the record of what happened, it is the basis for appeals and allows the public, often through the media, to exercise their right to open public proceedings, and to hold courts and judges accountable.



**Enforcement:** When, as it is often true, court orders and judgments are not self-executing, courts and their surrogates must take action to ensure compliance. Probation, fine collection, and child support enforcement are the obvious examples of these types of Essential Components. These mechanisms recognize that often one or more parties do not understand or have no incentive to implement the court's decision. Absent court intervention, some parties decide not to comply with court ordered remedies, whether equitable or monetary. This undermines the rule of law and erodes public trust and confidence in the judiciary.

**Court Infrastructure:** Essential Components also encompass the court's facilities, equipment, communications, court security, and the movement of prisoners to and from and in the courthouse. The existence, location, arrangement, efficiency, and usability of court facilities significantly impact the level and quality of court services as well as the efficiency and effectiveness of court and clerk of court staff. These concerns must be addressed when designing or remodeling court facilities. Another important aspect of facilities is physical access, as required by the Americans with Disabilities Act (ADA) and related state and local laws and regulations.

**Program Management and Evaluation:** Many Essential Components operate as a distinct unit or organization. In order to complement and enhance the judicial process, it is important that all of these programs are aligned with and supportive of the role and mission of the judiciary and its many functions and workflows. They must be well-managed regardless of who has formal authority. Continuous oversight and evaluation ensure that needed services are present, effective, and coordinated with judiciary and justice system operations and workflows.

## SUMMARY: ESSENTIAL COMPONENTS CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able To Do

The Curriculum Guideline areas for Essential Components move from the judicial context in which they operate, through specific groupings of Essential Components based on when they occur in the litigation process and their effectiveness. The five Curriculum Guidelines areas are:

- Purpose, Role, and Vision
- Case Preparation
- Adjudication and Enforcement
- Court Infrastructure
- Program Management

### Purpose, Role, and Vision

Essential Components can support or undermine the judicial decision-making process. They can provide relevant information and services to the litigants and the court or hinder the judicial process. They constitute much of internal court operations and infrastructure, even though many are not in the courts' budget. In order to integrate Essential Components into court operations, a court leader must know why these programs and services are needed, what they provide, and how they relate to court purposes, responsibilities, and processes. Essential Components support the court's basic roles,

purposes and responsibilities, in particular impartial and independent judicial decisions and decision-making processes.

Courts that are managed effectively have a strategic vision for fulfilling the court's roles and responsibilities in their community. The goals and objectives of Essential Components must be aligned with the courts preferred future and vision. New Essential Components often emerge and evolve independently and incrementally, requiring court leaders to stay current with the emerging services and the continual need to align them with the court's purpose, vision, and strategic direction.

### Case Preparation

Essential Components facilitate the decision-making process by helping litigants prepare and present their case, both before the case is filed and during initial case processing. These programs contribute to equal justice, especially to the extent they counteract real and perceived resource and power imbalances between parties. Before cases are filed, courts provide assistance to prospective litigants as they prepare a case for filing. In many jurisdictions, the court is also responsible for the grand jury, which reviews and screens criminal charges prior to filing. In a few jurisdictions, a civil grand jury oversees local governmental entities.

Other programs and services gather information that is provided directly to the judge after the case is filed. The information can be evidence relevant to the court's decisions or summaries of the applicable law. Examples include but are not limited to pretrial services, psychiatric and psychological evaluations, drug testing, self-help and assistance programs, legal research, law libraries, and presentence reports. In criminal and some juvenile cases, the Constitution requires the court to provide a lawyer to individuals who cannot afford legal representation to help them prepare, file, and present their case.

Generally these activities supplement, but often they substitute for, information gathering by the parties. This reflects a shift away from a pure adversarial process to problem solving and the gathering of information by a third-party neutral, who reports directly to the court rather than to the parties to litigation. These Essential Components can increase the quality of justice, reduce the cost of litigation, and speed information gathering when compared to advocates and their competing experts.

### Adjudication and Enforcement

This area includes three categories of Essential Components: traditional adjudication processes, alternatives to adjudication, and enforcement of court orders.

Courts have always included certain essential activities that form the traditional adjudication process or facilitate the taking of testimony or resolution of the case. Essential activities include those associated with making the record of what was said in court (the verbatim record function) and what the court decided (the clerk of court function). Many cases involve a jury trial, so there must be a program that provides qualified jurors when they are needed. If witnesses or parties cannot understand English sufficiently to understand or participate meaningfully in judicial proceedings, qualified interpreters must be provided. When vital Essential Components are missing, court proceedings must be suspended.

Other programs replace, supplement, or enhance the traditional adversarial judicial process. This includes alternative dispute resolution (ADR) programs (such as arbitration, mediation, and settlement programs), as well as problem solving courts (such as drug courts, domestic violence courts, community courts, and teen courts). These programs may or may not be part of the court and may be arranged by the parties with and without court involvement.

Once the court has made an order or rendered a judgment, there are activities and programs associated with the enforcement of the decision. Many, if not most, court orders and judgments are not self-executing. Over time, numerous programs and services have been developed to help with the enforcement of the courts' orders. They range from enforcement of judgment clinics, probation, restitution and fine collection, to child support enforcement.

### Court Infrastructure

The physical infrastructure within which the court operates is an Essential Component. There are a number of elements to the infrastructure. The most basic is the court facility itself: courtrooms; jury assembly rooms; offices for court and clerk of court employees, programs, and services; spaces for records management; and public spaces. Physical spaces must adequately serve the people who use them and comply with requirements of the Americans with Disabilities Act. Courts should provide safe work places for both staff and the public, though, for example, separate circulation for court personnel, the public, and prisoners. The environmental aspects of facilities, including heat, light, and air, also affect court operations and outcomes. Security is another Essential Component, including building security, courtroom security, and security of in-custody defendants and people who are in the courthouse. Finally, there is the communications infrastructure that must be designed and managed

to support the court's telephones, video conferencing, security systems, and information technology.

### Program Management

Essential Components must be well managed if the court is to accomplish its mission and make the most effective use of public resources. Many Essential Components have their own staff and internal management structure, some of which lie outside the courts. Court leaders must ensure that all these programs are coordinated with other court and justice system operations and workflows. Whatever their formal structure and accountability, Essential Components must be well managed. This involves cooperation with others, the development and use of management information systems, evaluation measures and systems, and funding and resource development. Incorporation of Essential Components into the court's management requires court leader understanding of the operations of Essential Components; what programs and services are needed and in place; their effectiveness; and alternative ways to organize them to achieve consistency and alignment with other court and justice system operations. Understanding of alternative service delivery models, basic case management principles, including intake and screening, client assessment, referral processes, and monitoring through technology, staff training, and supervision is critical, as is performance evaluation against reasonable program and service outcome expectations. Well-managed Essential Components support court purposes and responsibilities such as rule of law, judicial independence and impartiality, equal protection, due process, societal values such as privacy, and court management values such as efficiency and good customer service. When managed well, Essential Components promote court performance excellence and help maintain and improve public trust and confidence in the judiciary.

## ESSENTIAL COMPONENTS CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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PURPOSE, ROLE, AND VISION

CASE PREPARATION

ADJUDICATION AND ENFORCEMENT

COURT INFRASTRUCTURE

PROGRAM MANAGEMENT

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## PURPOSE, ROLE, AND VISION

Essential Components must be organized and managed in a way that is consistent with and contributes to the purposes, responsibilities, and role of the judiciary. The court's vision and strategic direction should comprehend and include its Essential Components.

- Knowledge of the Purposes and Responsibilities of the Courts Curriculum Guidelines and how they apply to Essential Components;
- Skill in articulating a preferred future for the court and the justice system that acknowledges and includes Essential Components;
- Ability to design, manage, and evaluate Essential Components that is consistent with and supports the purpose and role of the judiciary;
- Knowledge of the traditional, and evolving, role of judges regarding support services and programs;
- Knowledge of the expanding role of the court from resolving disputes to problem solving by collaborating with other public agencies and the community to better serve litigants and provide justice;
- Ability to monitor the trends generating the need for Essential Components and to respond to the trends that affect program and service expectations;
- Knowledge of how race, ethnicity, and gender differences impact needed Essential Components and service levels;
- Skill to use Essential Components to educate the public about the role and purpose of the judiciary and its performance;
- Ability to manage Essential Components to strengthen rule of law, judicial independence and impartiality, equal protection, due process, judicial accountability, and public trust and confidence.

## CASE PREPARATION

Court leaders oversee programs that assist parties in preparing their case and in gathering information used in the judicial decision-making process. The activities can involve pre-filing case preparation, pre-trial case preparation, gathering information relevant to the resolution of the dispute, and educating parties about the process.

- Ability to identify programs and services supporting preparation of cases is needed in the community served by

the court the ability to find or develop such programs and services;

- Knowledge of the role and objectives of programs that investigate or initiate cases such as children's protection services, the grand jury, and pre-trial services and probation;
- Knowledge of programs and services that provide information to the court on indigency issues, detention alternatives, and jail crowding;
- Knowledge of types of treatment and referral recommendations, and information such as drug testing results provided to problem solving courts and how to organize and manage these services;
- Knowledge about when the court must appoint counsel, supported by investigators and experts when necessary, in criminal and juvenile cases and how to coordinate programs providing adequate representation;
- Ability to establish and manage self-help programs to assist self-represented litigants, particularly for domestic violence, civil harassment orders, family law, and small claims cases, and to educate the public about the availability and use of these services;
- Skill to coordinate services providing clinical, forensic, psychiatric, or psychological evaluations of a party's mental state or treatment options in criminal, juvenile, child abuse and neglect, child custody, mental health, probate, and guardianship cases;
- Ability to coordinate legal research provided to judges by research attorneys, whether in-house or contractual;
- Knowledge of probation services that provide the court information about factors relevant to sentencing and sentencing alternatives;
- Knowledge of child advocacy and public guardian programs and services and how to coordinate them with judicial processes;
- Skill in collaborating with community resources and referral programs to help litigants with housing, education, and health needs, and in offering resources to support pre- or post-trial detention alternatives, diversion, mediation, or counseling services for litigants and victims.

## ADJUDICATION AND ENFORCEMENT

Cases can be resolved through traditional judicial processes or through alternative dispute resolution (ADR) techniques. Court leaders must be aware of alternative approaches and what is needed to support them. Court leaders must also manage the preparation and maintenance of the court record. Enforcement of court orders is essential to the rule of law and the integrity of the judicial process and judicial decisions.

- Ability to manage court record keeping function to produce a complete, accurate, and timely record of judicial actions and decisions;
- Ability to establish court records management policies and practices, including record preparation, records retention, public access, and privacy protections;
- Ability to organize and manage the creation of the verbatim record and provide the record on appeal, including court reporters and electronic recording (audio and video), in a timely manner;
- Ability to manage a cost-effective program that provides sufficient jurors in a timely manner who represent a cross section of the community;
- Ability to establish and maintain a program that provides qualified interpreters when required;
- Ability to provide services and technology to supporting the presentation of evidence;
- Knowledge of the application of caseflow management principles to Essential Components;
- Ability to integrate ADR programs that resolve cases, such as arbitration, mediation, and settlement programs, and other techniques such as summary jury trials, into court processes;
- Ability to coordinate programs that enhance or substitute for court resolution of some issues in a case, for example, a child custody mediation service;
- Knowledge of probation practices, services, and programs related to sentencing;
- Skill in coordinating sentencing alternatives, including intermediate sanctions, community corrections alternatives, and traffic safety programs;
- Knowledge of follow-up treatment and post-judgment activities of problem solving courts;

- Knowledge of child support enforcement services and programs;
- Ability to collect fees, forfeitures, and other judgments to enforce judgments;
- Ability to develop and manage post-judgment assistance, especially for self-represented litigants, in family law, eviction, small claims, and other cases.

## COURT INFRASTRUCTURE

Court leaders must be able to acquire and effectively manage the court facilities and infrastructure within which the court operates. This includes courthouse security and facilities, how they are used, and their environmental aspects.

- Knowledge of court facility design options and the impact of facilities on public perceptions, access, court performance, people flow, workflow continuity, and staff effectiveness;
- Knowledge of the Americans with Disabilities Act requirements regarding access and use of facilities;
- Skill to direct and to assist program planners and architects in the design of court facilities;
- Ability to determine the appropriate location of court services;
- Knowledge of court facility financing alternatives;
- Ability to identify alternative work practices and physical modifications to improve employee workplace ergonomics, safety, effectiveness, and performance;
- Ability to modify business practices and physical characteristics of the workplace to avoid or alleviate court employee and judicial space concerns and issues;
- Knowledge of security, including the courthouse and its perimeter, courtrooms, and other offices and how to work with others to maintain and improve courthouse and courtroom security and safety;
- Knowledge of prisoner (adult and juvenile) transportation and detention issues as they affect case management, facility, and other needs;
- Knowledge of court communication needs and alternative technologies available to meet them;

- Ability to specify communication needs of the court for telecommunications, information technology, and court security to architects and contractors;
- Ability to serve as an effective liaison to agencies outside the court supplying essential services to the court, such as personnel, fiscal and financial, purchasing, collections, or physical infrastructure and utilities;
- Ability to develop and implement effective security, disaster recovery, and business continuity plans.
- Knowledge of funding alternatives for Essential Components and which funding models are appropriate for which programs and services;
- Skill in allocating and, when necessary, acquiring needed funding, technology, and other resources needed for effective Essential Components;
- Ability to read and understand accounting reports covering Essential Components;
- Ability to develop relevant measures and measurement systems to monitor and evaluate Essential Component performance, to hold them accountable, as well as to achieve expected outcomes for litigants, including fair, efficient, and prompt case processing;
- Skill to create needed collaborative partnerships among courts, ancillary programs, community services, non-profits, and legislative and executive branch agencies at the state and local level. [CM](#)

## PROGRAM MANAGEMENT

Court leaders must lead, oversee, coordinate, and evaluate Essential Components. This requires an understanding of what services they provide, service delivery model alternatives, funding, and evaluation. Essential Components and other court and justice system operations and workflows must also be aligned with and support the judiciary's purposes and roles.

- Knowledge of the roles, functions, operations, and values of all the agencies, programs, and services that provide the court with Essential Components and their impact on court performance and specific court operations;
- Knowledge of the actual tasks performed by Essential Components;
- Ability to manage Essential Components so as to promote justice values such as independent and impartial judicial decisions, due process, equal protection, fairness, consistency, and predictability;
- Skill in working with others to solve justice system problems such as jail overcrowding;
- Knowledge of alternative service delivery models, including outsourcing and use of volunteers, interns, practicum students, and community service organizations for diverse Essential Components;
- Knowledge of alternative case management techniques and practices used in Essential Component services and programs;
- Ability to use information systems and technologies to support program operations and to link the court and all other aspects of the justice system — juvenile, family, civil, and criminal;





# COURT COMMUNITY COMMUNICATION

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

People do not trust what they do not understand. The Trial Court Performance Standards recognize Public Trust and Confidence as a critical area of court performance, equal in importance and related to Access to Justice; Expedition and Timeliness; Fairness, Equality, and Integrity; and Independence and Accountability. Accountability and Independence Standards require trial courts “... to inform and educate the public.” Here we go further. This Guideline challenges court leaders to educate, inform, and teach the public about the courts, but also to be educated, informed, and taught by the community.

In his seminal 1906 speech to the American Bar Association, published in the first issue of *Judicature* in 1913, Roscoe Pound made a timeless observation in his first sentence: “Dissatisfaction with the administration of justice is as old as law.” Survey results from more than 35 states over the past quarter century confirm Pound’s insight. Most public surveys indicate that the public generally neither understands nor is satisfied with court performance.

The fact that the court cannot always be on the side of public opinion energizes effective court leaders. They work toward understandable courts and deserved public trust and confidence precisely because there is no guarantee that public perceptions will reflect even truly excellent court performance.

Court leadership is as critical here as it is with respect to caseload management. Court Community Communication requires balance between maintaining judicial impartiality and independence and the adversarial process and ensuring that the court and its leaders communicate with and learn from diverse publics. Distance and reserve is critical to the judicial process, but it need not lead to judicial reserve or institutional isolation. Isolation is harmful to effective interaction with and understanding of the community and response to legitimate public questions, concerns, and insights about courts and court performance. With effective leadership, the local legal culture can advance rather than retard both the pace of litigation and Court Community Communication.

Print and broadcast news are consistently the greatest sources of information about our courts and probably the most influential forces in formulating public understanding of and satisfaction with the courts. More Americans believe that cases are handled in a “poor manner” than in an “excellent manner.”

Findings from more than 30 years of surveys indicate the public thinks that cases are not decided in a timely fashion and that resolving a matter through the courts is too expensive. But the challenges go deeper. The prestigious 1999 National Center for State Courts survey (*How the Public Views the State Courts: Findings from a 1999 Survey*) also revealed that both Hispanics and African Americans feel

they are routinely treated “worse” in court than Caucasians. Significantly, Caucasians and Hispanics perceived that African Americans are not treated as well as others who come to court. While the public’s view of judges is more positive than their view of courts generally, almost half of those polled in 1999 agreed that courts are “out-of-touch with what’s going on in their communities.” An overwhelming majority of those polled agree that, “Politics influence court decisions.”

Competent court leaders understand that now as in Pound’s day, there are perpetual causes of popular dissatisfaction with the administration of justice. In Pound’s words, some causes are inherent to “any system of law” — the application of general principles to particular cases — and others are due to our “peculiar” Anglo-American system of law.

As effective court leaders educate themselves about the public’s current understanding of and satisfaction with the courts, and work to remedy poor court performance and unfounded public perceptions, they understand that some popular dissatisfaction is inevitable. They work hard to remedy performance issues and unfounded public opinions knowing that courts neither can nor should be expected to always be popular.

Effective court leaders avoid and keep others from falling into the trap of believing that “they” cannot and never will understand “us.” They communicate well with and through the media. Court community communication often goes through a reporter and the media as a filter and translator, but court leaders also must communicate without reporters from the print and broadcast media. Alternative methods include understandable courts, community outreach, public information, community education programs, and the Internet. Efforts to educate are always balanced and informed by community outreach.

Court executive leadership teams assisted at the state level and in some urban courts by professional public information officers (PIOs) can increase public understanding and ameliorate unduly negative public perceptions. But the basics are the same in courts with PIOs and the vast majority of jurisdictions without them. Communication is grounded in the purposes and responsibilities of courts. Positive, well-conceived, and accurate public information and media relations are bolstered by work toward understandable courts and community outreach. Whatever the size of the jurisdiction, Court Community Communication is a court leader responsibility.

## SUMMARY: COURT COMMUNITY COMMUNICATION CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able to Do

The Court Community Communication Competency includes six areas of competency:

- Purpose and Communication Fundamentals
- Understandable Courts
- Community Outreach
- Public Information
- The Media and Media Relations
- Leadership and Program Management

### **Purpose and Communication Fundamentals**

Effective court executive leadership teams develop and improve communication channels between the courts and the public to advance court purposes and responsibilities. They engender accurate understandings and positive perceptions about the courts. If this goal is accomplished, public trust and confidence will improve and, very importantly, court operations will improve.

To achieve this, court leaders must master six communication fundamentals essential to effective communication — both verbally and in writing. The six fundamentals that enable court leaders to construct and carry out effective Court Community Communication are: 1) positive messages, 2) credibility, 3) honesty, 4) accessibility, 5) openness, and 6) understandability.

### **Understandable Courts**

Although most of the population never has personal contact with the court system, most, but not all, national and state surveys indicate that more citizens who have been to court have more negative opinions of courts and the judicial process than those who have not actually been to court as litigants, witnesses, or jurors.

Courts have not historically been user-friendly and are still too often cloaked in mystery for the average person. Unduly complicated courts confound the public. Mysterious court processes and terminology make courts difficult to understand and to access, use, and navigate.

Court leaders must assess their courts and ensure that processes are understandable and useable for the public from the self-represented to witnesses and jurors, to court watchers, and to represented parties. Beyond common courtesy and good customer service, tools include technology and modern multimedia techniques to make the courts more understandable, accessible, and easy to use. With the growth of self-represented litigants, particularly, but not exclusively, in family law matters, these tools help both litigants and the court.

### **Community Outreach**

Community outreach allows court leaders to understand the needs and perceptions of the communities they serve. Courts need community outreach programs to learn how courts can better serve their communities and to reach distinct segments of the public. Public input is vital to effective community outreach. Communication must be two-way.

Good community outreach educates the public and informs the court about community concerns and insights into how the court can be improved. It takes both good teaching and listening skills to make community outreach programming into the two-way communications' street that it must be.

### **Public Information**

Court public information is the amalgamation of various communication skills such as media relations, public relations, legislative relations, and overall community education. This is more than “media relations.” Courts must formulate and deliver positive information about courts.

Court leaders, who are successful communicators with various public audiences, have the ability to assess what information needs to be conveyed to what specific audience(s) and how it can be delivered. This information may take a general public education format or be tailored to advance legislative and other purposes.

Effective public information managers are masters at multi-tasking and able to communicate with diverse audiences. They respond to crises and plan and communicate proactively.

### **The Media and Media Relations**

Court leaders must understand the news media and have productive relationships with reporters, editors, and news officials. They must respond appropriately to news inquires, generate constructive news coverage, use the media as an educational tool, and communicate with and without reporters through the print and broadcast media

Effective court leaders neither fear the media nor take a reactive posture. Instead, they plan and are skilled and confident in their media relations abilities. They develop and effectuate proactive media relations plans. Court messages must be informative, accurate, and consistent, as well as positive.

### **Leadership and Program Management**

Effective Court Community Communications is much more likely in a well-managed than a poorly managed or mediocre court. When affordable in large courts, public information professionals are invaluable. However, court leaders or staff they assign who have other responsibilities must lead, oversee, and deliver community communication in most jurisdictions. Those in charge ensure that their own and others roles as spokespersons for the court are clearly defined. Within a cohesive, well-managed court, court leaders aided by staff assess Court Community Communication needs and prioritize and organize programs to meet general and specific needs. Needs include information related to domestic violence, divorce, and landlord/tenant cases.

Court executive leadership teams evaluate Court Community Communication against clear objectives. With the help of court staff, other justice system leaders, and the public, they determine if their messages are reaching the desired audiences. Changes to the message and who delivers it are made when necessary.



# COURT COMMUNITY COMMUNICATION CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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## PURPOSE AND COMMUNICATION FUNDAMENTALS

### UNDERSTANDABLE COURTS

### COMMUNITY OUTREACH

### PUBLIC INFORMATION

### THE MEDIA AND MEDIA RELATIONS

## LEADERSHIP AND PROGRAM MANAGEMENT

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### PURPOSE AND COMMUNICATION FUNDAMENTALS

Effective court leaders know and use six communication fundamentals to support the purposes and responsibilities of courts. The fundamentals are 1) positive message, 2) credibility, 3) honesty, 4) accessibility, 5) openness, and 6) understandability.

- Knowledge of the Purposes and Responsibilities of Courts Curriculum Guidelines and their application to Court Community Communication;
- Knowledge of the implications of Roscoe Pound's seminal 1906 ABA speech "The Causes of Popular Dissatisfaction with the Administration of Justice" for Court Community Communication.
- Knowledge of the Trial Court Performance Standards, particularly those in the area of Public Trust and Confidence and the relationship of Public Trust and Confidence to Access to Justice, Expedition and Timeliness, Fairness, Equality, and Integrity, and Independence and Accountability;
- Ability to develop and convey a positive message;
- Ability to be credible in the information that is generated by the court;
- Ability to be honest in response to inquiries;
- Ability to be accessible;
- Ability to be open;

- Ability to be understandable;
- Skill in ensuring that the courts are understandable, accessible, and responsive without compromise to the independence and impartiality of court processes and decisions.

### UNDERSTANDABLE COURTS

Court leaders must recognize the importance of understandable courts and know how to assess the court's understandability and ease of use for average citizens. They and other court officials, both judges and staff, increase the community's understanding of, access to, and ease of use of the courts.

- Ability to assess and recognize current court access, communication, and ease of use problems and barriers and to effectuate solutions;
- Knowledge of successful techniques including self-service centers and technology solutions and the Internet used in other courts to make complex processes understandable and accessible to the average citizen considering, responding to, or actively involved in litigation;
- Knowledge of how to improve access to the court both through the telephone and the Internet, to help the public use and respond to court forms and notices, to find the courthouse and its departments, and, once they come to court, to navigate court facilities;
- Ability to oversee staff and processes that translate complex court processes to the average citizen while avoiding the practice of law or giving legal advice;



- Knowledge of needed adjustments and accommodations to the self-represented in family law and other case types;
- Ability to make an inventory of public contact information and to make sure that the court meets public needs;
- Skill in implementing excellent customer service throughout the court;
- Knowledge of current technology that can heighten the public's understanding and increase ease of use through kiosks, interactive computer programs, and the Internet;
- Ability to develop court Web sites that incorporate "new media" (video, audio, photographs, and text) to promote public understanding and public access;
- Skill in educating court employees about the judicial and justice system, how their job fits in the larger system and its importance to justice and public trust and confidence, and how they can better serve the public during daily contacts, whether by telephone or in person.

## COMMUNITY OUTREACH

Court leaders must plan, create, develop, and implement effective and affordable community outreach and establish and maintain a free flow of information between the court and the public. Court leaders not only educate and inform the public, they learn from and improve the court through community outreach.

- Knowledge of the Trial Court Performance Standards, particularly those that relate to Access to Justice and Public Trust and Confidence;
- Knowledge of the many communities served by the court, their perceptions of the court, and their needs;
- Knowledge of successful community outreach in other courts;
- Ability to assess a court's need for diverse community outreach, the resources that are available and needed for outreach, and how to deploy available and needed resources;
- Ability to bring together key people from diverse backgrounds to assist the court in a planning process designed to inform and improve the court and the justice system;
- Ability to bring together judges, other court officials, and particular communities and neighborhoods to listen to concerns and to become better known and more knowledgeable about the people and communities the courts serve;

## PUBLIC INFORMATION

Court leaders must understand public perceptions of courts and be able to assess and respond to the information needs of multiple constituencies. Effective courts plan, package, and deliver messages in positive and understandable ways by diverse means. They effectuate a higher level of public understanding of and satisfaction with the judiciary.

- Knowledge of national and state surveys of how the community gets information concerning the judiciary and their perceptions about courts, judges, and the judicial process;
- Knowledge of the limitations of public information campaigns in correcting every misperception about courts, judges, and the judicial process;
- Knowledge about how to use technology to inform, educate, and persuade and to keep abreast of changes in technology and the opportunities these changes present for court public information;
- Ability to identify specific audiences and interest groups who would be the targets of a public information campaign — community leaders, people from distinct ethnic and income levels, community action and other civic groups, special interest groups, educators, legislators, and city/county officials, among others;
- Ability to determine information needs of specific groups;
- Ability to create and deliver proactive, targeted information delivery systems that can sustain and support themselves;
- Ability to prioritize potential public education/information projects so that the court is not trying to do too much all at once;

- Skill in overseeing an interactive Web site for the court with accurate current information that tracks cases and provides information about the court, its processes, and innovations;
- Skill in developing and delivering information that educates the other branches of the government about court functions, needs, and accomplishments;
- Ability to articulate realistic expectations about court-generated public information and to explain its benefits to judges, court staff, and legislative and executive branch leaders and their staff;
- Skill in evaluating each program to learn if it is working and worth repeating.

### THE MEDIA AND MEDIA RELATIONS

Court leader relationships with the news media must be positive and proactive. Courts should have a media plan to promote public understanding and respect through the news media. This includes having systems in place to respond to media inquiries in a timely manner.

- Knowledge about the daily workings of the news media including print, broadcast, and “new media” delivered through the Internet, and the demands and constraints on management and reporters from each medium;
- Ability to develop a court “media plan” to establish a productive working relationship with reporters, editors, news directors, and editorial page staffers for routine coverage of the courts, crisis coverage of an acute situation, and promoting accurate and positive information about the courts;
- Ability to assemble a working advisory committee of judges, court officials, and news media to assess the regular needs of the news media and the capabilities of the court to meet those needs;
- Knowledge of free press versus fair trial issues, related constitutional, statutory, and case law requirements, and what they mean for both the press and the court;
- Skill in putting court actions and decisions into context;
- Skill in responding to the media and organizing the court when it is faced with the high-visibility, extraordinary case;
- Ability to be an effective interviewee of both print and broadcast media and to enhance the credibility of the court and its leadership;
- Ability to provide incentives for accurate and stellar reporting of court news;

- Ability to decide who is going to speak for the court on what issues and to make sure that these decisions are respected by the entire court family;
- Knowledge of when, with whom, and how to be on or, when occasionally required, off the record;
- Ability to use the news media to promote positive information about the courts and the legal system without going through reporters to do so;
- Knowledge of how a court can work closely with the news media to supply appropriate information without compromising the judicial process.

### LEADERSHIP AND PROGRAM MANAGEMENT

Court leaders must lead Court Community Communication and direct and oversee staff assigned to it. To do so, they must ensure that communications fit with the court purposes, people, processes, and operations that they support. Effective courts ensure that Court Community Communication needs are assessed and prioritized, and that programming to meet those needs is well-managed and evaluated.

- Ability to lead the planning and delivery of Court Community Communication through the court executive leadership team and others, both judges and staff;
- Ability to assess overall Court Community Communication needs and determine whether the court is meeting those needs;
- Skill in assessing the court’s capacity to perform community outreach, public information, and media relations, to assign the right people to the right task, and to build staff capacity if it is lacking;
- Skill in prioritizing communication issues and needs;
- Ability to plan Court Community Communication needs and to allocate existing and acquire needed resources for Court Community Communication;
- Skill in developing and delivering communications programming that will have the greatest impact on needs for the lowest cost in resources — human, technology, and otherwise;
- Ability to develop and utilize evaluation techniques to determine the effectiveness of both old and new communication programming;
- Ability to adjust community communication strategy, staff assignments, and delivery when needed. [CM](#)

# RESOURCES, BUDGET, AND FINANCE

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

The allocation, acquisition, and management of the court's budget impacts every court operation and, arguably, determines how well, and even whether, courts achieve their mission.

Allocating, acquiring, and managing financial resources are core court management functions carried out by court leaders, both judicial and administrative, and other court staff in concert with executive and legislative branch leaders and their staffs. Effective court performance requires that court leaders — the court executive leadership team — have the ability:

- To set priorities and to manage competing demands on existing court resources in ways that deliver justice and service and build credibility, both internally and externally;
- To link resource allocations and requests to fundamental court purposes;
- To communicate court purposes, objectives, and budget needs clearly and compellingly; and
- To ensure judicial independence and essential court functions while constructively negotiating with executive and legislative leaders and staff.

Resources are rarely sufficient to fund everything of value that courts or any other organization might do. Because spending in one area necessarily precludes expenditure in others, effective court performance requires skillful allocation of available resources. Like other organizations, both public and private, courts can cut some expenditures and reallocate those funds to their top performance goals.

When resource allocation and resource acquisition are skillful, courts preserve their independence, ensure their accountability, both internally and externally, improve their performance, and build and maintain public trust and confidence. Court executive leadership teams that effectively allocate existing resources enhance the court's reputation and persuasiveness with funding authorities.

Resource allocation and resource acquisition are inextricably linked. The practical implications of this linkage include:

- Finance and budget must command the court manager's attention throughout the year, not just when the court budget is being prepared or presented;
- Effective budget planning and management require consideration of: available resources and funding sources; the goals to be advanced by court expenditures; and the people, work, or activity to be funded;
- Effective budgeting and financial management mandate continuous change in what a court does and how it does it, given the court's purposes, priorities, and performance.

Court leaders must adjust court spending and programs to respond to court-determined priorities and external pressures, including external funding authorities, and available funding and revenue sources;

- Change is incremental. To manage change rather than to be managed by change and to improve court performance over time, the court executive leadership team must have vision, will, strategy, a multi-year budget plan, and long-term commitment.

The ability to be persuasive when presenting court needs and budgets requires leadership and interpersonal skill, but cannot be effective unless required and technically sound supporting data has been assembled. Proposed budgets should take into account the court's executive and legislative branch counterparts as well as court purposes and priorities.

Technical budget and finance fundamentals that support competent court leaders include: cost accounting; cost benefit analysis; work measurement and weighted caseload analysis; problem diagnosis; resource and performance auditing; computer software for planning, analyzing spending, modeling alternatives, accounting, and reporting. These tools support, but are **not** the core of the Resources, Budget, and Financial Core Competency. Rather, this core competency requires knowledge, skill, and ability in linking resource allocation and acquisition decisions to fundamental court purposes, and leading and adjusting the way courts carry out their work and deliver justice.

## SUMMARY: RESOURCES, BUDGET, AND FINANCE CURRICULUM GUIDELINES

### What Court Leaders Need to Know and Be Able to Do

The six Guidelines and the related knowledge, skills, and abilities (KSAs) are integrated and interdependent. Budget planning tools must be oriented by purpose and vision and support data acquisition and analysis. Leadership and interpersonal effectiveness make budget planning, problem diagnosis, and change possible. Technology aids both accounting and cost-benefit analysis, which establishes a basis for budget controls and performance monitoring. The six interrelated managerial, technical, and interpersonal Guidelines are:

- Court Purposes and Vision
- Fundamentals
- Leadership and Interpersonal Effectiveness
- Problem Diagnosis and Change
- Technology
- Budget Controls and Performance Monitoring

## Court Purposes and Vision

The court's allocation, acquisition, and management of its resources must be oriented to the court's purposes and responsibilities and its future vision. Absent understanding of the purposes of the courts and a preferred future, legitimate criteria for budget requests and determining success in using available resources will be lacking. Competent court leaders know how to manage the court budget in support of the court's core purposes, including working effectively in court executive leadership teams and with other judges and staff and legislative and executive branch leaders to establish the future vision. Vision is needed to drive court budget and finance, including resource allocation and acquisition. This requires understanding how others outside the court perceive its purpose and functions and how their views may support or threaten judicial branch independence, performance, and funding.

Effective court leaders articulate a long-term vision based on an understanding of court purposes and priorities and environmental trends. They connect the vision to long-term financial plans through adjusting to the environment and multi-year budget planning. Allocation of resources consistently supports the court's purposes, vision, and priorities. This sustains organizational commitment to financial management that is tied to the court's vision.

## Fundamentals

While court managers need not be technically competent in every tool and analytical method, they must know: 1) which tool addresses what budget and financial question; 2) the prerequisites for their use; 3) how to select and manage fiscal staff; and 4) how to be intelligent consumers of financial reports and projections. Court leaders must understand that budget and finance fundamentals are means rather than ends unto themselves.

Understanding and using appropriate budget tools and techniques results in reliable, accurate financial data on an on-going and timely basis. The court can then generate and weigh the costs and benefits of alternative court programs and resource allocation decisions. Competency means acquiring and using valid and reliable data to support work measurement and weighted caseload analysis, court budget planning, program delivery, auditing, assessment of outcomes, and, very importantly, reallocation decisions and budget requests.

## Leadership and Interpersonal Effectiveness

Expert court budgeting requires expert leadership and management of the court, its budget and finance staff, and resources. Budgeting is not a technical, once-a-year bookkeeping exercise. The ability to be persuasive when presenting court needs and budgets depends on the personal credibility of court leaders and their commitment to court performance and fiscal responsibility. Leadership of the court, its resources, and budget staff and processes requires will and interpersonal skill. Leaders need focused staff who are aligned with courts purposes, leaders, and workflows and produce technically sound and reliable data and reports. Proposed budgets and financial reports must take into account the concerns of judicial leaders and their executive and legislative branch counterparts.

The court executive leadership team negotiates effectively with judges, other court employees, and executive and legislative branch

leaders and their staffs. Leaders forge consensus, create effective judicial teamwork, and maintain accountability and partnerships based on results, trust, honesty, and a desired positive managerial reputation.

## Problem Diagnosis and Change

Problem diagnosis involves keeping current with wider societal trends and their implications for courts and their budgets, as well as anticipating, identifying, and diagnosing court problems. Reliable diagnosis differentiates among problems with financial roots or causes and those having other origins, and enables court leaders working with others to address emerging and persistent court budget and finance problems. When problem diagnosis indicates the need for change in the way resources are allocated and what new resources are needed, changes are made. Effective leaders ensure that financial problem diagnosis is consistent with the purposes, vision, goals, and long-term financial plan of the court.

## Technology

When properly applied and managed, information technology supports and improves budget and financial planning, decisions, and management. Important tools include personal computers, spreadsheets, database, and financial management software. But these tools will not be effective without qualified and well-managed staff who use appropriate hardware and software to gather and present meaningful information. The statistics, workload and outcome measures, and cost accounting made possible through information technology must be readily available and responsive to the judiciary and its leadership, other branches of government, and the public to help ensure judicial accountability within and outside the courts.

## Budget Controls and Performance Monitoring

Courts must account for their use of public funds. But accounting for public expenditures extends past accounting to measuring the outcomes and outputs produced with the court's budget and resources. Court leaders must know and then report whether or not established program objectives were met. Evaluation enables courts and others to understand court expenditures and performance, to improve the allocation of available resources, and, very importantly, to support requests for continued and new funding. Reliable and timely budget controls, when coupled with well-executed and clearly presented performance monitoring, increase the court's internal and external accountability and build public trust and confidence in the judiciary.

# RESOURCES, BUDGET, AND FINANCE CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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## COURT PURPOSES AND VISION

### FUNDAMENTALS

### LEADERSHIP AND INTERPERSONAL EFFECTIVENESS

### PROBLEM DIAGNOSIS AND CHANGE

### TECHNOLOGY

## BUDGET CONTROLS AND PERFORMANCE MONITORING

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### COURT PURPOSES AND VISION

Court leader understanding of the purposes of the courts, legitimate criteria for determining success in carrying out the court's mission, and how to manage the court budget consistent with the court's core purposes, is critical. This means knowing how others outside the court perceive its purpose and functions and how these views may support or threaten judicial branch independence, funding, and performance. The court's long-term vision comprehends court purposes and priorities and environmental trends. Vision is connected to long-term financial plans, multi-year budget planning, and allocation decisions that support that vision. Continuous environmental sensing sustains organizational commitment to budgeting and resource management tied to the court's vision.

- Knowledge of the Purposes and Responsibilities of the Courts Curriculum Guidelines and the Trial Court Performance Standards, particularly the Independence and Accountability Standards, and their relevance to the budgetary process and the allocation and management of court resources;
- Knowledge of the inherent powers of the court, relevant case law, and the uses and limitations of the inherent powers doctrine for resource allocation, acquisition, and accountability;
- Ability to manage resource allocation and acquisition in ways that preserve judicial independence, essential judicial processes, and productive relationships with the other

branches of government, when making cutbacks as well as during normal economic times;

- Ability to balance competing demands for public resources and to manage them in ways that ensure the court's purpose, priorities, and ability to compete effectively with others for scarce resources;
- Ability to create and articulate a clear vision for the court and the budgetary implications of that vision;
- Ability to establish support for the court's strategic plan and to implement an action plan that links the court's vision and purposes to realistic short-term and long-term financial plans and projections;
- Skill in sensing environmental trends and public sentiment about the court, in understanding its implications for court funding, and in educating the public about court purposes, accomplishments, practices, and needs;
- Skill in seeking out and acquiring new sources of revenue for crucial court programs and priorities.

### FUNDAMENTALS

Fundamentals include an understanding of court organization and funding sources, appropriate budget tools, and techniques as a means for: assembling reliable, accurate financial data on an on-





going and timely basis and generating and weighing the costs and benefits of alternative court programs and resource allocation decisions. The basics support acquiring and using valid and reliable data to support work measurement and weighted caseload analysis, court budget planning, program delivery, auditing, assessment of outcomes, and budget requests and reallocation decisions.

- Knowledge of differing approaches to the funding and organization of courts, both trial and appellate, and how court organization and funding impact court leader budget roles, responsibilities, and relationships;
- Knowledge of court revenue sources and their legal uses and limitations;
- Ability to manage revenue collection (e.g., fee and fine), including management of accounts receivable, so as to enhance revenues and improve enforcement of court orders;
- Knowledge of the information and analytical reports needed by the court and its leadership to support budget allocation, planning, and decision making;
- Knowledge of the alternative court budget planning formats and their advantages and disadvantages, information, and analytical requirements;
- Skill in overseeing cost-benefit analysis, work measurement, weighted caseload analysis, and bench-marking of court costs, outputs, and outcomes for budget planning and resource allocation;
- Ability to plan and implement budget reductions that are consistent with the court's role, mission, and vision, as well as economic conditions, with changes in business practices to reduce costs;
- Knowledge of the purposes, methods, and uses of expenditure monitoring and cost control;
- Knowledge of financial record keeping, public sector accounting, and objective audits of court expenditures;
- Knowledge of the ethical principles and legal requirements to protect courts against fraud, theft, and embezzlement of cash and other assets;
- Knowledge of capital financing alternatives for court facilities and other large-scale purchases;
- Ability to translate facility needs and standards into capital improvement financing;
- Skill in negotiating and managing court contracts with vendors and service providers;
- Ability to select and to lead fiscal staff who are technically capable and able to support the court's management of its budget, including the preparation and presentation of budgets, financial reports, and cost-benefit analysis.

## LEADERSHIP AND INTERPERSONAL EFFECTIVENESS

To manage, court leaders must direct and oversee budget staff and the preparation, presentation, and management of court budgets. They negotiate effectively with elected and appointed executive and legislative branch representatives and their staffs, forge consensus concerning the budget and resource allocation within the judiciary, while maintaining accountability and partnerships based on results, trust, honesty, and a positive managerial reputation.

- Ability to lead the court and to work as a court executive leadership team to allocate, acquire, and manage the court's resources in good and bad economic times;
- Ability to forge, maintain, and manage a stable and qualified court financial management team and staff;
- Ability to focus judges and staff on the court's purposes, to build consensus about court priorities and funding needs, and to create teamwork among judges and court staff that supports resource allocation and effective resource acquisition;
- Ability to engage judges and court staff in appropriate roles in budget planning, resource management, and cost control;
- Ability to see possibilities for joint programs and cost-sharing partnerships and to establish and maintain needed partnerships to further court objectives;
- Ability to listen and respond effectively to the positions, preferences, and perspectives of others, both inside and outside the court, and to adjust to changing conditions;
- Ability to communicate court accomplishments as well as court needs and budget requests, both inside and outside the court;
- Skill in preparing, presenting, and advocating the court's budget in writing and in person;
- Ability to shape a court budget that is responsive and persuasive to court purposes and vision and executive and legislative branch decision-makers and their staff, including budget analysts;
- Skill in marketing the court's purposes, vision, and plans, and, when necessary, the need for change, additional funding, or minimizing proposed budget reductions;
- Ability to establish and maintain the court's deserved reputation for honesty in budget presentations and requests, and its integrity in the allocation of and accounting for court resources.

## PROBLEM DIAGNOSIS AND CHANGE

Budgeting and resource management and acquisition require anticipating, identifying, and diagnosing court problems; differentiating among problems with financial roots or causes and those having other origins; and working with others to address emerging and persistent court budget and finance problems. This ensures that financial problem diagnosis is consistent with the purposes, vision, goals, and long-term financial plan of the court.

- Ability to relate the identification and diagnosis of court budgetary and performance problems to court purposes and goals;
- Skill in anticipating political and social trends and the public's and funding authorities' expectations, then acting on their implications for court workloads and resource needs;
- Knowledge of environmental scanning and forecasting and how their application can help courts anticipate trends that will affect court costs, resource availability, court workloads (quantitatively and qualitatively), and community and political support;
- Ability to differentiate among budgetary problems with high and low impacts on court performance or the cost of delivering court services;
- Skill in defining court budget problems so that practical, action-oriented solutions are designed, accepted, and implemented;
- Ability to generate and accurately assess the costs and benefits of alternative solutions to court budget issues and challenges;
- Ability to resist premature problem closure and to marshal adequate personal and organizational attention to effective court budget problem diagnosis;
- Skill in making persuasive resource requests that link problem identification and proposed solutions to impacts on the court's performance.
- Ability to assess the need for change in court programs, priorities, and resources, to communicate effectively why and when change is needed, and to lead the change process.

## TECHNOLOGY

Information technology supports and improves budget and financial planning, decisions, and management. Important tools include personal computers, spreadsheets, database and financial

management software, and staff who are responsive to leadership direction and needs and skilled in using appropriate hardware and software. Effective technology permits effective data gathering and skillful budgeting through, among other means, statistical reports, workload and outcome measures and projections, and cost accounting.

- Knowledge of the underlying assumptions and generic purposes, uses, strengths, and limitations of spreadsheet, database, project planning, and project management software as they relate to allocating, acquiring, and managing court resources;
- Knowledge of nationally approved functional standards related to accounting and financial records and reports, case management software, and their links;
- Knowledge of what a vendor RFP (Request for Proposal) and contract should contain and how to evaluate vendor proposals, and the ethical and legal regulations governing purchasing;
- Knowledge of database, spreadsheet, and financial analysis software that supports real-time expenditure monitoring, cost-benefit analysis, and bench-marking;
- Ability to match competing budget software and vendors to the needs of the court, its hardware, judges, and staff;
- Ability to design and implement court information technology that supports effective court resource allocation, acquisition, and management;
- Skill in explaining the value of technology investments to judges and other decision makers, including those who are not technologically literate;
- Knowledge of the computer and analytical and data/information skills needed by staff to take advantage of available financial and accounting software;
- Knowledge of how technology can make fraud possible and also help protect the court against fraud, theft, and embezzlement of cash and other assets;
- Knowledge of technology assisted methods for enhancing the enforcement of court orders and increasing court collections;
- Ability to stay current with the state-of-the-art and to update the court's application of hardware and software, to resource allocation, acquisition, budget, and finance.

## BUDGET CONTROLS AND PERFORMANCE MONITORING

Courts must have effective management controls to account for their use of public funds and measure the outcomes and outputs produced with the court's budget. Using this information, court leaders can document whether or not established program objectives were met, allocate existing resources, support requests for continued and new funding, and build public trust and confidence.

- Knowledge of and ability to oversee financial accounting of court expenditures of public funds;
- Ability to implement a court-wide system for tracking fluctuations in appropriations and expenditures to ensure accurate and timely financial reports and timely budget transfers;
- Ability to identify reliable and valid indicators of court achievements to demonstrate the court's performance and financial accountability;
- Knowledge of evaluation methods and techniques and the differences between output, outcome, impact, efficiency, process, and effectiveness evaluation measures;
- Ability to oversee tracking of expenditures and reliable revenue and expenditure projections, to stay informed, and to inform others about the policy and practical implications of expenditures and projections;
- Ability to oversee development of clear, well-presented, and reliable reports on court expenditures and performance;
- Ability to evaluate the trade-offs between in-house and contracted services and functions;
- Ability to assess trade-offs among purchase, lease, and lease-to-purchase options for financing new court facilities, renovation projects, and major equipment purchases;
- Ability to work in court executive leadership teams to adjust court programs and court spending to achieve fiscal and programmatic accountability. [CM](#)



**INTRODUCTION:  
WHAT THIS CORE COMPETENCY  
IS AND WHY IT IS IMPORTANT**

Courts need good people, people who are competent, up-to-date, professional, ethical, and committed. High-performing courts get the very best from their judges and employees no matter what their particular assignment or job. As courts carry out recruitment, selection, employee relations, job analysis, job evaluation, and position classification; the administration of pay and benefits; and performance management, they demonstrate what the court believes in, its values, and its standards. The aim is not good Human Resources Management in an otherwise mediocre court. It is a high-performance court.

Court leaders set the right tone for Human Resources when their management of the court is cohesive and strategic. The connection between caseload management; education, training, and development; budgeting and finance; information technology; and human resources is seamless.

Like almost every other private and public sector organization, courts dedicate most of their budget to salaries and benefits. But the services their judges and employees provide — on the telephone, at the counter and the bar of the court, and from the bench — differ from other organizations. The courts' business is equal justice under law, due process, equal access, and independent and impartial treatment and decisions.

Because impartiality and independence are core court values, Human Resources Management must be fair and objective. The right people are hired, developed, and promoted. When mistakes are made, they are corrected. Human Resources staff is professional, accountable, and recognized as vital to the court's mission.

Judicial independence rightly drives court Human Resources Management philosophy, structure, and decisions. In the words of Alexander Hamilton in *Federalist 78*: "... there is no liberty if the power of judging be not separated from the legislative and executive powers." While courts, either independently (primarily locally funded), or as a state funded system, seek and obtain resources from the other branches, court Human Resources must be under court control and independent in philosophy, form, and practice.

Achieving independence is not easy. Most courts are small employers relative to employers generally and other governmental units in particular. Many trial courts employ fewer than 20 people. Excluding large metropolitan areas, courts typically employ 100 or fewer people with most having no more than 300 employees.

Due to their small size, court human resources staff are often co-located with other units of government and even included in other's budgets. This can cause others to view courts as "just another department" with court human resources staff, policies, procedures, and practices that should be the same as "other

departments." Undue deference to the executive branch personnel system can have negative consequences. For example, court staff must both support and appear to support independent and impartial processes and decision making. The court must have flexibility to adjust work schedules of courtroom personnel who sometimes must work outside normal working hours due to trials or other court events, without incurring unnecessary overtime or compensatory time obligations. Whatever the arrangement designed to recruit, select and hire, evaluate, pay, reward, develop, and manage judicial staff, the judiciary must lead and, to a significant extent, control its Human Resources function or risk its independence, image, and effectiveness.

Changing environmental factors and a changing labor pool likewise challenge courts and their leaders. Current trends include an aging labor force, younger workers with different values and expectations, more women, more racial and ethnic "minorities," more immigrants, and more diverse life styles. Challenging issues include telecommuting, benefits, work rules, work schedules, competing with other employers, both public and private, and leadership practices. Environmental factors, a changing labor force, and public demands for accountability challenge courts and their leaders and mandate a sense of urgency about court Human Resources practices. But the court culture is usually quite conservative. The top court professionals, judges, speak and dress in ways that are staid, mannered, and unmistakably traditional, but the issues they address are complex, dynamic, and challenging. Who gets custody? How do we balance public safety against the presumption of innocence and reasonable doubt? A rightly conservative culture need not produce unresponsive judicial decisions or tired court management and human resources practices. Waiting for difficult environmental and workforce issues to go away was never appropriate; now it is untenable.

Court Human Resources Management must be dignified but not stodgy, proper but also energetic, and correct but also creative. The highest quality service providers, whether they are in the private sector (current examples include Nordstrom and Wal-Mart) or in the public sector, set the standard by which court services ought to be measured. Recruitment; selection; education, training, and development; and fairness must be equal to or better than all other employers, both public and private. The court should be a model employer. Innovation and change are hallmarks of model courts.

Effective Human Resources Management not only enables performance but also increases morale, employee perceptions of fairness, and self-worth. People who work in the courts are special. Their jobs and the work of the courts are not too small for the human spirit. With proper leadership, court Human Resources Management contributes to meaning and pride over and beyond the reward of a paycheck. It reflects the enduring purposes and responsibilities of courts.

## SUMMARY: HUMAN RESOURCES MANAGEMENT CURRICULUM GUIDELINES

### What Court Leaders Need To Know and Be Able To Do

The Human Resources Management competency includes four areas which encompass personal characteristics as well as acquired knowledge, skills, and abilities (KSAs):

- Vision and Purpose
- Human Resource Fundamentals
- Context and Fairness
- Management and Supervision

#### Vision and Purpose

Vision-focused, purposeful, ethical, and legally defensible management of the court's human resources supports judicial independence, impartiality, and accountability. Since alignment of Human Resources with the court's core purposes and responsibilities and its vision and strategic objectives is essential, the court must have a strategic vision. Some do not. Effective leaders establish a direction for the court. Human Resources and other court functions reflect this direction. When this is true, Human Resources supports an independent and impartial judiciary, one pillar on which a free and ordered society depends and upon which the entire justice system rests.

Courts must adhere to federal and state human resources legal mandates concerning, among many issues, the hiring and supervision of court staff and their work environment. But these mandates must always also respect judicial independence, the inherent powers doctrine, and supporting case law. The court's mission, values, and strategic vision should be consistent with the court's enduring purposes and responsibilities.

If the court lacks strategic vision, the Human Resources function will drift along with the rest of the court from crisis to crisis. In this circumstance, Human Resources staff, together with judicial branch educators, with direction from court leaders, should take the lead in helping the court affirm its core values, articulate a strategic vision, and align Human Resources and other functions with the court's strategic vision.

#### Human Resource Fundamentals

For court leaders to oversee Human Resources, they must understand the fundamentals. Job analysis is critical. When court leaders understand what their employees do, they can oversee the evaluation of actual against desired performance. This will help the court structure jobs, departments, and workflow; develop job descriptions; design recruitment and selection procedures; evaluate positions to ensure equitable compensation; and organize performance management systems.

Like other organizations, courts need effective and legally defensible recruitment and selection processes — identifying and attracting applicants, narrowing the pool, and selecting candidates whose qualifications best fit the specific job and the court's values and culture. After employees are selected, they must learn the court's culture and be prepared for the specifics of their job. Compensation

includes both extrinsic (e.g. pay, benefits) and intrinsic (e.g. satisfaction for a job well done) rewards. Establishing internal and external equity in the compensation system through job analysis, job evaluation, and compensation surveys are important fundamentals as is employee relations. Performance management helps employees perform by defining responsibilities, setting expectations, providing necessary resources, giving ongoing feedback, periodically appraising performance, and utilizing the resulting information for decision making, problem solving, and development. Performance appraisal is but one aspect of performance management.

Understanding labor relations, the legal environment of people management, and changing labor force demographics is essential, as is what motivates the behavior and priorities of court employees.

#### Context and Fairness

Establishing and enforcing fair policies and rules, dealing with employee performance and behavior issues, and responding to employee complaints and grievances, is accomplished in differing contexts. In many courts, employees are unionized. Trial courts can be state or locally funded, affecting Human Resource policies. Do all or some enjoy merit system protections? Are they employees of a state-funded trial court system, or is there local variability with respect to Human Resource issues? Professionals understand the political and organizational environment of their court and the impacts of the many variations on court Human Resources Management. They also know that whatever the context and constraints, fairness — both actual and perceived — is the standard of a court that is a model employer. Employees should perceive that Human Resources can be trusted to make fair and independent recommendations to court leadership.

#### Management and Supervision

Effective court leaders ensure that the parts of the court, including Human Resources, are a productive whole. Organizational cohesion is possible when court leaders have the will and skill to pull the organization together so that the whole is greater than the sum of the parts. Human Resources Management is central to this integrating task. Human Resources sets a tone that permeates the court from the moment employees are recruited and hired, as they are developed and promoted, through to their departure. When the court's leadership is effective, court staff are empowered. They understand and are committed to the courts' mission and vision. They know their job is important and how it fits in the whole. Recognition of Human Resources staff as a key department and function is a strong message to judges and staff that court employees are important and make valuable contributions to justice and public trust and confidence.

Court leaders establish standards and maintain the court's direction and operations. They balance the need to maintain routines with the need to make changes. Human Resource Management is not an end in itself. Rather it supports court workflow, internal and external interdependencies, and the change process. While Human Resources monitors and enforces compliance with legal mandates, it is primarily a service function. Human Resources services and supports court leaders, court departments, and staff who do the work.

Leadership ensures that staff assigned to Human Resources and Training, Education, and Development staffs are on the same page.

Through their management of Human Resources and other departments, court leaders model the behavior they wish to see

throughout the court. When the leaders are successful in modeling the behavior they want to see and in setting high standards with Human Resources staff, Human Resources is invaluable in creating and maintaining a high-performance culture.

## HUMAN RESOURCES MANAGEMENT CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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### VISION AND PURPOSE

### FUNDAMENTALS

### CONTEXT AND FAIRNESS

### MANAGEMENT AND SUPERVISION

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#### VISION AND PURPOSE

Courts that are managed effectively have a strategic vision that reflects enduring court purposes and responsibilities. The court's strategic vision should resonate in Human Resources Management and all other court functions and processes. Courts should be model employers with policies and practices that comply with state and federal employment laws and regulations and relevant ethical codes. But legal requirements imposed by others must be integrated with judicial independence and the inherent powers doctrine. A competent judiciary is independent in philosophy, form, and practice. It delivers justice from the bench but also on the phone, at the counter, and the bar of the court. When Human Resources reflects court purposes and is aligned with the courts strategic vision, it supports all other Core Competencies, particularly Leadership; Visioning and Strategic Planning; and Education, Training, and Development.

- Knowledge of the Purposes and Responsibilities of Courts Curriculum Guidelines and their application to Human Resources Management;
- Knowledge of how Human Resources supports all other Core Competencies;
- Knowledge of how judicial independence, the rule of law, and inherent powers doctrine and supporting case law guide Human Resources policy and practices;

- Knowledge of the mission, vision, and values of the court and how to operate Human Resources in support of the vision;
- Ability to develop a strategic vision for the Court, if it is missing, and to apply it to Human Resource Management;
- Ability to articulate how ethical standards, including the NACM Model Code of Conduct, the ABA Canons of Judicial Conduct, and relevant state and federal ethical codes apply to Human Resource policies, procedures, and practices;
- Skill in controlling and taking responsibility for Human Resources and ensuring that the court is a model employer;
- Knowledge of how well-managed Human Resources contributes to a healthy work environment and productive and committed court employees;
- Ability to articulate with respect, when necessary, to judges involved in Human Resources that judicial immunity does not extend to personnel policies, practices, and decisions;
- Ability to ensure that court Human Resources is independent in philosophy, form, and practice.

## FUNDAMENTALS

For court leaders to manage and improve Human Resources, they must understand the fundamentals. The fundamentals begin with job analysis to understand court jobs and duties, required competencies, and specific job environments. Identifying, attracting and recruiting, and selecting good applicants for court positions, and compensating, developing, and retaining them are critical Human Resources fundamentals. Compensation refers, at a minimum, to the many forms of financial rewards and other benefits. Compensation flows from performance management, which includes but is more than performance appraisal. Employee relations and legal requirements are crucial. Are court employees representative of the community? Human Resources fundamentals are known to and skillfully managed by effective judicial leadership teams.

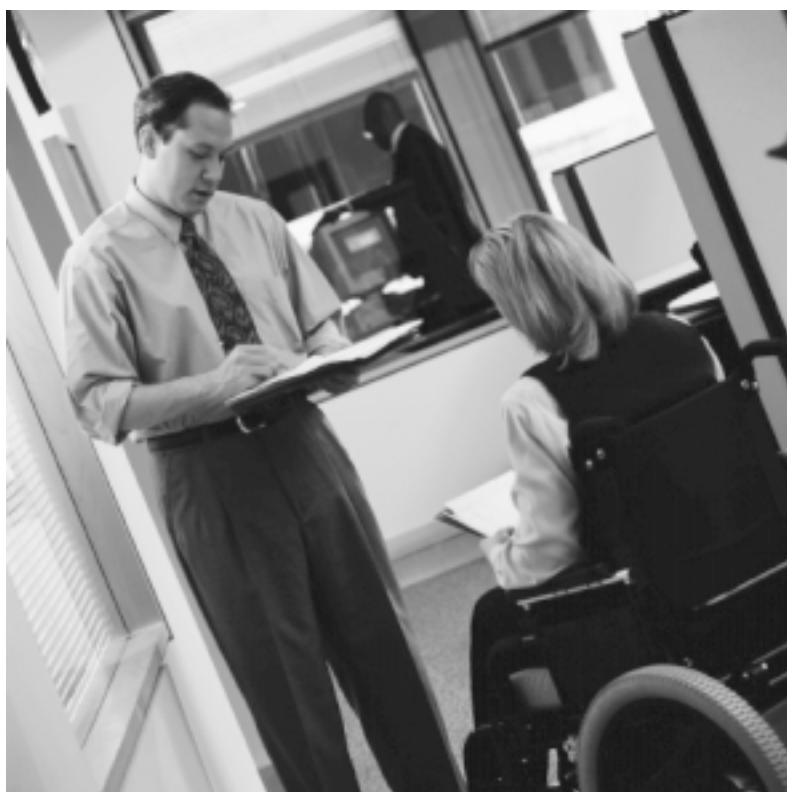
- Ability to attract, develop, motivate, and retain competent court employees;
- Ability to develop and update Human Resources policies and regulations for the judicial branch;
- Knowledge of Title VII of the Civil Rights Act of 1964; applicable affirmative action obligations; Fair Labor Standards Act; Family and Medical Leave Act; workplace injury and Workers Compensation laws, rules, and regulations; and other laws, rules, and regulations covering medical absences, other federal and state employment laws, sexual harassment, workplace privacy, grievances, discipline, at-will employment, and civil service legal issues;
- Knowledge of American with Disabilities Act and needed accommodations for court employees and the public;
- Skill in Human Resources planning that comprehends community demographics and trends and anticipates future needs;
- Knowledge of job analyses, the drafting of job descriptions, and skill in overseeing their use;
- Ability to analyze the labor market, i.e. the area from which court employees can reasonably be recruited, and how to recruit and hire staff that are reflective of the community;
- Ability to oversee recruitment and to manage the recruitment process, including yield ratios;
- Ability to utilize appropriate selection methods, including interviews and assessment centers;
- Skill in overseeing orientation processes for newly hired employees, including the purposes and responsibilities of courts, specific court values, and court structure;
- Ability to oversee position classification and compensation through job evaluation that ensures internal equity;
- Ability to oversee data gathering about compensation of employees outside the court that ensures external equity;
- Knowledge of direct pay methods and trends, including base pay, merit pay, incentives, and cost-of-living adjustments;
- Knowledge of indirect compensation components, including protection programs (e.g. pensions, health insurance, life insurance, disability insurance), pay for time not worked on the job (e.g. breaks, meal time), pay for time not worked off the job (e.g. vacations, holidays, leaves), and perquisites (e.g. on-site day care, attractive work place);
- Knowledge of alternative workplace arrangements such as telecommuting and flex scheduling and their use in courts;
- Knowledge of employee performance appraisal and performance management methods;
- Knowledge of how to define jobs, set performance expectations, and relate them to court and departmental goals and objectives;
- Skill in overseeing performance monitoring and evaluation to identify organizational problems and to develop solutions to those problems;
- Skill in overseeing evaluation of individual performance, reviews, and feedback;
- Knowledge of the principles and methods for documenting performance and behavior problems and personnel actions;
- Knowledge of how and when to counsel, discipline, transfer, and terminate problem court employees;
- Skill in overseeing succession planning;
- Skill in overseeing, when necessary, court workforce reduction using proper processes;
- Knowledge of principles of labor relations, including management rights, past practices, discipline in a unionized environment, and contract administration;
- Skill in negotiating contracts;
- Knowledge of alternative ways of resolving "impasses" in labor negotiations;

- Knowledge of the purposes of employee wellness programs and how to oversee the creation and implementation of these programs in court settings;
- Knowledge of private sector Human Resource products that relate to all of the above including testing, other software, and outsourcing Human Resource services.

## CONTEXT AND FAIRNESS

Fairness in court Human Resources ensures that the actions of court employees, particularly supervisors, are acceptable. Concerning fairness, the court must be a model employer that serves the court's mission and protects court stakeholders. Among those stakeholders are court employees. Court structure and organization, civil service rules, merit procedures, and collective bargaining agreements define the organizational context in which fair court Human Resources Management is situated. Whatever the context, court Human Resources Management should be fair and impartial.

- Ability to convey to every court employee the court's commitment to fair treatment of everyone who works in and comes to court, whatever the court's structure or funding;
- Knowledge of the governmental and organizational structure in which the court operates, the legal authority of court and other governmental leaders, and their implications for Human Resources;
- Ability to apply federal and state affirmative action laws, cross cultural, ethnic, racial, religious, diverse life styles, and gender issues to Human Resources policies and practices;
- Skill in recruiting and developing employees who are reflective of the community, particularly groups that are disadvantaged by income and other factors;
- Knowledge of due process, fairness, equity, and consistency in managing Human Resources;
- Ability to engender a court culture that is sensitive to and willing to report bias in the court, both between employees and court employees and the public;
- Knowledge of effective complaint or grievance procedures and disciplinary investigations that balance the rights of accusers and those accused of bias and other misconduct affecting actual and perceived fairness;
- Skill in responding to and properly resolving employee concerns, complaints, and grievances, including charges of sexual harassment;
- Ability to convey to every court employee the courts' commitment to fair treatment of everyone that works in and comes to court, whatever the courts' structure or funding;





- Knowledge of the governmental and organizational structure in which the court operates, the legal authority of court and other governmental leaders, and their implications for Human Resources.

## MANAGEMENT AND SUPERVISION

Skillful management and supervision is crucial to Human Resources Management in any organization, including courts. The Human Resources Management Competency includes not only functions traditionally associated with “personnel,” but also knowledge, skills and abilities associated with leading, supervising, and managing a cohesive court. It is axiomatic that leadership and management underpin Human Resources Management. There is obvious overlap between this and the NACM Leadership Core Competency. Court leaders who oversee Human Resources must be skilled managers and supervisors. Through their practices and conduct they model the values, attitudes, and behaviors that define a high-performance court. They understand the importance of consistency across the court. Human Resources is critical to creating a cohesive court and maintaining a high-performance court culture.

- Skill in establishing value-added Human Resource policies, procedures, and work rules that are aligned with the courts’ purposes and strategic vision;
- Ability to keep Human Resources Management, Education, Training, and Development, and other court departments on the same page;
- Skill in balancing the need for rules, structure, and consistency against the need for organizational cohesion and flexibility in dealing with court staff and Human Resource issues;
- Skill in ensuring that Human Resource staff provide uniform and consistent service and support to other court departments, supervisors, and staff that do the work;
- Skill in overseeing Human Resource staff and other court managers as they plan, work with, and for, court employees;
- Skill in effective written and oral communication with employees about Human Resources and its fit in the court and the court’s strategic vision;
- Ability to organize work and to assign it to the right employees;

- Skill in delegating work to Human Resources and other court departments and staff;
- Ability to oversee the recruitment, training, and management of volunteers;
- Skill in modeling how to encourage, mentor, coach, counsel, and resolve employee problems;
- Effective supervision skills, particularly providing necessary guidance and support without “micro-managing;”
- Skill in developing, energizing, and managing effective court teams;
- Skill in providing timely and constructive feedback to individuals and court departments;
- Skill in recognizing high-performing individual and court departments;
- Skill in motivating individuals and court departments to improve their performance, including recognition, praise, and other rewards, including financial compensation;
- Ability to listen and collaborate with subordinates and to ensure that others in the court family do likewise;
- Ability to anticipate new challenges and to lead and manage change of the court and its Human Resources Management;
- Skill in setting and maintaining the court’s governance structure and the role of Human Resources in that structure;
- Ability to convey to court employees and other stakeholders that the court is an independent and accountable employer. [CM](#)

# EDUCATION, TRAINING, AND DEVELOPMENT

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Education, Training, and Development can help courts improve court and justice system performance and achieve their preferred future. To understand what this entails, a paradox must be kept whole. That is, the judiciary must maintain the rule of law through enduring principles and predictable processes while also responding to powerful forces shaping society and, therefore, challenging the judiciary.

The end is excellent court and justice system performance. One means to this is the education, training, and development of judges and court staff, especially those in and aspiring to leadership positions, and many others both inside and outside the court. Thus the term judicial branch education as opposed to judicial education.

Because judicial branch education helps courts maintain balance between the forces of change and enduring principles and predictable processes, it cannot be remedial and limited to training. Rather it is strategic and involves Education, Training, and Development.

Court leaders who oversee, fund, plan, and deliver judicial branch education identified the forces that will shape society and challenge the judiciary through the year 2020 during the 1999 National Symposium on the Future of Judicial Branch Education. The symposium results were published by the Michigan State University based Judicial Education Reference, Information, Technical Transfer (JERITT) project. With some modifications, the forces identified in the JERITT publication and their implications are:

- **Demographics and population shifts:** By 2050, or perhaps even sooner, there will be no dominant racial or ethnic group in America. The impact of global interdependency and needed multi-cultural competency extends far past interpretation and translation to the very heart of Anglo-American jurisprudence. Education, especially for experienced professionals, should challenge learners to take account of the demographics and population shifts challenging the judiciary.
- **Science:** DNA, cloning, surrogate parenting, and genetic engineering — to name a few — present novel legal, moral, ethical, and operational challenges.
- **Technology:** The American economy has evolved from an industrial to an information base. Court customers expect on-time and accurate communication and information. Private sector consumer service models and technology-based “do it yourself” solutions have relevance for the judiciary and judicial branch education. Court employees

increasingly work in electronic mediums as information managers rather than in paper intensive environments as filing clerks. With education and technology, they can add value through informed and timely decisions and communication.

- **Resource Limitations:** At the very best, public budgets will be stagnant. Competition for talented staff will increase. Talented staff must be identified and developed through career-long and enlightened judicial branch education and human resource practices.
- **Decreased Public Satisfaction and Increased Public Expectations:** Both national and state surveys indicate that the public thinks less of the judiciary than in the past, yet expects more from it. There are significant questions about the justice received by the poor and people of color. A national conference for state teams selected and led by the 50 state chief justices identified, and NACM confirmed, that the number one current and future issue on the national public trust and confidence agenda is unequal treatment in the justice system. Courts at all levels must address this issue in their judicial branch education programs.
- **Self-Represented:** More and more people will come to the courts without lawyers. The line between service and giving legal advice is increasingly tested across all case types. Appropriate responses require education, training, and development of judges, staff, and others on whom the courts rely to do justice.
- **Different and Expanded Services:** Courts do not and clearly will not “just” resolve cases. Effective justice and efficient case processing means problem solving. Routine business practice requires more than basic skills and on-the-job training. Education is critical to needed collaboration with other governmental entities and judicial and staff competence.
- **Resistance to change:** Even as the above forces of change are acknowledged, courts and their leaders often work to retain the courts’ traditional decision rules, structure, and processes. They do so when judicial independence or impartiality is or appears to be threatened. Judicial branch education must comprehend both enduring principles such as rule of law, due process, equal protection, and independent and impartial judicial decisions and the need for change.

To meet these challenges, Education, Training, and Development must be:

1. Continuous and creative — responding both to traditional legal processes and powerful and changing demands;
2. Inclusive — ensuring that Education, Training, and Development (judicial branch education) happens in all trial courts and across the judiciary and justice system and is delivered to a target audience that is broader than judges and court staff;
3. Accessible and tailored — requiring that personal and professional growth and skill development opportunities are equally available and readily available and affordable in time and money; and that they consider the background, experiences, and needs of individual judges, staff, and others on whom the courts depend;
4. Well-managed — ensuring that judicial branch education for judges, staff, and others is aligned with the court, its mission, vision, structure, and workflows and that it is well-managed and built around sound adult education methods and advanced technology.
5. Evaluated — making sure that judicial branch education programs evolve in response to the social context, needs for equitable access to development opportunities, and assessments of their success in meeting personal needs and organizational priorities.

Court leaders must actively lead judicial branch education in their courts. Education, Training, and Development are not pleasurable diversions from daily routines, training for the sake of training, or a luxury. Effective court leaders ensure that Education, Training, and Development are recognized as essential and build a culture to support it. This means excellence in programming; demonstrable results, both inside and outside the courts; and reliable and consistent funding.

The target audience is diverse in education, experience, professional orientation, age, gender, and race. Courts have employees who remain with the court their whole career. They also have employees who come and go quickly. When education and training and human resources are aligned, the court is better able to identify, develop, and retain its best employees. When talented staff leave the court, competent replacements take their place or are recruited from the outside. This ensures that the most promising people find job satisfaction and acceptable career paths in specific trial courts and state court systems or in the judicial administration profession generally. While judicial branch education supports succession planning, cross-jurisdictional movement of talented staff benefits all courts through organizational learning across state, county, and court levels, both state and federal. Whenever possible, judges and staff

should be educated and trained together. This demonstrates that the judicial and justice system are interdependent; the issues are systemic.

Beginning in the late 1960s, NACM, the Institute for Court Management, and others created a new profession — court management. This early and continuing work prompted acceptance of a new profession throughout the world. Inclusion of judges, court managers, and staff into this profession and its ethos of service and justice is a profound objective of judicial branch education.

To contribute to the development of individuals, courts, and the court management profession, judicial branch education must: 1) span the career of individuals and not be limited to orientation or training to perform specific tasks; 2) provide for significant interaction among program participants; 3) include experienced professionals as faculty and in the planning and evaluation process to ensure real and perceived problems are addressed in every program; and 4) address a wide variety of topics, both practical and theoretical. Through programs that meet these criteria, courts are better able to become and remain learning cultures. Education, Training, and Development sustains enduring principles, maintains and protects daily routines, and stimulates needed change. Those in leadership positions set the vision and take responsibility for the maintenance of the organization and its growth and transformation. The bottom line is excellent trial court and justice system performance.

## **SUMMARY: EDUCATION, TRAINING, AND DEVELOPMENT CURRICULUM GUIDELINES**

### **What Court Leaders Need to Know And Be Able To Do**

The Education, Training, and Development Core Competency encompasses five Curriculum Guideline areas:

- Context and Vision
- Resource Development
- Adult Education Fundamentals
- Program Management
- Evaluation

### **Context and Vision**

Judicial branch education helps courts both maintain distinctive values such as due process and equal protection and respond to social forces including: demographics and population shifts, science, technology, resource limitations, decreased public satisfaction and increased public expectations, the self-represented, different and expanded services, and resistance to change. When context, vision, purpose, and organizational performance focus on judicial branch education and define developmental needs, educational resources are better targeted, allocated, and managed.

Effective leaders understand that courts cannot achieve their organizational goals without the help of others inside and outside the court. Courts are embedded in an interdependent justice system, which requires strong judicial leadership. Judicial branch education should encourage and build through interagency cooperation





and collaboration. Court inspired collaboration and the strategic inclusion of others in judicial branch education enhances court and justice system performance while broadening judicial branch education resources.

### Resource Development

Education, Training, and Development often is perceived as a luxury and, consequently, is assigned a low priority by insiders and funding authorities. Effective court leaders advocate, justify, and work to acquire needed educational resources. As they build awareness among insiders and funding authorities of the need for and benefits of judicial branch education, they persuade others that education is an investment that pays dividends year after year. Persuasive advocacy links education needs to court performance, justice, and public service.

Too often courts advocate for judicial branch education resources only from traditional funding authorities. There are other options. Untapped resources include the budgets, staff, and programs of other governmental branches, universities, the private sector, foundations, entrepreneurial ventures and partnerships, and not-for-profit organizations. Competent court leaders seek out these resources and apply them to judicial branch education. Successful courts find funds and time for Education, Training, and Development because it supports excellent court performance.

### Adult Education Fundamentals

For court leaders to oversee judicial branch education, they must understand adult education, including: needs assessment, learning objectives, varied curriculum and program delivery including distance learning, faculty selection and preparation, mentoring, and evaluation. Understanding adult education assists court leaders as they manage judicial branch education departments and staff, design and deliver programs, and select and develop faculty.

### Program Management

Education, Training, and Development must be well-managed and aligned with the court, its mission, vision, structures, and, very importantly, its internal workflows. Since court management is a team sport, court leader oversight of judicial branch educators must encourage and reward work with and through others, both inside and outside the judiciary.

Quality education is not likely when the management of the court is not cohesive. When the court is well-managed, judicial branch education is less likely to be a mere add-on or a largely irrelevant

diversion from daily routines.

Human resource practice and policy and Education, Training, and Development must be integrated. Managers and staff responsible for Education, Training, and Development and those responsible for recruitment, selection, orientation, job descriptions, job evaluation, classification, performance appraisal, the administration of pay and benefits, and succession planning must be on the same page, especially with respect to promising staff. Both education and human resource policy and practice support and sustain a learning and development culture that is constant and creative, inclusive, accessible and tailored, well-managed, and evaluated.

The need for alignment of judicial branch education with the court's management and operations extends past human resource staff to departmental leaders — both judges and administrators — and staff who work on the line, at the counter, on the phone, and in the courtroom. When the court is well-managed, judicial branch education can facilitate leadership and other employee transitions by increasing the problem solving capabilities and competence of judges and others in and aspiring to leadership positions. As a result, court performance can be maintained in the face of staffing and leadership changes. In high-performing courts, the contributions of talented staff increase through career-long judicial branch education coupled with skillful management and challenging assignments. When necessary, talented staff are replaced by competent outsiders.

### Evaluation

Evaluation validates and values effort and expenditures in relation to desired organizational outcomes. Did the court's performance improve? Learner satisfaction ratings alone are not enough and can even be misleading. While there is no best way or single reason to evaluate judicial branch education, court leaders encourage selection of appropriate measures of success and review and use evaluation data. Evaluation helps leaders and educators as they establish priorities, allocate existing and future resources, and seek to maintain, if not increase, funding.

Effective evaluation helps ensure clear communication of expectations, refines need assessments, ties learning objectives to desired outcomes, facilitates the acquisition of needed resources, and guides the equitable allocation of judicial branch education opportunities and resources. Evaluation improves education methods, faculty performance, and program delivery. Through evaluation, analysis, and discussion of outcomes, court leaders participate in monitoring and improving judicial branch education.

# EDUCATION, TRAINING, AND DEVELOPMENT CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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## CONTEXT AND VISION

## RESOURCE DEVELOPMENT

## ADULT EDUCATION FUNDAMENTALS

## PROGRAM MANAGEMENT

## EVALUATION

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### CONTEXT AND VISION

Education, Training, and Development must prompt the judiciary's enduring principles and take account of the forces shaping society and challenging the court. When judicial branch education is aligned with the court's purposes, responsibilities, and strategic vision, resources are better targeted, allocated, and managed. Because courts are imbedded in an interdependent justice system, judicial branch education must include others on whom the courts depend to deliver justice.

- Ability to tie judicial branch education to the court's social context, its purposes and responsibilities, and the court's strategic vision;
- Skill in ensuring that judicial branch education helps courts respond to its social context and to forces shaping the courts including: demographics and population shifts, science, technology, resource limitations, decreased public satisfaction and increased public expectations, the self-represented, different and expanded services, and resistance to change;
- Knowledge of the NACM Purposes and Responsibilities of Courts Curriculum Guidelines and their application to Education, Training, and Development;
- Knowledge of the Trial Court Performance Standards and their implications for judicial branch education;
- Knowledge of and commitment to our multicultural society, differing cultures and standards, and community understanding and expectations of the courts;

- Ability to promote diversity and to incorporate diversity in judicial branch education;
- Ability to inspire and sustain courts as learning organizations, including support for cross-jurisdictional movement of talented staff;
- Ability to extend judicial branch education to the other branches of government and their functioning departments with the goal of improved court and justice system performance and needed collaboration;
- Ability to engender court policies and practices that support court performance excellence through judicial branch education.

### RESOURCE DEVELOPMENT

Education, Training, and Development is essential for any organization. Courts are not an exception. Effective court leaders know how to advocate, justify, and acquire needed resources. They understand that resources come from traditional budgetary processes and other sources. As court leaders persuasively advocate for judicial branch education, they link quality judicial branch education to court performance and justice.

- Skill in articulating how Education, Training, and Development contribute to court and justice system performance;
- Skill in building and sustaining support for judicial branch education;

- Skill in establishing judicial branch education programmatic and funding priorities;
- Ability to present valid budget justifications for Education, Training, and Development;
- Ability to obtain grant and other funding and education resources;
- Knowledge of internal and external education resources, including national and state judicial branch education providers and their respective strengths;
- Knowledge of effective ways to develop judges and staff as teachers and mentors;
- Skill in creating and developing the court's internal resources to deliver quality judicial branch education;
- Ability to get federal, state, and local providers to focus on judicial branch education, the needs of the court, its departments, judges, and court staff;
- Ability to collaborate with educators from other branches of government and adult education providers generally, in developing entrepreneurial partnerships and building judicial branch education resources;
- Ability to communicate judicial branch outcomes and their benefits to funding sources and other branches of government.
- Knowledge of sound curriculum and program development processes and models, including establishing outcomes, conducting needs assessments, stating clear learning objectives, and organizing program delivery around them;
- Ability to oversee assessment of court user needs and to ensure that user needs are addressed in Education, Training, and Development programs;
- Ability to foster programs that comprehend the differing but related objectives of Education, Training, and Development;
- Knowledge of NACM Core Competencies and ability to oversee their incorporation in learning needs assessments and judicial branch education;
- Ability to implement faculty development, including a wide variety of teaching methods, teaching aids, and train-the-trainer models;
- Knowledge of what motivates court employees, managers, and leaders and how personal development contributes to motivation;
- Skill in encouraging presentations that take into account the knowledge, experience, ages, stages of the learning process, and the talents of both the faculty and the learners;
- Skill in using judicial branch education to support succession by identifying the learning needs of judges and staff in leadership positions and those in associated and supportive roles;
- Ability to identify and use faculty with diverse experience and knowledge and from diverse cultures.

## ADULT EDUCATION FUNDAMENTALS

Court leaders who understand adult learning, a wide variety of educational methods, as well as differing learning styles and preferences can more effectively oversee Education, Training, and Development. They ensure the best match between learners, teaching methods, and faculty selection and preparation. Effective court leaders know and foster sound adult education practices.

- Knowledge of adult learning theories;
- Knowledge of alternative education delivery mechanisms, including distance learning (e.g., computer self-instructional packages, video conferencing, satellite broadcasts, among other methods), multimedia, and supporting materials and processes;
- Ability to improve access to judicial branch education through train-the-trainer models, particularly through distance learning;

## PROGRAM MANAGEMENT

Education, Training, and Development is not an end unto itself. Rather, it supports court accountability for its core responsibilities and desired future. Judicial branch education must be aligned with the court, its mission, vision, structure, and, very importantly, its internal workflows. Linkage to human resources policy and practice is critical. Quality judicial branch education is more likely when the court and its judicial branch education programs are well managed.

- Skill in aligning judicial branch education with the court, its mission, vision, structure, and workflows;
- Ability to communicate expected behavior and court performance improvements resulting from Education, Training, and Development;



- Ability to oversee development and implementation of human resource policies, processes, and best practices that support and reward growth and development of court organizations, judges, judicial employees, and their justice system partners;
- Ability to identify and integrate education and training needs within human resource processes including recruitment, selection, performance appraisal, promotion, and other reward systems;
- Skill in establishing judicial branch education priorities, allocating resources, making decisions about program content, methods, and faculty;
- Skill in using education and training as a means of intervention, both personal and professional, and to bring about system-wide cooperation and problem solving;
- Skill in managing judicial branch education staff and faculty;
- Ability to recognize and reward excellent performance and to validate employee development;

- Ability to both direct staff and listen to them, and to ask effective clarifying questions as well as to tell them what is expected of them;
- Skill in mentoring and in encouraging mentoring throughout the judiciary;
- Skill in management of short-term projects and in developing this talent throughout the court;
- Ability to organize the court and its education function in order to adequately address succession planning;
- Skill in focusing judicial branch education on leadership and other employee transitions and the need to develop, motivate, retain, and recruit talented court employees.

## EVALUATION

Effective court leaders define and communicate expectations to produce desired behaviors, habits, and outcomes. Through evaluation, both formal and informal, court leaders can assess and improve judicial branch education as a means to improved court and individual performance. Competent evaluation helps courts develop and allocate resources. Without meaningful evaluation, the courts' ability to deliver quality judicial branch education is compromised.

- Knowledge of alternative evaluation processes and measures and how to apply them to judicial branch education;
- Knowledge of outcome measures and evaluation methodologies and their application within adult learning arenas generally and with courts in particular;
- Skill in overseeing the assessment of the relationship of judicial branch education and outcomes through, among other means, pre- and post-measurements of court performance;
- Skill in ensuring that evaluation results are presented to appropriate decision makers in ways that are meaningful, interesting, and informative;
- Ability to assess learner achievements and development through observation of behaviors;
- Ability to compare different delivery mechanisms with performance outcomes;
- Ability to develop and provide follow-up assessments;
- Ability to develop and use both short-term and long-term outcome measures that assess Education, Training, and Development impacts on court performance. [CM](#)



# INFORMATION TECHNOLOGY MANAGEMENT

## INTRODUCTION: WHAT THIS CORE COMPETENCY IS AND WHY IT IS IMPORTANT

Information Technology is a tool, not an end unto itself. It is both difficult to implement and to manage. With its use can come conflicts about budgets, organizational relations, administrative authority, processes, and procedures, and even the best way to process cases. Despite these potential conflicts, Information Technology clearly can improve justice system and court performance through instant, integrated, and linked information.

Correct judicial decisions require timely, complete, and accurate information. When Information Technology delivers on its promise, the right people are more likely than not able to get the information they need, at the right time, and in the right format. Because of its potential **both** to improve **and** to entangle the judiciary, court leaders must take responsibility for the use of technology in their courts. Direction, policy decisions, and management oversight of Information Technology cannot be left solely to technical staff. Court leaders must ensure that technology serves the courts' purposes and that it is managed effectively.

Much is at stake. With a click of their mouse, users can move with ease through data and information that formerly was dispersed in fragmented and often poorly designed electronic systems, libraries, and paper records. This improves justice, increases efficiency, and empowers end users and increases their morale. But new technology alone will not improve inefficient work processes. The new electronic system must be well-designed. The information delivered to end users must be accurate. The end users must know both what they are trying to do and how to do it. When Information Technology is applied skillfully, communication and decisions, both judicial and managerial, can be improved.

Through technology, judges can bring together relevant case histories and documents, communicate with attorneys and social service staff, whether internal or external to the court, and take and maintain control of their calendars. Cases and information about them can be accessed any time, from the bench, in chambers, in administrative offices, on the road, and at home.

Information Technology can enable improved case management through court-prompted and supervised timely lawyer exchange of reliable information. As a result, the same or better justice is achieved, sooner for many cases. Judicial attention then can be focused on the remaining cases as they are managed to closure later in the judicial process. Good Information Technology supports case management, service delivery, and management reports in any size court. It is essential in large jurisdictions.

A century ago, when society was less mobile, when most business was conducted locally, when judges could remember all of their cases, and when everyone knew their neighbors, paper files supplemented later by crude computerization were adequate. Even today, paper remains the medium of choice for many courts and court users. Today, however, more and more people routinely communicate electronically. Today, records of civil judgments and satisfactions are used nationally and internationally. Today, police officers and prosecutors, pretrial and probation staff, and judges on the opposite coast need to know "right now" about criminal histories and the existence and status of warrants and protection orders. No matter what their size, advanced electronic systems can help courts organize and manage the documents that are filed and the hearings that are held each day.

Judges who know about a defendant's prior convictions and other matters pending and disposed in their own and other jurisdictions can make better bail decisions and impose more appropriate sentences. Drug courts and others closely monitoring defendants and probationers can learn instantly about re-arrests through "subscription/notification" functions. Technology aids the court in recording legal status and in making judicial decisions and their consequences more reliable and transparent in traffic, criminal, civil, and domestic relations cases.

With accurate real-time financial reports, courts also are better able to meet their fiduciary responsibilities. Information Technology enables better use of court resources, including judges, staff, equipment, and courtrooms. The system can be more accountable. But these and other equally significant benefits are not guaranteed. Skill is needed in the design of Information Technology and its day-to-day management, maintenance, and upgrade.

System design; expectations of efficient and instant service; significant changes in people's mobility and the social, political, and economic environment; and caseload volume and complexity challenge all courts. As courts deploy technology to meet these challenges, other issues arise:

- Technology changes rapidly while technology design and implementation can take time. Resulting applications can be dated almost as soon as they are implemented.
- Technology often is overlaid incrementally on complex and archaic procedures and processes.
- It is difficult and sometimes impractical to mirror the full complexity of justice system and court processes in information systems.



- Although the same rules and procedures may govern courts within a state, the size of the court, the nature of the facility and local legal culture, among other factors, drive differences in specialization and the division of labor among staff. One-size-fits-all solutions do not work.
- Many key components of information management systems, people, processes, data, and facilities are already in place. New hardware and software often are introduced without adequate attention to how they fit within this existing environment. Almost always, re-engineering of justice system and court business processes and training are needed.
- Expectations about court software are commonly unrealistic. Software developed by court staff usually has limitations. World-class designers are not available at salaries courts can afford. Because courts are a small market for software designers, finding vendors whose court products are world-class and whose financial base is strong enough to maintain the software's currency and functionality also is problematic.

Information Technology is carried out in a variety of settings. In some court systems, technology services come from an external organization with no direct reporting relationship to leaders in the courts using the systems. A county information technology group or the state court administrator's office may be responsible for technology support of the trial court. Leaders in other trial courts directly supervise technology staff, vendors, resources, and projects. If the promise of technology is to be real rather than imagined, all these alternative organizational arrangements, and any other variant, demand skilled leadership and supervision.

Managing technology requires some degree of technical competence. A court leader must be comfortable with and have some proficiency with Information Technology, because it is impossible to manage that which one does not adequately understand.

Increasingly, courts are moving closer to a paperless environment, when the entire case, including all of the data, documents, recordings and transcripts of hearings, evidence, and legal reference materials will be digital. Court leaders need to keep pace with technologies such as: digital audio and video recording, video teleconferencing, voice recognition, the Internet, laptops, imaging, electronic mail and calendars, integrated justice software, alternative hardware architecture, assistive listening devices, electronic evidence presentation, and high-tech security in the courtroom and in the courthouse. Integration of court technology with other justice organizations enables open, smooth, and timely information flow. Technology can improve the speed, consistency, and fairness of decisions. Improvement in a court's management can be dramatic.

Court leaders who effectively manage Information Technology know both the limitations and the challenges it presents. They also know that if its promise is realized, Information Technology can improve justice and court efficiency and increase public trust and

confidence.

## **SUMMARY: INFORMATION TECHNOLOGY MANAGEMENT CURRICULUM GUIDELINES**

### **What Court Leaders Need to Know and Be Able To Do**

The five interrelated Information Technology Management Curriculum Guidelines are:

- Court Purposes and Processes
- Vision and Leadership
- Fundamentals
- Technology Management
- Projects

### **Court Purposes and Processes**

Information Technology must honor due process and equal protection, independence and impartiality, and the roles that courts and other organizations in the justice system properly play. For example, technology applications should not give prosecutors better access to information than criminal defense lawyers, either public or private. Lawyers representing corporations, the wealthy, and the poor and the self-represented all must be served by court technology.

Information Technology encompasses the people who use the system, their interdependent relationships and workflows, the information they provide to the application, and the interdependent but conflicting norms and business rules that guide their actions. Even in courts implementing therapeutic problem solving paradigms, the judicial process presupposes adversaries and conflicting roles as a means to finding the truth and achieving justice. As a result, analysis and redesign of caseflow and other work processes that precede implementation necessarily generate conflict. Court leaders who oversee this process should ensure that it is balanced and that the process and what it produces reflect court purposes and responsibilities. Alert court leaders understand that technology must support both judicial independence and impartiality — the proper balance between the branches of government and parties to litigation — and their interdependence and need to work with others. They do not allow technology to compromise the judicial process or bedrock political and legal principles.

### **Vision and Leadership**

Leaders with vision understand their court's current technology capacity and where that capacity can and should be improved. They set the tone and drive the pace of the system's use of technology. They work with others to create strategic vision about the use of technology in the courts and the justice system and a multi-year plan. If the current budget and staff are not equal to the vision, the courts partner with others to get what is needed to realize the shared vision.

Court leaders of high-performing courts take responsibility for their court's use of technology and the effectiveness of court applications. Their attention to technology does not ebb and flow, because system design and management are iterative processes that

are never completed once and for all. They oversee technical staff and lead the court and the justice system as challenging, sometimes vexing, technical, political, fiscal, and policy issues are addressed. The need for leadership is constant.

### Fundamentals

Every court leader must possess at least a basic understanding of technology, including both its capabilities and its limitations. The line between vision and hallucination is a fine one. Effective court leaders are realistic about what technology can do, what it will cost, how long it will take to implement, and what is involved in its maintenance and upgrade.

The knowledge required to manage technology and its rate of change is considerable. Court leaders must know the fundamentals and ensure that they, and their technical staff, keep current with how other organizations, including courts, are successfully using technology.

To establish and to manage expectations about technology, court leaders must know what options exist, how they are being used in courts and other organizations, and how technology is evolving. Only then can they oversee staff and vendors to ensure that the most appropriate solutions are implemented. No one can manage what he or she does not adequately understand.

### Technology Management

Too often, inadequate management of technology and technical staff cause technology failure. Poorly run courts do not take full advantage of technology. Information Technology requires alignment of budget; judge, line, and technical staff and their training; equipment; and caseflow and other business processes. People, budgets,

workflows, and applications cannot go in their own separate directions.

Application of technology to court and justice operations requires that court and justice system partners work together and at a high level of detail. Automation imposes greater structure on business processes and information exchange requiring communication and collaboration to avoid unproductive conflict.

For technologists to manage technology, court leaders must manage the technologists, their relationships, and the technology environment. The technical staff must be competent professionals and work well with others both inside and outside the court. If not peculiar, good technical staff are different from others in the court. They speak a different language and seek and sometimes need considerable independence. Their talents and expertise are, however, absolutely crucial. Effective leaders know how to align technology and technologists with the court and the justice system.

### Projects

The work of an organization typically falls into one of two categories: projects and routine operations. Projects are limited-duration activities with a defined beginning and end. Operations ensure that case processing and other court functions are maintained. Projects produce new solutions.

Court leaders must encourage, nurture, and manage Information Technology projects. To do this, while at the same time maintaining current operations, they must deal with budget, project scope, human resources, schedules, financial management, quality, communications, risk, and procurement. Successful court leaders are creative about finding resources for Information Technology projects. They build and oversee the staff, the control processes, and the feedback loops needed to deliver high-quality products on time and within budget.

## INFORMATION TECHNOLOGY MANAGEMENT CURRICULUM GUIDELINES: REQUIRED KNOWLEDGE, SKILL, AND ABILITY

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COURT PURPOSES AND PROCESSES

VISION AND LEADERSHIP

FUNDAMENTALS

TECHNOLOGY MANAGEMENT

PROJECTS

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## COURT PURPOSES AND PROCESSES

Information Technology must not disrupt either the proper balance between the branches, the balance between parties to litigation, or bedrock legal principles. Bedrock legal principles include due process and equal protection, the adversarial system, equal access, and independent and impartial judicial decisions.

- Knowledge of the Purposes and Responsibilities of Courts Curriculum Guidelines and how they apply to Information Technology Management;
- Knowledge of accepted purposes underlying the management of cases from filing to disposition and how they relate to court technology: 1) produce individual justice in individual cases; 2) give the appearance of individual justice in individual cases; 3) provide a forum for the resolution of legal disputes; 4) protect individuals from the arbitrary use of governmental power; 5) create a formal record of legal status; 6) deter criminal behavior; 7) rehabilitate persons convicted of crime; and 8) separate some convicted people from society;
- Knowledge of how courts function and their fundamental work processes for all case types;
- Knowledge of the importance and the nature of court records for all case types;
- Knowledge of the jurisdiction, structure, and management of courts and how they affect decision making about resource acquisition and allocation for court technology;
- Knowledge of the culture of the judiciary and the political and fiscal environment in which the court system and its constituent courts are imbedded;
- Ability to manage resource allocation and acquisition in ways that preserve judicial independence, essential judicial processes, and productive relationships with the other branches of government and justice agencies;
- Knowledge of other organizations in the justice system and how their competing roles affect intergovernmental working relationships, information exchange, and systems integration;
- Skill in ensuring that technology does not create an imbalance either between branches of government or between the parties to litigation and their lawyers;
- Knowledge of the growth of self-represented parties and the issues the self-represented present to the use of court technology;
- Ability to reengineer court and justice processes to take maximum advantage of technology without disrupting fundamental legal principles and rights, including due process and equal protection, independent and impartial decisions and processes, and privacy and confidentiality.

## VISION AND LEADERSHIP

Court leaders must take responsibility for Information Technology. If the court lacks strategic vision about technology and a multi-year plan, they work with others to create them. A court leader must be able to articulate this vision, convince others inside and outside of the judicial branch to cooperate, and lead the management of political, policy, fiscal, and technical issues related to technology. They work with others to acquire sufficient resources and to oversee the analysis and improvement of the status quo.

- Ability to create and articulate a clear vision of how evolving technology can be applied to courts and justice systems;
- Ability to inspire courts and their partners to use technology to improve courts and the justice system;
- Knowledge of how effective information technology can empower the courts, the justice system, and the public;
- Knowledge of the problems that can be addressed and capacities that can be increased with court technology;
- Ability to assess accurately court readiness for change with respect to both the technical and human sides of change and transition;
- Skill in working with others to use technology to enhance the quality and timeliness of justice, to provide equal and open access to the courts, to increase the accountability of judges and other court officials, and to improve the business practices of the judicial branch and their justice partners;
- Ability to lead the use of technology by establishing direction and motivating, inspiring, and overcoming resistance to change;
- Skill in explaining the value of multi-year technology plans and investments to judges, funding authorities, and other decision makers, including those who are not entirely technologically literate;
- Ability to collaborate with state and local executive and legislative branches to obtain sufficient technology funding, build technology infrastructure, and integrate justice system applications;
- Knowledge of court technology policy issues, including data dissemination, accuracy, privacy, public access, confidentiality, ownership, and security.

## FUNDAMENTALS

Court leaders must know the fundamentals and ensure that they and their technical staff stay current with how other organizations and courts are using technology successfully. Every court leader must appreciate both the capacities and the limitations of always-evolving technology tools. To establish and manage expectations, court leaders must know what options exist, how technology evolves, the issues that arise with the use of technology, and how to select the



most appropriate solution. No one can manage what they do not adequately understand.

- Knowledge of approaches taken by other courts to address information technology needs and problems, as well as resources available at the national level to monitor technological developments including, among others, the National Center for State Courts (NCSC), SEARCH Group, and the Forum on the Advancement of Court Technology (FACT);
- Knowledge of the need for functional standards and the case management functional standards being developed by the National Consortium on Court Automation Standards through the Conference of State Court Administrators (COSCA) and NACM Joint Technology Committee (COSCA/NACM JTC);
- Ability to articulate court functional requirements;
- Knowledge of both the capacities and limitations of information technology for specific court functions and how to match competing technologies and vendors to the functional requirements of the court, its judges, and its staff;
- Knowledge of technology life cycles and how technology evolves through future, emerging, current, and obsolete stages;
- Skill in assessing architectural options including centralized and consolidated, point- to-point coordinated systems, and hub and spoke hybrid systems, among others, for hardware, applications, and operating systems in the judicial branch and justice system;
- Knowledge of data integration architecture options including data warehouses and data integration hubs;
- Knowledge of infrastructure options: facilities, computer equipment, system software, networks, telecommunications, infrastructure support staff, data, operational procedures, finances, and other components;
- Ability to oversee help desk problem management systems that serve end users;
- Knowledge of application systems including case management, financial management, jury management, administrative systems, public access, and their integration in the courts, and the hardware and software required to support these systems;
- Knowledge of the systems development life cycle and its evaluation, planning, procurement, development, and implementation stages;
- Knowledge of software engineering processes including design, coding, and testing and the role court staff plays at various points in these processes to ensure quality;
- Knowledge of the Internet and its implications for court technology infrastructure, user interfaces, information exchange, standards, integration, and confidentiality;
- Knowledge of electronic government and how to link court applications to the Internet;
- Knowledge of the need for court disaster recovery contingency planning and how to put disaster recovery plans in place;
- Knowledge of office automation technologies including electronic mail, word processing, spreadsheets, Internet access, and database tools and their application in the court environment;
- Knowledge of integrated document management and records management technologies used to store, index, and retrieve active and archival court records, including imaging, document management, and electronic filing;
- Knowledge of technologies for facilitating and capturing verbatim records of court proceedings, including audio and video recording, court reporting technologies, videoconferencing, assisted listening devices, and language interpretation and translation and their potential to expedite and improve trial and appellate processes;
- Knowledge of technologies used to display and preserve evidence presented in the courtroom including document cameras, PC simulations, and projection systems;
- Knowledge of technologies used to organize and access statutes, rules, court opinions, and other legal works including online legal research databases, CD-ROM legal collections, and Internet services;
- Knowledge of other technologies necessary to support court operations, including security, facilities management, telephones, and photocopy;
- Knowledge of alternative policies and issues surrounding security, privacy and confidentiality, public access, electronic and otherwise, and the need for written policies in these areas.

## TECHNOLOGY MANAGEMENT

Well-managed courts make good use of Information Technology. Automation requires courts and others work more closely and at new levels of detail. This creates tension and requires superior management, delegation, and communication. The quality of technical staff is critical and the market for them makes it difficult for courts to compete. But for even highly qualified court technologists to be effective, court leaders must manage the technologists. Talented court leaders know how to blend technical staff into the court and justice system, achieve common understandings, and, very importantly, ensure that technical staff service and support those who do the court's work. Budget, staff, equipment, and caseflow and other business processes must be aligned.

- Knowledge that success with court technology depends as much on the management of people and work processes as it does on the quality of the tools;

- Ability to attract, develop, and retain good court technical staff;
- Ability to lead and manage technical people, whether in-house, central judicial (e.g., state administrative office), executive branch, outsourced, or contractual;
- Ability to anticipate and resolve the problems that judges and operational staff will have with the introduction of new technology;
- Skill in working with agencies and organizations in the justice system to produce or to implement standards for application integration and data exchange, including remote access, electronic reporting, and workflow;
- Ability to work with technologists to maintain and improve court operations, including case management, facilities and their modification, data conversion strategies, start-up plans, and operational procedures;
- Skill in writing, speaking, listening, presenting, media relations, and meeting management as they relate to oversight of technology and technical staff supporting court operations;
- Ability to develop and maintain communication plans and information distribution methods concerning technology for stakeholders, insiders, and outsiders, including judicial officers, funding authorities, and those who process cases and manage other court functions;
- Skill in setting goals, evaluating options, and monitoring the work of technologists to maintain and improve the acquisition, development, and use of court technology;
- Knowledge of how to provide effective user support for court technology applications, including training, documentation, and quality assurance;
- Skill in aligning budgets, technology, court workflows, judges, other staff, and technologists.

## PROJECTS

Projects create something that was not there before. In projects, court leaders must deal with budgets, project scope, staffing, schedules, financial management, quality, communications, risk, and procurement. Court leaders must also make sure on-going operations are balanced with the need to upgrade current systems through projects. Courts must be able to build the staff, the vendor and outsource resources, the control processes, and the feedback loops necessary to deliver high-quality products on time and within budget.

- Ability to assess the availability, cost, risk, and value of current court technology as it changes in different stages of technology life cycles;
- Knowledge of alternative ways of funding court technology projects and upgrades, including private/public partnerships, bonds, and lease and buy back options;



- Knowledge of project lifecycles and the importance of dividing projects into phases with discrete deliverables and management controls;
- Ability to organize and develop management and technical teams to conduct project work without compromising on-going operations;
- Ability to identify and work with stakeholders and the individuals and organizations that are actively involved in or affected by a court technology project;
- Skill in using diverse procurement approaches, managing project procurement, including procurement planning, solicitation planning, solicitation, including request for information (RFI) and request for proposals (RFP), vendor or product selection, and contract development, administration, implementation, and closeout;
- Skill in evaluating the substance of vendor responses to Requests for Information (RFI) and Requests for Proposals (RFP) before signing a contract;
- Expertise with project management tools and techniques, including project plan development and execution, change management, monitoring implementation and project milestones, and project closeout;
- Knowledge of risk management practices in court technology projects, including risk identification and quantification, response and contingency planning, development of reserves, and restrictive contract language.
- Skill in applying the tools and techniques of project management to define the scope of court projects, to negotiate formal acceptance of the scope with stakeholders, and to manage needed changes in scope and deliverables throughout a project;
- Skill in defining project activities, sequencing tasks, estimating the duration of work, developing schedules, and managing schedule changes during the project life cycle;
- Skill in overseeing planning, monitoring, and testing the quality of interim and final products to ensure that systems developed during court technology projects meet court specifications and functional requirements. **CM**

# NATIONAL ASSOCIATION FOR COURT MANAGEMENT PROFESSIONAL DEVELOPMENT ADVISORY COMMITTEE

## **NACM/PDAC OVERSIGHT, PRIME AUTHORS AND THE GUIDELINES DEVELOPMENT PROCESS, AND OTHER REVIEWERS**

NACM/PDAC oversaw and guided the development of the Core Competency Curriculum Guidelines. Current members include: the NACM/PDAC Chair Frank Broccolina, State Court Administrator, Maryland, and a Past-President of NACM; Cynthia Banks, Director, Human Resources, Los Angeles Superior Court; Ruben O. Carrerou, Court Administrator, Eleventh Judicial District, Dade County, Miami, Florida; Mark Dalton, District Court Administrator, Lancaster, Pennsylvania; Zelda M. DeBoyes, Municipal Court Administrator, Aurora, Colorado, and a Past-President of NACM; Jose O. Guillen, Consultant, Napa, California, formerly Court Executive Officer, Riverside County, California; Franny Haney, Judicial Educator, Administrative Office of the Courts, Delaware; Andra Motyka, Superior Court Administrator, Tacoma, Washington; Lawrence Myers, Municipal Court Administrator, City of Joplin, Missouri, and NACM President Elect; Joi Sorenson, Assistant to the Executive Officer, Los Angeles Superior Court, and NACM President; Patricia Tobias, State Court Administrator, Idaho; and Bob Wessels, Court Manager, Houston, Texas, and a Past-President of NACM.

Past NACM/PDAC members include: Jeffrey M. Arnold, former Court Administrator and Judge, Cook County, Illinois, a Past-President of NACM and Court Consultant, Niles, Illinois; Jan Bouch, Deputy Executive Officer, Sonoma County, California, and the prime author of Education, Training and Development; Gladys L. Brown, Court Administrator, Columbia, South Carolina; Alan Carlson, President of the Justice Management Institute, Denver, Colorado, and staff to the project and the prime author of Essential Components, formerly Chief Executive Officer, San Francisco Trial Courts, San Francisco, California; Janet G. Cornell, formerly a Deputy Judicial Administrator, Maricopa County Superior Court, Phoenix, Arizona, and a Past-President of NACM, now a Municipal Court Administrator in Phoenix, Arizona; Geoff Gallas, the Project Director and the prime author of several Guidelines, formerly Vice President of the National Center for State Courts and Executive Administrator, First Judicial District, Philadelphia, Pennsylvania, and now President, Aequitas, Philadelphia, Pennsylvania; James D. Gingerich, State Court Administrator, Arkansas; Emily Z. Huebner, Director, Court Education Division, Federal Judicial Center, Washington, D.C.; Suzanne James, Court Administrator, Upper Marlboro, Maryland, and a Past-President of NACM; Ingo Keilitz, former Vice-President, National Center for State Courts Institute for Court Management and now President,

Sherwood Consulting, Williamsburg, Virginia; Kay Palmer, Judicial Educator, Arkansas; Richard Saks, Chief Judicial Educator, New Jersey; Dr. Howard P. Schwartz, Judicial Administrator, State of Kansas; and Anne Thompson, Municipal Court Administrator, Tulsa, Oklahoma.

The NACM/PDAC was assisted by current and past NACM/PDAC ex officio members William Dressel, President, National Judicial College; Ernest Borunda formerly Dean, National Judicial College and now a consultant based in Reno, Nevada; Pamela Bulloch, formerly the State Justice Institute Project Manager and now a consultant based in Washington, D.C.; Maureen Conner, Executive Director, JERITT, Lansing, Michigan; Chuck Ericksen, Executive Director, National Center for State Courts Institute for Court Management, Williamsburg, Virginia; Frank Gavin, former Director, National Center for State Courts Institute for Court Management, Williamsburg, Virginia, now Consultant, Brunswick, Maine; Joan Green, formerly with Justice Management Institute and now a consultant in Denver, Colorado; Barry Mahoney, former President and now President Emeritus, Justice Management Institute, Denver, Colorado; and Norman H. Meyer Jr., Clerk of Court, U.S. Bankruptcy Court, Albuquerque, New Mexico, and a Past-President of NACM.

## **PRIME AUTHORS AND THE GUIDELINE DEVELOPMENT PROCESS**

The Core Competency Curriculum Guidelines were initially drafted by a prime author(s) with help from the Project Director and, for the early Guidelines, a Content Specialist Group, and others through multiple drafts.

With the exception of the Purposes and Responsibilities of Courts and Education, Training, and Development, the John Hudzik JERITT product guided the development of initial drafts. Prime authors developed Section I What This Core Competency Is and Why It is Important, Section II Summary Curriculum Guidelines; and Section III Required Knowledge, Skill, and Ability by review of the KSAs identified by the Hudzik survey work and their ranking as essential (important) and high court manager performance inadequacies. KSAs with very high importance but low inadequacy ratings were generally classified as Fundamentals. Every KSA with high importance and high inadequacy was included and many became lead concepts for Section II Curriculum Guidelines. Besides carefully reviewing the Hudzik data for the Core Competency Curriculum Guideline they

developed, the prime authors combed KSAs in other competencies with special attention to relevant KSAs with high importance and inadequacy, as well as adding missing KSAs.

While most but not all of the prime authors are or were academics, NACM/PDAC directed that Guidelines follow the lead of the Trial Court Performance Standards and not be academic papers. Sources are acknowledged in the text when appropriate, but footnotes and other academic conventions are not present.

Following multiple reviews and NACM/PDAC approval, early Guidelines drafts were sent to the entire membership of NACM and the Conference for State Court Administrators. Due to funding limitations, 200 or more selected reviewers rather than the entire NACM and COSCA membership reviewed later Guideline drafts following NACM/PDAC approval. Guidelines were then revised and submitted for publication in *The Court Manager*. The Guidelines published in this special issue were reviewed again and redrafted primarily by the Project Director with NACM/PDAC oversight.

Prime authors of the initial drafts were: Purposes and Responsibilities of Courts (Geoff Gallas); Caseload Management (Geoff Gallas); Leadership (Geoff Gallas and Dan Straub); Visioning and Strategic Planning (John Martin and Brenda Wagenknecht Ivey); Essential Components (Alan Carlson); Court Community Communication (Tom Hodson and Geoff Gallas); Resources, Budget, and Finance (John Hudzik); Human Resource Management (Terry Curry and Geoff Gallas); Education, Training, and Development (Jan Bouch and Geoff Gallas); and Information Technology Management (Larry Webster).

## OTHER REVIEWERS

Besides past and current NACM/PDAC members, Content Specialist Group members and other key reviewers included: Alex

Aikman, former Court Executive, and now Consultant, Redding, California; Legrome D. Davis, Judge, U.S. District Court for the Eastern District of Pennsylvania, formerly Judge, Court of Common Pleas, Philadelphia, Pennsylvania; Maureen Solomon, Court Consultant, Lakewood, Colorado; Holly Bakke, Court Consultant, Chatham, New Jersey; Tim Dibble, Vice President, Aequitas, Jenkintown, Pennsylvania; George Gish, formerly Court Administrator, Detroit Record-ers Court, now Consultant, Southfield, Michigan; Ernest Friesen, formerly Administrative Director of the United States Courts and the first Executive Director of the Institute for Court Management, now Consultant, Silverthorne, Colorado; Caroline Cooper, American University, Washington, D. C.; William Dressel, formerly Judge, Fort Collins, Colorado, and now President, National Judicial College; Doug Somerlot, formerly Director, Family Justice Leadership Institute, Cook County Circuit Court, Chicago, Illinois, and now Senior Staff at the Justice Management Institute, Denver, Colorado; Frank Sullivan, Justice, Indiana Supreme Court, Indianapolis, Indiana; Dr. Carl Baar, Professor, York University and Consultant, Toronto, Canada; Christopher Crawford, formerly Municipal Court Administrator, Torrance, California, now President, Justice Served, Eureka, California; Robert Tobin, National Center for State Courts, Arlington, Virginia; Dale Lefever, University of Michigan Medical School, Ann Arbor, Michigan; Steven Steadman, formerly the District Court Administrator, La Crosse, Wisconsin, and now a Senior Consultant with Policy Studies Inc; Kathy Mays, Deputy State Court Administrator, Virginia; Louis Hentzen, former District Court Administrator, Wichita, Kansas; Gordon Griller, Court Administrator, Phoenix, Arizona; John Greco, Municipal Court Administrator, Tempe, Arizona; and Clem Bezold, President, Alternative Futures, Alexandria, Virginia, among others. [CM](#)







2012/2013 MINI GUIDE

# Steps to Reengineering:

## Fundamental Rethinking for High-Performing Courts

### Building a Results - Oriented Court Organization

Mission

Outcome Goals

Strategy

Program Alignment

Resource Alignment

Values  
Measures

**MISSION:** state the purpose of the re-engineering process.

**OUTCOME GOALS:** are long-term, measurable results the court organization needs to accomplish to achieve the mission. They Why, Why, and How can we prove success.

**STRATEGY(IES):** outline what must be done well or what barriers must be overcome to achieve outcome goals.

**PROGRAM ALIGNMENT:** ensures program activities deliver intended outcomes.

**RESOURCE ALIGNMENT:** is the process of allocating resources based on a prioritized set of outcomes.

# Court Reengineering: Fundamental Rethinking for High-Performing Courts

2012/2013 MINI GUIDE



**National Association for Court Management**

## Mini Guide Workgroup

Phillip Knox, Chair

Christopher Bleuenstein	Laura Klaversma
Janet G. Cornell	Teresa Risi
Scott C. Griffith	Robert Zastany
Peter Kiefer	

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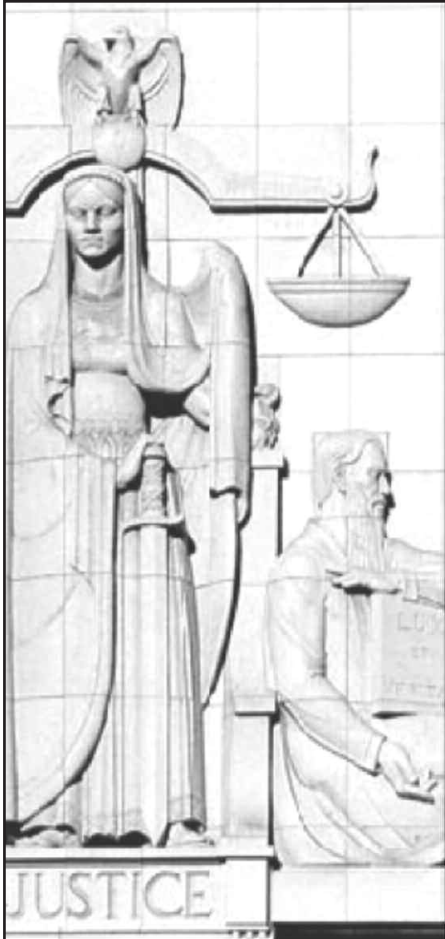
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# I. Introduction: Fundamental Rethinking

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

We shall not cease from exploration, and the end of all our exploring will be to arrive where we started and know the place for the first time.

T. S. Eliot, 1888 – 1965

## A New Day

Courts move slowly toward improvements; most often they focus on individual processes and department efficiencies. It is the dawn of a new day; it is the emergence of a “new economic normal.” Many courts across the nation now struggle under staggering budgetary pressures that offer no respite for the foreseeable future. Courts are laying off staff, shutting down specialized courts, locking courthouse doors, reducing business hours, and closing off construction projects.

*“The courts recognize that things aren’t going to get back to whatever ‘normal’ is. There will be less revenue in the future, and they are preparing for that.”<sup>1</sup>*

As part of this “new normal,” courts are groping to find innovative ways to do business and administer justice. Many high-performing courts are revisiting an established approach to building efficiency and effectiveness: Business Process Reengineering (BPR). BPR is a management approach aimed at process improvement within and across court organizations. The approach started in the 1990s as an intervention to fix and perfect business processes.

According to co-authors Dr. Michael Hammer and James Champy:<sup>2</sup>

*[reengineering is] “the fundamental rethinking and radical redesign of the business processes to achieve dramatic improvements in critical, contemporary measures of performance, such as cost, quality, service and speed.”*

BPR demands that companies radically redesign themselves, dramatically change current processes, focus on the customer, and create a virtuous cycle of continual improvement.

## Fundamental Rethinking

Many analysts believe that organizations must face a truly existential crisis for BPR to succeed. A 1988 explosion on the Piper Alpha oil rig platform in the North Sea has become a metaphor for the type of crisis many think organizations must face:

*Two hundred twenty-six crew members on the burning oil platform had to choose between jumping 175 feet into the raging North Sea or burning alive if they remained on the platform. Many of the crew jumped; sixty-one survived. The metaphor has come to represent the BPR attitude “jump into the unknown or burn if you remain.”<sup>3</sup>*

The global recession and subsequent government budget firestorm has presented courts with a public sector version of an

<sup>1</sup> Daniel J. Hall, vice president of the National Center’s Denver, Colo.-based Court Consulting Services.

<sup>2</sup> Dr. Michael Hammer and James Champy, *Reengineering the Corporation*, 1993.

<sup>3</sup> Daryl R. Conner, *Managing at the Speed of Change*, Random House, 1993.

existential crisis. High-performing courts are electing to explore radical reengineering options.

## Radical Redesign

BPR success requires a fresh perspective and a fresh approach. Traditionally the distinction between Total Quality Management (TQM) and Business Process Reengineering (BPR) has been that with TQM the work team identifies process innovations; while BPR challenges the process itself. Starting with a clean sheet of paper, the work team identifies current processes and the desired process changes. The key is not only to change, but to radically change within a short period. BPR dictates that courts can achieve change only by revamping organizational structure, overhauling business workflow, rewriting job descriptions, embracing performance measures, and adopting information technology (Figure I.1). Some basic characteristics are:

- *View court operations as a set of consumer (both internal and external) oriented processes rather than departmental functions;*
- *Ensure clear-cut ownership of each process; and*
- *Eliminate activities that do not add value.*

BPR is about throwing away existing assumptions and conventions; it is about starting from scratch.

*“In the past the man has been first; in the future the system must be first.”*

*Fredrick Taylor 1911*

## Primacy of Technology

Emblematic of BPR process change is investment in technology rather than employees. Technology eliminates administrative task-oriented jobs previously held by staff. Normally a reengineered court sheds unnecessary paperwork and bureaucracy.

Critical funding is directed to where it is truly needed and adds to the court’s productivity. Money and time wasted on departmental overhead is saved by using information technology to improve communications and by positioning skilled personnel where they can best serve customers.

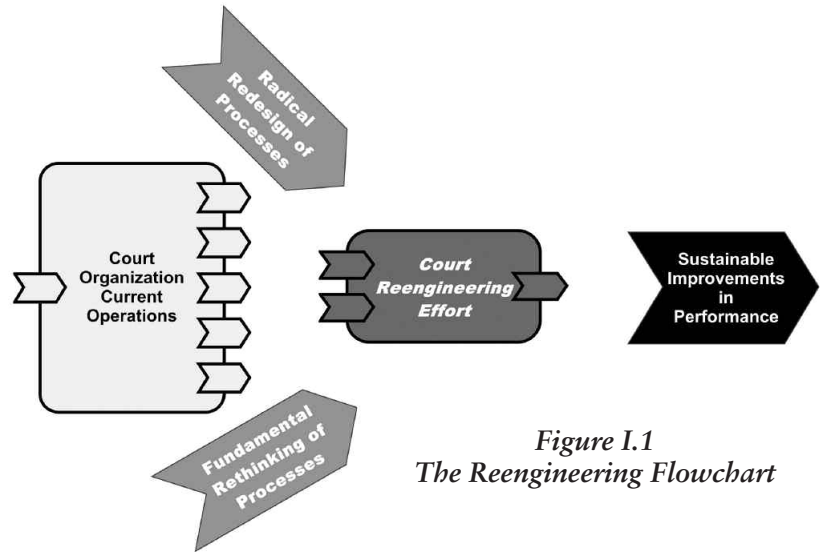


Figure I.1  
The Reengineering Flowchart

## The Virtuous Cycle

The difference in BPR today from the concept of the 1990s is that now it is not a “one-hit wonder.” As Hammer & Champy point out:

*“Reengineering is not a one-time trip. It is a never ending journey, because the world keeps changing. Processes that have been reengineered once will someday have to be reengineered all over again. Reengineering is not a project; it must be a way of life.”<sup>4</sup>*

This mini guide offers five case studies on how different high-performing courts used BPR to improve their operations.

## Case Study No. One: Orange County Superior Court

Orange County is a large, metropolitan trial court that made a compelling case for change; it instilled a continuous improvement mindset; it showed why reengineering must be aligned with the court’s overall goals; and it used a proven methodology.

<sup>4</sup> Michael Hammer & James Champy, *Reengineering the Corporation: A Manifesto for Business Revolution*, 1993.

The court targeted processes incorporating large numbers of transactions, severe backlogs, or high error rates. It honored “quick wins” and culminated the effort with an “Academy Awards” celebration.

### **Case Study No. Two: Scottsdale City Court**

Scottsdale is a moderate-size, limited jurisdiction metropolitan court that introduced a simple, effective, low-tech process for courts to assess their operations and staffing levels. The court collected data on staff assignments; it brought into sharp relief for senior management tasks performed and the effort expended. The process serves as the cornerstone for future reengineering efficiencies.

### **Case Study No. Three: Minnesota’s Eighth Judicial District**

Thirteen counties comprise this rural Minnesota judicial district. The National Center for State Courts’ (NCSC) made recommendations that presented a progression of innovative changes, including: extensive use of Interactive Video Teleconferencing (ITV), more effective caseload management practices, a regional call center to respond to customer inquiries, court reporter management of digital reporting, established uniform policies and procedures, part-time staff, self-help concepts, and shared emergency judicial services with other counties.

### **Case Study No. Four: Lake County Circuit Court**

This is a large, metropolitan trial court that used BPR to focus on staff planning in four specific areas: purpose, values, competence, and commitment. In response to the continuing budget crisis, the court concentrated on properly allocating resources, coordinating with justice system partners, linking goals to the court’s core mission, knowing

the data, and meeting time standards. It emphasized team collaboration, results-driven management, enhanced areas of specialization, and increased technology. This has resulted in the court embracing performance measurement, making evidence-based decisions, allocating the right staff in the right place, doing the right things, and shaping the court to deliver services in ways that will be required by funding reductions.

### **Case Study No. Five: The Vermont Commission on Judicial Operation**

This state judicial branch effort to reengineer court operations at the state legislature’s direction showcases interbranch cooperation. The supreme court established a Commission on Judicial Operation to craft recommendations on reorganizing the courts’ administrative structure, and enhancing the use of technology. The commission reported \$1.2 million in potential savings.

In this ongoing effort to help the nation’s courts weather the current economic storm and prepare for an uncertain financial future, the NCSC has either worked with or is currently assisting 10 states to reengineer their court systems. For additional information, please visit <http://www.ncsc.org/services-and-experts/court-reengineering.aspx>.

The contributors to the five case studies supplied substantially more information on reengineering than could be presented in this mini guide; for additional information, forms, and graphics, please access: <http://nacmnet.org/publications/index.html> For a description of process improvement “in a nutshell,” see Appendix C of this mini guide.

## II. Case Study No. One: Business Process Reengineering *Superior Court of California, Orange County*

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

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Superior Court of California

Orange County, California

Chief Operations Officer: Teresa Risi

Population: More than 3,000,000

Caseload: 620,000 annual filings

Third largest in California – fifth largest in the nation

Bench Officers: 144

Staff: 1,550

Six Justice Centers: Fullerton, Laguna Hills, Newport Beach, Orange, Santa Ana, and Westminster

“The goals of this initiative are 1) reduce operations staffing levels by 100 positions; 2) reduce backlog by 50 percent (or 7,500 hours); and 3) reduce case destruction backlog by 25 percent.” Chief Operations Officer Teresa Risi announced these lofty goals at a January 2009 kick-off meeting before a group of 150 court staff. The meeting commenced a two-year courtwide reengineering effort. Facing the audience all she saw were wide eyes and open mouths: deer in the headlights. The audience exchanged looks of disbelief, convinced that this woman was simply out of her mind. This was Orange County Superior Court’s first meeting with Business Processing Reengineering (BPR).

Two years later, despite initial fears and misgivings, the 14 teams (covering all units and case types in operations) achieved all three goals and more. In addition, they succeeded at institutionalizing a ‘continuous improvement’ mindset in the organization’s culture. Employees now routinely suggest improvements to business operations, which in turn

has helped reduce court expenditures and increase service. Morale has improved. Employees feel like they are part of the solution rather than victims of the state’s budget crisis.

So how did Orange County Superior Court do it? The court followed certain basic principles for implementing change of this magnitude. It took the process step by step and incorporated best practices along the way.

The **basic principles** for implementing effective BPR included the following:

### **Top Leadership Sponsorship**

Prior to the January 2009 kick-off meeting, the executive leadership team laid the foundation to make a program of this magnitude a success. They gathered reengineering information, developed a methodology, solicited buy-in from the management team, educated judicial leadership, developed a timeline, and defined measureable outcomes

with checkpoint meetings. The entire leadership team was involved, consistent, and supportive throughout the effort.

## Strategic Alignment

The executive leadership had previously established weekly briefing meetings. The presiding judge and assistant presiding judge regularly met with the:

- Court executive officer (CEO)
- Court operations officer (COO),
- Court technology officer (CTO),
- Court financial officer (CFO), and
- Chief of human resources.

These pre-established forums permitted frequent discussions on alignment and prompted resolution of policy and procedures issues. Alignment discussions, an effective governance model, and the ability to quickly communicate decisions helped ensure the effort stayed on track and projects were properly prioritized across departments.

## Compelling Business Case for Change

The budget crisis provided a compelling case for changing the way business was conducted, on the assumption that the change would reduce costs and avoid layoffs. Timing can be everything for certain changes. For the court, impending and drastic reduction in the operating budget gave it the clear choice to guide its own future.

## Proven Methodology

Orange County brought in leaders from the Sacramento Superior Court who had successfully implemented a reengineering program. This helped the Orange County teams realize that it could be done and how to do it. Orange County, however, tailored its effort by using local resources to develop templates and forms to assist in documenting both the ‘as is’ and the ‘to be’ processes.

A court analyst served as “BPR czar” acting as a single resource for all teams. The czar ensured teams had a foundation on what to do and how to do it, and ensured a consistent approach.

The czar reported directly to the COO so individual team issues (e.g., how to complete forms, how to calculate staff savings, etc.) could be quickly resolved and projects could be properly resourced. Although each team was provided a basic structure, team leads were free to be creative in how they led their teams. The results were amazing!

## Effective Change Management

Due to the budget climate, people were more willing to make and accept changes. Established governance and communication structures helped ensure proper vetting of issues and concerns in a safe environment. Discussions ensured a proper “check and balance” on proposed solutions and helped mitigate resistance by addressing concerns early on. Establishing measurable outcomes along the way was crucial. Celebrating with the teams during milestone checkpoints and informing the rest of the organization (staff and bench officers) of successes ensured continued support and improved morale during bleak times.

## Line Ownership

Line staff were assigned to each team along with members from other court departments (finance, human resources, and technology). Team members from other departments were the crucial fresh set of eyes that operations staff needed to help challenge existing processes. Further, interdepartmental teams helped foster better working relationships, which continue to reap rewards on current projects.

The **step-by-step** process included the following:

- After the kick-off meeting, the teams spent the first 30 days identifying and prioritizing the process areas to review. The teams were encouraged to focus on areas with large transaction volumes, severe backlogs, or high transaction error rates. Listing and prioritizing the areas led to the discovery of what became known as “quick wins.”
- Throughout the effort, many tasks were discovered that could be stopped or modified to



achieve “quick wins.” For example instead of photocopying the daily custody list for every courtroom and other entities (many of the copies were tossed directly into a recycle bin) a team inquired to see who actually used it. A PDF version is now emailed to those who need it. Quick wins were implemented immediately and did not require full documentation.

- At a 90-day checkpoint meeting, the teams shared some of the interesting (and perhaps embarrassing) findings. The teams shared ideas and were reinvigorated to continue the journey.
- After one year of hard work, the teams celebrated with an Academy Awards themed event. Again, sharing ideas helped other teams replicate concepts applicable to other units.

Some of the **best practices** incorporated along the way, which helped make the reengineering effort successful, included:

- Reaching out to other courts in the state to compare processes and/or replicate winning ideas locally;
- Collaborating, coordinating project efforts, ensuring alignment, and resolving issues at quarterly team meetings; and
- Celebrating along the way both at the individual team level and as a court.

The court held an Olympic closing ceremonies themed event in January of 2011. Although it was the end of a two year court-wide effort to reengineer business processes, the event symbolized the passing of the ‘continuous improvement’ torch to all the managers in the court.

## Conclusion

So what’s the secret recipe for making BPR work? It’s not just about following a set of steps and tasks and magically creating a reengineered workplace. Court leadership believes the secret of the success stems from the ability of the executive and judicial leadership team to make quick decisions and work together in a collaborative way, focusing

on the vision and goals. Many individual projects had roadblocks. Some projects were delayed or headed down a wrong path for a period of time. The executive leadership team worked together to quickly solve problems and find solutions. Success is tied to a foundation of trust and confidence in each other and alignment behind the vision and goals.

At the conclusion of the January 2009 kick-off meeting, Teresa Risi left the teams with the following quote:

*“The difference between a vision and an hallucination is the number of people who see it.”*

She invited the teams to join her in seeing the vision and making it happen. The results tell the story:

- 110 quick wins implemented
- 125 documented processes were reengineered resulting in:
  - ★ the reduced workload equivalent of 115 positions;
  - ★ \$342,000 of non-labor savings;
  - ★ 80 percent reduction in backlog; and
  - ★ Significant progress on case preservation and destruction work.

By far the best outcome has been the continuous improvement mindset that is now part of the court’s culture. Employees are encouraged to suggest ideas on how to work more efficiently and provide better service to the public. The court continues to meet the challenge of decreased funding by implementing improvements big and small, many of which have been ideas generated by the staff doing the day-to-day work.

# III. Case Study No. Two: The “Bucket List” – An Introduction to Reengineering and Rethinking *Scottsdale City Court, Scottsdale, Arizona*

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Scottsdale City Court

Scottsdale, Arizona

Janet G. Cornell, Court Administrator (Retired)

jcornellaz@cox.net

Population: 219,900

Caseload: Fourth highest volume municipal court in Arizona

Significant winter tourist influx – only 37 percent of caseload from year-round residents

2005 -2008 City operated photo enforcement freeway program

## Introduction

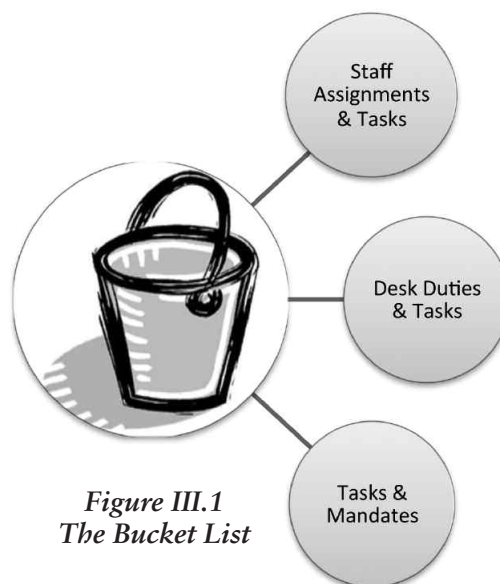
This case study details a simple, low-tech, no-cost process for a court to assess operations and staffing levels, which can lead to reengineering. The methodology is simple: collect data on staff tasks performed daily. The Scottsdale City Court found that this process provided steps to understand actual tasks performed, tasks assigned by either workgroup or team, and major groupings of court responsibilities.

The results can serve as a tool to explain court functions and justify resources during difficult court budget decisions. They allow court management to make decisions about task assignments, staffing allocations, and future reengineering directions.

## What Is the “Bucket List?”

Unlike the Jack Nicholson film, this “bucket list” was a process whereby the court collected, analyzed, and reported on the tasks court staff perform (Figure III.1). The term

“bucket list” depicted the tasks that were organized into ‘buckets’ or operational areas.



*Figure III.1  
The Bucket List*

## Results

The overall result was an inventory of duties, tasks, time, and reasons or mandates. The inventory increased awareness of the actual tasks court staff perform and the

amount of time invested in those tasks. It allowed management to analyze, brainstorm, and consider operational changes. The inventory has helped court management determine assignments and task ‘leveling,’ staffing needs, and the elimination of staff positions.

## Why Scottsdale City Court?

The Scottsdale City Court first dabbled with the bucket list process in November 2009. It came about when a senior manager was learning operational issues with a subordinate supervisor. There was a realization that both would benefit from a clear inventory of the work a team performed on a daily basis. Each work team staff member was assigned one or more single tasks, with each staff member performing each task independently of other team members. The variety of single-task assignments seemed ripe for review and possible reengineering. This was occurring while court management needed to consider operational changes and staffing allocations, with possible position eliminations.

Both management and supervisors realized the usefulness of the first bucket list process. It appeared to be a simple methodology to inventory, count, and publish numbers of tasks and work assignments. It then became apparent that management could use the process to:

- increase knowledge of court functions;
- assess and evaluate tasks;
- efficiently and fairly level task assignments; and
- consider staffing allocations in different areas.

The court conducted the bucket list process again in the spring of 2011, court-wide, using similar yet expanded processes. Court management reaffirmed that it offered a simple tool that could lead to documenting court tasks and process reengineering.

## Court Background

The background of the Scottsdale City Court helps provide an understanding of why it used the bucket list process.

The court uses a variety of performance metrics, including an ongoing review of case and calendar settings, court case clearance rates, and monthly workload comparisons. It includes the National Center for State Courts’ CourTools Measures in the annual court budget.

Technology assists in counting workload, tracking customer use rates, and reviewing event codes in the statewide case management system (CMS). The CMS has internally developed modules including payment contract production, fine and sanction tracking, and defendant compliance tracking of court ordered screening, as well as treatment and home detention monitoring.

As with other public sector entities, the court has had to manage with limited resources, as well as justify its performance in response to local government concerns. Following one "negative report card" an effort was made to redouble mastery and knowledge of what the court does, revisit basic court tasks, and evaluate workloads. This led to the use of the bucket list data collection and inventory.

## Methodology

The court administrator announced and supported the process at an all-staff meeting, which involved determining the data to collect, creating the data collection process, and commencing the process. The unit manager or supervisor of each of the five main operational court areas (criminal courtrooms, civil courtrooms and public service counter, case processing, court IT operations, and court financial/ budget operations) announced and monitored data collection.

An instruction sheet and spreadsheet were prepared for all staff to use. Supervisors briefed team members on the process and expectations and were available for questions. The data collection times were set with some flexibility so each team could customize the time period needed to gather data.



<p><b>Key Functional Area 1: Pre Adjudication Document Processing</b></p> <ul style="list-style-type: none"> <li>• Case Initiation Data Processing</li> <li>• Criminal File Creation</li> <li>• Correspondence/Mail</li> <li>• Payment Processing</li> <li>• Civil Traffic Document Processing</li> </ul>
<p><b>Key Area 2: Post Adjudication Document Processing</b></p> <ul style="list-style-type: none"> <li>• Appeal Processing</li> <li>• Disposition Reporting</li> <li>• Motor Vehicle Department Reject Reports</li> </ul>
<p><b>Key Area 3: Criminal File Processing</b></p> <ul style="list-style-type: none"> <li>• Criminal Motions Data and Electronic Document Management (EDM)</li> <li>• Criminal Motions File Processing</li> <li>• Pulling and Filing Criminal Files</li> <li>• Criminal Case Quality Assurance (QA) Reports</li> </ul>
<p><b>Key Area 4: Court Ordered Compliance Monitoring</b></p> <ul style="list-style-type: none"> <li>• Court Compliance Module and QA's</li> <li>• Court Compliance File Processing</li> <li>• Home Detention Compliance</li> <li>• Defensive Driving School Processing</li> <li>• Manual Civil Traffic Defaults/Zoning</li> <li>• Civil Case EDM and EDM QA</li> </ul>
<p><b>Key Area 5: Internal &amp; External Customer Service</b></p> <ul style="list-style-type: none"> <li>• Records Requests</li> <li>• Jury Pool Processing</li> <li>• Courts Inbox, Fax Distribution, Emails</li> <li>• Team Workload</li> <li>• Processing the Term Wall Files</li> <li>• Cleaning Scanners</li> <li>• Admin Window Coverage</li> </ul>

*Figure III.2 Example of Functional Areas with Discrete Tasks*

## How the Information Was Organized

As unit supervisors received data from their team, they compiled and organized it for analysis and sharing with senior management. First,

supervisors arranged the data into key functional areas. An example for the case processing team is displayed in Figure III.2, showing discrete tasks within each functional area.

Second, supervisors identified discrete tasks by desk assignments along with required amounts of staff time per week and the underlying reason or mandate. Figure III.3 shows selected examples of the essential tasks that comprise a desk and the underlying mandate.

Third, where possible, supervisors listed tasks by specific team members along with backup responsibilities. Figure III.4 shows an example of this.

Fourth, where applicable, supervisors identified periodic, ad hoc, or cyclical tasks. These could be functions that may not have appeared during the data gathering process. Figure III.5 displays the project data collection methodology.

## Outcomes and Results

Court management observed the following results from both data collection events:

The process allowed management and staff to re-connect with the actual tasks performed. Awareness of the actual tasks performed, the volume of work, and the amount of staff time expended was enhanced.

The process allowed court management to document tasks, along with the underlying mandates, and in a task inventory.

Each unit supervisor gained direct knowledge of tasks on their team. Some supervisors noted "ah ha moments" (i.e. identifying areas of task duplication, finding opportunities to modify assignments or redistribute work, and discovering tasks that could be eliminated).

The data gave senior management (including the court administrator) a general understanding of staffing levels. It also provided insights regarding potential areas where staff could be reassigned, rotated, or eliminated.

The data spotlighted areas where work could be shared between work teams.

Overall, the process created management awareness of organizational “slack time,” or time where staff could be used to cover high-volume tasks. With the bucket list data, management had an

<p><b>The Appeals Desk requires – 1 staff 34 hours per week for appeal processing.</b></p> <p><b>Mandate:</b></p> <ul style="list-style-type: none"> <li>• A.R.S. 22-425</li> <li>• Arizona Civil Traffic &amp; Boating Rules (Az.T.&amp;B.R.)- Rule 25-36</li> <li>• Arizona Rules of Criminal Procedure (Az.R.Cr.P.) - Rule 30 &amp; 31</li> </ul>
<p><b>The Case Initiation Desk requires 1 staff 35 hours per week for:</b></p> <ul style="list-style-type: none"> <li>• Case initiation data processing – 21 hours</li> <li>• Criminal file creation – 14 hours</li> </ul> <p><b>Mandate:</b></p> <ul style="list-style-type: none"> <li>• A.R.S. Title 28 chapter 5 article 4</li> <li>• Az.R.Cr.P. – Rule 2</li> <li>• Az.T.&amp;B.R.- Rule 4</li> </ul>
<p><b>The Compliance Desk requires 1 staff 35 hours per week for:</b></p> <ul style="list-style-type: none"> <li>• Court Compliance Module and Quality Assurance - 13 hours</li> <li>• Court Compliance File Processing - 22 hours</li> <li>• Home Detention Electronic Monitoring processing - varies</li> </ul> <p><b>Mandate:</b></p> <ul style="list-style-type: none"> <li>• Az.R.Cr.P. – Rules 26 &amp; 27</li> <li>• A.R.S. Title 13-3601; chapter 7; chapter 9</li> </ul>
<p><b>The Criminal Motions Desk requires 1 staff 34 hours per week for:</b></p> <ul style="list-style-type: none"> <li>• Criminal Motions Data and Electronic Document Management - 21 hours</li> <li>• File Processing - 13 hours</li> </ul> <p><b>Mandate:</b></p> <ul style="list-style-type: none"> <li>• AzRCrP - Rules 16 &amp; 35</li> </ul>
<p><b>Home Detention Compliance Desk requires 1 staff, 31 hours per week for:</b></p> <ul style="list-style-type: none"> <li>• Court Compliance Module - 15 hours</li> <li>• Court Compliance File Processing - varies</li> <li>• Home Detention Electronic Monitoring processing - 16 hours</li> </ul> <p><b>Mandate:</b></p> <ul style="list-style-type: none"> <li>• A.R.S. 9-499.07</li> <li>• S.R.C. 9-16</li> </ul>

Figure III.3 Examples of Desk Assignments

Primary Assignment	Back up Assignments
<p><b>Appeal Processing</b> 34 hours per week Scanner Cleaning, Admin Window, Term Files, 2-5 hours per week</p>	<p>Criminal Motions Some Compliance File Wall</p>
<p><b>Correspondence</b> 35 hours per week Scanner Cleaning, Admin Window, Term Files 2-5 hours per week</p>	<p>Appeals Records Requests File Wall Disposition Reporting Court Faxes</p>
<p><b>Case Initiation</b> 35 hours per week Scanner Cleaning, Admin Window, Term Files 2-5 hours per week</p>	<p>Defensive Driving/Defaults Some Criminal Motions File Wall Disposition Reporting</p>
<p><b>Disposition Reporting</b> 24 hours per week Scanner Cleaning, Admin Window, Term Files 2-20 hours per week</p>	<p>Defensive Driving/Defaults Some Criminal Motions File Wall Disposition Reporting</p>
<p><b>Defensive Driving</b> Processing, Defaults 13 hours per week Scanner Cleaning, Admin Window, Term Files 2-25 hours per week</p>	<p>Case Initiation Records Requests File Wall Correspondence</p>
<p><b>Home Detention Compliance</b> 31 hours per week Scanner Cleaning, Admin Window, Term Files 2-5 hours per week</p>	<p>Compliance Case Initiation Defensive Driving/Defaults File Wall Disposition Reporting</p>
<p><b>Court Compliance</b> 35 hours per week Scanner Cleaning, Admin Window, Term Files 2-5 hours per week</p>	<p>Criminal Motions Home Detention Compliance File Wall</p>
<p><b>File Wall Maintenance</b> 32 hours per week Scanner Cleaning, Admin Window, Term Files 2-5 hours per week</p>	<p>Customer Requests Compliance</p>

Figure III.4  
Specific Tasks with Backup Responsibilities

**Key Steps of Bucket List Data Collection**

1. Agree to collect data and determine level of data
2. Establish the methodology for collection
3. Announce the process – done by court management
  - a. What, why, how
  - b. Purpose of data
4. Prepare survey instructions, instrument and documentation
  - a. Collection time frame and deadlines
  - b. Date collection range – minimum of 5 business days
  - c. Collection days required – Monday, Tuesday, Wed., Thurs. Friday (each work day must be represented)
  - d. Use of excel spreadsheet or manual collection document
5. Ensure supervisor oversight during process
  - a. Addressing/answering questions
  - b. Confirmation of process to staff
6. Establish supervisor analysis and preparation of preliminary findings
  - a. Evaluation of groupings and themes
  - b. Organization of findings
7. Conduct supervisor presentation to senior management on finding results
8. Discuss findings with senior management – to include Q-A, brainstorming of use of outcomes
9. Develop an action plan for next steps
10. Debrief on progress
11. Prepare for next data collection

**Sample Data Collection / Daily Task Log**

Staff name:		Date of collection:		
Activity	Start	End	Duration	Notes
Answer telephone	10:05am	10:10am	5 minutes	Ask for staff help
Review civil motion	10:10am	10:12am	2 minutes	

- Collect data from 5 days during a 2 week period.
- Collect data from all 5 weekdays M-F. Examples: Mon. 4/25, Tues. 4/26, Wed., 5/4.
- Enter data real time, or end of each day to remain current.
- Enter the activity and the time task started and stopped, add any notes if needed.

*Figure III.5 Key Steps of Data Collection*

additional performance metric for understanding court functions.

Court management found that the information could be useful for other purposes:

- o Where could the court absorb staff attrition and defer or avoid new staff recruitment?
- o In what areas are there efficiencies?
- o In which areas is there a need for greater efficiency?

**Lessons Learned from the Process**

Overall, court management agreed the process was a wonderful way to learn about the discrete functions performed on a daily basis. The process was fairly simple, and based upon the prior bucket list process supervisors were prepared to conduct

it courtwide. There is still a need for better task definition at or before the data collection stage. Supervisors learned to provide more and precise instructions for the next data gathering. It was beneficial for court management to have conducted the process before, as valuable lessons were learned. The second administration of the bucket list data collection was easier.

Initial reasons for the process included: management instinct that operations could be streamlined, misunderstanding of what staff members actually do, need for manager and supervisor to talk from same page on operations (what is actually occurring), and brainstorming about future changes. However, the process became a pre-

cursor to reengineering and a part of continued performance management. Because of the immediate benefit, court management allowed the team supervisors freedom to implement changes without awaiting formal management approval – especially changes that provided immediate results or efficiencies.

Where possible, it was good to include the mandate behind the task as it could serve as justification for court resources, should that ever be needed. Court management concluded that the bucket list information and materials were useful for training staff and managers. The visual display of the results provided effective training materials.

Ultimately, the process informed court management about tasks and to conduct operational assessments leading to improved efficiency and services. The process can be replicated by other courts.

*“Don’t let what you can’t do interfere with what you can do.”*

*John Wooden - basketball coach*

## Notes and Comments

1. The author expresses appreciation to Julie A. Dybas, deputy court administrator, who conceived the bucket list idea in 2009, shortly after joining the Scottsdale City Court, as a way to learn staff duties and assess staffing assignments within her area of responsibility.
2. Appreciation is shared with court management: Julie Dybas and Daniel Edwards, deputy court administrators, and supervisors: Rod Wettlin (former employee, public service), Samantha Mounsey (case processing), Cliff Levine (criminal courtroom team), Randy Kennedy (court IT), Jack Miller (court finance), and Gerald Rossler (court security).
3. Postscript note: The bucket list concept was shared in 2010 with attendees of a court managers’ conference in the Federated States of Micronesia. Attendees were taken with the concept as a way to understand what staff members do each day. They then renamed the process the basket list in recognition of the local culture in which baskets are prevalent.



# IV. Case Study No. Three: Reengineering Rural Justice- Improving Efficiencies, Reducing Costs, and Enhancing Operations *Minnesota's Eighth Judicial District*

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Eighth Judicial District, Minnesota  
Judicial District Administrator: Timothy L. Ostby

Regional Counties: Swift, Wilkin, Grant, Traverse, Stevens, Big Stone, Pope, Lac Qui Parle, Chippewa, Kandiyohi, Meeker, Yellow Medicine, Renville  
Population: More than 125,000  
Bench Officers: 10

## Project Impetus

The work of court staff facilitates the very core value of the judicial branch – *Due Process of Law*. However, the state of the economy in 2010, when this case study was conducted, led the National Center for State Courts (NCSC) to examine Minnesota's Eighth Judicial District and determine, as in the state's other jurisdictions, there was:

- declining population and workload;
- diffusion of resources among multiple court facilities;
- a special “access to justice” problem; and
- a challenge in providing staffing services.

Though the economy is improving, these issues transcend economic health. The court system of the future must continue providing excellent service in order to fulfill the core value of due process of law while responding to new social, economic, technological, and legal challenges.

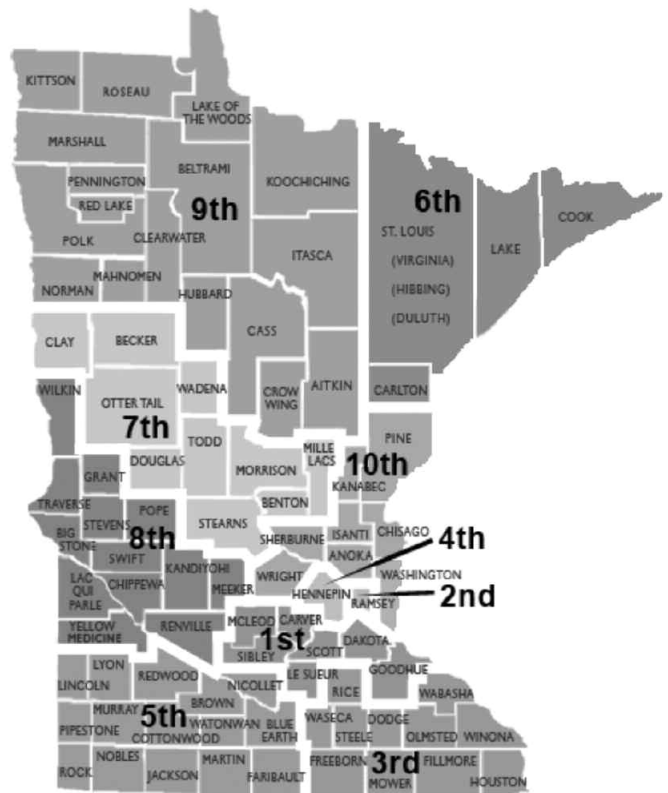


Figure IV.1 Minnesota's Judicial Districts

## Background

The Eighth Judicial District (Figure IV.1) consists of 13 counties in west central Minnesota with a total population of 125,000 making it the most rural of the state's 10 judicial districts. Given the issues it was facing, Minnesota's judicial branch transformed its trial courts from locally isolated areas to a unified statewide system.

This case study introduces the changes that had to occur out of the sheer need to deliver justice to all of the state's population. Created by the NCSC in 2010,<sup>5</sup> it covers a number of areas needing adjustment and identifies modifications to management and staffing structure.

The state's judicial branch has analyzed its strategic direction many times over the years. This project specifically addressed operational changes that led to rural court downsizing. The changes were in response to a combination of declining populations, decreasing demand, and the need to maintain access to justice. The bench and court management did not undertake this effort lightly.

As in the original project (NCSC, 2010), this case study placed the efforts made by the judicial branch over the past several decades in historical context. It began in 1959 when the state legislature granted administrative authority to the state supreme court. In the 1960s and 1970s, legislation further modernized the state court system by converting part-time justices of the peace to full-time judges and creating the State Court Administration Office (SCAO). In 1977, the state legislature passed a Court Modernization Bill establishing statewide funding and defining the administrative structure in each district.<sup>6</sup> The last major unification initiative was 1982.<sup>7</sup>

## Why Shift Now?

The reengineering effort needed to address judicial districts with declining populations and reduced workloads. Additionally, resources were diffused

across counties and court facilities, thereby stretching clerical and administrative services. Lastly and probably most importantly was the issue of access to justice in the rural districts of the state.

This project, although tough to accept, was appropriate given the changing landscape in rural communities. It is human nature to protect what one has, and most humans are adverse to change. However, as court administrators we have a duty of stewardship to the state's taxpayers to provide high quality services at the lowest cost.

## Changing Environment: NCSC Recommendations

The following is an account of the 15 recommendations from the NCSC's 2010 project:

*Recommendation 1:* Court administrators should be professionals who are appointed by, responsible to, and serve at the pleasure of the district administrator.

*Recommendation 2:* One person (either the court reporter or senior court clerk), should be assigned to the courtroom to monitor the digital recording equipment, perform the in-court updating tasks, mark exhibits, and assist the judge as needed. To effectively implement this recommendation court reporters should be fully trained on the Minnesota Case Information System (MNCIS), court procedures, and specific in-court updating processes.

The court reporter's supervising judge should establish the expectation that court reporters perform the in-court updating tasks at the direction of and to the satisfaction of the court administrator and delegate responsibility for training and performance of in-court updating procedures to the court administrator.

District leaders should explore remote monitoring of the digital recording equipment to enable a senior court clerk working in another county in the

<sup>5</sup> Gordon Griller, Lee Suskin, David Sayles, Erika Friess, Reengineering Rural Justice in Minnesota's Eighth Judicial District, October, 2010.

<sup>6</sup> The Modernization Bill created a chief judge, associate chief judge, and a judicial district administrator to act as the senior management team in each judicial district.

<sup>7</sup> Trial Court Unification Act phased in a merger of the probate, county and municipal courts into a unified district court by 1987.

District to monitor the recording equipment when neither a court reporter nor senior court clerk can perform that task on-site.

*Recommendation 3:* To enhance efficiency of court staff and court users, each assignment area should function as a single unit with uniform policies and procedures designed to enable the assignment area to hear and dispose of cases, manage its records, and provide services to court users in ways consistent with state policies and appropriate to the counties within the assignment area.

To accomplish this, the NCSC consultants recommend that the chief judge designate a presiding judge of the assignment area to work with the court administrators to manage the work: to establish formal calendaring and assignment policies that optimize the deployment of judicial officers consistent with the region's adjudication needs and an annual set of operational strategies and priorities to improve productivity, lower costs, and improve access to justice in the region. Through attrition, each assignment area will in the future have one court administrator to work with the presiding judge.

*Recommendation 4:* Judges should routinely use Interactive Video Teleconferencing (ITV) for standard motion and non-dispositive civil hearings. In addition, judges who travel to other courthouses for hearings should consider conducting hearings from their courthouse via ITV (consistent with ITV rules).

*Recommendation 5:* The Seventh/Eighth District administrator and a select group of court administrators should advance plans to the judicial leadership for consistent work sharing between the staff of the two districts where efficiencies, travel distance, and resources warrant. Further there should be regular work sharing assignments between judges of the two districts where volume and distance warrant.

*Recommendation 6:* The newly created single presiding judge and the court administrators in each assignment area should meet periodically with law

enforcement, public lawyers, corrections, county, city, and state officials. These meetings would be aimed at coordinating initiatives to reducing data entry and procedural redundancies in the flow of information and cases.

*Recommendation 7:* All counties in the Eighth District should fully implement all of Minnesota's current technology initiatives, as described in Chapter III of this Report, as soon as possible

*Recommendation 8:* The district leadership should explore the idea of centralized call centers with real-time computer access to MNCIS and other electronic court databases as a pilot project. Calls could be routed to a central location or to one or more of the courthouses within the district with sufficient staff to handle local calls and calls made to other courts.

*Recommendation 9:* Should the district establish in-bound call centers, pro se calls should be routed directly to a center by widely advertising a single phone number to call.

*Recommendation 10:* The district leaders should investigate the possibility of piloting MNCIS data entry/management/ response hubs in one or more locations.

*Recommendation 11:* District and judicial branch leaders should explore greater use of part-time local court employees to save personnel costs and provide highly flexible staffing.

*Recommendation 12:* Court officials should collaborate with the SCAO and Hennepin County's Self Help Center to explore ways that libraries can supplement the assistance provided at courthouses or at centralized self-help centers.

*Recommendation 13:* Judicial branch and district leaders should explore contracting with county governments to provide court assistance in low-volume rural courts on an emergency basis.

*Recommendation 14:* Upon detailed review of the two workforce studies conducted by the NCSC and the planned judicial branch staffing study,

Eighth District and judicial branch leaders should consider strategically closing court administration offices to the public on non-court days during times of limited customer demand.

District leadership should explore establishing responsibility for certain district-wide processes in one or more courts when there are no scheduled court hearings.

*Recommendation 15:* The court administration offices in Grant, Big Stone, Lac qui Parle, and Traverse should selectively close on days that court is not in session. Inexpensive, alternative ways to provide public access to justice should be explored pursuant to the suggestions in this study.

## The “New Normal” and the Span of Control

Validity has no single agreed upon definition but generally refers to the extent to which a concept, conclusion, or measurement is well-founded and accurately corresponds to the real world (Wikipedia, 2012). The strength of the NCSC examination is in its well-founded proposals that correspond to the real world.

Feasibility studies aim to objectively uncover the strengths and weaknesses of an existing business or proposed venture, opportunities and threats as presented by the environment, the resources required to carry through, and ultimately the prospects for success. In its simplest terms, the two criteria for judging feasibility are costs required and value to be attained (Wikipedia, 2012). The NCSC proposals recommend cutting costs out of necessity, but are cognizant of our duty to maintain quality access to justice.

## Steps Taken

In 1990 (at the start of state funding), the Eighth District operated with 13 court administrators and 72 staff; by 2005, staffing levels stood at 52 positions, including 10 court administrators. Today, as a result of effective governance, management, leadership, and implementation of innovative programs, the district has reduced staffing levels to 47 positions, including five court administrators, and

for budget reasons has reduced the hours worked per week from 40 to 37.5 hours (NCSC, 2010).

Apart from decreasing workloads, the reduction in force was the result of the district’s extensive use of technology, which included:

- *The Statewide Case Management System;*
- *In-Court Updating;*
- *Centralized Payables Citation Processing;*
- *e-Citation Processing;*
- *Auto Assess, which automatically calculates payable fines, fees, and fine/fee splits based on the offense, prosecutor, law enforcement agency, and the fine and bail schedule; and*
- *Auto Referral, which permits delinquent debts to be automatically referred for collection, reducing clerical workload, using consistent practices and enhancing collection of fines due.*

A striking example of a regional mindset is the work-share program developed in the mid-1990s. The program’s genesis was the district administrator’s use of administrative weights for the various case types filed with the court. The rolling 12-month quarterly case filings report measured the workload in each county office. From that workload measure, the district administrator made work-share adjustments by either sending work from one county to another or sending a staffer from one county to another to work a certain number of staff days per week. This was a short-term solution for equalizing workload. When a vacancy occurred, the district administrator, after analysis, transferred the vacant position where it was needed.

## Summary

Judicial branch technology initiatives, such as e-filing and e-payment of fines, will certainly reduce required office work. Additionally, the judicial branch has a robust, homegrown case management system that is flexible and adaptable over time. Although ITV is not being used to its full cost savings potential, this is perhaps a generational issue that will also change over time.



*Administrative innovations are changes in how court organizations prepare themselves to conduct operations or account for their achievements. The NCSC consultants would expect the district's leadership to reach out to local stakeholders in more intense ways. Effective collaboration with justice system agencies should be a major emphasis, especially regarding law enforcement and community corrections groups. Getting things done jointly in a shared environment depends a great deal on trust beyond agency boundaries and achieving mutual benefits. Help by court leaders to advance e-citation processing is a prime example (NCSC, 2010).*

Effective collaboration with justice system agencies is vitally important, but if we push efficiency too far the wall separating the branches of government could begin to crack.

## **Conclusion**

Reengineering does not necessarily mean eliminating positions and closing facilities. But it *does* mean what we currently do can be done better or faster. However, becoming more efficient in areas that have declining populations and hence a decreasing workload will eventually mean a reduction in force. Where possible this transition can be softened through attrition. Areas experiencing increased population and hence an increasing workload can benefit from all the IT initiatives currently being used in the state.

Regardless of what area is selected for reengineering, the public can continue to expect fair and efficient access to justice.

# V. Case Study No. Four: Reshaping Staff Organization to Support Higher Performance *Lake County, Illinois* General Jurisdiction Court

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Lake County Circuit Court

County Seat: Waukegan, Illinois

Executive Director: Robert A. Zastany

Population: more than 706,222

2011 Filings: 205,392

Judges: 37

Background Information: <http://19thcc.lakeco.org/Organization/Pages/default.aspx>

## **Project Impetus**

The court organization is labor intensive and largely dependent on staff to perform numerous critical tasks. Often those tasks are performed without direct supervision and dramatically impact the lives of those before the court. Given that the state of the economy is not likely to change in the near future, a limited reshaping of this functional area is recommended to enhance effectiveness, increase efficiency, and promote economy. While current economic conditions may delay some boomer retirements that delay will likely be less than five years. The leading wave of boomers turned 64 in 2010, and retirements will likely result in a shortage of experienced workers. Finally, the court of the future must be prepared to maintain systems of excellence while responding to new social, economic, technological, and legal challenges.

## **Overview**

### **The Times They Are A–Changin’: How Limited Resources Reshape How We Organize to Embrace the Future**

Singer and songwriter Bob Dylan, in January 1964, sang “the times . . . they are a–changin’.” This impactful phrase, more than 48 years ago, focused a nation on world events. This same phrase has been re–released, so to speak, to deal with organization change, reengineering, and paradigm

shifts for these times. Today’s workforce may never see the full return of the “good times” experienced just a few short years ago. A shrinking workforce, graying population, advancing technology, focusing on evidence–based practices, and other such shifts will have far-reaching effects on available resources and how we operate our courts.

This case study introduces adjustments needed today to allow the court to withstand the financial headwinds it will face for years to come. It covers adjustments needed

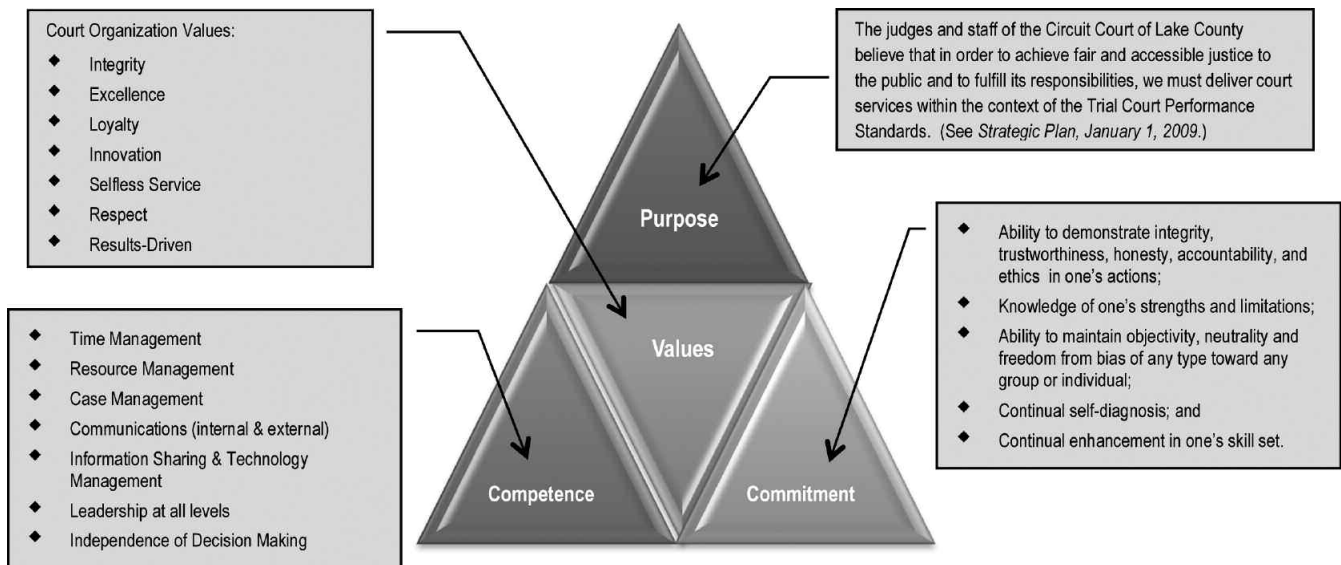


Figure V.1 Framework for Court Excellence

to job duties, accountabilities, current management, and staffing structures.

### Framework for Court Excellence

This framework consists of four sets of interrelated elements (Figure V.1) as described in the published "Purpose of the Court:" 1) a set of recognized core values; 2) individual competencies; 3) individual commitment to the court; and 4) commitment to those we serve. Becoming a court of excellence requires proactive management and leadership at all levels of the organization. It requires determining and attaining performance targets. Informed decision-making requires sound key performance measurement and reliable data. The driving force in performance targeting and measuring key performance areas is the Court's SMAART Program and its commitment to performance management (see court website).

### Background: Staff Planning Process in the Development of Unit Managers

In considering a better model for providing the court with the necessary staffing support, the graphic (Figure V.2) depicts the variables this case study considered.

It is important to keep in mind what the plan is *not*. It is *not* a static document that predicts the

future or describes the past. Rather, it focuses on developing information to help the court make short- and long-term decisions based on changing strategies

The staff planning process provides options related to strategic shifts and tactical opportunities. It helps better manage employee movement into, around, and out of the court.

In its simplest terms, the goal of the staff planning process is getting "the right number of people with the right skills, experiences, and competencies in the right jobs at the right time." This shorthand definition covers a comprehensive process that provides policy makers with a framework for making staffing decisions based on the court's mission, strategic plan, budgetary resources, and desired staff competencies. It is a simple yet systematic process for addressing gaps between the employees of today and the human capital needs of tomorrow. The goal of the process is to effectively:

- ◆ Align staff requirements directly to the court's strategic and annual action plans.
- ◆ Develop a list of competencies currently possessed and required in the future.
- ◆ Identify and implement gap reduction strategies (train, recruit, cross-level, transfer, etc.)

<b>NOT JUST ...</b>	<b>IT IS ...</b>
Predicting the future	Building a longer-term context for short-term decision making
An inventory of all positions or just those being considered at a given point in time	Focusing on positions where we need to be proactive or need time to react
Creating plans as a one-time “event”	Creating plans in response to changing strategies, whenever change is discussed
Creating reports and listings that describe “what was”	Focusing on planning and looking ahead to “what will be”

Figure V.2 Staff Planning Process

- Provide adequate information to decide how best to structure the court organization and deploy its employees.

### Why Shift Now?

The economic climate has created state and county revenue shortfalls. While the court is maintaining services through a combination of expanded user fees and reduced expenses, many budget balancing actions are unsustainable into the future. Staff will continue to monitor economic developments and identify factors that may influence the court’s future financial position. The court will proactively seek new revenue sources and identify operational inefficiencies.

The bottom line is that budget constraints are not going away any time soon. Leaders across the country are convinced that things will get better, *but* we will never go back to the way it was just a few short years ago. In addition, citizens are concerned [e.g., Tea Party efforts, Accountable Government, Transparency in Government] over the value and type of service they receive for their tax dollars. Focusing on the long-run, prioritizing projects, adjusting staffing patterns, and documenting new processes will help us meet these challenges.

Several years ago the National Association for Court Management (NACM) and the National Institute of Corrections identified a number of core competencies specifically linked to effective and efficient case management (*from filing to post disposition*), evidence-based practices, and performance management. From those competencies

comes a list of critical knowledge, skills, and abilities court staff must possess to facilitate effective movement of cases from filing to closure. These skills are essential in process reengineering:

- Ability to properly allocate court resources: (e.g., judges, technical and administrative staff, appropriate technology, courtrooms, and other facilities) across courthouse operations.
- Ability to coordinate with the judiciary’s justice system partners.
- Skill in linking time standards to the number and types of cases that must be processed to meet disposition goals for all case types – by year, month, week, day, and judicial division/team and judge.
- Knowledge of data needed for both continuous systemic evaluation and day-to-day management,
- Knowledge of how to acquire and analyze the needed data.
- Ability to use data to inform and influence decision makers about what is and is not working.
- Ability to persuade the bench, staff, and justice system partners of the need to make changes and the feasibility of proposed solutions.
- Ability to model desired behaviors, particularly listening and teamwork with judges, court staff, and justice system partners.

So why explore changing court staffing patterns? There is now a confluence of events that has created powerful drivers to transform how personnel



Figure V.3 Why Shift Now?

will be aligned in the future. Figure V.3 puts this all into perspective:

*Budget Constraints:* When funds are limited, the court must focus on improving employee productivity and on each judicial division.

*Workplace Challenge:* The court must create a workplace where individuals find fulfillment and satisfaction, and can achieve their personal goals while working toward those of the court. The challenge is multifaceted and must be viewed from several vantage points.

*Attitudinal:* The shift to “we” is required in order to successfully accomplish future functional requirements and carry out the court’s mission.

*Career Development:* The court must position itself for the workforce of the future by improving skill levels and providing long-term opportunities for the present workforce.

*Direction:* At one time the court hired employees to fit the characteristics of a particular job. Now it is critical for the court to select or re-allocate employees who fit the characteristics not only of the position, but also the court organization.

## Changing Environment: Expectations of the Job

The notion of “customers and stakeholders” is not traditional thinking in courts, but it is important to touch upon at this point in this case study. “External customers” include not only parties and lawyers, but also the wide range of people who come to court in other capacities.

Critically important among a court’s “internal customers” are its judges, staff members, clerk’s office, assistant state attorneys, assistant public defenders, and court security, all of whom are interdependent as they carry out a wide array of business processes to aid day-to-day conduct of courtroom proceedings.

A court’s “stakeholders” include not only those who lead and work in the court, but also the broad mix of institutional participants in court proceedings, state and local funding authorities, and general government officials. Much of the reason why a court exists is to provide services to these customers and stakeholders.

To ensure success in the office of the future, staff at each level needs to focus on developing or possessing six key abilities, as represented by the acronym “ACTION.”

*Analysis* This skill is based on “3-C Thinking”: Critical, Creative and Connective. Critical thinking involves evaluating information, developing innovative solutions to challenges, and making recommendations based on understanding the objective at hand. Connective thinking enables professionals to perceive the links between people, data, and ideas, and then use these links to work effectively.

*Collaboration* Staff at all levels must be able to quickly establish rapport and facilitate team building with coworkers. They must be sensitive to diverse work styles and personalities.

*Technical Aptitude* This skill involves a willingness to adopt new technologies and be able to train colleagues on how to use the latest tools.



*Intuition* Staff with well-tuned intuition will proactively identify the best ways to provide support based on the court's goals and processes.

*Ongoing Education* The most successful individual in this role will continually expand his or her knowledge base and pursue production enhancing subjects.

*Negotiation* This skill involves using tact, diplomacy, empathy, and business savvy to engage in productive discussions with customers, judges and employees that result in positive outcomes.

What can be done to increase performance? View work with an eye toward results! This may sound simple and straightforward, but there are barriers one needs to be aware of in alignment. There are a number of mismanagement matters that contribute to barriers. A few are noted here.

*Looking at work from thirty-thousand feet does not get real work done.* Leadership must spend more time reviewing, evaluating, and (if necessary) modifying the level of detail that each position's functionality provides to the organization.

*Not clarifying and translating strategies into work hurts alignment and execution.* Without a manager understanding, communicating, and translating strategies into tasks, staff cannot align their tasks to these strategies and do real work. Identifying what is expected of staff facilitates delivering the best service possible.

*Delegating busywork creates confusion and conflict.* Off-the-cuff ideas blithely inserted into work processes lacking clear and complete communications creates support staff whiplash. We are surprised when outcomes are not at the best level possible. Sitting around waiting to be told about the "flavor of the day" will not produce expected results.

Based on staff research, the office of the future will have a professional staff, specifically "unit managers," with the following attributes:

### ***Workflow Controller***

Unit managers will serve as "mission control" for divisions and organizations, ensuring that colleagues working from various locations have the support and resources necessary to perform their jobs. The workflow controller will facilitate interaction between teams and coordinate information transfer and effective use of organizational resources.

### ***Resource Coordinator***

Virtual operations that employ numerous contract workers will rely heavily on individuals adept at bringing together the correct resources for a given effort or project. Resource coordinators will understand the goals of the various business units and know where to find the answer or most appropriate resources.

### ***Knowledge Manager***

Fluid, project-based environments are the wave of the future. The central figure will serve as a repository of institutional information, history, and best practices. The knowledge manager will ensure continuity and consistency, help new employees and judges adapt to the court's culture, and assist them in finding the data and documents they require to do their jobs.

### ***Information Integrator***

Quick information retrieval from sources such as integrated justice, legislation, Westlaw and the like will be essential to the workplace. Since the data will be almost exclusively stored in electronic form (e-filing, e-tickets), we will need centralized, user-friendly databases accessible from multiple locations within our operations. The integrator's skill set can be compared to those skills of a modern librarian.

Figure V.4 displays the competencies that are aligned with the court's mission, vision, and strategic goals. The diagram depicts the future-oriented desired skill sets and thus identifies the ideal unit manager. The competencies that make up the diagram serve as the basis for management, since they play a key role in employee recruitment,

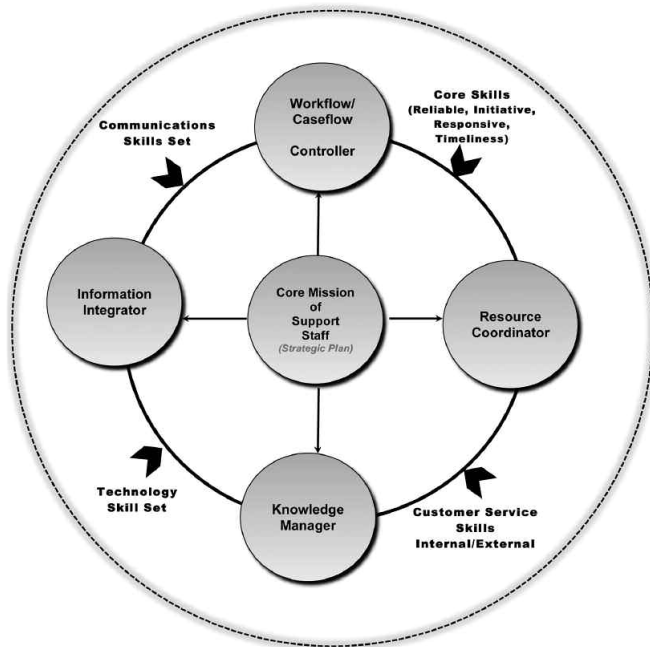


Figure V.4 Paradigm Shift for Staff Deployment

employee development, personal development, and performance management.

## The “New Normal” and Span of Control

Today, courts are confronting the imperative to create a new face of justice for the twenty-first century. The current budget crisis, changing socioeconomic factors, and shifting demands on our operations require us to look beyond the short-term steps courts take to get through the current year. It is predicted by many that the fiscal crisis will last years and what has been lost will not be restored; we have to prepare for a “new normal.” When the economy finally recovers, our court and a part of the larger statewide system will still lag. Creative innovation, structural adjustments, and redefined programs will no longer be just a good idea; they will be a prerequisite for survival.

One area of adjustment is management-to-staff ratio, which is often used to define an organization’s *span of control*. Our current structure has not been adjusted since the early 1990s; with the success of our career path program for line staff, slight adjustments are needed.

Another force pushing our court to pay attention is the aging baby boomer generation. While current economic conditions may delay some boomer retirements, the delay is likely to be less than five years. The leading wave of boomers (those born in 1946), have already turned 64. Boomer retirements will result in a shortage of experienced workers. The risk to our court is not simply the number of available skilled workers, it’s the exodus of organizational knowledge and job experience that retiring boomers carry in their heads – and hearts!

*Span of control* has a direct bearing on the length of a court organization’s line of communication and the way tasks are delegated to units and subunits. One of the objectives in this effort is to shift to a knowledge-based structure where the staff teams direct or control their own performance through information obtained from peers, customers, annual plans, and the division’s management team. More empowered staff teams, larger spans of control and flatter organizational structure should enhance our effectiveness and efficiency. The shift’s targeted benefits are:

- Improved communications
- Improved customer (internal and external) service
- Improved service delivery and effectiveness
- Improved performance efficiency
- Greater flexibility to respond to changes brought on by new laws or directives
- Reduced division personnel overhead costs
- Increased delegation by assistant directors
- Improved employee morale due to less detailed supervision
- Increased job satisfaction due to more fulfilling jobs with increased responsibility
- Increased subordinate growth opportunity
- Increased reliance and trust from assistant directors

## Summary

We have always looked to the future with the hope that things will improve; this may no longer be the case. We know that the workplace of the future will be totally different from what it is now. A new cultural framework needs to develop. We need to adjust our structure: flatten the hierarchy, increase managers' span of control, and heavily rely on technology to support flexible operations. Working smarter (and maybe a little harder); reducing bureaucracy; and increasing our focus on our customers will support our drive to adapt and redefine our future.

While the overall environment in Lake County appears to be stable, this cannot be taken for granted as a long-term indicator. Budgetary, legislative, and customer demanded pressure for better government only tells part of the story. We must refine our strategic focus concerning service delivery. It needs to start with our operational culture, not simply the challenges of a single program. The areas that will help us achieve success are:

**1) Teams that facilitate collaboration and partnerships** Roles and responsibilities need to be revised to accommodate new problem-solving approaches to service delivery;

**2) Results-driven management** Done well, results-driven management will produce more and better information about operational effectiveness – both good and not so good;

**3) Enhance areas of specialization** While this approach generally requires smaller caseloads and additional programs – team development will link appropriate staff resources, cultivate human and service resources and identify ways to enhance quality operations; and

**4) Effective use of technology** Implementing technological solutions generally causes a slight decline in efficiency, but over the long-haul, operational benefits move the organization ahead. We must all fully immerse ourselves in technology development and use in our operations. The future is ours to mold, alter, or just let happen.

## Conclusion

We are arguably experiencing the harshest economic conditions since the end of World War II. This case study outlines a number of action steps our court is taking to reshape and realign services and structure – *DOING NOTHING IS NOT AN OPTION!*

Our leaders are being held more accountable for managing the affairs of government. Taxpayers are demanding that public services be delivered more effectively and efficiently. The common mantra during times of funding issues is to “*DO MORE WITH LESS.*” This simply cannot be done over an extended period of time.

In order for us to fulfill our vision, our success must involve critically reshaping traditional service delivery models and organizational structures. For some, reshaping might mean changing the organization's size and functions in order to embrace the future:

- ★ Embrace performance measurement and proper decision making based on the outcome evidence.
- ★ Put the right number of people, in the right place, doing the right things in the organization.
- ★ Deliver the right services, in the right amount and in an appropriate manner.
- ★ Shape the organization so that it can deliver services in ways that cost less.

The court of the future must be prepared to maintain court system excellence while responding to new social, economic, technological, and legal challenges. This case study depicts our court's first steps at establishing a different framework for making thoughtful, innovative, and efficient decisions about how to best use its resources to provide the citizens of Lake County with a system that best meets the community's needs.



## Step 1: Assess the Readiness for Change

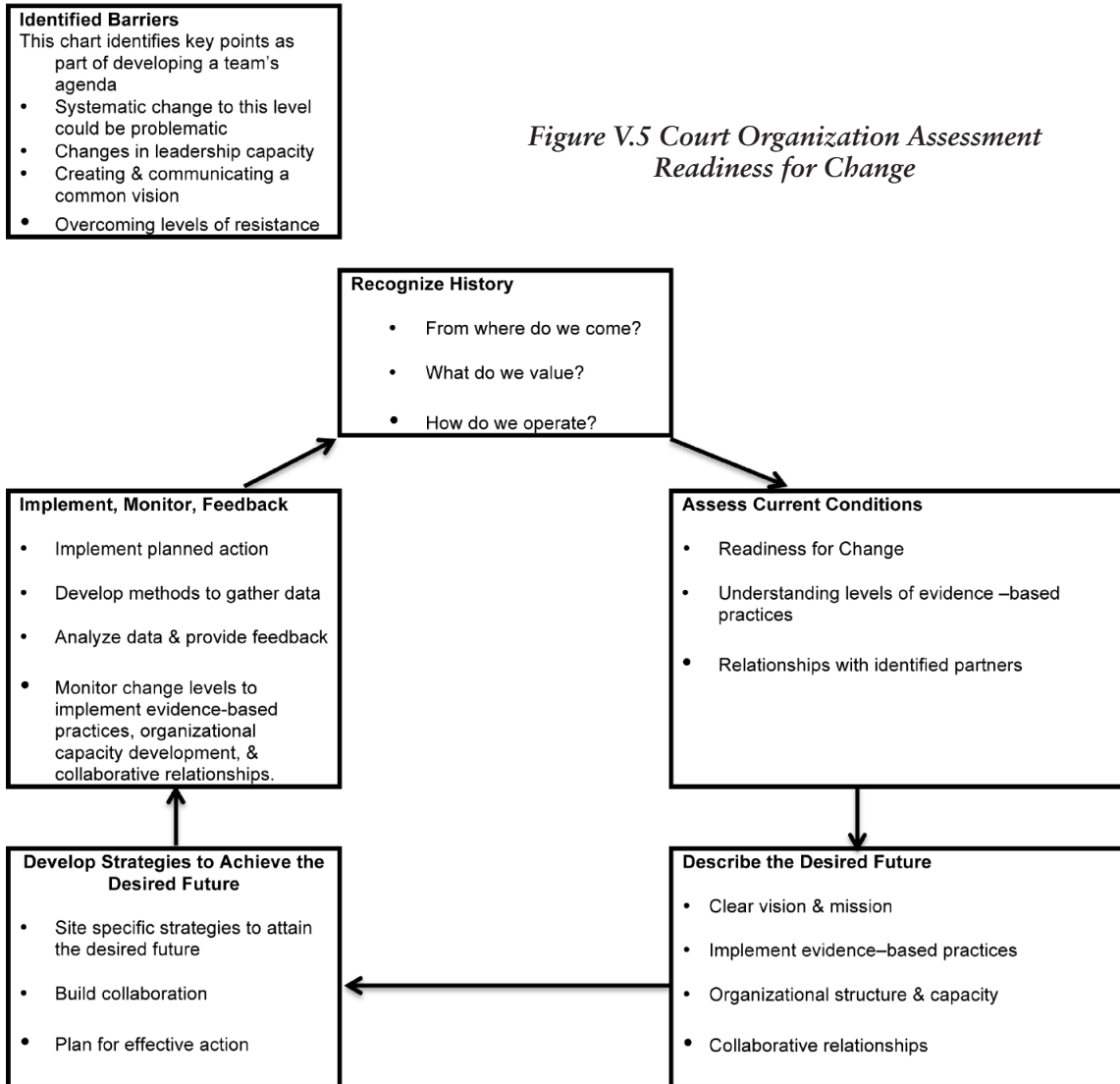


Figure V.5 Court Organization Assessment  
Readiness for Change

### Step 2:

Identify the positive traits we want to maximize in our team leader positions.

### Step 3:

Identify the costs and benefits associated with the proposal and present the estimated budget to the appropriate funding authorities.

### Step 4:

Work with judicial human resources to develop the selection criteria for team leaders. The selection criteria must be the best for court organization.

### Step 5:

Realign the current staff configuration based on current skills, ability to develop additional skills, and ability to work in a team environment.

## Lessons Learned

- The common denominator in change involves the staff. Project success depends on impacted staff adopting change.
- Spend more time studying the court's DNA as it relates to staff make up, level of readiness, level of training, and tenure with the organization.
- Gain a better handle on the absorptive capacity of teams, unit managers, assistant directors, and

directors. This involves the ability to recognize, assimilate, and apply new information that will produce change.

- Sharpen the focus/reality of how changes occur in a court organization.
- Use a proven model for change management rather than creating one from nothing,
- Use a structured approach on projects of this magnitude.
- Separate internal and external stimuli so services to impacted staff can be delivered more effectively.

## Next Actions

- Develop a leadership academy to deliver training for newly appointed unit managers and recently appointed assistant directors. The greatest catalyst of positive transformation in any court is strong and engaged leaders. The academy combines a range of learning methods, including online and in-person training that delivers insights needed to perform at the highest level as a unit manager. In addition, the academy provides opportunities to increase awareness of issues, to learn the skills necessary to handle today's changes, and to discover the leadership potential within each staff member.

- Develop and employ measures to assist executive management in determining whether 1) unit managers are having the intended impact on operations; 2) additional training and or mentoring is needed; 3) any cost savings or productivity changes are resulting from the project (e.g., elimination or combinations of functions); 4) line staff satisfaction is affected by the structural change.
- Make necessary changes as a new organizational structure matures, technology advances, and positive outcomes in service delivery are realized.

### **EXAMPLE OF MEASURES**

- Increase in successful completion of probation in Adult and Juvenile Divisions
- Increase in successful completion of public services hours in Adult and Juvenile Divisions.
- Reduction in the cost per jury trial
- Increase in collection of court fees of people on probation and compliance program.
- Increase in employee satisfaction in areas dealing with supervision, communication, collaboration and the like.

# VI. Case Study No. Five: Reengineering in Action – The Vermont Commission on Judicial Operation

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Vermont Judicial System  
State Capital: Montpelier  
State Court Administrator: Robert Greemore  
E-mail – Bob.Greemore@state.vt.us  
Population: 626,431  
FY 2012 Filings: 67,451  
Judges: 35

## **The Context and the Challenge**

In the mid-2000s Vermont's court system, like the systems in many other states, was challenged to maintain an adequate level of services in the face of reduced or level funding.<sup>1</sup> State appropriations for the judiciary had been essentially flat; the branch had to rely on savings from unfilled vacancies to balance its budget. Between 1999 and 2009, judicial branch vacancies increased from 3 to 25, or 7 percent of the branch's authorized staff.

During the 2008 legislative session, the supreme court asked the general assembly to fund the branch at levels allowing it to fill vacancies and address important branch-wide needs. In response, the general assembly directed the supreme court to establish a Commission on Judicial Operation, to develop recommendations regarding judicial branch needs and priorities.

## **The Fiscal Context**

The general assembly's request that a commission be created was largely in response to the national recession and its effects on state government revenues. Vermont was experiencing a significant reduction in overall statewide revenue, and these reductions were being passed along to the courts.

In the fall of 2009, Vermont's Legislative Joint Fiscal Office estimated that due to the recession, deficits on the state's general fund

would exist through at least 2014. Shortfalls in upcoming fiscal years would run between 6 percent and 12 percent, and that revenue would not return to pre-recession levels for several years.<sup>2</sup>

Responding to this fiscal reality, the Vermont judiciary had already cut judicial and employee pay through mandatory one day per month furloughs and froze open vacancies. Some courts also reduced operating hours.

<sup>1</sup> See the National Center for State Courts Budget Resource Center at <http://www.ncsc.org/Information-and-Resources/Budget-Resource-Center.aspx> for more information on the impact on the recession on Vermont's court system and on courts nationally.

<sup>2</sup> This and related information is available at Vermont Legislative Joint Fiscal Office's website at <http://www.leg.state.vt.us/jfo/>.

## The Legal Framework of the Vermont Court System

The request that a commission be created also reflected a generally shared desire between the legislative and judicial Branches to find operating efficiencies and cost savings that might result from, among other things, the restructuring of the court system. Although Vermont's constitution unified the court system under the supreme court, state law provided for a hybrid state–county system which court officials and others thought inhibited the effectiveness of state level initiatives designed to maximize efficiencies within the branch.

Specifically, diffuse authority for funding, policy, staffing, and operations among the supreme court, 14 individual county governments, and 17 probate districts created an environment that constrained the supreme court from both reaping optimal benefits of plans and innovations, and from addressing the need for streamlined operations in any deep or tangible way.

In making its appeal to restore funding in 2008, the supreme court cited the following “structural problems and anomalies” in the state's court system:<sup>3</sup>

- Notwithstanding constitutional provisions regarding a unified court system, the supreme court does not have authority to run the judicial branch as a single enterprise. It does not control all revenues that support branch operations, and it does not hire or have management authority over all the employees who work in the judicial branch. This state of affairs leaves the court without the ability to align personnel with statewide branch priorities or with user demands, and it limits the impact of efforts designed to promote efficiencies.
- A state–county hybrid system has resulted in 63 court points of service (i.e., district, family, superior, and probate courts) in 32 buildings. These

facilities may have multiple managers. The supreme court does not have authority to direct staff who work in these courts.

- The judicial system is supported by a collection of statutes that provide for different court jurisdictions, venues, geographical and functional divisions, facility usage, staffing, and salaries. Not all statutes even relate to all counties.
- The potential for efficiencies from new technology is significant, though this potential is constrained by the fact that the supreme court does not have management authority over all state courts.

## Reengineering in Action: The Commission on Judicial Operation

The general assembly asked that the supreme court appoint members to the commission representing the three branches of government and the citizens of Vermont. The supreme court was authorized to set the size of the commission, which was to be chaired by the chief justice.

The court appointed 15 members to the commission, which was staffed by the state court administrator's office.

The general assembly requested that the commission address the following areas:<sup>4</sup>

- Consolidation of staff, including clerks of court, and consolidation of staff functions in individual counties and statewide;
- Regionalization of court administrative functions performed at both the state and county level;
- The potential for technology to reduce unnecessary expenditures;
- Flexibility in using resources to respond to the demands on the judiciary and in particular in situations in which the amount and nature of demand for court services change;

<sup>3</sup> These and other examples of problems and anomalies are highlighted in the Commission's April 2009 Interim Report to the General Assembly. The report is available at <http://www.vermontjudiciary.org/MasterPages/WhatsNew-CommissionJudicialOps.aspx>.

<sup>4</sup> See Act No. 192 of the 2008 Regular Session of the General Assembly. Acts of the Vermont General Assembly are available at <http://www.leg.state.vt.us/>.

- Reallocation of jurisdiction between courts;
- Any other ideas for the efficient and effective delivery of judicial services; and
- A reduction of \$1 million in the judiciary's budget.<sup>5</sup>

The commission was requested to submit proposals dealing with the consolidation elements of the legislative charge to the responsible legislative committees by January 2009 and to submit a final report to the general assembly by January 2010.

## The Reengineering Process

### *A Participatory Process*

The commission met seven times between October 2008 and September 2009. All meetings were public and agendas and minutes were posted on the commission's webpage. One of the first things done by the group was to divide itself into three working groups: Public Input and Information Sharing; Resources, Facilities and Personnel; and Restructuring of the Judiciary and Access to Justice. Each working group was expected to produce a report for the commission.<sup>6</sup>

The Public Input and Information Sharing workgroup conducted wide-ranging outreach to interested parties on the issues before the commission. This outreach involved 44 focus groups and regional bar association forums throughout the state. These focus groups were supplemented by surveys of individual users dealing with the issues raised by the general assembly. More than 800 individuals responded.

Seventy-seven different stakeholder groups were also invited to participate in the process. Among those participating were judges, court staff, prosecutors, public defenders, local bar association representatives, legal aid offices, law enforcement agencies, the Vermont Department of Corrections, child welfare agencies, and others.

Through the Public Input and Information Sharing workgroup's efforts, more than 360 different ideas, suggestions, and proposals were generated. The workgroup prioritized and sorted these ideas, with the following broad themes emerging:

- *Consolidation of court structure and management;*
- *Professionalization of the entire court system;*
- *Increased assistance to self-represented litigants;*
- *Increased efficiency through redistribution of resources and greater use of technology;*
- *Regionalization of some cases and trials;*
- *Standardization of business processes;*
- *Centralization of basic services through technology;*
- *Transformation of staff into a virtual clerk's office; and*
- *Redirection of staff from basic clerical duties to tasks that economize judicial time.*

### *A Data-Driven Approach*

Commission members also reviewed statistical information prepared by the state court administrator's office on workload, personnel and the judicial branch budget. This information included, among other things:

- *The number of cases filed and number of cases disposed annually by county, case type, and court type;*
- *The size and age of pending caseloads, backlogs and clearance rates in certain courts;*
- *The number of staff in each of the 63 court locations and the growth in the number of vacancies in staff positions over the past 10 years;*
- *The judge time allocated to each court in each county, staff to judge ratios, cases to staff ratios, cost per case based on number of cases filed; and*
- *Statewide budget information broken down by court type and by county, including cost per case filed.*

<sup>5</sup> This directive was added to the general assembly's charge to the commission by law in 2009. See Act No. 1 of the 2009 Special Session of the Vermont General Assembly. Acts of the Vermont General Assembly are available at <http://www.leg.state.vt.us/>.

<sup>6</sup> These reports and other commission materials are available on the commission's webpage at <http://www.vermontjudiciary.org/MasterPages/WhatsNew-CommissionJudicialOps.aspx>.



This information provided both a context for commission members regarding the impact of the proposals under consideration and a touch point for them in deliberations regarding their need and utility.

With grant funding from the State Justice Institute, the supreme court engaged the National Center for State Courts (NCSC) to conduct a weighted caseload study. The study was done to generate information about workloads in the courts statewide for the purpose of informing decisions about how resources could best be allocated under a unified court system.

As part of the NCSC's work, feedback was received from judges who reported whether they had sufficient time to handle cases docketed to them generally, and about the case types that presented them with the most difficulty (in terms of the time required to handle them) specifically.

NCSC consultants observed that there were significant variations between jurisdictions in terms of efficiency. The consultants also noted substantial potential efficiency gains that could result from upgraded technology, but in order to capitalize on those efficiencies the management of Vermont courts needed to be consolidated.

#### *A Principled Process*

The commission's work was participatory and informed. The work was also connected to core justice values commission members believed were held by Vermonters. One of the commissioner's first steps was to adopt a set of principles to guide its work.<sup>7</sup>

In drafting these principles, the commission acknowledged that cutting \$1 million (approximately 3 percent) from the judicial branch budget (in addition to the funding cuts already likely from the economic downturn) would require either significantly changing judicial branch operations or significantly reducing services and limiting access to the state's courts. The commission

viewed these principles as an important point of reference as they undertook their work to develop components of "a sustainable system based, first on values, and second, on reduced costs."

#### *Special Issue: Technology*

The commission acknowledged that new technology had the potential to greatly improve service and reduce operating costs. It also felt, however, that a restructuring of the system was needed in order to maximize the returns of investment in technology.

The commission identified three areas likely to benefit from new technologies: access to justice, improved efficiency, and improved capacity for complex trials.

The commission concluded, for example, that operational efficiencies and cost savings could be realized by making case files and related information available electronically, by using technology to assist self-represented litigants through "help desks" and online forms, by providing for electronic filing, and by making greater use of video technology for arraignments and criminal proceedings.

In addition, the commission paid special attention to efficiency gains that could result from enhancing cumbersome and time consuming manual processes with technology tools. In its weighted caseload study, the NCSC identified significant savings of time and attendant personnel costs associated with the introduction of court technology statewide in Vermont.

### **The Reengineering Result**

#### *The Commission's Report and the General Assembly's Response*

The commission released an interim report in April 2009 and a final report in November of the same year. The findings were presented to the general assembly in December 2009.<sup>8</sup>

<sup>7</sup> The Statement of Commission Principles is below, identified as Exhibit A.

<sup>8</sup> See <http://www.vermontjudiciary.org/MasterPages/WhatsNew-CommissionJudicialOps.aspx> for these reports and other Commission material.

The commission identified 25 findings in its final report that were marked by a clear understanding of the gravity of the situation facing the state and the judicial branch. That understanding was contextualized by the following statement:

*... [I]t is the plain fact that Vermonters can no longer afford the present system. This is not a question of politics, but one of fact. If the Legislature does not take action to reorganize and consolidate to a more efficient and less redundant system, the Judicial Branch cannot function in this economic climate... It is no overstatement to say that the Judicial Branch is at a crucial juncture in its history. As a state, we cannot make the choice to do nothing.*

The commission's findings were incorporated into a set of 14 recommendations that directly addressed the need for restructuring. Among the report's key recommendations were the following:<sup>9</sup>

- *Unifying the Judiciary through the consolidation of trial court operations;*
- *Making all Judicial Branch employees state employees paid according to the state pay scale;*
- *Consolidating management of court operations through the appointment of one court manager/clerk of court in each county;*
- *Eliminating redundant appeals;*
- *Consolidating some judicial positions and reducing staff, as necessary; and*
- *Eliminating the judicial function of quasi-judicial officers known as assistant judges.*

The commission estimated that the savings associated with their recommendations totaled approximately \$1.2 million in state general fund dollars. These savings were to be realized through the elimination of certain middle management positions and from shifting resources to jurisdictions with higher demands for services. The

commission anticipated an additional \$1.2 million in local/county savings resulting from converting county employees to state employees.

The general assembly passed legislation in 2010 addressing all of the Commission's findings, doing so generally in a manner consistent with the approach the commission recommended.<sup>10</sup>

## Lessons Learned

Through the use of a principled, participatory and data-driven approach, the Vermont Commission on Judicial Operation offered the general assembly specific, actionable, and responsive recommendations designed to streamline court operations, empower management, and reduce costs.

While arguments could have been (indeed were), made that local government involvement and control of certain judicial resources helped connect the judicial branch to the state's citizens in a desirable way, a strong sense had emerged on the part of commission members and others that the current court structure was financially unsustainable. If the branch's structural problems were not addressed, court closures, case backlogs, and case processing delays would become the norm – in short, the quantity and quality of justice available to Vermonters would be compromised.

Among the lessons learned are the following:

- *Openness and Transparency Matter.*  
The openness with which the project was conducted allowed for few surprises to be visited upon the general assembly or the governor's office when the time came for action. This openness likely helped smooth the political path that needed to be taken to progress in the manner the commission recommended.
- *Communication and Outreach is Important.*  
The scope and sweep of the proposed changes required up-to-date information and special

<sup>9</sup> A video overview of the commission's process and recommendations is available at <http://www.cctv.org/watch-tv/programs/vermont-commission-judicial-operations-present-proposals>.

<sup>10</sup> See Act No. 154 of the 2009-2010 Regular Session of the General Assembly. Acts of the Vermont General Assembly are available at <http://www.leg.state.vt.us/>. A reconciliation of the commission's proposal with the final restructuring legislation is available on the commission's webpage at <http://www.vermontjudiciary.org/MasterPages/WhatsNew-CommissionJudicialOps.aspx>.

attention to judges, employees, and key stakeholders. During the months leading up to the commission's final report, the chief justice held weekly calls with local court officials and sent out weekly newsletters to all within the branch. The call and newsletters let staff know of the status of the commission's work and identified stress points within the system that needed attention. Given what was at stake, it was critical for the process to be (and appear to be) credible and supportive.

- *Put Everything "On the Table" and Invite Participation.*

Vermont court officials speak about how the state's fiscal affairs and the charge from the general assembly forced them to "redraw the box" as it related to judicial branch needs, planning and performance, and begin to think outside of it. Creativity, candidness, and inclusiveness all appear to have been valued throughout the process. The scope and potential impact of the commission's recommendations made it clear that these elements were brought to bear on the process and the final product.

- *Tether Brainstorming, Visioning and Planning to Stakeholder Values.*

The adoption of a "Statement of Commission Principles" reflected a commitment to not let the seriousness of the state's financial situation lead to cost cutting at the expense of the quality of, or access to justice (Figure VI.1). As the commission pointed out in its final report, the challenge was to build a sustainable system "first on values, and second, on reduced costs."

- *Using Data Helps Frame the Context and Supports Good Decision Making.*

The supreme court's decision to incorporate case processing, budget and related information from the state court administrator's office into its work and its decision to engage the NCSC to conduct a caseload study reflected an understanding that issues of the magnitude such as those being considered needed to be grounded in facts rather than conventional wisdom. Long standing traditions, deeply rooted local customs, and strongly held beliefs provided the context in which the work was taken up. Introducing change into this environment is difficult, but incorporating reliable, timely, and relevant data into commission deliberations helped keep the process focused and helped ensure a valuable and viable final product.



## Statement of Principles

- The Judicial Branch is an independent, co-equal branch of government; its judges are fair, impartial and competent, and composed of men and women of integrity who will interpret and apply the law that governs our society.
  - The Supreme Court operates the state court system as a unified system, in accordance with the Vermont Constitution, Ch. II, § 4, which provides that “the judicial power of the State shall be vested in a unified judicial system....”
- The Supreme Court manages, controls and is accountable for all resources and buildings that support state judicial services in Vermont in accordance with the Vermont Constitution, Ch. II, § 30, which provides that “the Supreme Court shall have administrative control of all the courts of the state....”
- The Supreme Court deploys resources in a manner that is cost efficient for the taxpayer while providing access to court services that is cost effective to litigants.
- Court services are provided in a system that:
  - Is open, affordable, understandable, and with a level of service appropriate to the characteristics of the case; and
  - Ensures access to justice and respect for all litigants and members of the bar.
- Case decisions are made by appropriately educated and well-trained judicial officers; all judges must be lawyers. Trial court judges are capable of working in any court, hearing any case that needs to be heard on a particular day.
- Judicial officers issue timely decisions that do justice for the litigants, establish clear and ascertainable law, and apply the law correctly to the facts.
- The Judicial Branch is organized to minimize redundancies in court structure, procedures and personnel, and to provide an efficient balance of workload among courts.
- Funding authorities provide resources that are appropriate to the structure and provide long-term stability in the budgeting, funding and operation of the Judicial Branch.

*Figure VI.1 Statement of Principles  
of the Vermont Commission on Judicial Operation*

# VII. Court Reengineering Resources

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

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NCSC Offers Steps for Court Reengineering Success  
<http://www.ncsc.org/services-and-experts/court-reengineering.aspx>

Reengineering Processes:  
<http://www.ncsc.org/Services-and-Experts/Court-reengineering/Processes.aspx>

Future Trends in State Courts 2010 Articles:  
*Reengineering: The Importance of Establishing Principles*

*Reengineering: Governance and Structure*  
*Reengineering: Lessons from the Field*

Future Trends in State Courts (2010):  
<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1605>

Complete list of individual articles:  
[http://www.ncsconline.org/D\\_KIS/Trends/](http://www.ncsconline.org/D_KIS/Trends/)

Reengineering Rural Justice – Minnesota (2010):  
<http://ncsc.contentdm.oclc.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1799>

Access and Service Delivery – Minnesota (Reports I and II):

Report I: <http://www.ncsc.org/Services-and-Experts/~media/Files/PDF/Services%20and%20Experts/Court%20reengineering/Minnesota%20ASD%201%20Final%20Report.ashx>

Report II: <http://www.ncsc.org/Services-and-Experts/~media/Files/PDF/Services%20and%20Experts/Court%20reengineering/Minnesota%20ASD%202%20Final%20Report.ashx>

Business Process Reengineering (2011):  
<http://www.ncsc.org/~media/Files/PDF/Education%20and%20Careers/CEDP%20Papers/2011/Business%20Process%20Reengineering.ashx>

Court Business Process Enhancement Manual (2003):  
<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1040>

The Court Business Process Enhancement Guide (2003):  
<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1039>

Nebraska Reengineering Committee:  
<http://www.ncsc.org/services-and-experts/~media/Files/PDF/Services%20and%20Experts/Court%20reengineering/Nebraska%20Reengineering%20Concepts.ashx>

New Hampshire (2011):  
<http://www.ncsc.org/services-and-experts/~media/Files/PDF/Services%20and%20Experts/Court%20reengineering/New%20Hampshire%20Final%20Report.ashx>

Achieving High Performance: A Framework for Courts (2010):  
<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1510>

A Road Map to Improving Court Management (2010):  
<http://www.ncsc.org/conferences-and-events/4th-symposium/~media/files/pdf/conferences%20and%20events/4th%20symposium/hpc%20visual%20summary.ashx>

CourTools – On Demand:  
<http://contentdm.ncsconline.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1507>

Stewardship and Business Reengineering: An Urban Court Perspective (2010):  
<http://www.ncsc.org/conferences-and-events/4th-symposium/~media/Files/PDF/Conferences%20and%20Events/4th%20Symposium/Stewardship.ashx>

Using Business Process Reengineering Strategies for Courts (2003):  
[http://www.ncsconline.org/d\\_tech/ctc/showarticle.asp?id=64](http://www.ncsconline.org/d_tech/ctc/showarticle.asp?id=64)

Business Process Reengineering (BPR) (Orange County – 2010):  
<http://www.myrobust.com/websites/ecourts2010/File/pdf/WhoKnew.pdf>

Finding Opportunity in Crisis – Reengineering Oregon’s Courts (2011):  
<http://courts.oregon.gov/OJD/docs/StateofJudiciarySpeech2011.pdf>

Defining Operational Successes (2009):  
<http://www.imagsoft.com/documents/defining-operational-success-jake-chatters.pdf>

2003 Glossary of Reengineering and Process Improvement Terms:  
<http://ncsc.contentdm.oclc.org/cgi-bin/showfile.exe?CISOROOT=/ctadmin&CISOPTR=1107&filename=1108.pdf>

Reengineering the Vermont Court System: A Judicial Perspective (2010): <http://www.ncsc.org/conferences-and-events/4th-symposium/~media/Files/PDF/Conferences%20and%20Events/4th%20Symposium/Davenport-VT.ashx>

COSCA White Paper on Promoting a Culture of Accountability and Transparency (2008):  
<http://cosca.ncsc.dni.us/WhitePapers/2008WhitePaper-PerformanceMeasurement-Final-Dec5-08.pdf>

Court Culture Module:  
<http://www.ncsc.org/Topics/Court-Management/Court-Culture/Resource-Guide.aspx>

Leadership and Change Management Module:  
<http://www.ncsc.org/Topics/Court-Management/Leadership-and-Change-Management/Resource-Guide.aspx>

# VIII. Glossary of Terms

**Activity Analysis:** Analysis and measurement (in terms of time, cost, and throughput) of distinct units of work (activities) that comprise a process.

**Alignment:** The degree of agreement, conformance, and consistency within a court’s purpose, vision, and values; with its structures, systems, and processes; and with individual skills and behaviors. (Figure VIII.1)

**Benefit–Cost Analysis:** A technique to compare various costs associated with a process with the benefits a proposed new process will return, addressing both tangible and intangible factors.

**Best Practices:** The processes, practices, and systems that are widely recognized as performing exceptionally well. Identifying and applying best practices can reduce expenses and improve organizational efficiency.

**Business Case:** A structured proposal for improving functions used by court decision makers. A business case 1) analyzes process performance and associated needs or problems; 2) proposes alternative solutions; 3) identifies assumptions and constraints; and 4) analyzes risk-adjusted cost/benefits.

**Business Process Reengineering (BPR):** A systematic, disciplined improvement approach that critically examines, rethinks, and redesigns mission-delivery processes in order to achieve dramatic improvements in performance in areas important to customers and stakeholders.

**Cause–Effect Diagram:** A popular diagram used to analyze the causes of problems; it provides an overview of all the possible causes. (Figure VIII.2) One starts at the right and lists the problem, then extends a straight line to the left. From the line, one draws tangential lines and lists causes of the problems at the end of those lines. Lines can be drawn to the subsidiary lines as more discrete causes are considered, and so forth.

**Change Management:** Activities involved in 1) defining and instilling new values, attitudes, norms, and

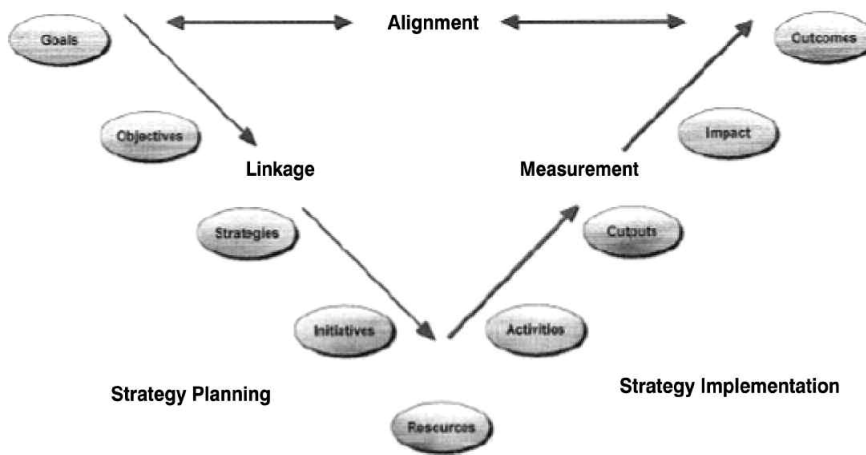


Figure VIII.1 Goal Alignment

**“As Is” Process Model:** A model or flowchart portraying how a business process is currently structured. In process improvement efforts, it is used to establish a baseline for measuring subsequent business improvements.

**Benchmark:** A measurement or standard that serves as a point of reference by which to measure process information.

**Benchmarking:** A structured approach for identifying business or government best practices and comparing and adapting them to the court’s operations. The approach identifies more efficient and effective processes for achieving intended results and suggests ambitious program goals for output, product/service quality, and process improvement.

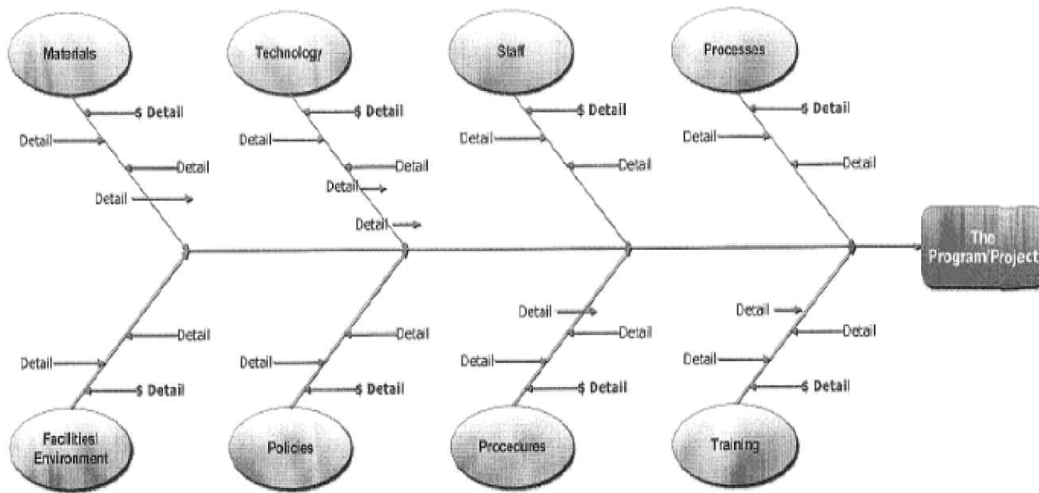


Figure VIII.2 Example of a Cause – Effect Diagram Often Referred to as a “Fishbone Diagram”

behaviors within a court organization that support new ways of doing work and overcome resistance to change; 2) building consensus among consumers and stakeholders on specific changes designed to better meet their needs; 3) planning, testing, and implementing all aspects of the transition from one organizational structure or business process to another; and 4) the process by which changes to the project scope, deliverables, timescales, or resources are formally defined, evaluated, and approved prior to implementation.

**CMS:** Case Management System

**Communications Management:** The process by which formal communication messages are identified, created, reviewed, and communicated within a project.

**Communications Planning:** Identifying the type and regularity of information to be provided to all project stakeholders, keeping them informed of the project’s progress.

**Cycle Time:** The time that elapses from the beginning to the end of the process.

**Deliverable:** A quantifiable outcome of the reengineering project, which results in the partial (or full) achievement of project objectives.

**Dependency:** A logical relationship between two or more project activities. The four types of

dependencies include: start-to-finish, start-to-start, finish-to-start, finish-to-finish.

**Effectiveness:** 1) Degree to which an activity or initiative is successful in achieving a specified goal; 2) Degree to which a unit’s activities achieve the mission or goal.

**Efficiency:** 1) Degree of capability or productivity of a process, such as the number of cases closed per year; 2) Tasks accomplished per unit cost.

**Feasibility Study:** A document identifying each solution option to a particular business problem (or opportunity), and assessing the likelihood of each option achieving the desired result.

**Intermediate Outcome:** An identified and measurable near-term activity outcome that is an indicator of longer-term outcomes. This is practical when long-term outcomes are diffuse, delayed or otherwise difficult to measure. Intermediate outcomes often relate to consumer satisfaction, which can be measured by surveys or interviews.

**ITV:** Interactive Video Teleconference

**Key Performance Indicator (KPI):** KPIs are descriptive time, cost, or quality indicators used to capture process performance.

**Measurement:** An observation that reduces the amount of uncertainty about the value of a quantity.



In the balanced scorecard, measurements are collected for feedback. The measurement system gathers information about all the significant activities of a court, division, or unit. Measurement implies a methodology analysis system, involved with *how* particular measurements are collected and managed.

**Metrics:** Often used interchangeably with measurements, however, it may be helpful to separate these definitions. Metrics are the various parameters or ways of looking at a process that is to be measured. Metrics *define* what is to be measured. Some metrics are specialized, so they can't be directly benchmarked or interpreted outside a mission-specific business unit. Other metrics are generic and can be aggregated across business units, e.g., cycle time, customer satisfaction, and financial results.

**Milestone:** The recognition of an important project event, usually the achievement of a key project deliverable.

**Modeling or Flowcharting:** A graphic representation of the activities and sub-processes within a process and their interrelationships.

**NCSC:** National Center for State Courts

**Objective:** An aim or intended result of a strategy.

**Outcome:** The ultimate, long-term, resulting effects (both expected and unexpected) of customers' use or application of the organization's outputs.

**Output:** Products and services delivered. Outputs are the immediate products of internal activity: the amount of work done within the organization

**Performance Gap:** The gap between what consumers and stakeholders expect and what each process produces in terms of quality, quantity, time, and costs.

**Performance Indicator:** A particular value or characteristic used to measure output or outcome.

**Performance Measurement:** The process of developing measurable indicators that can be systematically tracked to assess progress made in achieving predetermined goals and using such indicators to assess progress in achieving these goals.

**Project Plan:** A document listing the phases, activities, tasks, timeframes, and resources required to complete a project.

**Process:** A set of activities that produce products and services for consumers.

**Resource Planning:** Identifying the resources required to complete a project. This includes a list of the types of resources required and a schedule providing the use of and activities undertaken by each resource.

**Reengineering:** Systematic starting over and reinventing the way a business process is accomplished. A "fundamental rethinking and radical redesign of a business process to achieve dramatic improvements in critical measures of performance such as cost, service, and speed."<sup>1</sup>

**Sensitivity Analysis:** Analyzing how sensitive outcomes are to changes in assumptions. The assumption deserving the most attention should depend largely on the dominant benefit and cost elements and the areas of greatest program or process uncertainty.

**Silo-Based Court Organization:** A court where corporate goals, scope of responsibility, and controls are distributed along departmental lines. In such courts, cross-functional processes are typically not well understood, managed, or controlled.

**Strategic elements:** Mission, vision, values, assessment data, strategic plans, and other information that supports strategic planning.

**Strategic imperatives:** Court organization values.

**Strategic initiatives:** Specific actions undertaken to achieve a strategic goal, including the plans and milestones.

**Strategic Measures or Metrics:** Quantifiable indicators of a strategic action's status.

**SWOT Analysis:** An assessment tool for identifying the overall strategic situation in an organization by listing its Strengths, Weaknesses, (external) Opportunities, and Threats. Sometimes Challenges are substituted for Threats.

<sup>1</sup> Michael Hammer & James Champy, *Reengineering The Corporation*, 1993.

**Target:** A performance metric's numerical value that is to be achieved by a given date. Both the metric and the schedule need to be specified for targets. A stretch target is the same thing, but its numerical value is higher, demanding breakthrough performance to achieve.

**Total Quality Management (TQM):** An approach that motivates, supports, and enables quality management in all activities of the court, focusing on the needs and expectations of internal and external consumers.

**Value-Added:** Activities or steps which add to or change a product or service as it goes through a process; these are the activities or steps that consumers view as important and necessary.

**Workflow:** A graphic representation of the flow of work in a process and its related sub-processes, including specific activities, information dependencies, and the sequence of decisions and activities.



# Appendices

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

## Appendix A: The Six Decision – Making Options

To be truly effective, your team must learn to make effective decisions. One of the biggest mistakes made by most inexperienced teams is assuming that decisions need to be made by “voting.” While voting is a fundamental decision-making technique, there are five other decision-making techniques that can be used. Both you and your team need to understand each of them and be clear about which one to use and when.

Each of the six decision options represents a different approach. Each has pros and cons associated with it. The decision option should always be chosen carefully at the start of any decision-making discussion to be sure it is the most appropriate technique for the topic that is before the team. Below are the six techniques (in reverse order of their relative value):

### Option 1: Unanimous

Occasionally there is a solution favored by everyone and 100 percent agreement seems to happen automatically. Unanimous decisions are usually made quickly. They are relatively rare and often occur in connection with more trivial or simple issues.

**Pros:** It is fast and easy; everyone is happy and it unites the team.

**Cons:** It may be too fast, so it is not for issues requiring in-depth discussion.

**Uses:** Works best with more trivial items or when discussion is not vital.

### Option 2: One Person Decides

The team decides to refer the decision to one person to make on behalf of the team.

A common misconception among teams is that every decision needs to be made by the whole team. In fact, one-person decisions are often a faster and more efficient way to make many team decisions. The quality of a one-person decision can be raised considerably if the designated person

seeks advice and input from other team members before making the decision.

**Pros:** It is fast; accountability is clear; it makes use of members’ expertise.

**Cons:** It can divide the team if the decision maker doesn’t first consult with members or makes a decision that others can’t live with; lacks both the buy-in and the synergy of a team decision.

**Uses:** Works best with small issues, when there’s a clear expert on the team who should make the decision; when only one person has the information needed to make the decision and can’t share it; and when one person is solely accountable for the outcome.

### Option 3: Compromise

This is a negotiated approach to making a decision or settling a dispute, applicable when there are two or more distinct options and members are strongly polarized (i.e., neither side is willing to accept the solution put forth by the other side). A middle position is then created that incorporates

ideas from both sides. Throughout the process of negotiation, everyone wins a few of their favorite points but also loses a few. The outcome is therefore something that no one is totally satisfied with. In compromises, no one feels they got what they originally wanted, so the emotional reaction is often: *“It’s not really what I wanted, but I’m going to have to live with it.”*

**Pros:** There is lots of discussion; creates a solution.

**Cons:** It forces people to negotiate; tends to be adversarial as people are pushing a favored point of view; can divide the team; everyone wins but everyone also loses.

**Uses:** It is often the only alternative when faced with a strongly polarized team or when there are two opposing solutions, neither of which is acceptable to everyone.

#### Option 4: Multi-Voting

When the team has a long list of options to choose from, it’s too cumbersome to use consensus. Team members priority rank order the options (usually using a set of criteria), with the number one item being the best course of action.

**Pros:** It is systematic, objective; democratic, noncompetitive; and participative; everyone wins somewhat and minimizes feelings of loss; fast way of sorting out a complex set of options

**Cons:** It is often associated with limited discussion, hence limited understanding of the options; may force team members to choose between unsatisfactory options; sometimes the real priorities are not put on the table; team members may be swayed by others if the voting is done openly, rather than electronically or by ballot.

**Uses:** Works best when there is a long list of options from which to choose when applying a set of criteria and to clearly identify a course of action.

#### Option 5: Majority Voting

Asking team members to vote for the option they

favor once clear choices have been identified. The option getting the most or “majority” of votes is the best choice. Usual methods are a show of hands or secret ballot. The quality of voting is always enhanced if there is good discussion to share ideas before the vote is taken.

**Pros:** It is fast; high quality if voting takes place after thorough analysis; creates a clear decision.

**Cons:** It can be too fast; low in quality if people vote based on their personal feelings without the benefit of each other’s thoughts; creates winners and losers; can divide the team; the “show of hands” method can put pressure on people to conform.

**Uses:** Works best when there are two distinct options and one must be chosen, when deciding on items where division of the group is acceptable, and when consensus has been attempted and can’t be reached.

#### Option 6: Consensus

Consensus is the discussion-centric approach that involves everyone in clearly understanding the situation or problem at hand, analyzing all of the relevant facts, and then jointly developing solutions that represent the whole team’s best thinking about the optimal course of action. Consensus is characterized by a lot of listening, debate, and testing of options. Because everyone is involved in offering ideas, it results in a decision about which everyone says: *“I can live with it.”*

**Pros:** It is collaborative and unites the group. It is systematic, objective, fact driven; it fosters high involvement; it builds buy-in and high commitment to the outcome.

**Cons:** It is time consuming; low in quality if done without proper data collection or if members have poor interpersonal skills.

**Uses:** Works best when the whole group’s ideas are needed and buy-in from all members is essential and when the importance of the decision being made is worth the time it takes.

# Decision–Making Options Worksheet

Discuss the six decision methods and agree when each will be used.

Decision–Making Option	Under What Conditions Will We Use Each Approach?
Consensus	
Voting/Majority Rules	
Compromise	
One Person Decides	
Unanimous	
Multi–voting	

*Figure A 1: Decision–Making Options Worksheet*

# Appendices

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

## Appendix B: Reengineering Projects

Before you get too far into your planning process, check out the tips below – your quick guide to getting the most out of your reengineering planning process:

### Tips for Conducting a Better Reengineering Project

*Pull together a diverse, yet appropriate, group of people to make up your planning team.* Diversity leads to a better strategy. Bring together a small core team (between six and 10 people) of leaders and managers who represent every area of the court.

*Allow time for big picture, strategic thinking.* We tend to try to squeeze the planning discussions in between putting out fires, normal daily routines, and going on a much needed vacation. To create a solid plan, your team needs time to think big. Do whatever it takes to allow that time for big-picture thinking (including taking your team off-site).

*Get full commitment from key people in your court.* You can't do it alone. If your team doesn't buy into the reengineering planning process and the resulting plan, you're dead in the water.

*Allow for open and free discussion regardless of each person's position within the court.* Try not to lead the planning sessions. When you do, people wonder whether you're trying to lead them down the path you wanted all along. Encourage active participation, but don't let any one person dominate the session. Hire an outside facilitator or someone who doesn't have any stake in your success.

*Think about execution before you start.* It doesn't matter how good the reengineering plan is if it isn't executed.

*Use a facilitator, if your budget allows.* Hire a trained professional or collaborate with faculty from a local college who has no emotional investment in the outcome of the effort. An impartial third party can concentrate on the process instead of the end result and can ask the tough questions others may fear to ask.

*Make your plan actionable.* To have any chance at implementation, the reengineering plan must clearly articulate goals, action steps, responsibilities, accountabilities, and specific deadlines. (See Figure B 1.) Everyone must understand the plan and their role in it.

*Don't write the plan in stone.* Good reengineering plans are fluid, not rigid and unbending. They allow you to adapt to changes (i.e., a new chief judge, newly elected officials that can be impacted by this process, loss of key staff member(s), and the like). Don't be afraid to change your plan as necessary.

*Clearly articulate next steps after every session.* Before closing each planning session, clearly explain what comes next and who's responsible for what. When you walk out of the room, everyone must fully understand what they're responsible for and when to meet deadlines.

<b>Goal Name:</b>	<b>Date:</b>
<p>The goal description should answer questions like: What are you going to do? Why is this important? How will it be done (not a full plan, just a top level description)? How much do we want to improve (e.g. reduce pending cases by 5% from previous years)?</p> <p><b>Goal Descriptions:</b></p> <hr/> <hr/> <hr/> <hr/> <hr/>	
<p><b>Measurement:</b>  How will this goal be measured? Examples include measures Based on time reductions in processing), waste (elimination of redundant information, waiting, unused data, etc.) and quality (reduction in rework or scrap, improvement of first time acceptance, improvement in customer satisfaction levels, etc.). How often will the goal be measured (event of time based) and for what duration. Remember, once we attain a goals we still want to sustain our gains and may want to improve further.</p>	
<b>Measurement Description:</b>	<b>Measurement Frequency:</b>
<hr/>	<hr/>
<b>Attainable:</b>	<b>Relevant/Realistic:</b>
<hr/>	List thing like why this is important to the organization and customer, what are you doing now to make this happen, etc.
<hr/>	<hr/>
<hr/>	<hr/>
<b>Estimate, Needed, or Desired Compiled Date:</b>	
<hr/>	
<b>Approvals (if needed):</b>	
Name: _____	Date: _____
Signature: _____	
Name: _____	Date: _____
Signature: _____	

Figure B 1: Goal Identification Worksheet

## Checklist for Conducting a Better Reengineering Project

1. *Get ready and organized:* Identify specific issues and choices the process should address:
  - Determine organizational readiness
  - Create the planning committee
  - Identify the information which must be collected to help make sound decisions
2. *Articulate the mission and vision:* Managers clarify why the function(s) exists and what the end game is:
  - Determine its primary purpose and how it is tied to the court's purpose
  - Identify the court's values as they relate to the project
  - Imagine what success would look like
3. *Review tactical position:* Gather up-to-date information to develop an understanding of the critical issues including:
  - Internal strengths and weaknesses
  - External opportunities and threats through a competitive analysis
  - Opportunities through customer/clients/user surveys
  - Synthesize into a SWOT
4. *Agree on Priorities:* Identify the broad approaches for addressing critical issues:
  - Solidifying the court's advantage relating to why this is important and measured outcomes
  - Determine long-term goals/objectives
  - Select strategies for customer/client/user segments
  - Establish measureable short-term goals and objectives
5. *Organize the reengineering plan:* Put the pieces together into one coherent document with the following reports:
  - Complete Reengineering Plan – for reference
  - One-Page Reengineering Plan – for communicating
6. *Roll out the plan:* Communicate the plan across the court organization:
  - Everyone in the court has received a copy of the plan in some form (printed, emailed, and/or posted on a wall in the break room)
  - Identify the reengineering plan leader
  - Provide budgetary and resource support
7. *Identify next actions:* Make the effort tangible to each team member by clearly identifying what he/she is responsible for:
  - Scorecard – for measuring
  - Action Sheets – for executing
8. *Hold everyone accountable:* Monitor your efforts/plan by reporting performance metrics on a monthly or quarterly basis:
  - Identify the source of each metric associated with measurable goals
  - Set up systematic process for monthly or quarterly reporting
  - Communicate to each responsible person when and how to report on their goals
  - Hold monthly or quarterly strategy meetings
  - Regularly monitor, evaluate and adapt



## EVALUATION CRITERIA FOR REENGINEERING STRATEGIES

<p>1. <b>Suitability:</b> Does the reengineering strategy make sense in light of likely trends, current system operations and organizational changes?</p>	<p><i>Does the reengineering strategy:</i></p> <ul style="list-style-type: none"> <li>✓ Exploit environmental opportunities?</li> <li>✓ Defend against environmental threats?</li> <li>✓ Correct organizational shortcomings?</li> </ul>
<p>2. <b>Validity:</b> Is the reengineering strategy based on realistic assumptions?</p>	<p><i>Is the reengineering strategy based on:</i></p> <ul style="list-style-type: none"> <li>✓ High-confidence assumptions that are backed by hard data?</li> <li>✓ Based on assumptions that are reasonable extrapolations of past trends and events?</li> </ul>
<p>3. <b>Feasibility:</b> Does the court organization/system have or can it get the skills, resources and commitment required to pursue a reengineering strategy?</p>	<p><i>Does the system have sufficient:</i></p> <ul style="list-style-type: none"> <li>✓ Financial and physical support?</li> <li>✓ Information and technological support?</li> <li>✓ Human resources support and skills?</li> <li>✓ Commitment among stakeholders?</li> <li>✓ Political support?</li> </ul>
<p>4. <b>Consistency:</b> Is the reengineering strategy consistent?</p>	<p><i>Does the reengineering strategy:</i></p> <ul style="list-style-type: none"> <li>✓ Suggest operational elements that can be implemented together in a coordinated and effective manner?</li> <li>✓ Reflect the system’s mission, objectives and vision?</li> <li>✓ Compliment individual system (department-level) strategies?</li> </ul>
<p>5. <b>Vulnerability:</b> What are the risks and contingencies?</p>	<p><i>Does the reengineering strategy:</i></p> <ul style="list-style-type: none"> <li>✓ Include many risks that the system cannot affect?</li> <li>✓ Potentially cost far more than is reasonable?</li> </ul>
<p>6. <b>Timing:</b> When must the court organization/system act and when will it receive tangible benefits from pursuing a reengineering strategy?</p>	<ul style="list-style-type: none"> <li>✓ Will the strategy show short-term results?</li> <li>✓ Will it have long-term benefits?</li> <li>✓ Can it be implemented within the next 3 years?</li> </ul>
<p>7. <b>Adaptability:</b> Does the reengineering strategy significantly limit the court organization/system’s flexibility?</p>	<p><i>Can the reengineering strategy:</i></p> <ul style="list-style-type: none"> <li>✓ Be revised in the future in response to changing circumstances with major costs?</li> <li>✓ Be applied to a variety of conditions?</li> </ul>
<p>8. <b>Usability:</b> Can the court organization/system readily implement the reengineering strategy?</p>	<ul style="list-style-type: none"> <li>✓ Is the reengineering strategy specific enough to be implemented?</li> <li>✓ Can it be understood by stakeholders located throughout the justice system?</li> </ul>

*Figure B 2: Evaluation Criteria for Reengineering Strategies*



# Appendices

NATIONAL ASSOCIATION FOR COURT MANAGEMENT

## Appendix C: Process Improvement

### What is Process Improvement?

You can keep your consumers happy by providing them with the “best” possible service. “Best” is defined as meeting the consumer’s needs and exceeding their expectations.

You can provide the best services only by improving the processes that produce them – by *process improvement*. You do not improve a process by weeding out the good from the bad once a service is produced or provided. To do so would only encourage continued production of bad service and raise the cost of the process.

Instead, process improvement is about improving quality while reducing cost and eliminating waste.

To effect an improvement in a process, it’s important to measure the process. These measures will indicate how the process is performing relative to your court’s desired or targeted performance levels. These measures will help you to **check** your current performance and to focus your corrective or improvement **actions**.

Process improvement may mean making a process more efficient, less costly, more “capable” of meeting consumer’s requirements or specifications, and/or more consistent and reliable in producing an output that is valuable to the consumer.

### Benchmarking and Learning from Others

Benchmarking enables you to learn about the processes, tools, techniques, systems and structure of similar programs, reengineering projects and

process improvement efforts. Benchmarking can include:

- ❖ Setting up site visits
- ❖ Conducting telephone interviews
- ❖ Conducting Skype interviews with groups of individuals
- ❖ Collecting survey data
- ❖ Surfing the internet
- ❖ Reading journals and magazines
- ❖ Conducting research at the library

### Why are Process Measures Important?

Process measures help determine the degree to which your process activities and their results are conforming to your reengineering plan and to consumers’ requirements and needs.

Measures provide data that helps teams identify and solve problems. Measures are also central to defining a problem, understanding how to solve it, and then informing the team and others in the court on how well the solution is working toward resolving the problem. In short, measures are important indicators for the health of a process. They help you answer the following questions:

- Is the process performing well?
- Is it meeting the consumer’s need or requirement?
- If not, how far off is it?

There are many measures that will help you understand how your process is performing. For example:

**Input measures** (measure quality, cost, and conformity to requirements)

- **Information, materials, and/or services that you receive from a supplier.** Defective input from a unit, section, or outside stakeholder will adversely affect the overall quality of your output and/or process efficiency.

**Process measures** (measure different elements within the process)

- **Cycle time:** How much time do various steps in the process take? Are there delays in some steps?
- **Bottlenecks:** What types of bottlenecks are you seeing? How frequently? How long is the delay?
- **Quality:** What types of defects are you seeing in a step?

**Outcome measures** (measure the final outcome of the process)

- **Yield:** How many of your services meet consumer requirements?
- **Quality:** Does the service meet the consumer's requirements?
- **Cost:** How much does it cost to produce the service and how does the cost compare to your benchmarks?
- **Consumer satisfaction:** How happy are your consumers with the service?

Step	Key Tasks	Primary Tools
<b>Plan</b>		
1. Describe the problem.	<ul style="list-style-type: none"> <li>◆ Look for changes in important performance measures.</li> <li>◆ Assemble and support the right team.</li> <li>◆ Narrow down the project focus.</li> <li>◆ Write a final problem statement.</li> <li>◆</li> </ul>	<ul style="list-style-type: none"> <li>◆ Control Chart</li> <li>◆ Pareto Chart</li> <li>◆ Run Chart</li> </ul>
2. Describe the current process.	<ul style="list-style-type: none"> <li>◆ Create a flowchart of the current process.</li> <li>◆ Validate the flowchart and the performance measures with the owners, users and consumers of the current process.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Flowchart</li> </ul>
3. Identify and verify the root cause(s).	<ul style="list-style-type: none"> <li>◆ Construct the Cause &amp; Effect Diagram.</li> <li>◆ Review the Cause &amp; Effect Diagram.</li> <li>◆ Determine if more data will clarify the problem.</li> <li>◆ Select the root cause(s).</li> <li>◆ Verify the root cause(s).</li> </ul>	<ul style="list-style-type: none"> <li>◆ Classic Brainstorming</li> <li>◆ Cause &amp; Effect Diagram</li> <li>◆ Matrix Diagram</li> </ul>
4. Develop a solution and action plan.	<ul style="list-style-type: none"> <li>◆ Generate potential solutions.</li> <li>◆ Rank potential solutions; select the best solution.</li> <li>◆ Generate possible tasks for the solution.</li> <li>◆ Construct a detailed action plan.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Affinity Diagram</li> <li>◆ Gantt Diagram</li> <li>◆ Decision Matrix or Prioritization Matrices</li> <li>◆ Process Decision Program Chart</li> <li>◆ Responsibility Matrix</li> <li>◆ Tree Diagram</li> </ul>
<b>Do</b>		
5. Implement the solution.	<ul style="list-style-type: none"> <li>◆ Communicate the plan.</li> <li>◆ Meet regularly to share information on how the implementation is going</li> </ul>	<ul style="list-style-type: none"> <li>◆ Action Plan</li> <li>◆ Selected measurement tools</li> </ul>
<b>Check</b>		
6. Review and evaluate.	<ul style="list-style-type: none"> <li>◆ Review the results of the change.</li> <li>◆ Revise the process as necessary.</li> <li>◆ Standardize the improvement.</li> <li>◆ Continue to monitor the process for changes.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Control Chart</li> <li>◆ Pareto Chart</li> <li>◆ Run Chart</li> </ul>
<b>Act</b>		
7. Reflect and act on Learnings.	<ul style="list-style-type: none"> <li>◆ Assess the problem-solving process the team used and the results achieved; recommend changes, if needed.</li> <li>◆ Continue the improvement process where needed; standardize where possible.</li> <li>◆ Celebrate success.</li> </ul>	<ul style="list-style-type: none"> <li>◆ Radar Chart</li> </ul>

*Figure C 1:A Quick Guide to the 7-Step Model: Steps, Key Tasks, and Tools*

## Describe the Problem: What concepts must I understand to do this step?

### Importance of Understanding the Problem

- **Focus on the right problem.** With limited time and resources, it is essential to focus on a problem that is most important to the consumer, the team, and the court.
- **Break the problem into manageable pieces.** This prevents a team from feeling overwhelmed by the larger problem and helps the team identify the pieces they can control and change.
- **Gain more knowledge to better define the problem.** This ensures the team keeps all its efforts focused on solving the right problem with the right people.
- **Describe the problem as the gap between what “is” and what it should or could be.**

## Importance of Gathering Data and Information

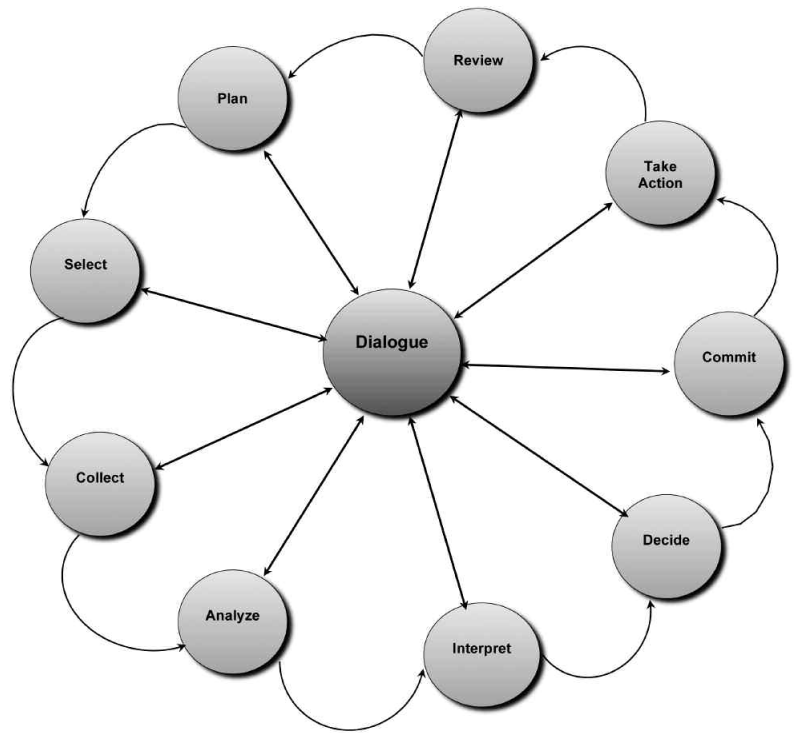
### Data can help teams:

- **Reveal a problem.** Teams can’t fix a problem they don’t know about.
- **Describe a problem.** When teams understand what the problem is, they can fix the problem rather than just addressing the symptom.
- **Monitor and control a problem.** Teams can make sure that the process they fix or improve stays that way.
- **Prevent a problem.** When there is a consistent trend of cycle in the data, a team can take action to reduce or eliminate the undesired trend or cycle in the process before it becomes critical and/or apparent to the customer. It’s always easier to prevent a problem than to correct it.

## Types of Data

There are two types of data to measure process performance: variable data and attribute data. It is important to know which type of data you have since it helps determine which tool to use.

- **Variable data:** Data is measured and plotted on a continuous scale over time, e.g., cost figures, times, clearance rate, filings, and the like. Use run charts, histograms, and scatter diagrams to illustrate this data.



*Figure C 2: Team Use of Data and Dialogue*

- **Attribute Data:** data is counted and plotted as discrete events for a specific period of time, based on some characteristic, e.g., types of errors, types of consumer complaints, reasons for downtime. Use check sheets, Pareto charts, and attribute control charts for this type of data.

## Implementing the Solution: What concepts must I understand to do this step?

### Leadership Responsibility

- It is the team’s responsibility to “sell” the benefits of the reengineering plan to judges, funding authorities, managers, associates, and others who are affected by the problem and the reengineering project.
- The team should widely communicate the action plan through briefings, newsletters, posters, and

other displays. This keeps the plan highly visible and keeps others in the court informed about the team's progress and interim accomplishments.

- Leaders have a responsibility to ensure that people have the resources they need to implement the action plan.

#### *Accountability*

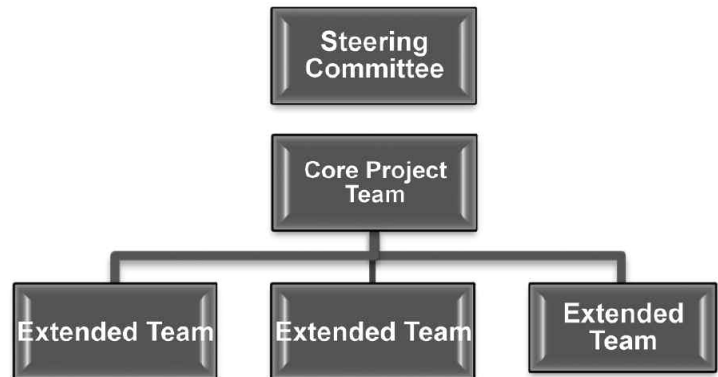
- The team is accountable for completing the tasks in the reengineering plan. To do this, the team should make one person accountable for completing each task in the plan.
- It's the team's job to monitor and document the progress of the plan and any discrepancies that occur during the implementation of the plan. (These discrepancies are called "variances.")
- It's important that the team schedule briefings with management to report on progress, roadblocks, and modifications to the plan.
- As each plan objective is met, inform all the team members and others in the court who need to know.

#### *Motivation and Morale*

- Leaders need to remove any barriers that may impede the progress of implementing the reengineering plan.
- Leaders need to help team members stay focused and motivated, and feel supported and rewarded

as they "work the plan." This is especially important during the early stages of implementation, where misunderstandings and conflicts among team members are likely to occur.

- Team members should remember to give each other support and understanding during stressful times of the implementation.



*Figure C 3: Three Tiered Team Organization*

*What actions must be taken in this step?*

- Practice good communication skills.
- Develop good team meeting skills.
- Analyze data to determine what changes are needed, if any, and to document the team's ongoing assessment of the reengineering plan.
- Make effective and timely decisions based on data, not hunches, whenever possible.

## Create a Reengineering Team

The best team model for reengineering is a simple one. A three-tiered model is simple, clean, manageable, and effective.

<b>Your Audience</b>	<ul style="list-style-type: none"> <li>• What information is important to them?</li> <li>• What do they already know?</li> <li>• What do they need to learn from the presentation and from future training?</li> <li>• Tell them the purpose and goals of the plan.</li> </ul>
<b>The Tools You Used</b>	<ul style="list-style-type: none"> <li>• Explain your team's problem-solving journey, including the process.</li> <li>• Point out which tools the team used, and which ones were effective.</li> </ul>
<b>The Status of the Project</b>	<p>If the problem-solving process is not complete, answer these questions:</p> <ul style="list-style-type: none"> <li>• What do you have left to do?</li> <li>• What obstacles have you encountered?</li> <li>• Do you have any preliminary recommendations?</li> </ul>
<b>Your Team</b>	<ul style="list-style-type: none"> <li>• What have team members learned about themselves and other team members?</li> <li>• What have team members learned about their work, the court organization, and the organization's consumers?</li> </ul>
<b>Manage the Presentation</b>	<ul style="list-style-type: none"> <li>• Who will participate in the presentation? Try to include as many team members as is feasible.</li> <li>• Distribute a typed report, including handouts of supporting documentation.</li> <li>• Reserve and know how to use the audiovisual equipment need for the presentation.</li> </ul>

Figure C 4: Areas to Address in Presenting Your Reengineering Project Results

Using this team management model, you can:

- Enable key leaders to provide direction to the project and participate in key decision points through the “steering committee.”
- Engage other members of your court as subject matter experts on “extended teams” or include representatives from the court that may be impacted by the reengineering project/plan design.

Keep the core team small and focused. Often-times reengineering teams become too large because every functional area wants to be represented. As the team grows in size, it becomes unmanageable and ineffective. Use extended teams to enable participation of these functional representatives. Keep the core team small.

## Examples of Reengineering Pitfalls

Reengineering or process improvement is as much about planning as it is about execution. Avoid

these planning pitfalls and the probability of success is increased:

- ✓ **Lack of ownership:** The most common reason an effort fails is that there is a lack of real ownership. If staff/people do not have a stake and responsibility in the effort, it will be business as usual for all but the frustrated few.
- ✓ **Lack of communication:** The effort does not get communicated within the entire court organization and thus they (the masses) do not understand how they can contribute.
- ✓ **Getting stalled in the routine:** Consumed by daily operations and the problems that surface, it is easy to lose sight of the big-picture effort and the short-term objectives.
- ✓ **Out of the routine:** The reengineering effort is treated as something distinct and detached from the management process.
- ✓ **An overwhelming effort:** The goals, objectives, action plans, and the like that were generated by the planning sessions are too numerous because the leadership and/or team failed to make tough choices to eliminate non-critical actions.  
A meaningful approach: Statements are viewed as fluff and not supported by actions or do not have buy-in by those who need to support the reengineering effort.
- ✓ **Frequency of discussion point:** Effort is only discussed at annual, semi-annual, or quarterly court meetings; during preparation of the annual budget; or during a retreat. Message and importance of effort is lost.
- ✓ **Not considering implementation:** No discussion during the process. The document (plan) is seen as an end in itself.



- ✓ **Lack of progress reports:** There's no method to track progress. No one in the court feels any forward momentum.
  - ✓ **No accountability:** Accountability and high visibility are needed to help drive the project forward. This means that each selected measure, objective, task, data source and initiative must have an owner.
  - ✓ **Lack of empowerment:** While accountability may provide strong motivation for improving performance, staff must also have the authority to take the necessary and required steps to accomplish the project. If not, staff may resist involvement and ownership.
- **Contribute meaningfully to the project.** Engaged team members have the opportunity every day to use their strengths to do what they do best. They also have a project manager who cares about them and who provides coaching and recognition.
  - **Work together as a team.** Engaged team members are motivated and feel connected to the team's broader goals. They work together to create high-quality outcomes and develop trusting relationships.
  - **Learn and grow.** To be engaged, team members need feedback about their progress individually and as a team. They also need opportunities to develop in areas related to their role or in areas that will prepare them for future roles or jobs.

## **Develop Engaged Team Members: Some Key Elements**

- Know what to do and be able to do it. Teams cannot function effectively if members lack clarity about what is expected of them. Team members need to know how what they do fits in the overall project and have the tools to do their work.



## Conflicting Priorities?

<b>PROBLEM: Member(s) ‘too busy’ to attend meetings or work on team tasks.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
<p>Individual given additional non-team assignments by manager.</p> <p>Individual is spread too thin among several teams.</p> <p>Team is inefficient in its use of time.</p>	<p>Individual and manager resolve through joint priority setting.</p> <p>Team coach or sponsor resolves priorities with manager.</p> <p>If necessary, member leaves team. Manager provides a replacement who has appropriate skills, knowledge.</p> <p>If necessary, individual finds appropriate temporary or permanent replacement for self on team.</p> <p>Meet only when issue cannot be resolved in another way.</p> <p>Keep meetings convenient, attendance limited, and agendas tight.</p> <p>Block the work into a tight time frame.</p>	<p>Create a team contract that includes:</p> <ul style="list-style-type: none"> <li>♦ Signed buy-in by managers.</li> <li>♦ How much time team members are to spend on team tasks?</li> <li>♦ Steps to take to replace members if necessary.</li> </ul> <p>For permanent team, set up a schedule for rotating members in and out.</p> <p>Build rules for meetings into team charter.</p> <p>Build sunset date into charter, along with schedule for reassessing team needs.</p>
<b>PROBLEM: In self-directed work team, members shortchange team and administrative tasks to attend to critical functional job needs.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
<p>No processes are in place to integrate team/administrative work with functional work.</p> <p>Members are rewarded primarily for functional performance.</p>	<p>Designate backups. Provide cross training, checklists, job aids so members can back up each other in functional work.</p>	<p>Team charter lists roles and responsibilities including getting cross trained and backing up teammates.</p> <p>Include measurable goals for team and administrative tasks in the performance management system.</p>

## Loss of Focus?

<b>PROBLEM: Team is stymied by unanticipated problems.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
First analysis of issue failed to raise underlying problem or situation has changed since team began.	<p>Bring in a facilitator to help define the problem and determine next steps through team problem solving.</p> <p>Enlist outside experts to guide team in solving the problem.</p> <p>Enlist help of sponsor to identify people in or outside the organization with the necessary skills.</p>	Train team in problem solving.

## Lack of Cooperation or Communication with Other Teams?

<b>PROBLEM: Team cannot get help or resources it needs from other parts of the organization.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
Self-directed work teams have built walls around themselves, paralleling the "silos" in traditional functional organizations.	<p>Develop and publish a list of people throughout the organization who can provide the necessary services. Expand it by sharing it with other teams.</p> <p>Make some people members of more than one team.</p> <p>Give coaches or sponsors the responsibility to locate resources.</p>	<p>Include specific responsibilities for supporting other teams in original team assignments.</p> <p>Build these responsibilities into team charters.</p>
<b>PROBLEM: Final product is harmed because input from two or more teams doesn't match.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
Teams working at cross purposes, overlapping and/or ignoring the work of other, related teams.	Create integration teams to identify and resolve potential conflicts in processes and outputs, determine who drives the final outcome, and ensure that schedules match.	Schedule periodic reassessments of responsibilities toward and relationships with other teams, especially those working on related projects.

## Threatened by Naysayers?

<b>PROBLEM: Team morale is undermined by continuing negativism on the part of others in the organization.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
The naysayers feel their position in the organization is threatened by teams.	<p>Nurture a core of dedicated believers on the team. Ensure that someone in management provides an ear to hear their problems and a shoulder to lean on in trying times.</p> <p>Invite management and the naysayers to team meetings. Chronicle the team's achievements and demonstrate how it operates.</p> <p>Have sponsors meet with the naysayers for dialogue on the team issue.</p>	<p>Provide teams with easy access to sponsors and coaches.</p> <p>Have management continually reinforce the organization's dedication to teams.</p>
<b>PROBLEM: The team is bombarded by criticism from others in the organization for not meeting a goal.</b>		
<b>Possible Causes</b>	<b>Actions to Take</b>	<b>Ways to Prevent</b>
<p>The expectations of the team were tied to one final goal that may have been unrealistic.</p> <p>Team missed a deadline or short-term objective.</p>	<p>Go back to the plan and bullet every action, every short-term milestone team did meet on the way toward the ultimate goal.</p> <p>Publicize everything accomplished so far.</p> <p>Accept the criticism as constructive feedback. Re-examine the team's strategy to see how to improve it. Check out your approach with objective people outside the team.</p> <p>Invite the naysayers to join and be a part of the solution.</p> <p>Own up to missing the target and advise the organization of what the team is doing to recoup.</p> <p>Renegotiate the target. Make sure the team has the necessary resources and people to achieve it this time.</p>	<p>Be very careful not to over-promise.</p> <p>Have many objectives: short term wins that you plan for and publicize, so that with each successive accomplishment the team builds credibility.</p> <p>Build into your plan a system for obtaining constructive feedback from interested parties all along the way.</p> <p>Keep the stakeholders advised along the way so people know ahead if a target may not be met and what team plans to do about it.</p>

## Troubled by Turnover?

<b>PROBLEM: Work progress is disrupted as:</b> <ul style="list-style-type: none"> <li>◆ <b>New team member challenges team’s previous decision.</b></li> <li>◆ <b>Veteran members bemoan loss of member who was replaced.</b></li> <li>◆ <b>Team spends time rehashing old issues.</b></li> </ul>		
Possible Causes	Actions to Take	Ways to Prevent
<p>Changing team membership throws team back into Forming Stage in the Forming/Storming/Norming/Performing Cycle. Both new and veteran members are once again assessing their own and others’ places on the team.</p> <p>Team lacks confidence in new person because it had no input in selection.</p>	<p>Bring new person up to speed by documenting:</p> <ul style="list-style-type: none"> <li>◆ What team has done so far and why.</li> <li>◆ Impact of these actions to date.</li> <li>◆ Planned next steps.</li> </ul> <p>Have one member meet with newcomer to review.</p> <p>As a team, review the action plans and reassess everyone’s roles and responsibilities.</p> <p>Assign new person to work as backup to a veteran team member who will “mentor” the new person until the newcomer is assimilated.</p>	<p>Develop Orientation Program for new members, including:</p> <ul style="list-style-type: none"> <li>◆ Goals and action plans.</li> <li>◆ How team communicates.</li> <li>◆ Expectations of new members.</li> <li>◆ Opportunities for new members.</li> <li>◆ Work rules.</li> <li>◆ Meeting practices.</li> </ul> <p>Train team to recruit, interview and evaluate potential new members. Give team final selection decision or input into management’s decision.</p>
<b>PROBLEM: Team is missing some competencies that existed in the original group.</b>		
Possible Causes	Actions to Take	Ways to Prevent
<p>Replacements chosen not for their skills and knowledge but on some other basis: availability, friendship, perhaps for political reasons.</p> <p>Team is unable to find a replacement with all the skills of the person who left.</p>	<p>To get skilled replacements:</p> <ul style="list-style-type: none"> <li>◆ Identify and document missing competencies.</li> <li>◆ Determine if they are needed permanently or for a specific time.</li> <li>◆ Identify where the skills exist in the organization.</li> <li>◆ <i>Project team:</i> invite people with needed skills to join team for required time.</li> </ul>	<p>When hiring give team a role in determining skills needed and in selecting new hires.</p> <p>For long-term project teams, rotate membership in a systematic fashion to ensure you don’t lose a great deal of experience and capability all at once.</p>

*Figure C 5: Possible Problems, Action Steps, & Ways to Prevent*



# **Tarrant County**

## **DIFFERENTIATED FELONY CASE MANAGEMENT**

### **PREAMBLE**

The following Differentiated Felony Case Management (DFCM) system is the result of a collaborative effort of a task force consisting of representatives from the following entities: the Tarrant County criminal district judges, the Tarrant County criminal district court coordinators, the Tarrant County District Attorney's Office, the Tarrant County Criminal Defense Lawyers' Association, the Tarrant County Sheriff's Office, the Tarrant County District Clerk's Office, the Tarrant County Community Supervision and Corrections Department, and the Tarrant County Information Technology Department. The task force has met weekly over the course of several months to develop the DFCM system.

The DFCM system is a result of the need to increase the use of information technology in the processing of criminal cases, to increase the efficient use of court time and resources, and to standardize the practice among the criminal district courts. The goal of this process is to create an efficient and fair system for the disposition of felony cases taking into consideration such diverse factors as local jail population, the Fair Defense Act, judicial discretion, and the individual interests of the various participants in the criminal justice system.

Central to the theme of the DFCM system is the concept that each court event should involve timely action and meaningful progress toward case disposition. The system recognizes the need to administer different categories of cases based on their individual issues and complexity.

The system seeks to enhance public confidence in the Tarrant County criminal justice system, and to foster a sense of pride among the professionals who administer it.

## THE CASE TRACKING SYSTEM

For purposes of court administration, felony cases filed in the criminal district courts will be divided into three case tracks by offense category. The three case tracks are:

1. The Expedited Case Track
2. The Basic Case Track
3. The Complex Case Track

While there are necessary differences in the administration of the three case tracks, there are also numerous similarities.

### CASE FILING DATE

The date that the case is filed by the Tarrant County District Attorney's Office is the triggering date for the Initial Appearance Setting within the DFCM system. Each filed case will be randomly computer-assigned to one of the ten felony district courts. At that time each individual case will also be assigned to a case track based upon the offense code at time of filing.

The trigger date for setting probation revocations is the date the defendant is arrested on the petition. Probation revocations will only be included on the track through the CS, then will be set for hearing or other disposition during a non-jury week.

Based upon individual case factors, the case track for a given case may be changed at any time by the trial judge after consultation with the parties.

The DFCM system will automatically send notice to the defendant, bail bondsman and defense attorney for each court setting based on the filing date and case track. The courts and state will receive notice of the settings by way of the setting dockets.

### THE INITIAL APPEARANCE SETTING

The first setting for each felony case is the Initial Appearance Setting (IAS). The purpose of the IAS is to ensure that each defendant has an attorney on all pending cases. A case will not progress to the next case setting until the defendant is represented on all cases.

All IAS will be conducted in the magistrate's court. In cases where the defendant is in custody, the IAS will be conducted within four days of the filing date.

Where the defendant is on bond, the IAS will be conducted within 15 days of the filing date.

If the assigned court or magistrate's court has received notification that a defendant is represented by retained counsel before the IAS, the defendant and counsel will be excused from the IAS. Notification may be delivered by fax, email or letter.

If an attorney is retained before a case is filed, the attorney is expected to notify the Office of Attorney Appointments so that the attorney's name can be coordinated with the case when filed.

If a defendant is not represented by counsel at the IAS, the magistrate will inquire into the reason for the lack of counsel and require the defendant to complete the "Election



of Counsel” form. If the defendant requests court appointed counsel, the magistrate will require the defendant to complete the “Affidavit of Indigency.” After the defendant has completed this form, the magistrate will conduct a thorough indigency hearing. If the defendant is on bond, the magistrate will not complete the hearing until the defendant has produced the documents required by condition of bond. The failure or refusal of the defendant to produce the required documents at the IAS may result in the re-arrest of the defendant.

If the magistrate finds that the defendant is indigent, the defendant will be appointed an attorney from the felony court appointment wheel. The magistrate will then enter an order requiring any defendant with appointed counsel to make payments toward appointed attorney fees through the District Clerk’s office where it is determined that the defendant is financially able to make such payments.

If the magistrate finds that the defendant is not indigent, the magistrate will urge the defendant to hire an attorney and may reset the case for another IAS.

The magistrate will also review all cases for appropriate bond conditions and modify the conditions accordingly. If a defendant is in custody, the magistrate will also review the bond amount and may, based on individual case factors, reduce the bond to an amount consistent with the current bond schedule set by the criminal district judges.

### THE CONSULTATION SETTING

The next setting for each case is the Consultation Setting (CS). The CS will be conducted in the assigned district court and will include all of a defendant’s then pending cases. Later cases filed against a defendant will be scheduled with the earlier filed cases.

All attorneys accepting appointments from the felony court appointment wheel shall comply with all required settings pursuant to the requirements of the Felony Public Appointment Guidelines of the Tarrant County Criminal District Courts.

In all cases where a defendant is represented by retained counsel, the CS will occur as soon as practical following the date of the return of an indictment, allowing for reasonable notice to all parties.

In all cases where a defendant is represented by appointed counsel, the CS will occur pre-indictment in order to allow the opportunity to meet and consult with appointed counsel with the State and its files available for discovery and meaningful consultation in order to allow, if possible, a prompt and just resolution of the case. Continued compliance with all bond conditions and the Felony Public Appointment Guidelines will also be monitored at this setting.

Prior to the CS the assigned prosecutor will be expected to thoroughly review the case(s) and arrive at a considered and educated plea agreement offer, at least on cases within the Expedited and Basic case tracks. The Tarrant County District Attorney’s Office has agreed that their file will be open to the attorney of record on all cases. The defense attorney will be expected to have thoroughly reviewed the state’s file, to have consulted with the defendant, and to have begun any necessary investigation. At the CS the defense attorney will be expected to convey the plea agreement offer to the defendant and to present any motions necessary to complete investigation of the case.

If a plea agreement is reached at the CS, the parties will be expected to complete a “Written Plea Admonishment Document.” After this is done the parties can proceed

through the plea proceeding and sentencing, proceed through the plea proceeding and defer sentencing or defer the plea proceeding and sentencing. All unindicted cases in which an agreement is reached and where sentencing is not completed at the CS will require the execution of a “Waiver of Indictment and Acceptance of Plea Agreement Offer”. All deferred plea proceedings will be conducted during non-jury weeks.

If there is no indictment and no plea agreement is reached at the CS but the defendant waives indictment in writing, the Tarrant County District Attorney’s Office has agreed that the CS plea offer will remain available to the defendant for at least 45 days after the CS.

If a plea agreement is not reached on a probation revocation case at the CS, the court coordinator will schedule the case for a hearing during the next available non-jury week.

If no plea agreement is reached on a case by the conclusion of the CS, the case will be scheduled for an Evidence Exchange Setting.

### THE EVIDENCE EXCHANGE SETTING

The Evidence Exchange Setting (EES) will be conducted in the assigned district court.

By the EES the state will be expected to have completed all necessary laboratory investigation, to have consulted with any necessary persons, and to have the relevant reports available in court.

At the EES the state will be required to disclose the existence of biological or other complex evidence the testing of which could require that the case be moved to the Complex Case Track.

Any agreed discovery must be completed before the parties are excused from the setting.

Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the Consultation Setting.

If no plea agreement is reached on a case by the conclusion of the EES, the case will be scheduled for a Motion Setting.

### THE MOTION SETTING

The Motion Setting (MS) will be conducted in the assigned district court. The state and defendant must file all non-constitutional motions ten or more days before the MS as required by the Texas Code of Criminal Procedure. At the MS, the trial court will conduct a hearing on all motions as requested by the parties. Meaningful plea negotiations are encouraged at this setting. If a plea agreement is reached, the plea proceeding may be scheduled as contemplated at the Consultation Setting.

If no plea agreement is reached following the MS on Expedited Case Track cases, the court will set the case for trial. If no plea agreement is reached on Basic or Complex Case Track cases, the parties will receive a Status Conference date.

## THE STATUS CONFERENCE

The last case setting before trial is the Status Conference (SC). Meaningful plea negotiations are encouraged at the SC. At the SC, the court may accept negotiated and non-negotiated pleas of guilty. After the SC, the court may refuse to accept any negotiated guilty plea. If no plea of guilty is entered at the SC, the parties will be required to complete a “Status Conference” form. The defendant will also be expected to execute necessary trial motions such as an application for probation and an election of punishment. After completion of the forms, the case will be scheduled for trial.

## THE CASE TRACKS

### THE EXPEDITED TRACK

The following types of state jail and third degree felony offenses are included in the expedited track:

Burglary of a building	Prostitution-4th
Credit/debit card abuse	Theft
Criminal nonsupport	Aggravated perjury
Evading arrest with vehicle	Bail jumping
False alarm or report	Escape from felony offense
Forgery	Unauthorized use of a vehicle
Possession of prohibited weapon	Tampering with evidence
UCW on licensed premises	Probation revocations
Fraudulent use or possession of identifying information	Unauthorized absence from CCF or CC

If any of the above listed offenses is filed as a habitual offender, the defendant's cases will be moved to the Basic Case Track.

The following table shows the progression of settings under the Expedited Case Track in number of days:

File date=(F); Indictment date=(I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial Appearance (IAS)	F+4	F+15	F+15
Consultation (CS)	F+10	F+30	I+15
Status Conference (SC)	I+15	I+15	I+60
Trial		within 4 weeks following MS	

## THE BASIC TRACK

All felony offenses not included in the Expedited or Complex Case Tracks, including but not limited to the following, are to be included in the Basic Case Track:

Cruelty to animals	Obstruction/retaliation
Engaging in organized crime	Possession firearm by felon
Improper photography or visual recording	Possession weapon –prohibited place
Injury to a child, elderly, disabled causing bodily injury	Stalking
Interference with child custody	Unlawful restraint
Tampering with witness	Violation of protective order
Terrorist threat	Aggravated assault
Unlawful restraint of child	Aggravated kidnapping
Delivery CS, PG1 < 1 gr.	Arson
Possession CS, PG1 <1 gr.	Bribery
Delivery marihuana > ¼ oz.	Burglary of habitation – theft
Possession marihuana > 4 oz.	Burglary of habitation – assault
Delivery CS, PG1A, <20 units	Escape causing bodily injury
Possession CS, PG1A, <20 units	Improper relationship-student/teacher
Assault	Indecency with child – contact
Deadly conduct	Robbery
DWI-3 <sup>rd</sup>	Sexual assault
Enticing child	Trafficking of persons
Improper contact with victim	Aggravated robbery
Indecency with a child--exposure	Aggravated sexual assault
Intoxication assault	Burglary of habitation – other
Kidnapping	Escape with deadly weapon
Evading arrest with SBI	Attempted capital murder
Manslaughter	Solicitation of capital murder
Injury to a child, elderly, or disabled with serious bodily injury	Criminal negligent homicide
Aggravated assault-serious bodily injury	Evading arrest with death
	Intoxication manslaughter
	Escape with serious bodily injury

The following table shows the progression of settings for cases in the Basic Case Track in number of days:

	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
File date (F); Indictment date (I)			
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	F + 10	F + 30	I + 15
Evidence Exchange (EES)	I + 15	I + 30	I + 90
Motion Setting (MS)	I + 90	I + 90	I+ 150
Status Conference (SC)	I + 135	I + 135	I+ 200
Trial		within 4 weeks of SC	

## THE COMPLEX CASE TRACK

The Complex Case Track includes the following offenses:  
Murder; Capital Murder; and any case that in the opinion of the court involves complex legal or evidentiary issues

The following table shows the progression of settings for these cases:

File date (F); Indictment date (I)	<u>Jail</u>	<u>SB7 Bond</u>	<u>Bond</u>
Initial appearance (IAS)	F + 4	F + 15	F + 15
Consultation (CS)	I + 15	I + 15	I + 15
Evidence Exchange (EES)	I + 100	I + 100	I + 100
Motion Setting (MS)	I + 150	I + 150	I + 150
Status Conference (SC)	I + 200	I + 200	I + 200
Trial		within 6 weeks of SC	

In capital murder cases, the state will elect whether it will seek the death penalty at the Consultation Setting.

If no agreed plea is negotiated following the Consultation Setting it may be necessary for the judge to enter a "Scheduling Order". The parties will not be excused from this setting until this issue has been settled.

## MISCELLANEOUS PROVISIONS

The state has agreed to bring all of the defendant's pending case files including misdemeanor files to all settings in district court to facilitate global resolution of cases.

All district courts have agreed to use only uniform written plea admonishment forms for pending cases and probation revocations.

All defendants in custody should be present at all court settings.

The district courts will schedule court settings (except trial settings) as follows:

Monday: 396<sup>th</sup>, CDC2, 372<sup>nd</sup> and 432<sup>nd</sup>

Tuesday: CDC3 and 297<sup>th</sup>

Wednesday: 371<sup>st</sup>

Thursday: CDC4

Friday: CDC1 and 213<sup>th</sup>

Hearings on property seizures and expunctions will be heard in the assigned court during non-jury weeks.

The designated court coordinator and the Office of Attorney Appointments must receive a vacation letter at least 45 days prior to the beginning of the requested vacation or it is void.

A motion for continuance must be in writing, under oath, and presented in open court with all parties present, as required by the Texas Code of Criminal Procedure. A continuance may only be granted for the prosecution or the defense for sufficient cause shown, as defined by statute.

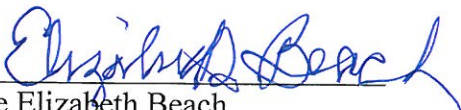
Applications for the DIRECT program or the District Attorney's Deferred Prosecution Program should be made at the earliest possible time.



**ORDER**

The undersigned judges approve and ORDER the implementation of the Differentiated Felony Case Management System as set out above on September 16, 2013.

Signed this 6<sup>th</sup> day of February 2015.



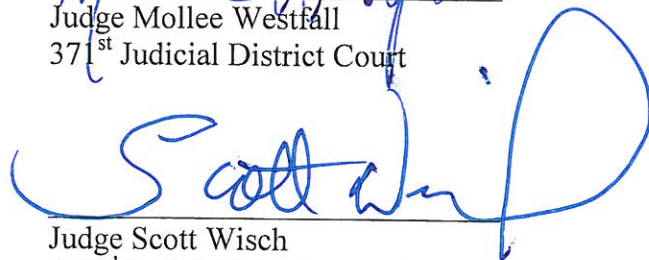
Judge Elizabeth Beach  
Criminal District Court No. One



Judge Mollie Westfall  
371<sup>st</sup> Judicial District Court



Judge Wayne Salvant  
Criminal District Court No. Two



Judge Scott Wisch  
372<sup>nd</sup> Judicial District Court



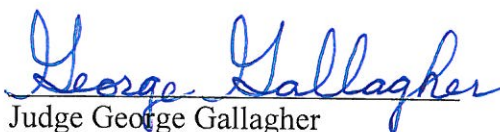
Judge Robb Catalano  
Criminal District Court No. Three



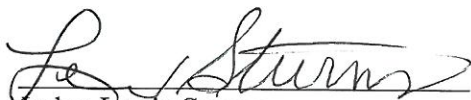
Judge David Hagerman  
297<sup>th</sup> Judicial District Court



Judge Mike Thomas  
Criminal District Court No. Four



Judge George Gallagher  
396<sup>th</sup> Judicial District Court



Judge Louis Sturns  
213<sup>th</sup> Judicial District Court



Judge Ruben Gonzalez  
432<sup>nd</sup> Judicial District Court