

# Vigo County, Indiana Jail and Criminal Justice System Assessment Part I

Indiana Public Law 1034-2018  
Jail Feasibility  
Study



July 21, 2018

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



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Jail and Criminal Justice System Assessment

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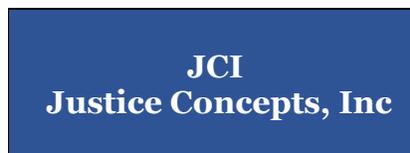
July 21, 2018

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*“You must never be fearful about what  
you are doing when it is right.”*

Rosa Parks

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## Section 1. OVERVIEW AND FINDINGS

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This report is Part 1 of the Vigo County Jail and Criminal Justice Assessment. The primary purpose 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 7, 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 8 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 9 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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## 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 provide assistance 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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**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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## 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 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

<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.

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 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

<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

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 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*

<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)

*protocols in place at [the jail] to guide corrections officers in the very limited medical 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>

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<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 our 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) But 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 option to lower the level of care just because there is not enough staff. If a shift supervisor leaves a needed post vacant

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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).

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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**1) 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.

## 2) 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 Vandenburg 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.

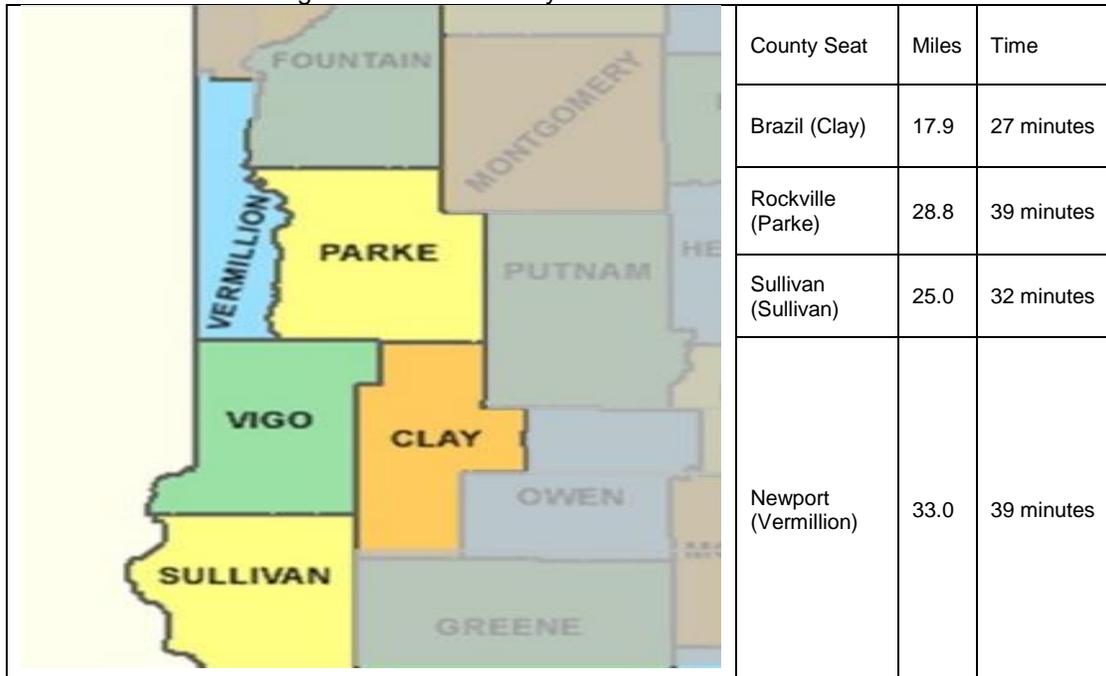
County	Inmate Pop.	Num. of Beds	Jail Rate of Utilization	Jail Over Capacity*	Num. of Inmates sentenced to serve county time	Num. of beds for DOC holding	Num. of inmates being held for DOC	Num. of sentenced inmates awaiting transfer to DOC	Num. of inmates for US marshal /ICE	Adequate Jail Staffing
Clay	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>

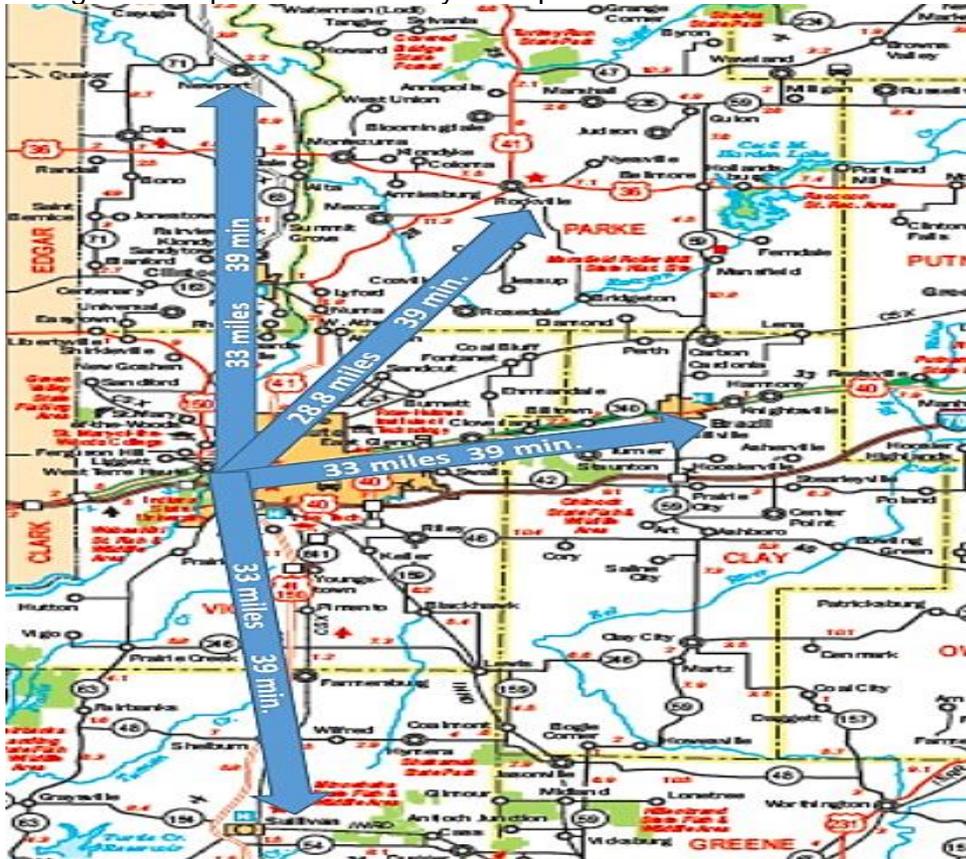
- 3) Also, as the largest of the five jails, Vigo County would be the logical location of a regional facility, as depicted on the map and chart below showing location, distance and estimated travel time. Figure 2 shows bordering counties, distances and estimated travel times.

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

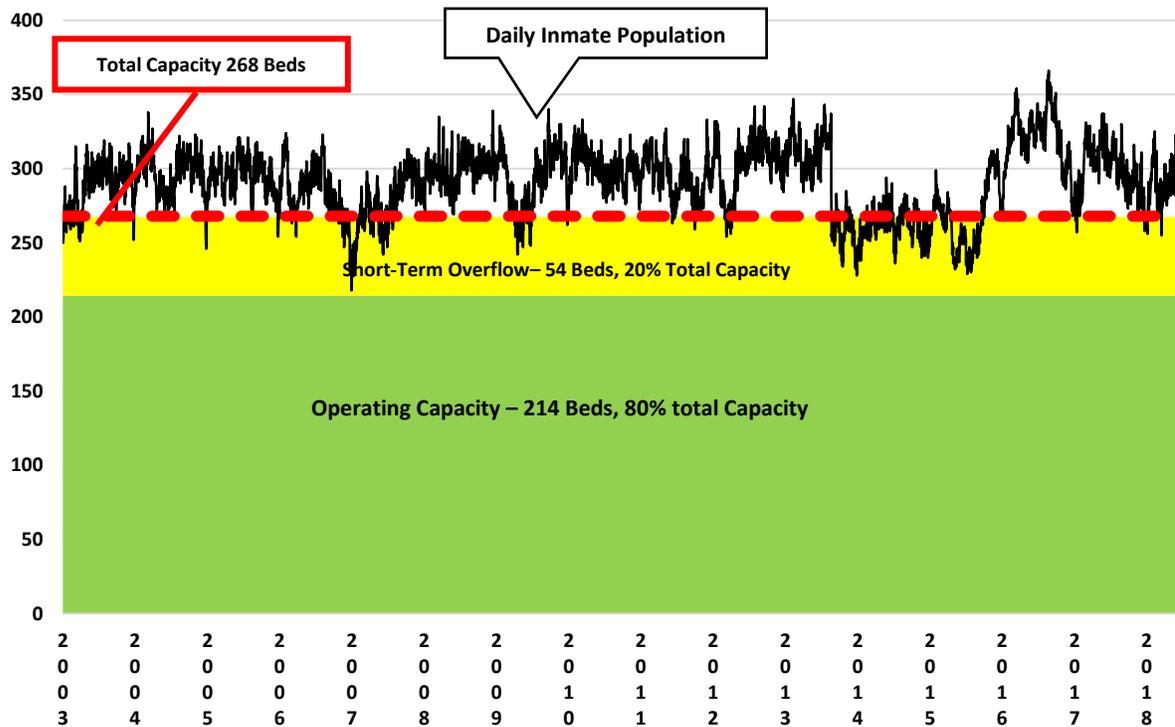
**SECTION 10.**  
**PROJECTION ESTIMATE OF THE NUMBER AND CHARACTERISTICS OF FUTURE INMATES RELATIVE TO CURRENT AND FUTURE JAIL CAPACITY NEEDS**

**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 can 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.

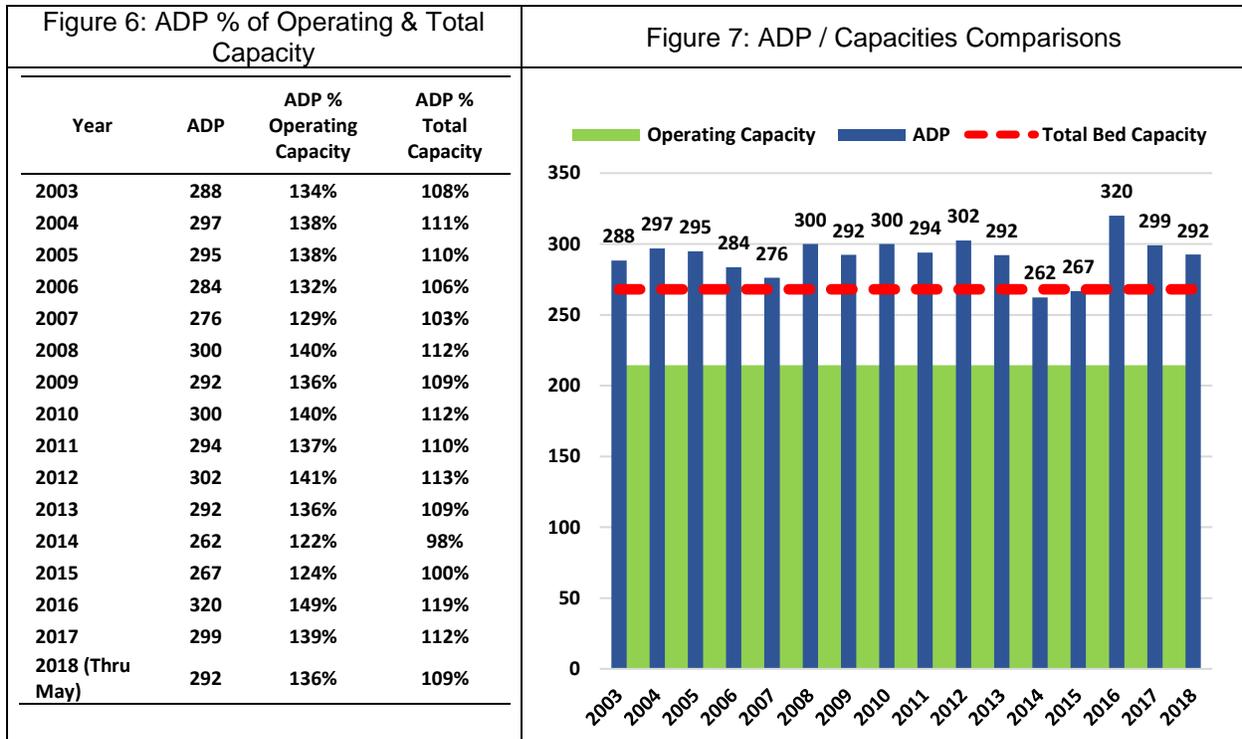
- 1) **Daily Inmate Population.** The Vigo County inmate population exceeded the jail's operating capacity every day between January 1, 2003 through May 30, 2018 (the data range for this assessment). Additionally, the jail has exceeded total capacity approximately 84% of days for more than the past 15 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.

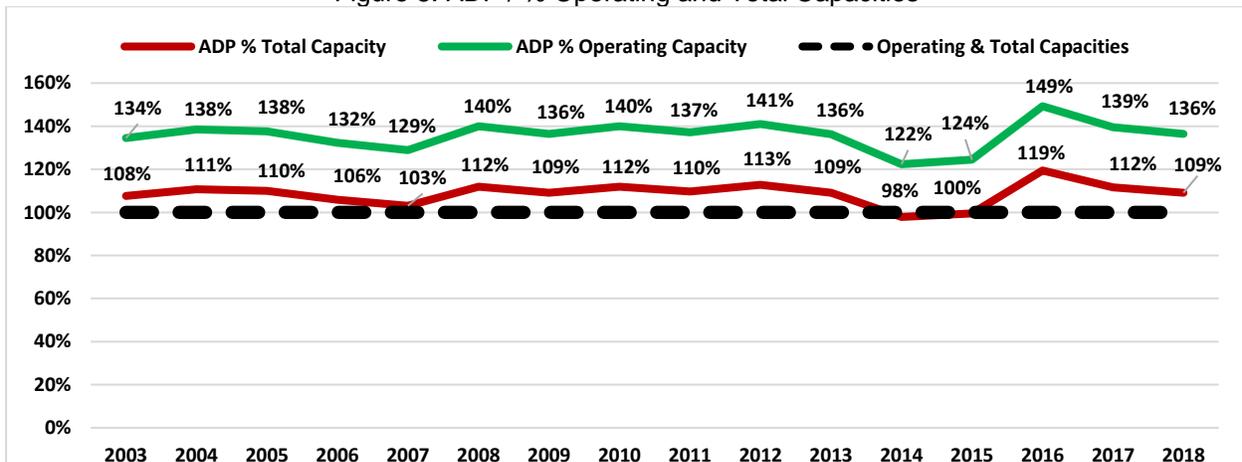


- 2) **Average Daily Population (ADP).** The average daily inmate population (ADP) is the mean average of the daily population divided by the number of days in a given year. ADP is typically measured annually to assist in identifying population trends and patterns from year to year.

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.

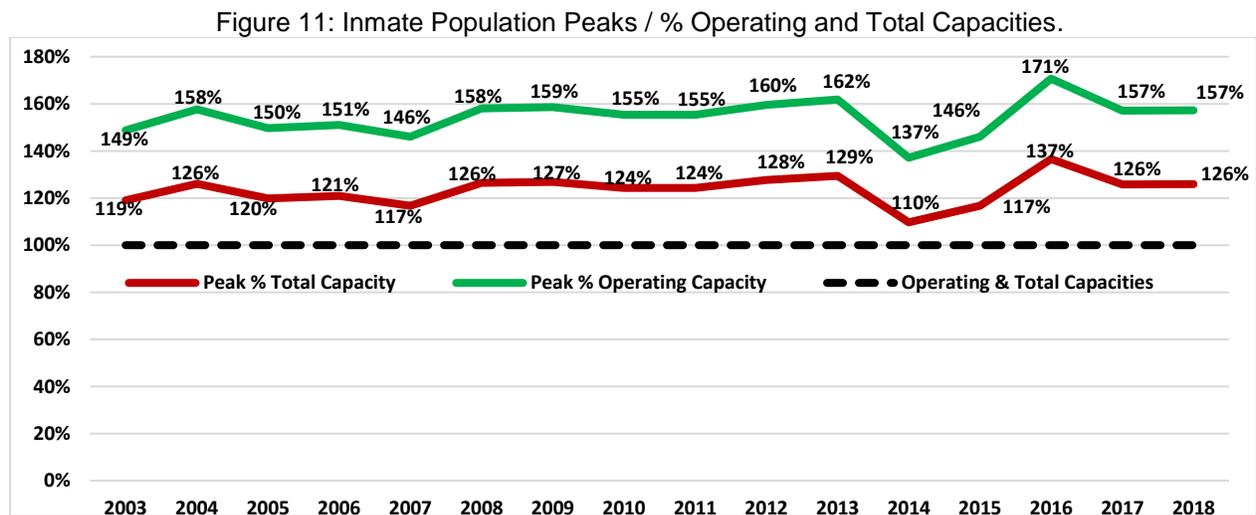
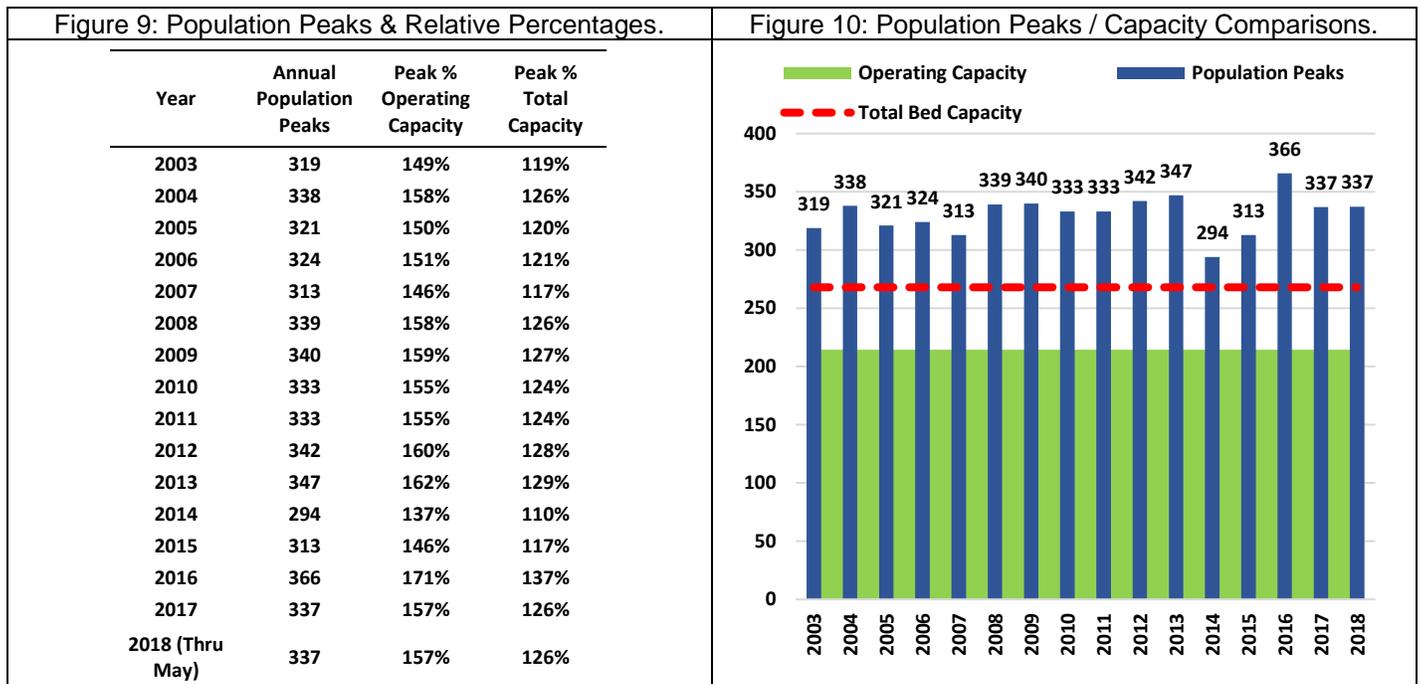


**Figure 8: ADP / % Operating and Total Capacities**



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) **Body Count.**

Figure 12: ADP/Peaks Above Capacities

1) 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.

2) 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.

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).

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

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

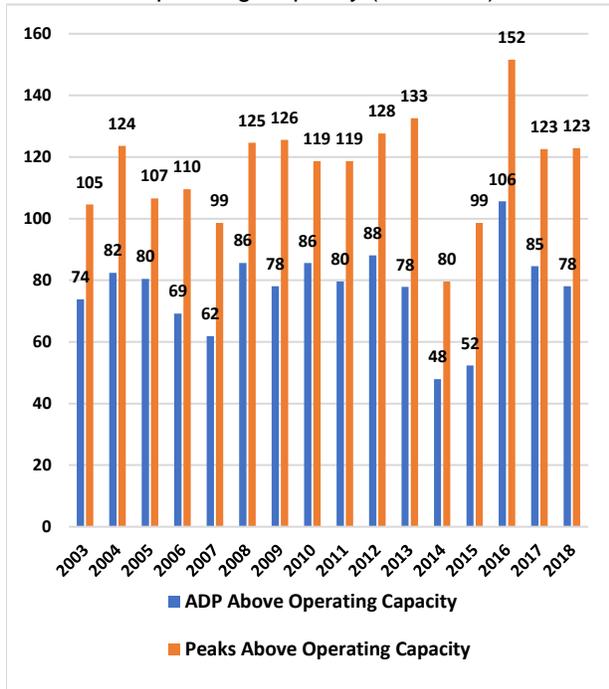
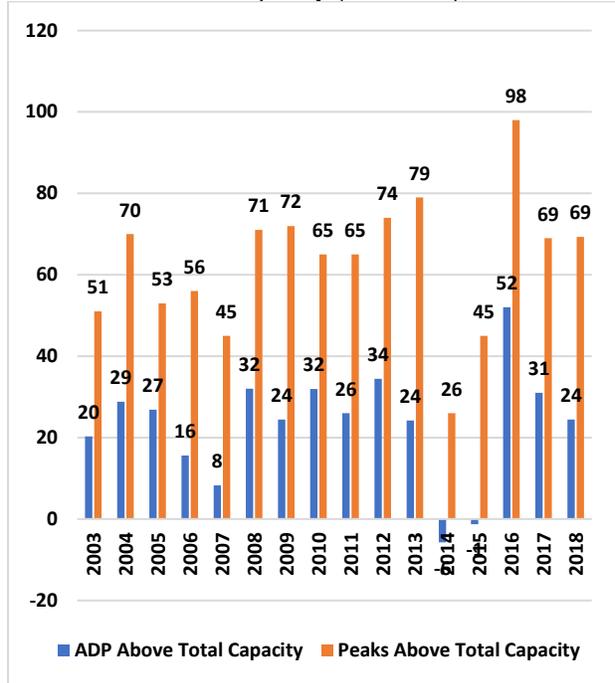


Figure 14: ADP & Peak Population Exceeding Total Capacity (268 beds)

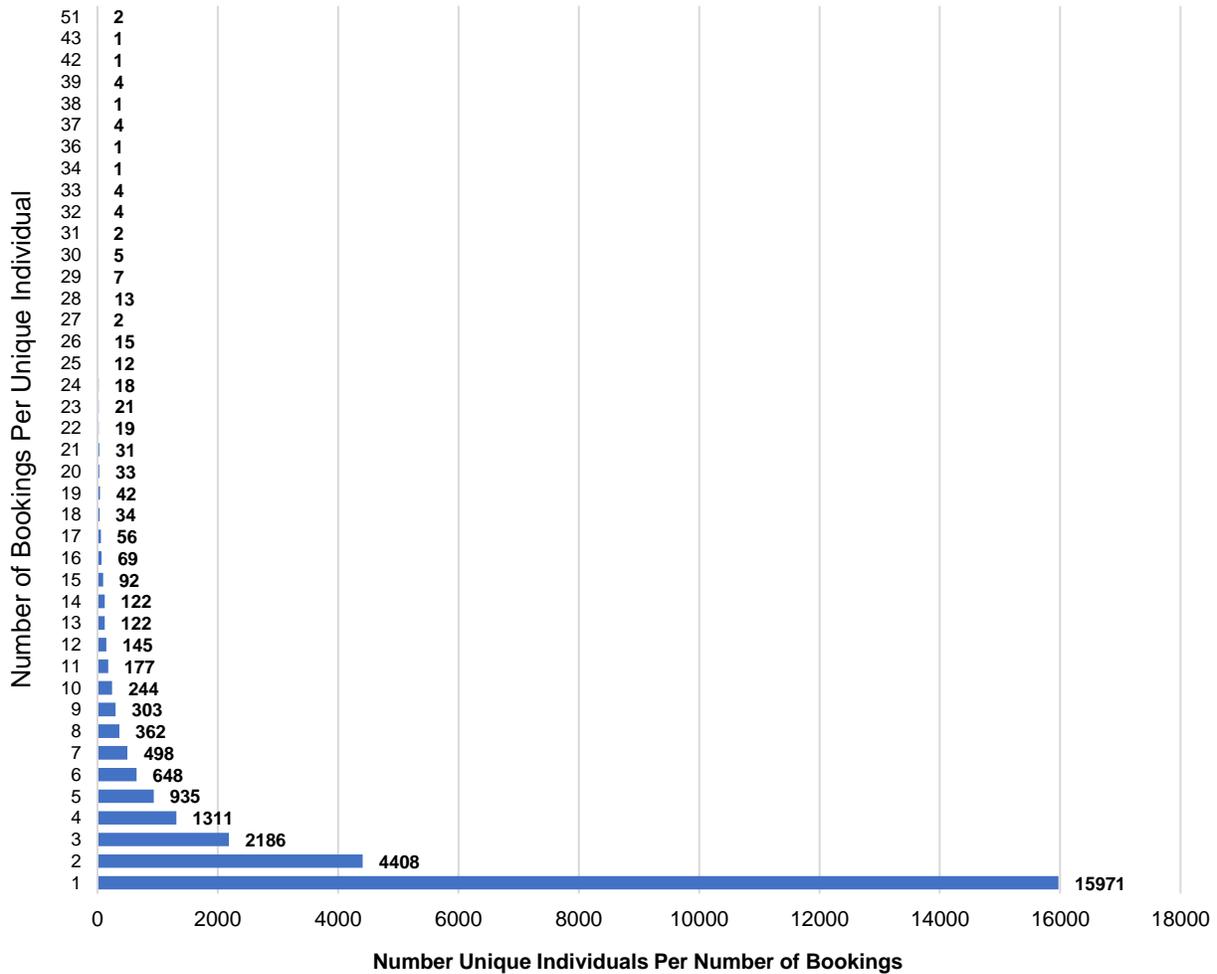


## B. Jail Population Characteristics

1) **Jail Readmissions is 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 recidivism rates.

a) In aggregate, approximately 27,926 unique individuals account for all 73,544 jail admissions from 2003 through 2017.<sup>26</sup> Nearly 16,000 (15,917 / 52%) were booked only once and account for almost 22% of all bookings. The remaining 43% 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)

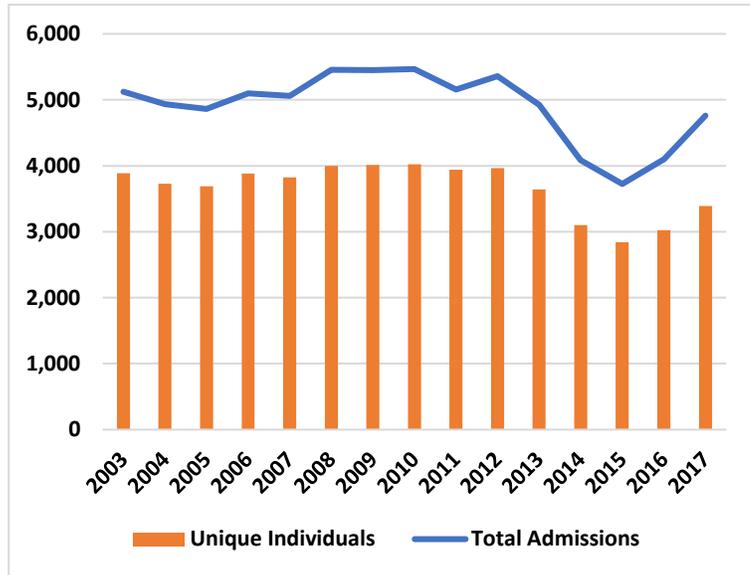


- b) The aggregate readmissions rate is the total number of bookings for each unique individual in 2003 through 2017. Approximately 27,926 unique individuals account for all 73,544 jail admissions from 2003 through 2017. Almost 16,000 (15,917 / 52%) were booked only once and account for almost 22% of 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) The 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>27</sup>

<sup>27</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

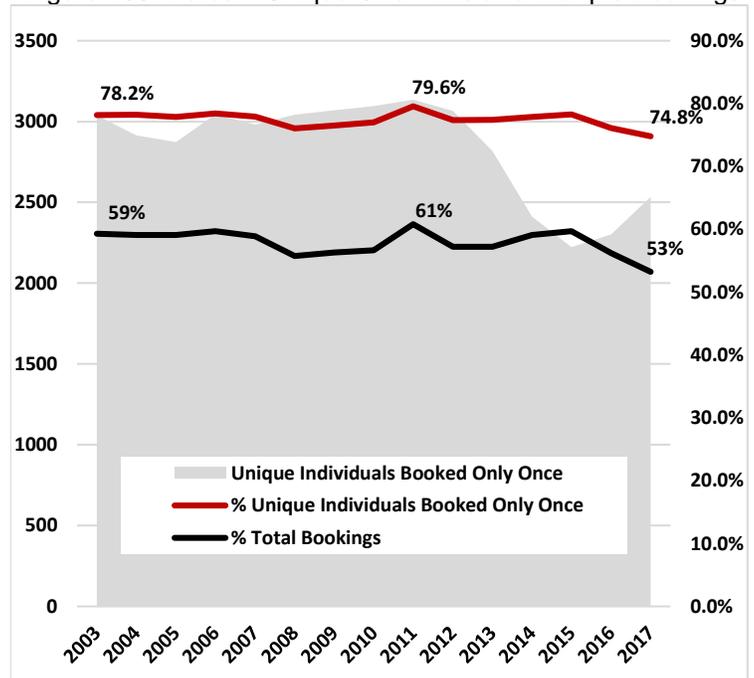


d) The percent of unique individuals booked only once per year ranges from approximately 75% (2017) to almost 80% (2011). Per one-time admissions account for 53% to 61% of total annual bookings as shown in Figures 18 and 19 below.

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 due to potential. See Figures 20 and 21 below.

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

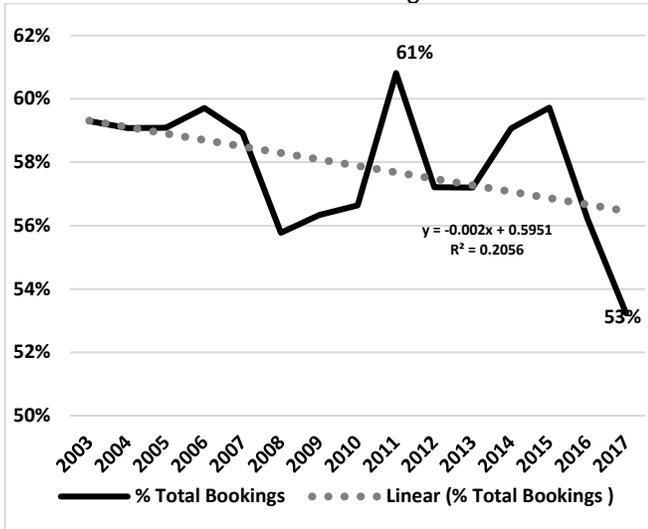
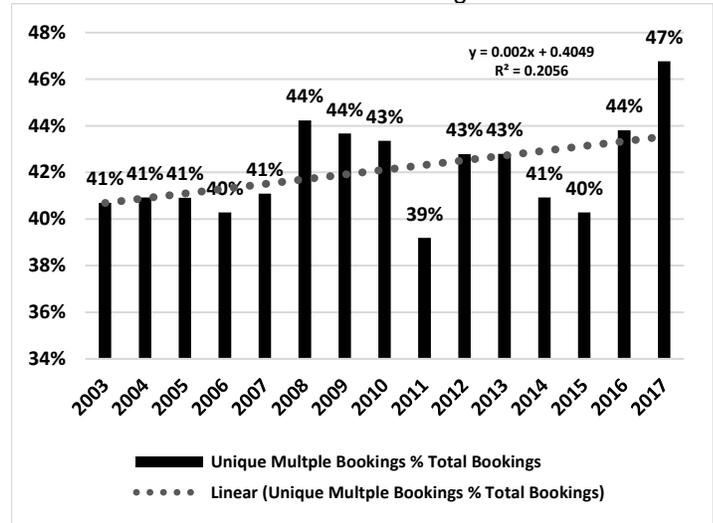


Figure 21: Per Year Unique Readmissions % Total Bookings

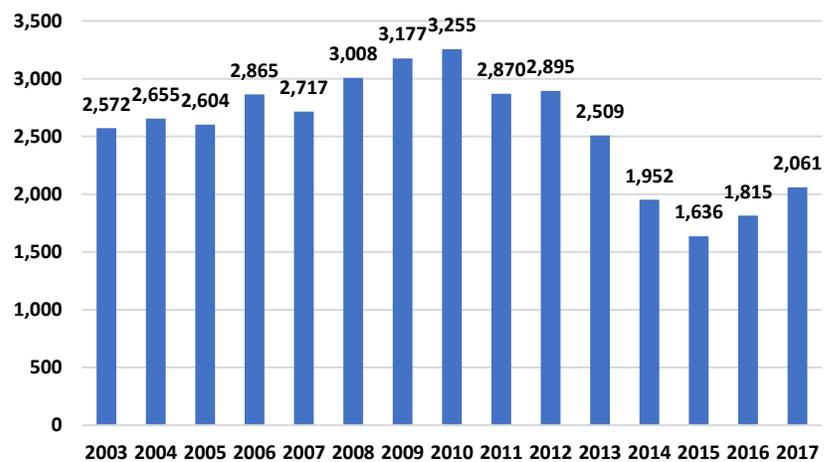


2) **Length of Stay (LOS) Is Growing.** Approximately 38,591 (53%) of 73,554 total jail admissions 2003-2017 stayed less than one day incarcerated as shown in Figures 22 and 23 below.

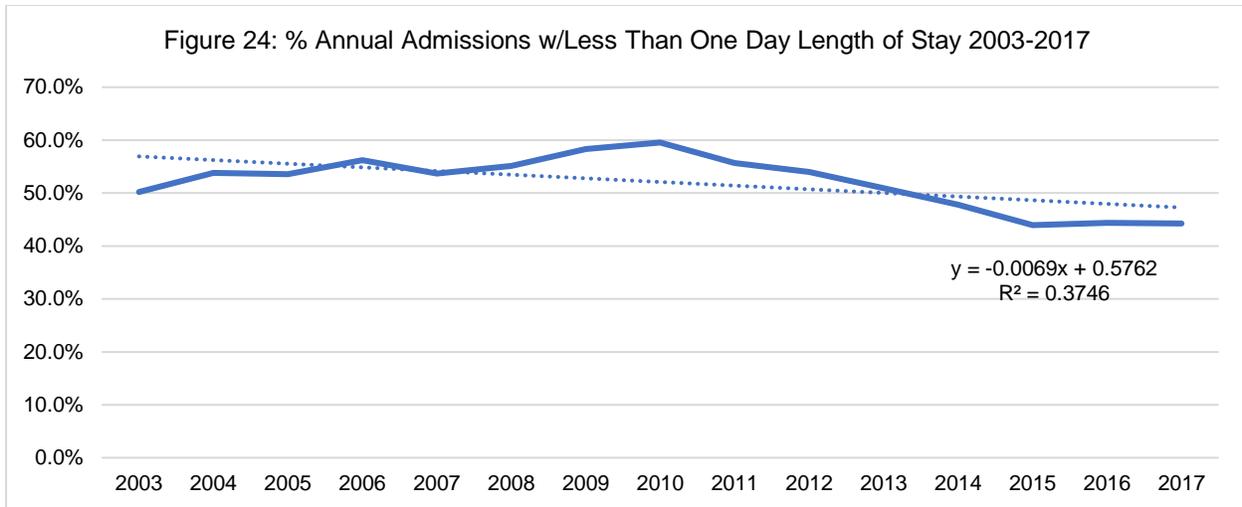
Figure 22: # Admissions w/Less Than One-Day Length of Stay

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%
Total	38,591	52.5%

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.

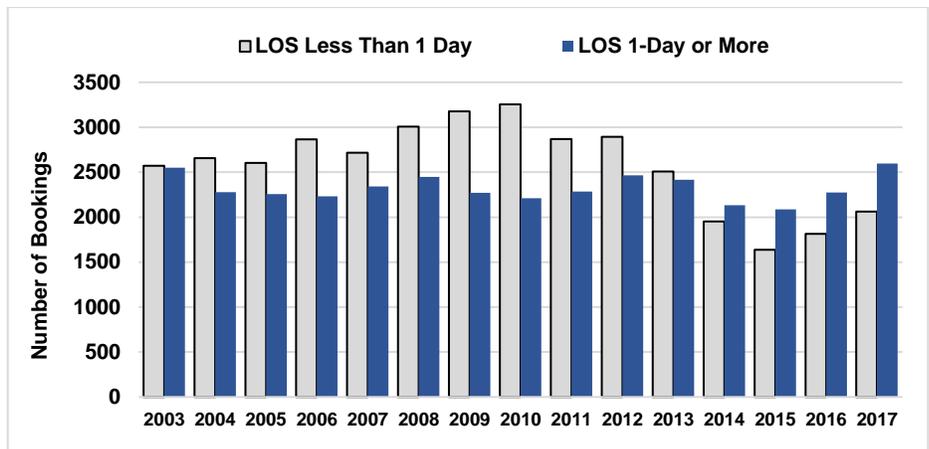


b) Concomitantly, the number and percent of bookings remaining in custody one day or more is increasing as shown in Figures 25 and 26 below.

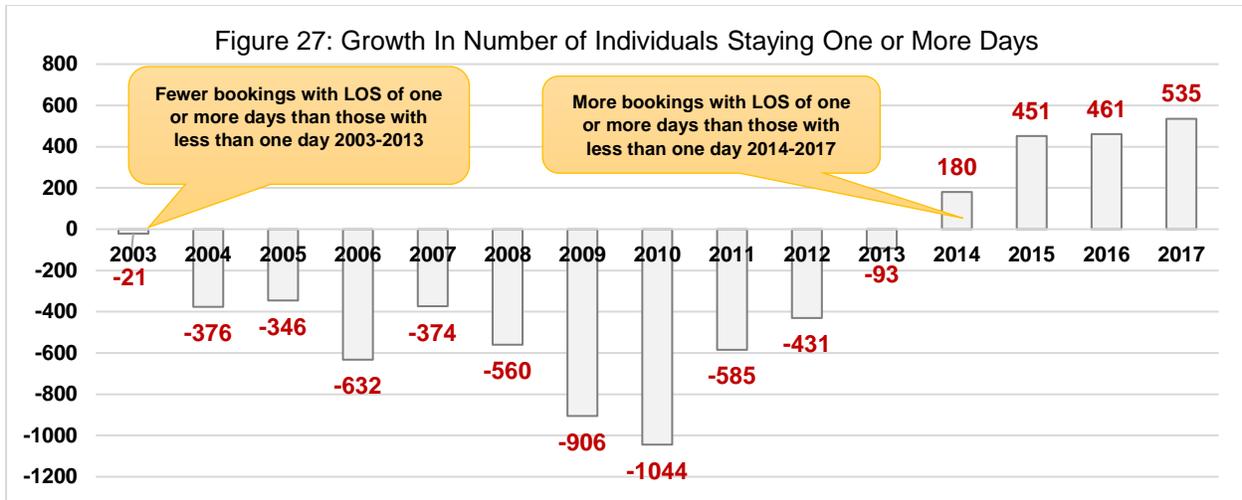
Figure 25: Bookings LOS Less and More Than One Day

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 day 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. This 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.



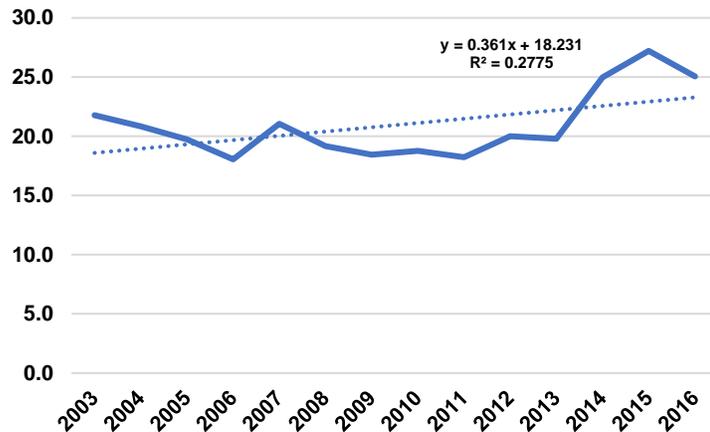
### 3) Average Length of Stay (ALOS) Is Growing.

- 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

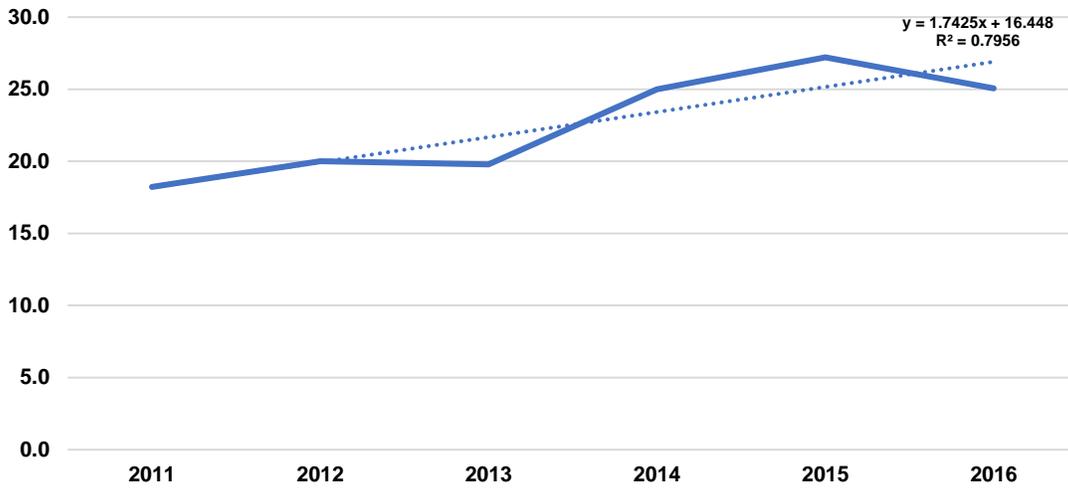
Booking Year	Total Bookings	Total Releases	ALOS
2003	5,123	4,864	21.8
2004	4,934	4,926	20.8
2005	4,862	4,869	19.7
2006	5,098	5,151	18.1
2007	5,060	5,002	21.1
2008	5,456	5,441	19.2
2009	5,448	5,468	18.4
2010	5,466	5,451	18.8
2011	5,155	5,143	18.2
2012	5,359	5,346	20.0
2013	4,925	4,996	19.8
2014	4,084	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

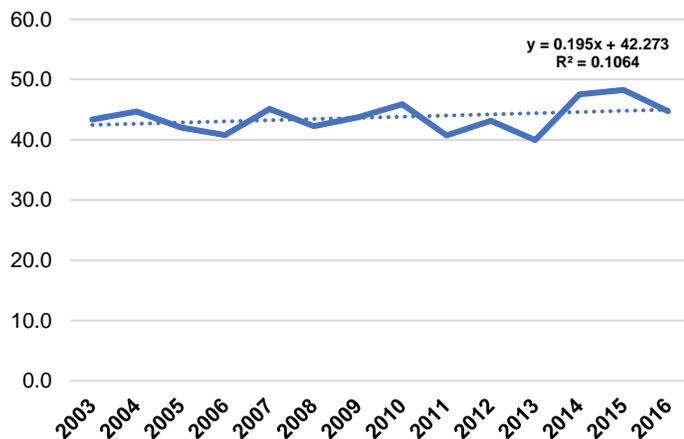


- b) **ALOS for Bookings with LOS of One or More Days.** ALOS for these bookings has trended upward approximately 3.2% from 43.3 days 2003 to 44.8 through 2017, and approximately 10% from 40.7 days in 2011 to 44.8 through 2017, as shown in Figures 31 and 32.

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

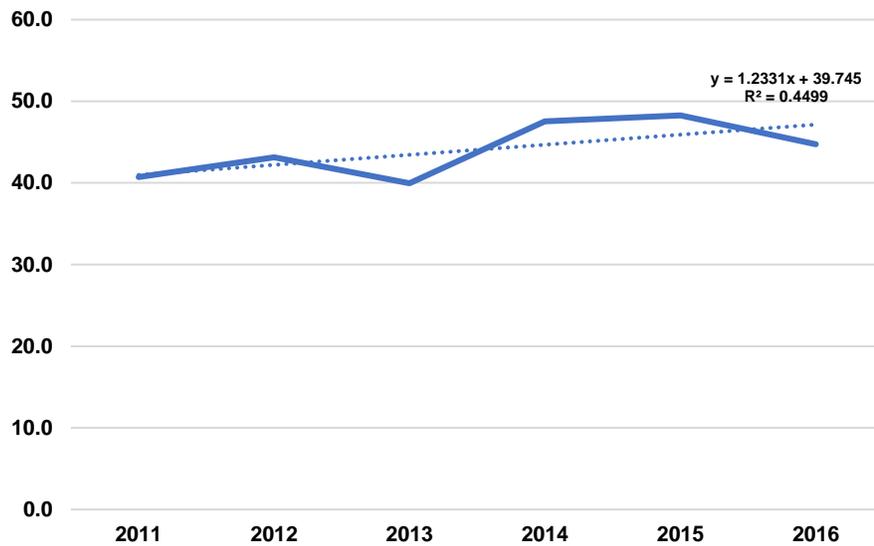
Booking Year	Total Bookings	Total Releases	ALOS
2003	2,551	4,864	43.3
2004	2,279	4,926	44.7
2005	2,258	4,869	42.1
2006	2,233	5,151	40.8
2007	2,343	5,002	45.1
2008	2,448	5,441	42.3
2009	2,271	5,468	43.8
2010	2,211	5,451	45.9
2011	2,285	5,143	40.7
2012	2,464	5,346	43.2
2013	2,416	4,996	40.0
2014	2,132	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

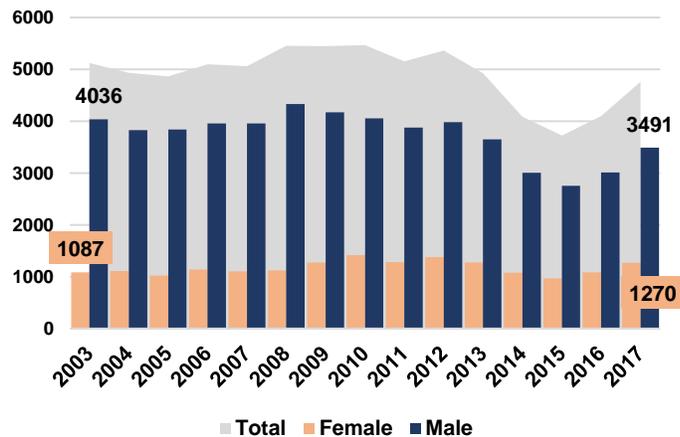
Interesting changes in jail population gender composition occurred from 2003 through 2017.

- 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 is shown in Figures 34 and 35 below.

Figure 34: Bookings by Gender

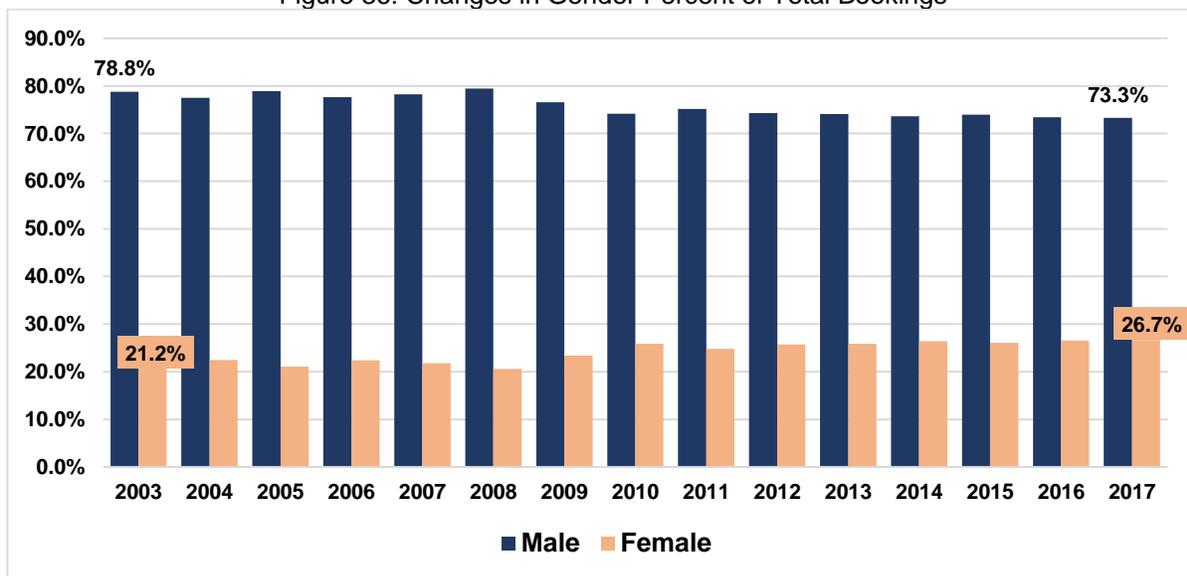
Booking Year	Male	Female	Other (Unk)	Total	Male	Female
2003	4036	1087	0	5123	78.8%	21.2%
2004	3825	1109	0	4934	77.5%	22.5%
2005	3838	1024	0	4862	78.9%	21.1%
2006	3957	1141	0	5098	77.6%	22.4%
2007	3958	1102	0	5060	78.2%	21.8%
2008	4333	1123	0	5456	79.4%	20.6%
2009	4172	1276	0	5448	76.6%	23.4%
2010	4053	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



2) **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

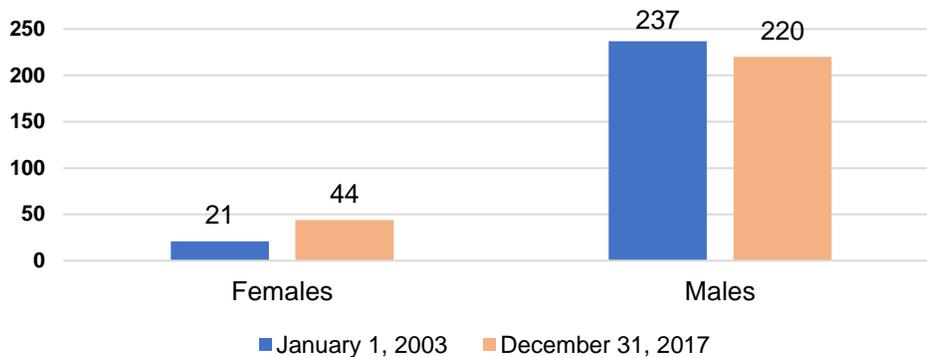


Figure 39: Jan 1, 2003 Percent Total Population

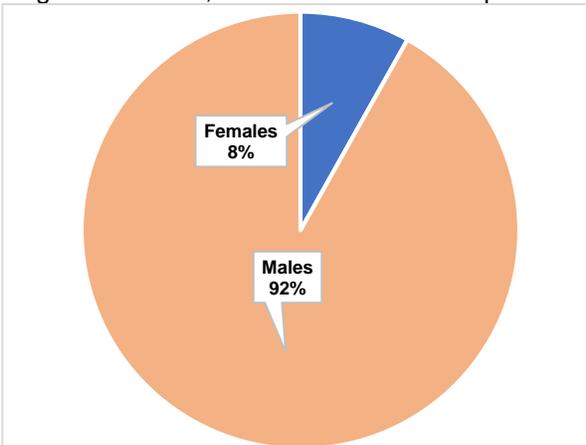
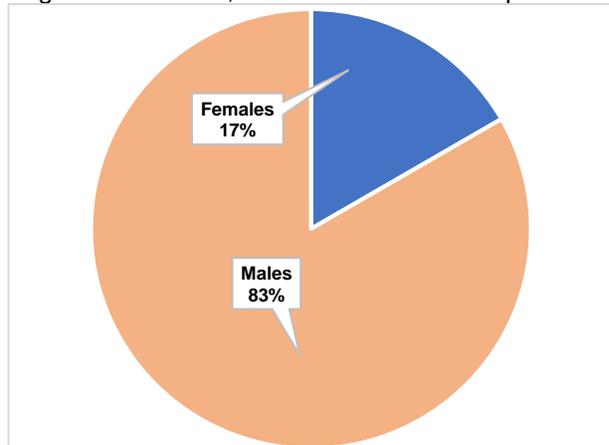
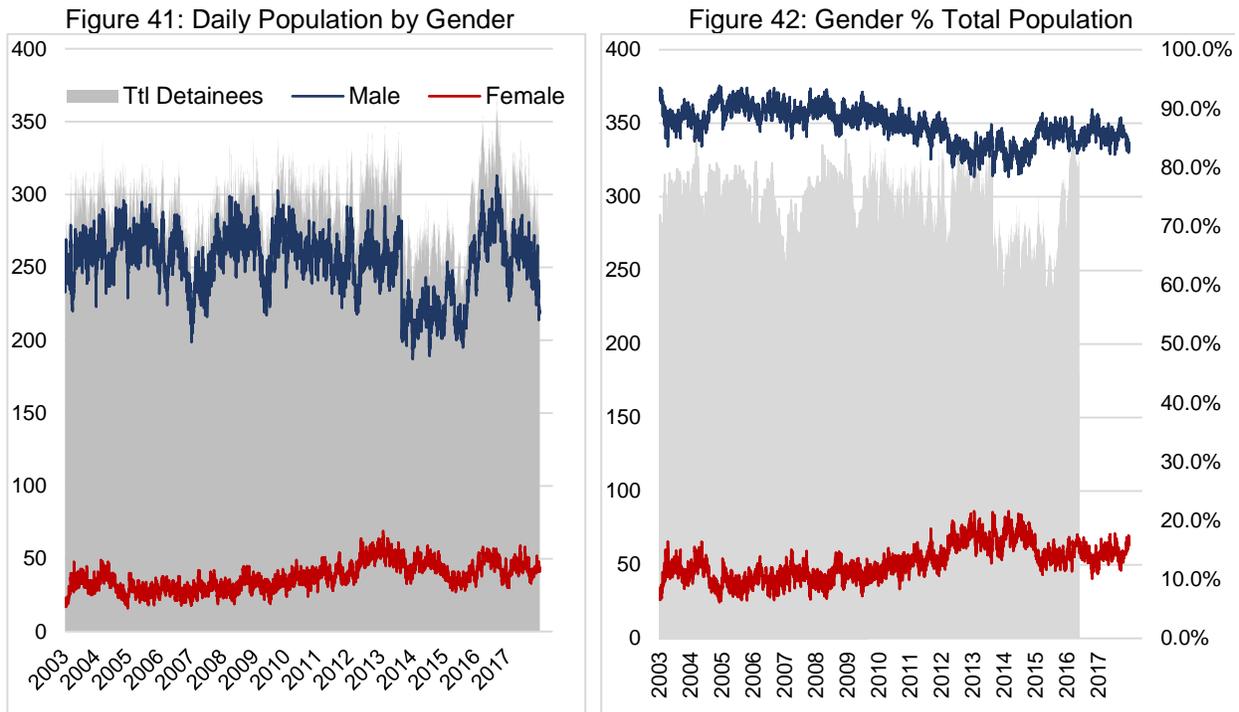


Figure 40: Dec 31, 2017 Percent Total Population



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.



### 3) 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

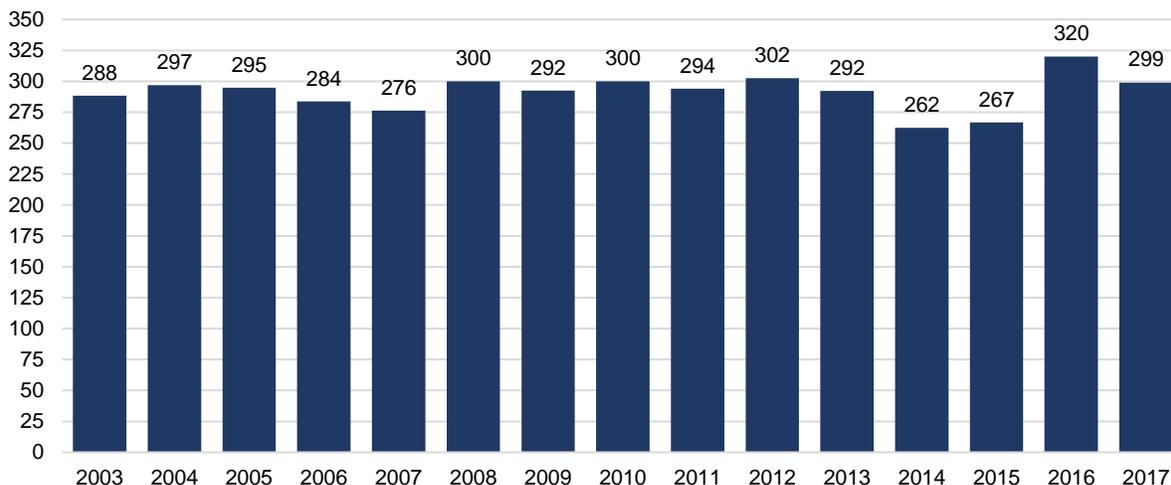
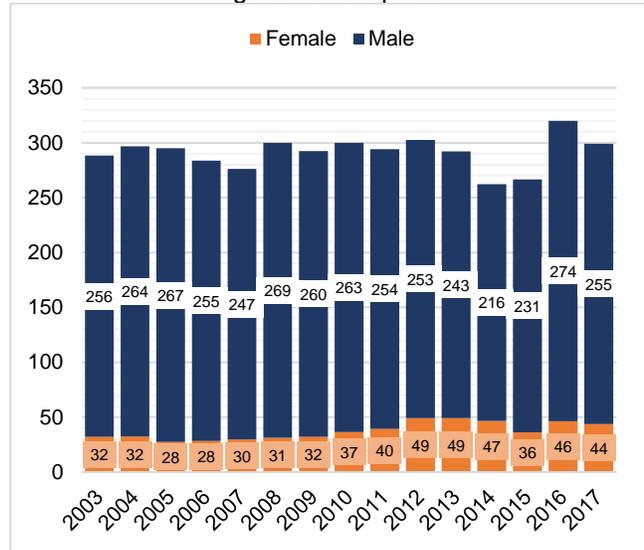


Figure 44: Gender ADP

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	262	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

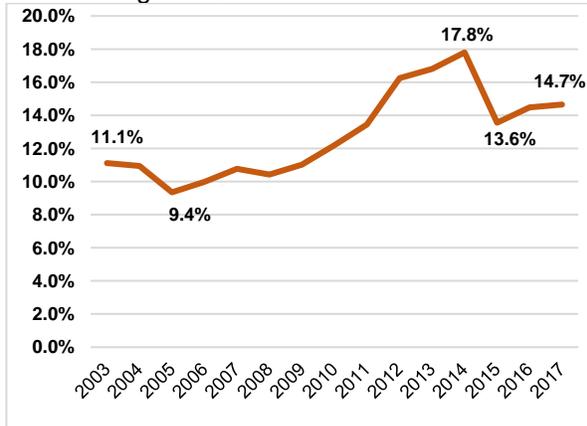
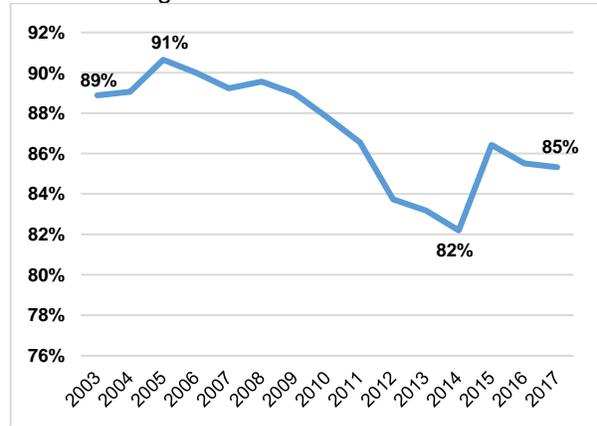


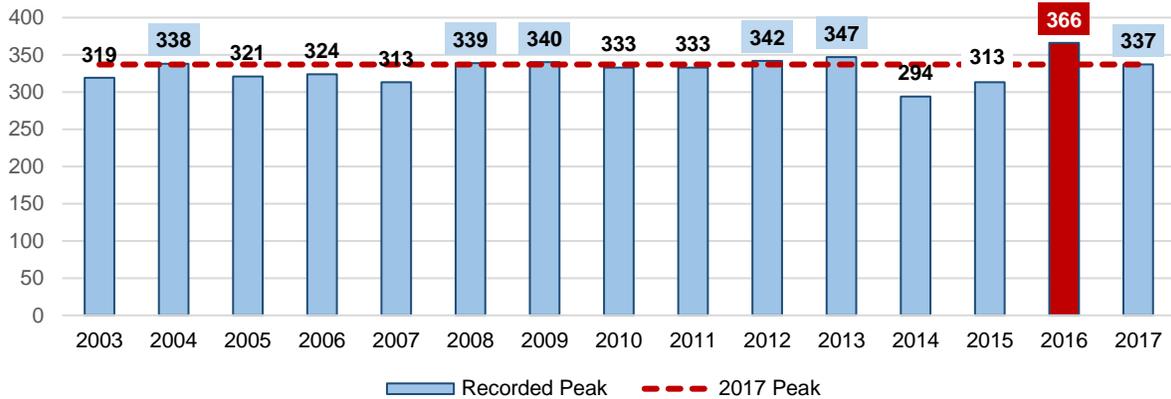
Figure 47: Male % Total ADP



4) **Population Peaks.**

- a) The detainee population peak is the highest number of daily detainees 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 those 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

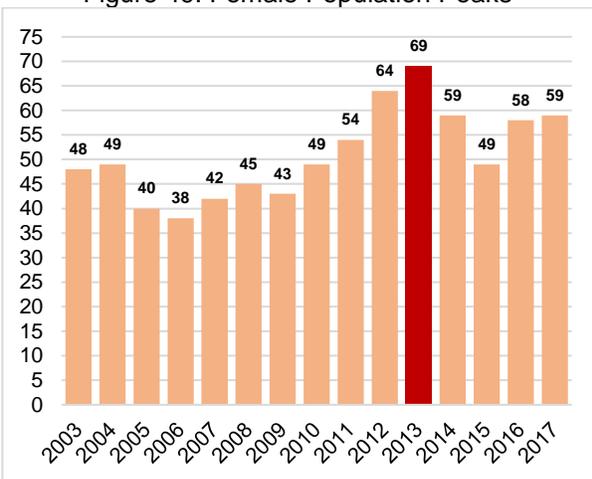
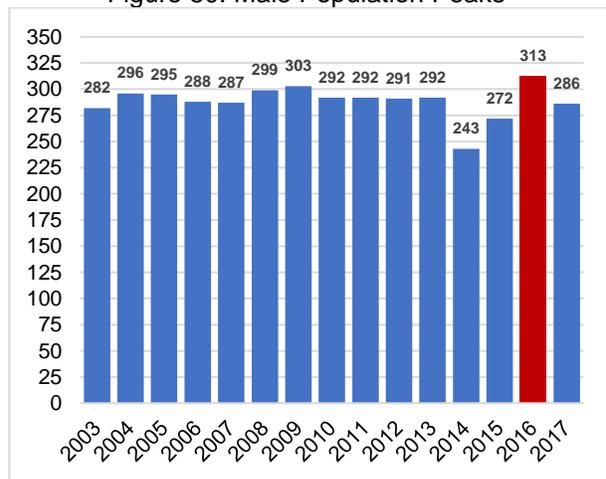


Figure 50: Male Population Peaks



### 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 the farther out in time the forecast goes. 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>28</sup>*

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<sup>28</sup> Surette, R., Applegate, B., McCarthy, B., & Jablonski, P. (2006). Self-destructing prophecies: Long-term forecasting of municipal bed need. *Journal of Criminal Justice*, 34, 57-72.

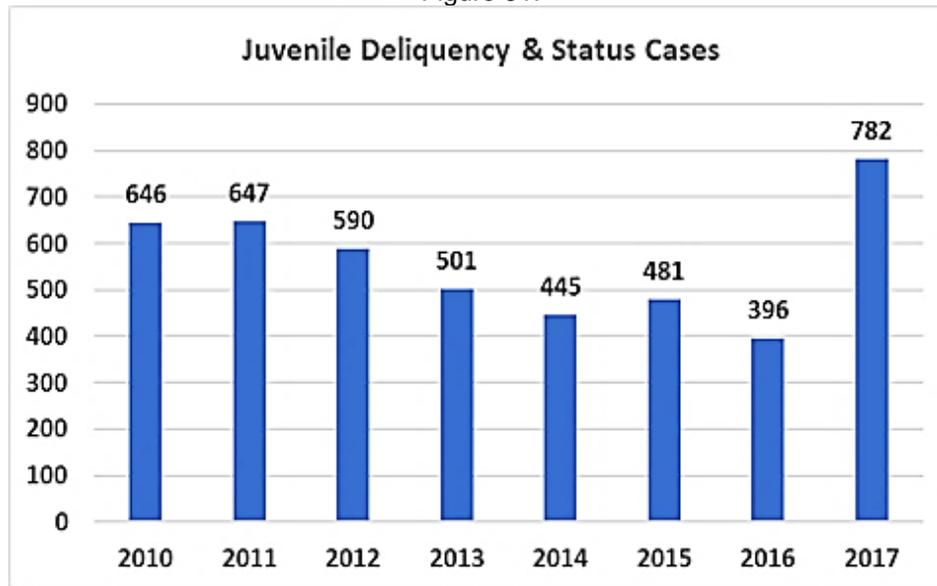
- 3) Using primarily linear regression models of actuarial data (jail bed utilization) and classification capacity factors of 25% to 30% for bed need forecast estimates, two initial very rough bed need estimates of 421 and 462. Both of these estimates were based on a linear forecast of historical jail annual daily peak populations 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 construction and operating cost estimating purposes. Secondly, the annual daily peak data provided are used by jail for the purposes of 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 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) Adding 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>29</sup>
- 6) County officials should be aware of at least six trends and issues ds 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 in CHINS (Children in Need of Supervision) cases, 2) increasing Juvenile and Status Offense, 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>29</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. It is, unfortunately, 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:



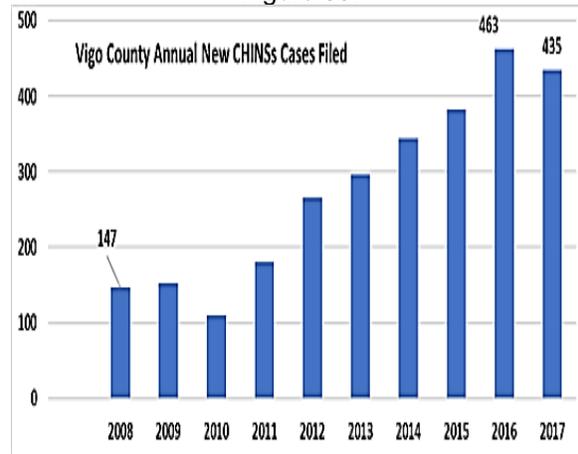
- 8) **Children in Need of Supervision / Services is Increasing (CHINS).** Child in Need of (court/social services) Supervision (CHINs): This population includes abused, neglected, and at-risk. Being at great risk for criminal justice system involvement is a disheartening and very unfortunate reality 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 from 314 to 832, 2010 to 2017 for a 165% increase; 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:

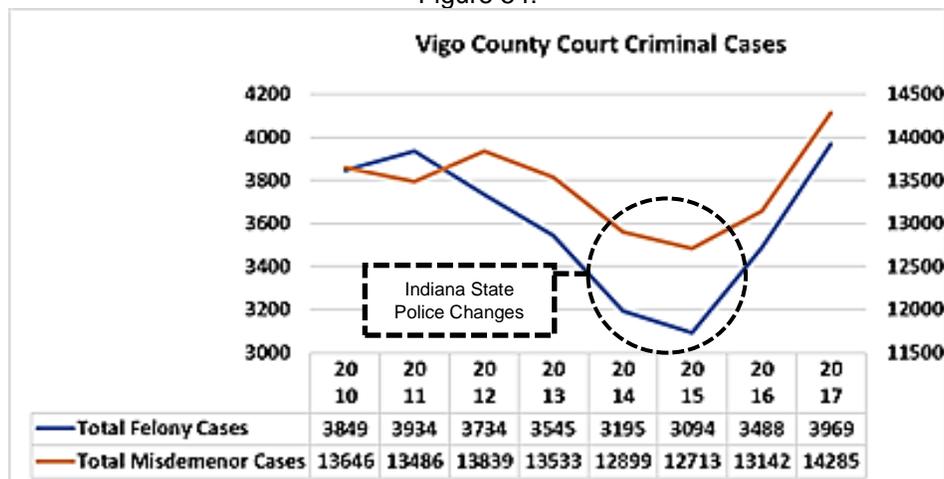
2008	147
2009	153
2010	110
2011	181
2012	266
2013	297
2014	344
2015	383
2016	463
2017	435

Figure 53:



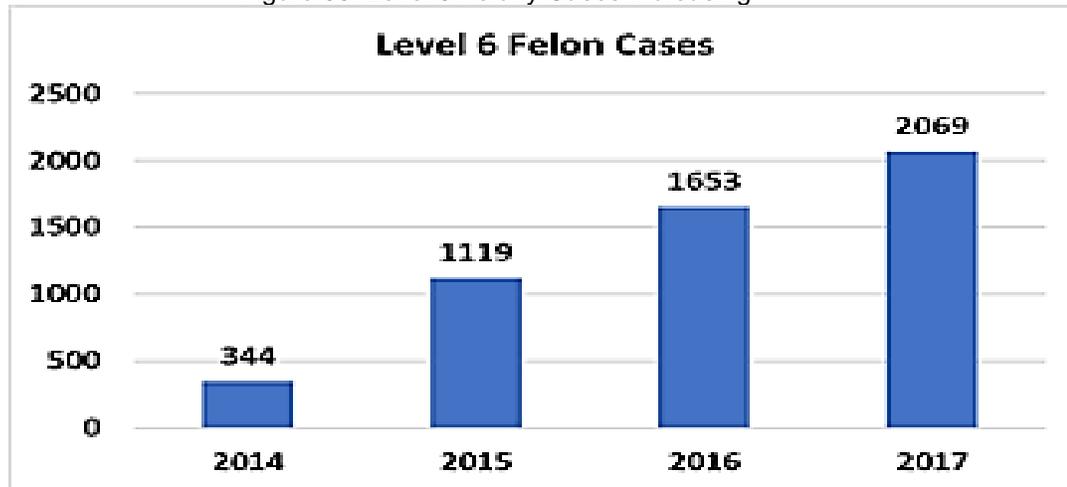
9) **Increasing Felony and Misdemeanor Criminal Cases.** Felony and misdemeanor cases began trending upward in 2015 following considerable decrease from 2010 to 2015. According to county officials, it is our understanding that the Indiana State Police station closed in 2014, which can account for some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

Figure 54:



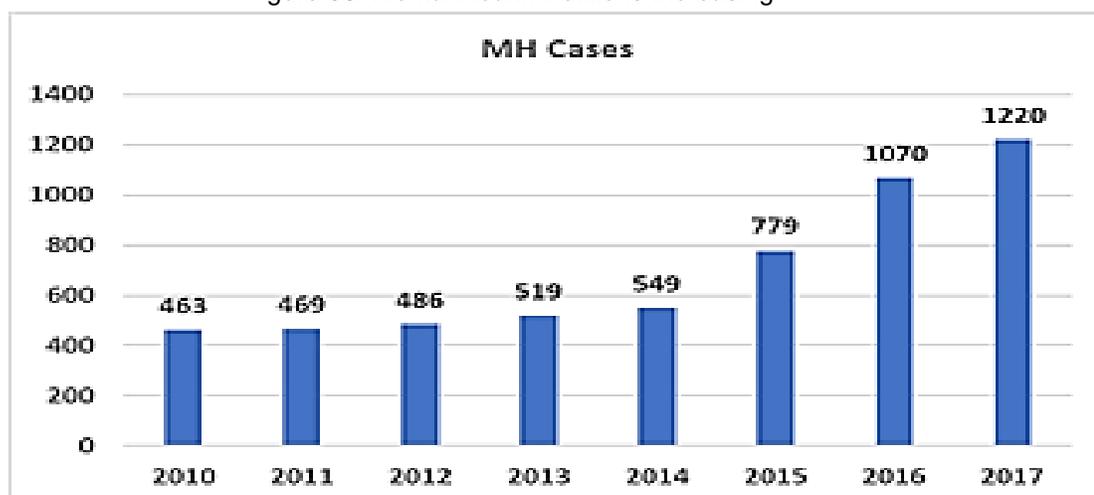
10) **Increasing Felony Level 6 Cases.** The Indiana State Legislature in 2014 off-loaded legal and financial responsibility for incarceration of level 6 offenders. As a result, Vigo County is obligated to incarcerate this population even after conviction when doing so is indicated. Level 6 cases increased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

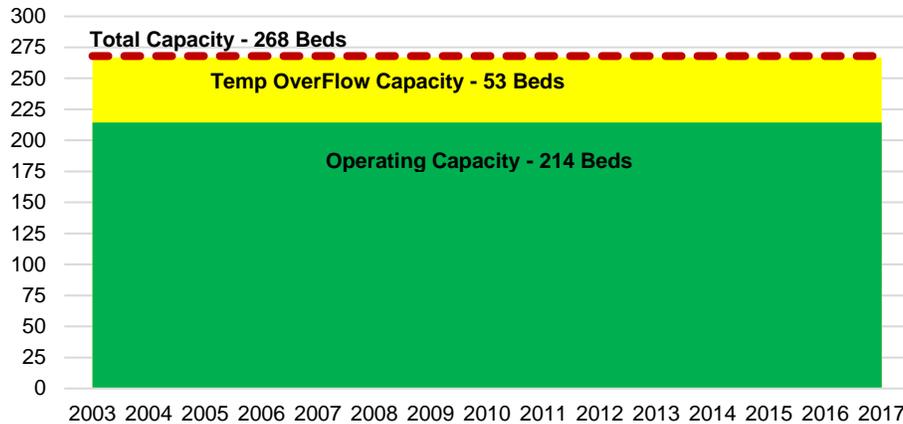
Figure 56: Mental Health Petitions Increasing



**D. Let the Forecasting Begin.**

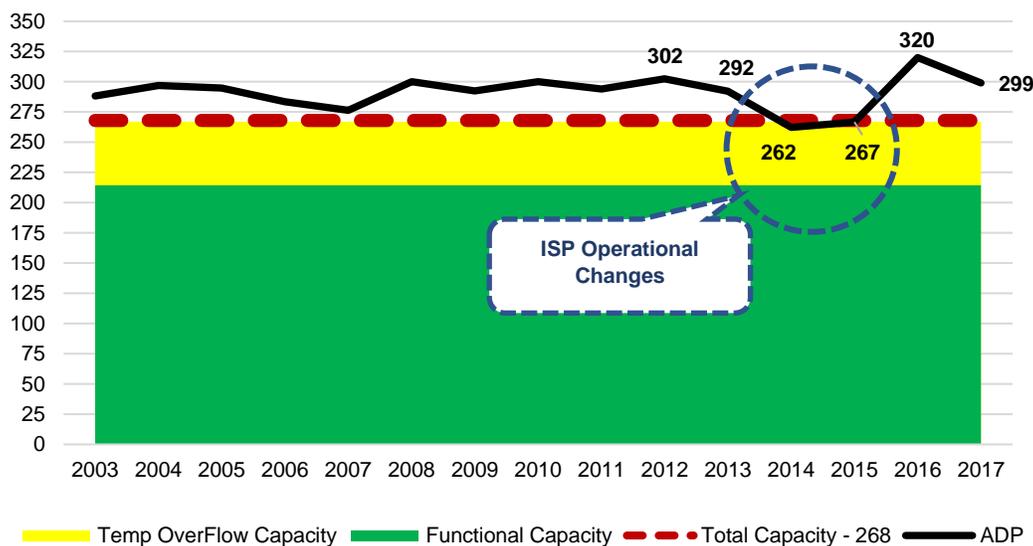
- 1) The Vigo County jail has approximately 268 total beds and an operating capacity of 2014, which is 80% of total capacity. There should be approximately 53 beds temporary beds for booking and population overflow, but the facility was not designed as such and chronic overcrowding exacerbates that design 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



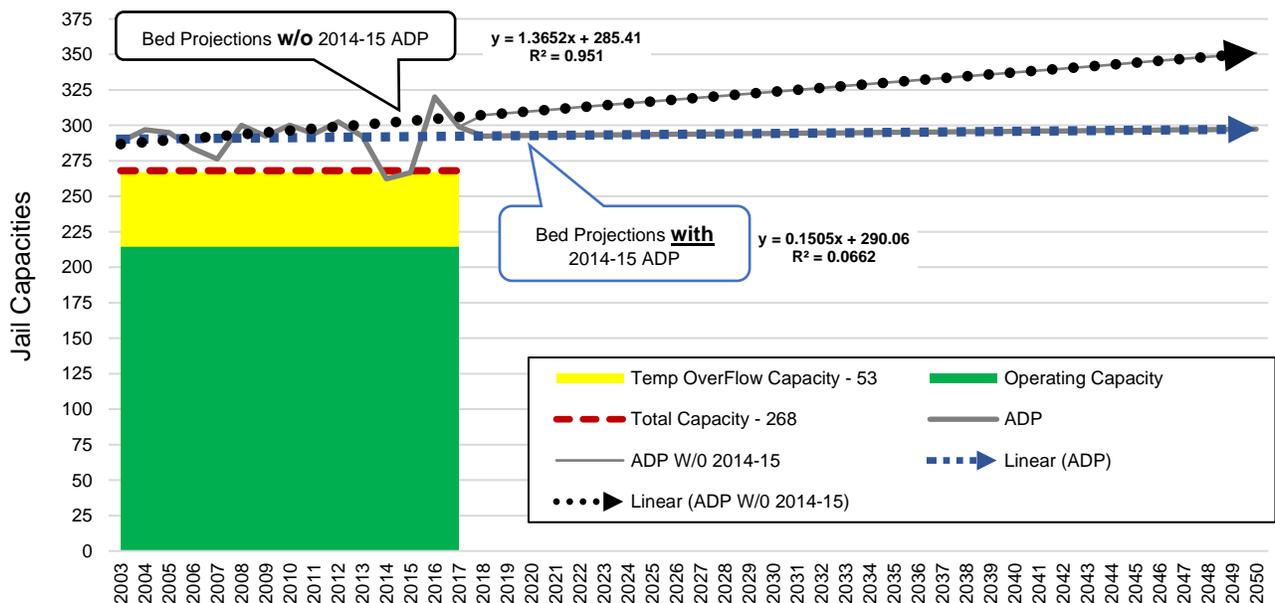
- 2) As shown in Figure XXX below, the County's average daily inmate population exceeded the jail's 268 bed total capacity since at least 2003 except in 2014 and 2015, and far exceeded the jail's operating capacity since at least 2003. According to county officials, it is our understanding that the Indiana 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

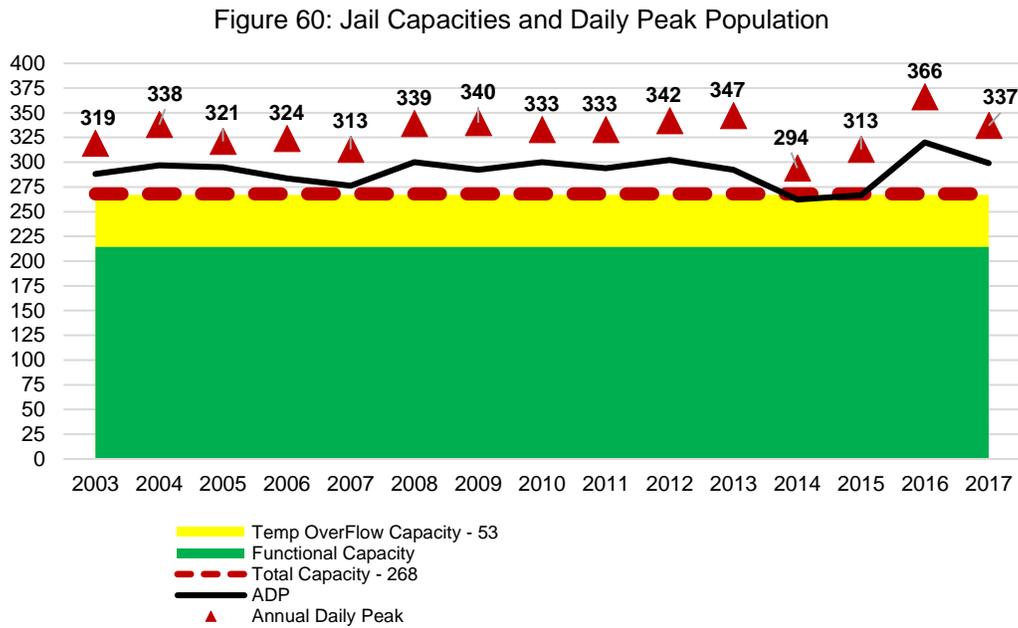


- 3) ADP represents the average number of jail inmates per day. It is not best indicator for forecasting bed needs because there are days when the jail population surges will above ADP. These high fluctuations in the inmate population are known as “peak” days. Jail bed capacity will always accommodate 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 2050 is flawed for estimate jail bed needs, even when 2014-14 data are excluded. Linear forecasts indicate an ADP of approximately 300 when 2014-14 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 can accommodate historical population peaks or population peak trends are forecasted. 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.

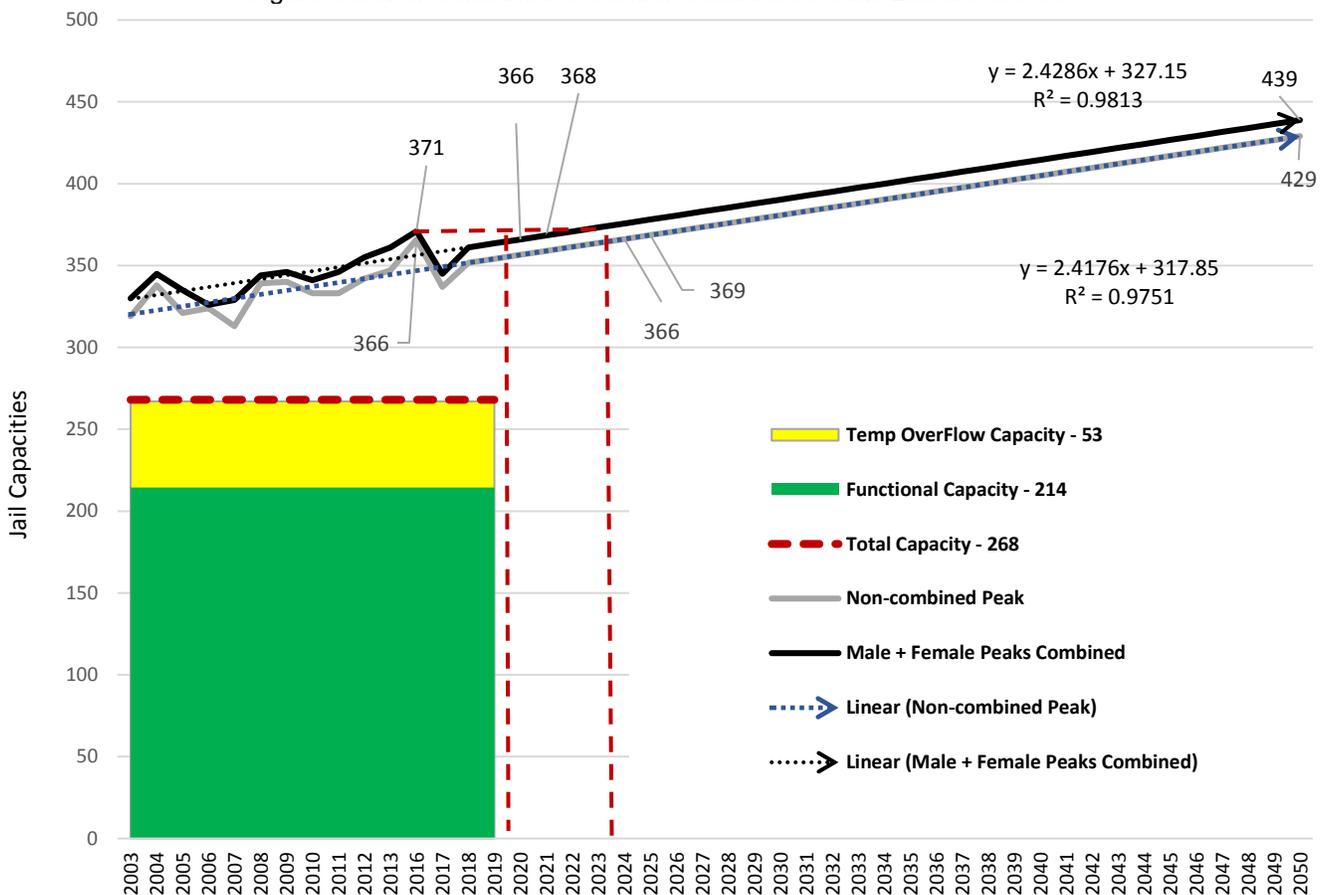


- 6) Three important factors are in play when using population peaks for forecasting bed needs. These include:
- Peak number (actual total inmates that comprise annual daily peaks). The peak number is useful for day-to-day population and bed capacity utilization management but is not helpful for knowing 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 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% of 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 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.

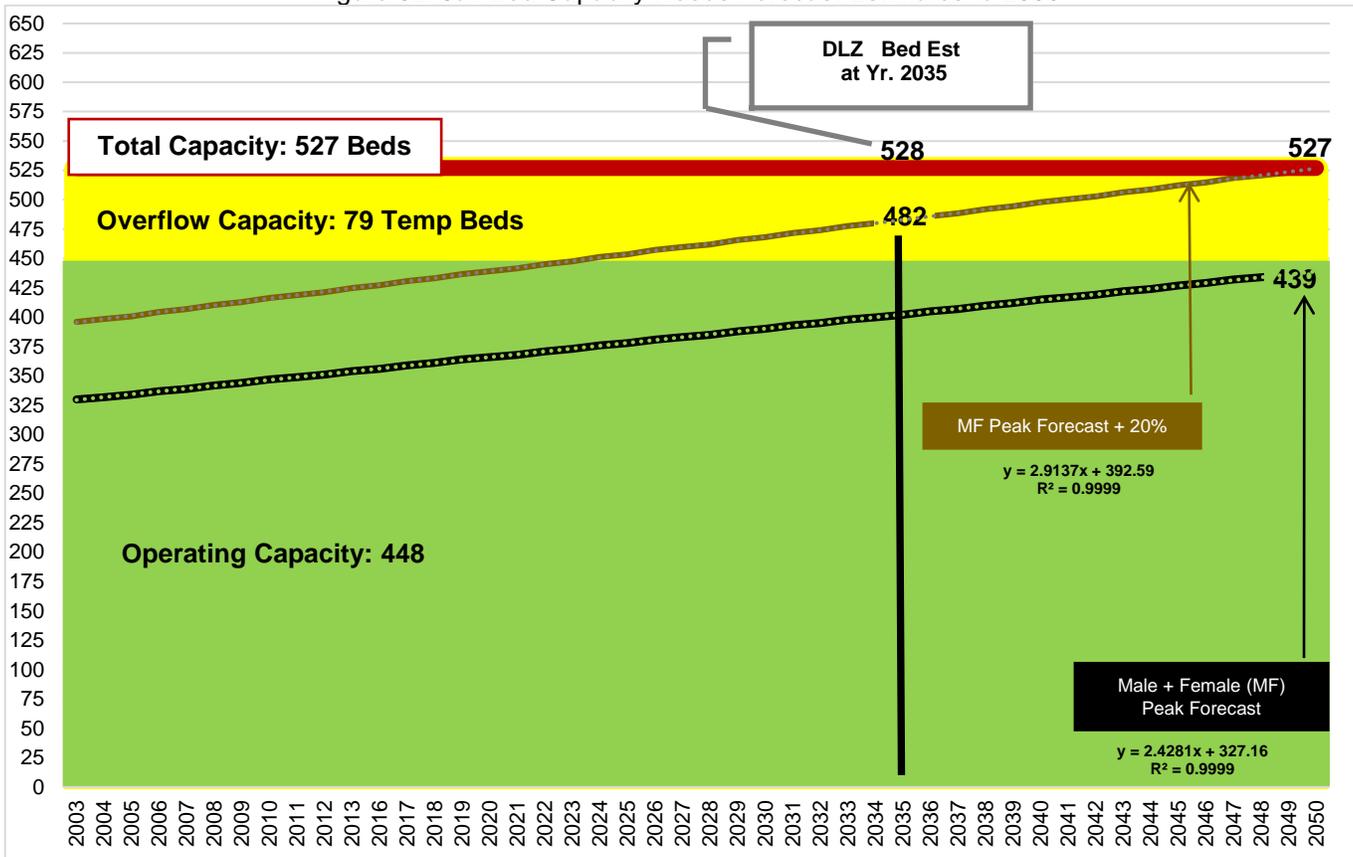
Figure 61: Non-Combined & Gender Combined Peaks Linear Forecast



- 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 are no factual or legitimate bases 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. At 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 provision of constitution 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.**

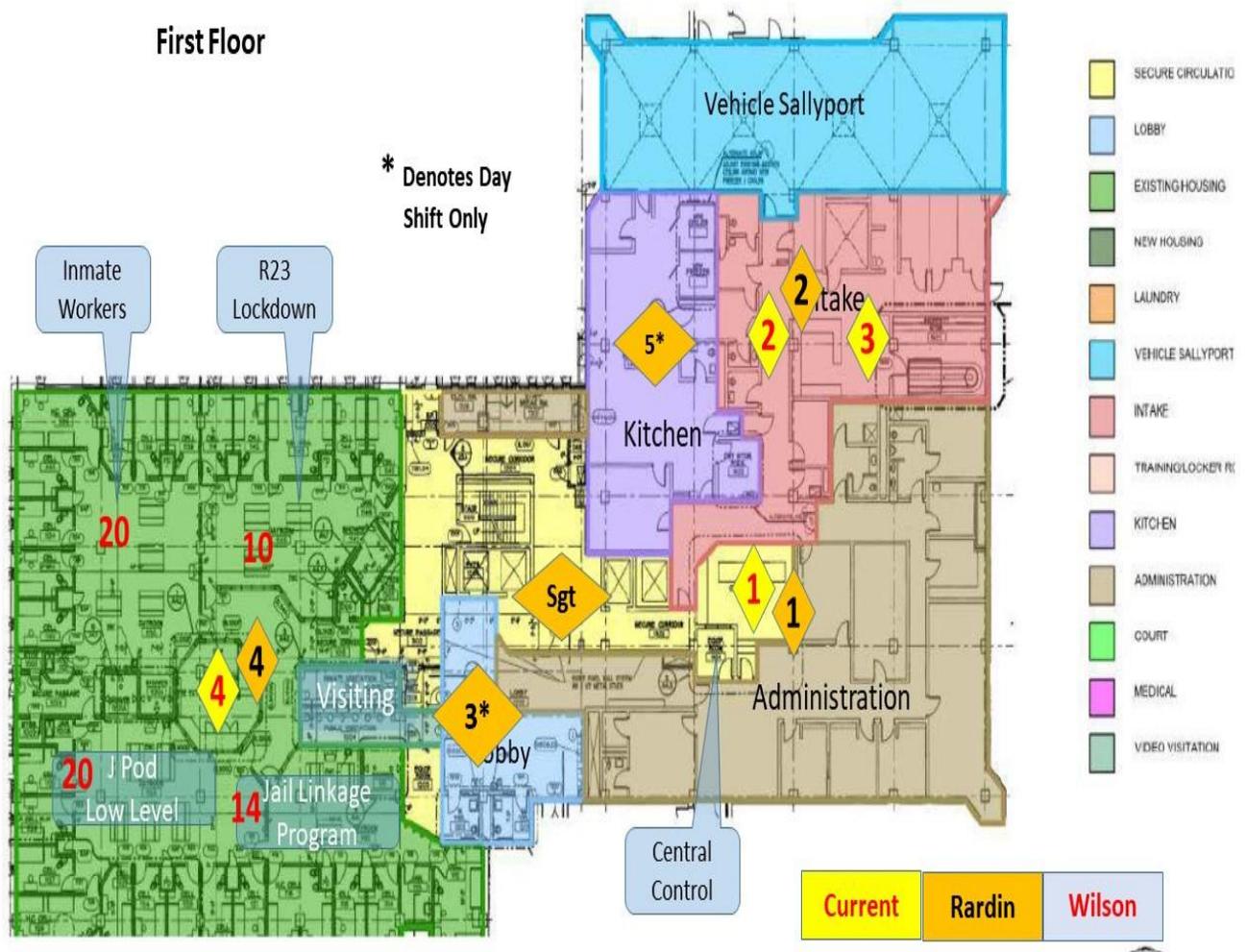
- 1) In the past 10 years, staffing needs for the current jail complex have been evaluated by three entities:
  - a) State jail inspectors, who have consistently found the jail to be seriously understaffed in their annual inspections.
  - b) Robert Rardin, a corrections consultant, who calculated jail 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>30</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>30</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 stated a new for at 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

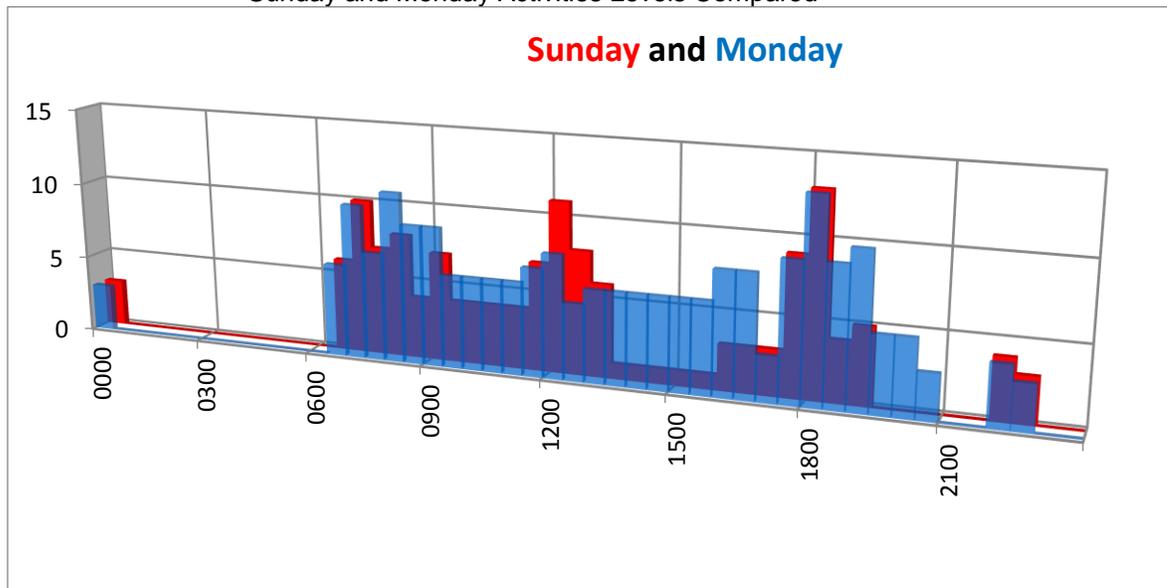
**F. Summary**

- 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.



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

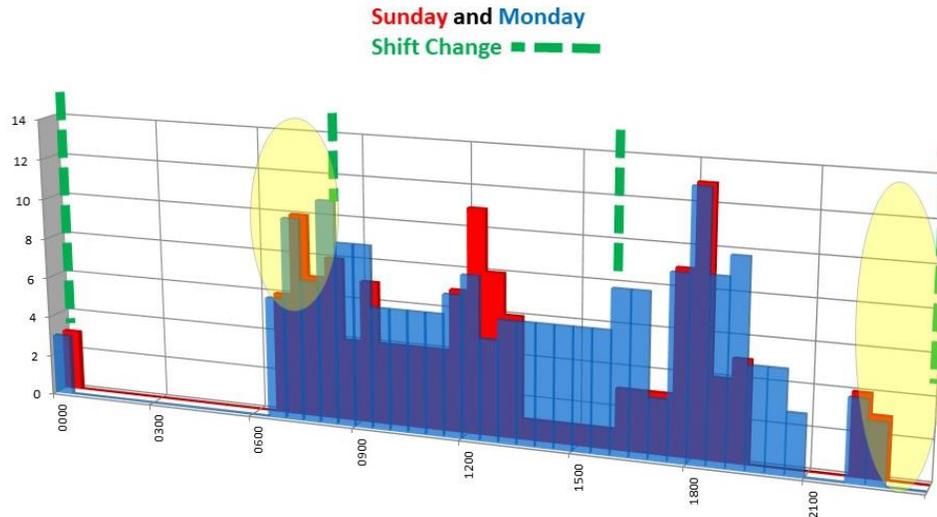
Figure 71:  
Sunday and Monday Activities Levels Compared



- 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. And the Midnight Shift starts more than two hours after activity levels have fallen off on the Afternoon Shift.<sup>31</sup>

<sup>31</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 peak 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 more than 9,000 bookings at the jail in 2017.

Figure 73: Average Daily Admissions by Hour and Day of Week,  
Females. 2017<sup>32</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>32</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)

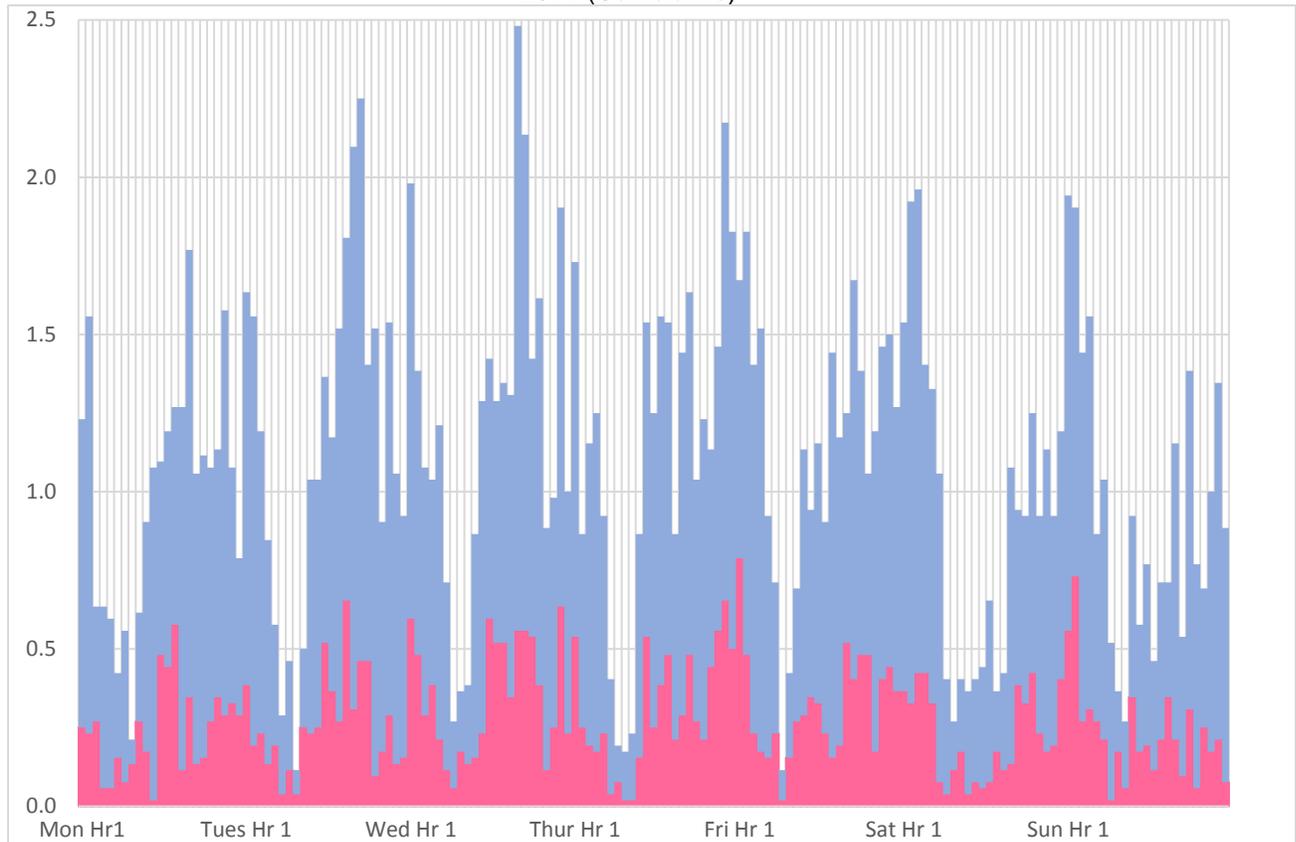


Figure 76 shows the same data, but rather than stacking male and female admits, the female admits are shown in front of the male admits. This provides a view of the male patterns independent of females.

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

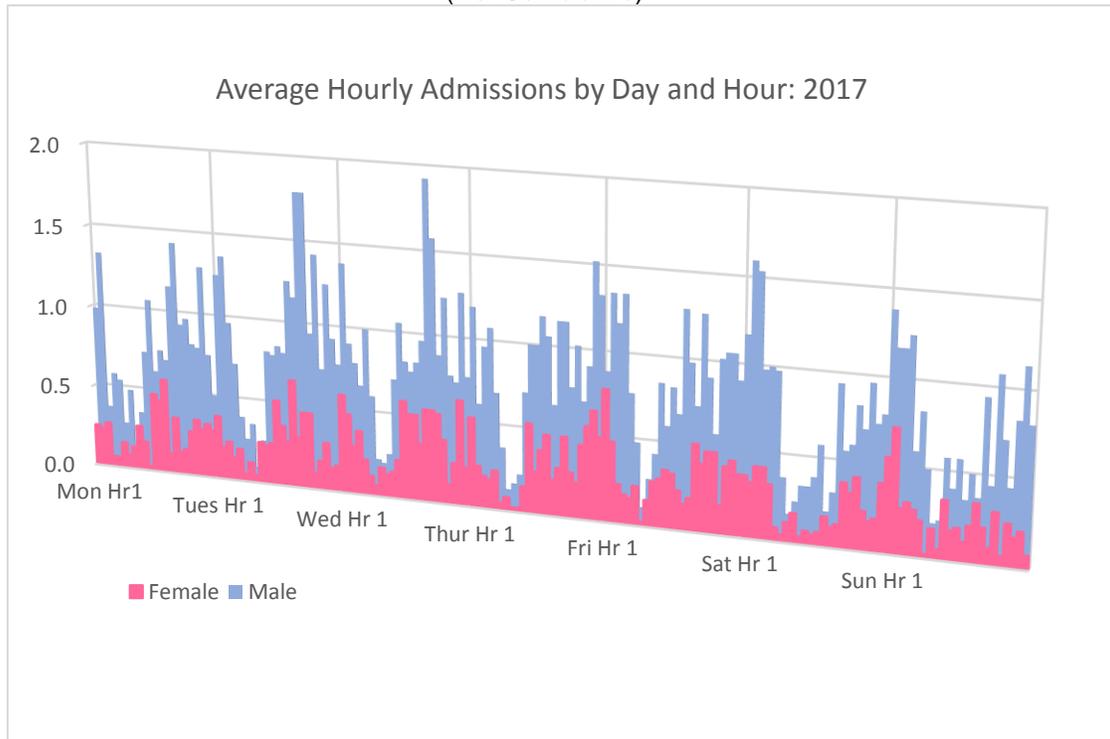


Figure 77 focuses on a single day (Monday) to provide a closeup of the variation in activity. Between 10 a.m. and 4 p.m. admissions increase. This is important to note because this coincides with staffing demands *in* the courts (see Intermittent Activities). By 4 p.m. when male admissions surge, the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

Figure 77:

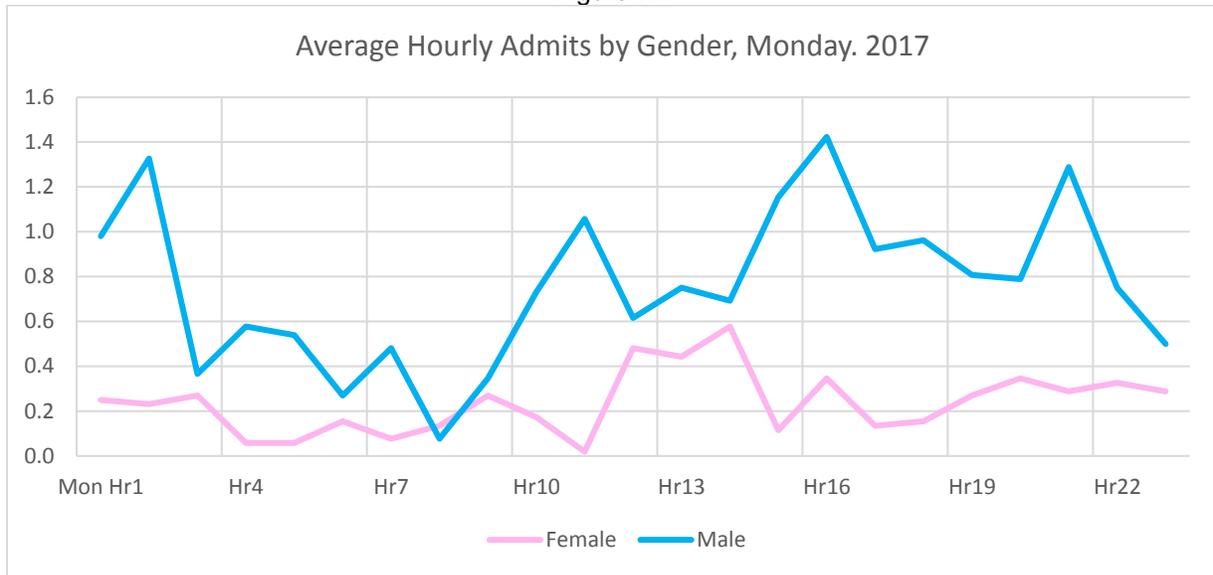


Figure 78 provides a closeup for Thursday, revealing a different pattern in the late afternoon and evening.

Figure 78:

Cumulative Admissions by Gender and Hour, Thursday, 2017

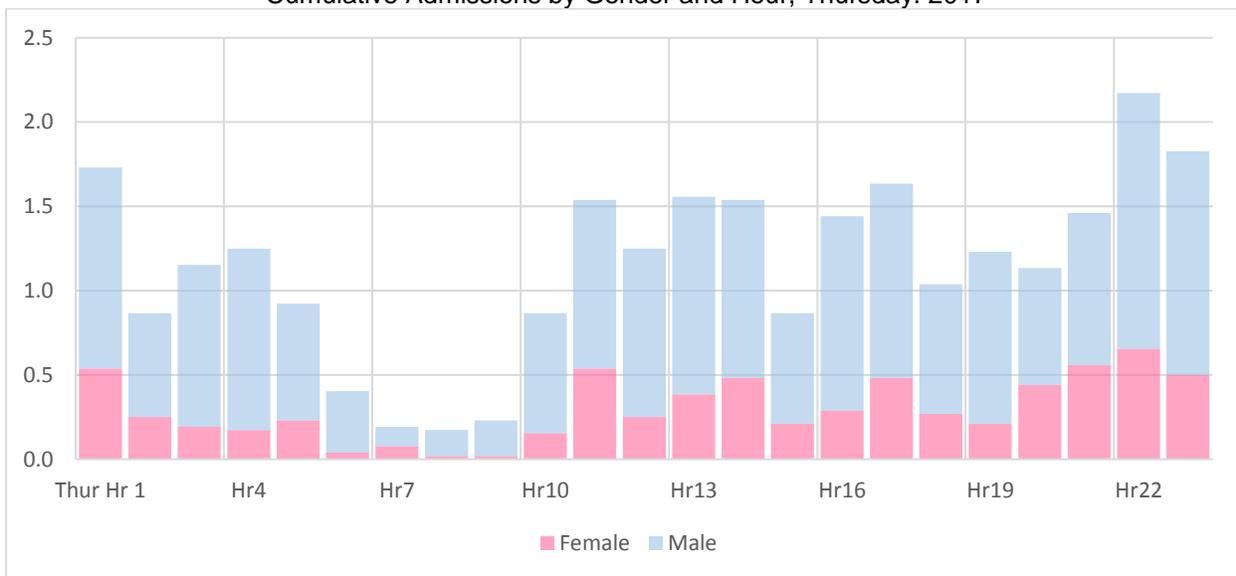
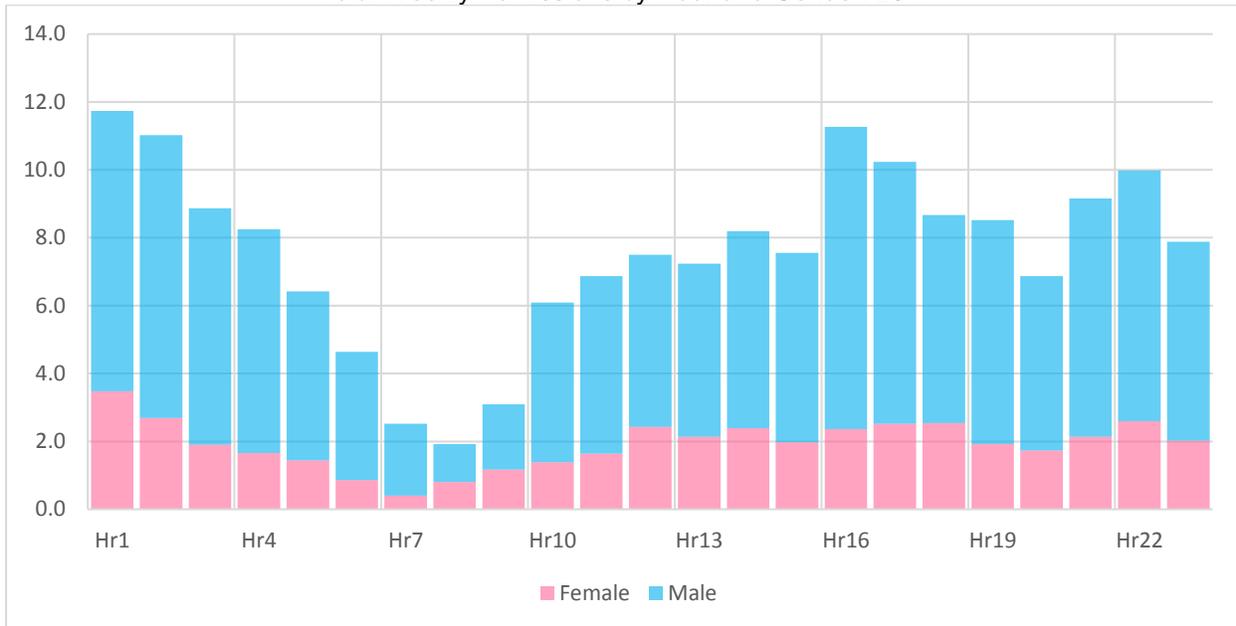


Figure 79 looks at total admissions by hour for an entire week to provide a comparison to the daily patterns. The high number of bookings in the early morning hours occur on the Midnight Shift, and staffing levels must respond to those demands.

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



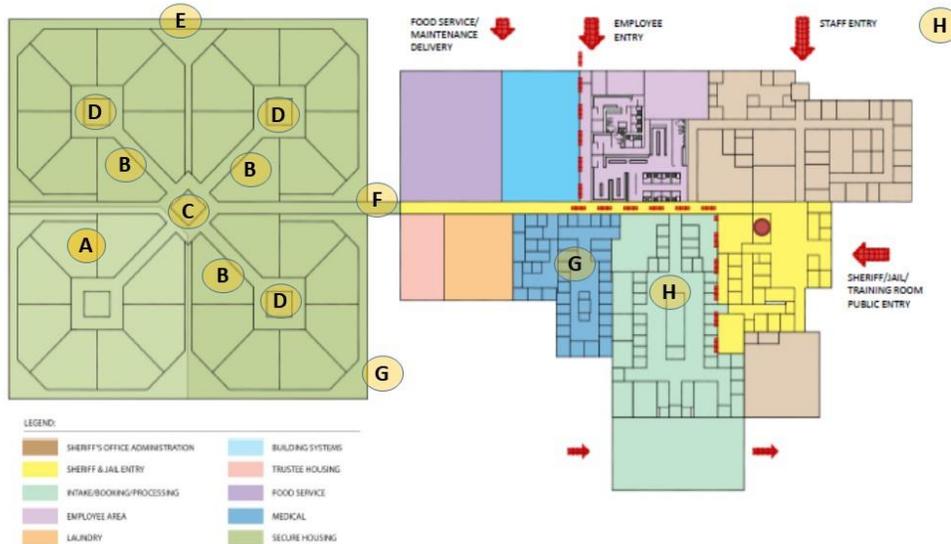
- 8) Release patterns are also analyzed, and when combined with admission practices to estimate the total workload for the intake and release area of the facility.

## 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.

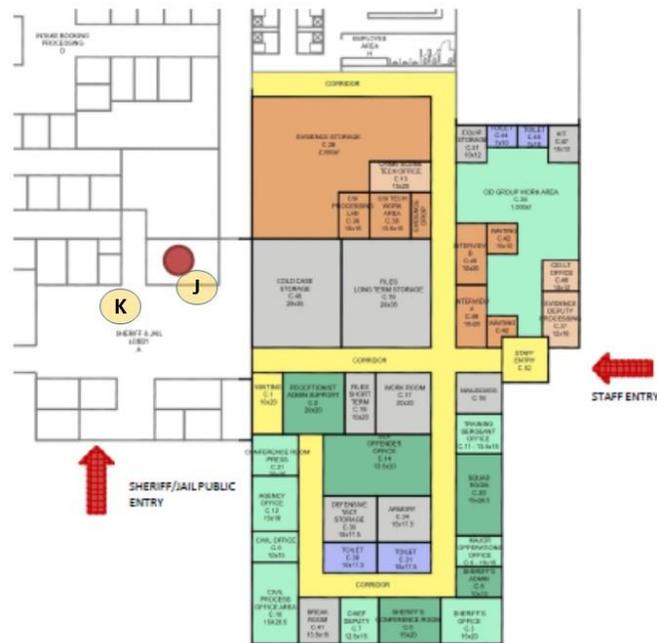
Figure 80: Overall Plan, November 2016



Comments:

- A. 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



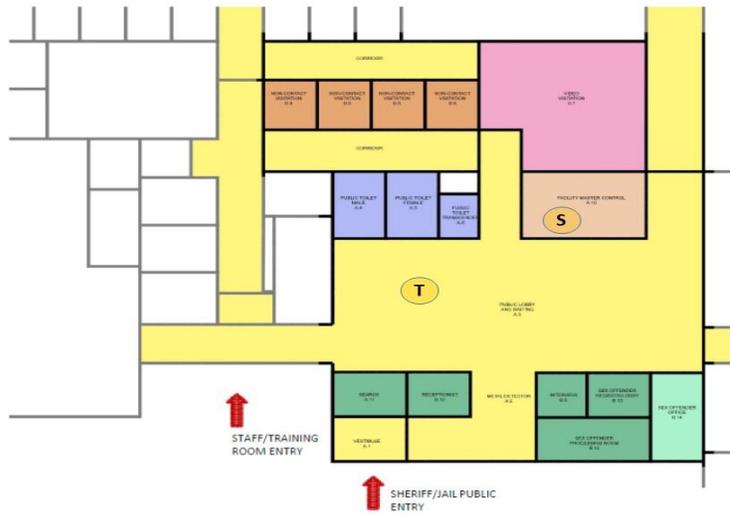
- O. Distance from staff break room to housing will inhibit response time and will require extra break time for staff in housing to travel to break room and back.

Figure 84: Medical Area



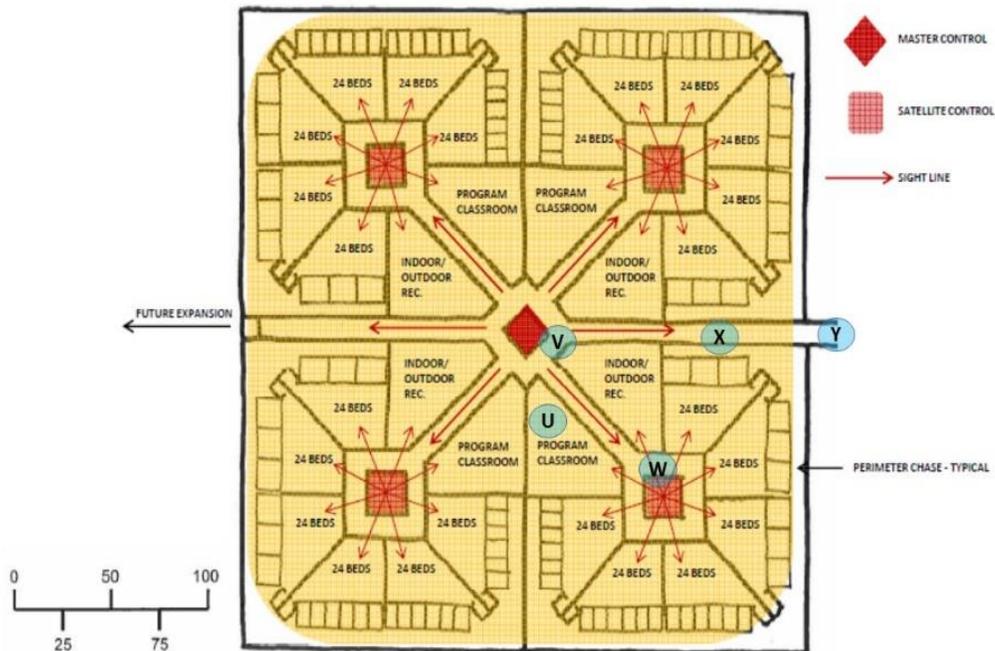
- P. Adjacency to intake/release will be very helpful.
- Q. Self-contained (video visit, indoor/outdoor rec) will cut down on inmate movement.
- R. Assume there is always at least one inmate in residents in the area, staff post will be 24/7

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?



## 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