

THE JAILS ARE FULL
Causes and Future Implications

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The jail “hits a new population record,” is becoming a common headline among local media outlets, as Sheriffs in the State of Colorado, and throughout the nation continue to release news that their jails are overcrowded or near capacity. Half of the jails around the country are at maximum capacity or over capacity, while the other half with new expansions are experiencing a growing population that puts them at 75 to 80 percent of actual capacity, which is actually the recommended operational capacity by the National Institute of Corrections (NIC), an arm of the Department of Justice (DOJ).

County jails across this nation are filling up and there is no relief in sight. Over the last five years, the inmate population has continued to increase at an alarming rate. As communities experience population increases, it comes as no surprise that the inmate population will increase accordingly regardless of the rise and/or fall in the crime rate. Legislative bodies will enact new criminal laws to address new or expanding crimes. Better cooperation among law enforcement, better training and crime tactics have resulted in the increase of criminal arrests. The manufacturing, distribution and consumption of methamphetamine and similar synthetic designer drugs with their extremely addictive nature will continue to influence arrests rates, especially with the habitual offender population.

Policy decisions and laws passed by the legislature have a profound impact on local jail populations. Every year, legislation is passed enacting more criminal laws and mandatory sentencing to address local crime issues. Technological advances have opened a new world in the investigations of crimes such as piracy, identity theft, child pornography and even terrorism. These new crimes result in additional penalties, as well as the increased incarceration of offenders.

Crime patterns affect county jail population. When the public sees an increase in criminal activity, there is an expectation that law enforcement will attack the problem and arrest the offenders. Throughout the 1990’s it is estimated that nearly 100,000 additional local law enforcement officers, funded through federal grants, were hired in an effort to curb local crime, thus improving community quality of life. The result was increased arrests and measurable reductions in reported crime. Local jails and the court systems however, were completely ignored and federal funding was not dedicated for the wave of offenders that flooded the judicial system.

From a local perspective, the El Paso County jail experienced a 12% increase in bookings from 2001 through 2005. By the end of 2006, however, there was a 3% decrease in bookings. The average daily population and length of stay over the last five years has

increased by 53%. If this trend continues by 2012, the El Paso County jail's projected population will reach 2187 inmates for a jail with 1599 beds. This anomaly indicates that there are other factors, such as policy decisions, within the justice system itself which impacts the surge in the jail population.

A closer look at those who live behind bars and brick walls provide clues that collectively give a clearer but complicated picture of a complex justice system that may, to a large degree, contribute to the revolving door syndrome. Because of the complexity, this issue becomes very challenging due to society's reluctance to fund, staff, and increase jail capacities. The universal reluctance in part, is due to a general lack of understanding of jail responsibilities as it relates to the criminal justice system and the factors that contribute to its' population growth. There is also a failure to recognize the value that a jail can bring to the prevention of crime; jails are a vital component in the overall operation of the criminal justice system.

Specific populations in the county jails are growing at a disproportionate rate to the general population and the crime reports. In El Paso County over the past five years, offenders with felony charges have increased 133%. Parole violators have increased by 198%, and those prisoners awaiting space in Department of Corrections (DOC) have increased 352%. As state facilities reach capacity, offenders who otherwise would be serving time in those facilities are housed in the county jails. Those serving felony sentences, facing parole revocation, and awaiting placement in DOC comprise a significant percentage (20%-25%), of the total population in the El Paso County jail. In addition, those facing contempt of court charges are on the rise for both pre-trial and sentenced inmates. Individuals serving misdemeanor sentences are recidivating at higher rates as well. Jails throughout this nation have also become a repository for offenders plagued with mental health issues as state and federal funding has dwindled over the years and bed space in mental health institutions is limited only for those offenders identified as incompetent to stand trial. The number of illegal immigrants, facing local criminal charges, are on the rise and they continue to consume bed space in the county jail.

The offenders, sentenced and awaiting bed space in prison, average length of stay is steadily increasing in the county jail as the Department of Corrections is quickly depleting their available bed space. In Colorado, the net gain of inmates sentenced to the DOC is approximately between 900 and 1200 inmates per year, yet a new state facility has not been constructed in nearly seven years. DOC in the State of Colorado has been at capacity for over eight years. The state facilities are not over capacity because the state controls prison population by simply controlling when and how many inmates have been accepted into their system from the local jurisdictions. In 2002, after the Department of Corrections budget was reduced, county jails began feeling the impact with the increase of back-log prisoners awaiting transfer from local jails to state prisons. Today, nearly 500 state inmates are sitting in county jails across Colorado awaiting transfer to DOC.

The county jail is the alternative placement for the state prisoner and is no longer a short-term pre-trial detention facility. Inmates serving felony sentences that traditionally would

have been sentenced to the state prison system are completing their sentences in the county jails. By law, offenders sentenced to two years or less may serve this sentence in the county jail. This is becoming the rule not the exception. In the last two years, the El Paso County jail has experienced a marked increase in those inmates who are serving longer sentences. These inmates are serving up to two years for each felony conviction and may have previously served their sentences in prison. Others are sentenced to work release or other community corrections programs and are diverted from prison. These offenders recidivate at alarming frequency and in many cases, commit other crimes while serving their sentence. This results in incarceration in the county jail, only to exacerbate the growing population in local jails.

The overriding concern about balancing the state budget resulted in regulations surrounding parole. The enactment of mandatory parole legislation has reduced the prison population and resulted in prisoners, who are at high risk for recidivism, being released to the streets without consideration that they will only wind up in the county jails awaiting potential revocation back to prison. Parole violators facing new criminal offenses, who are facing revocation back to prison, spend month after month in the county jail awaiting a parole hearing that often is extended pending the disposition of the new criminal charges. Meanwhile, prosecutors shouldering a heavy caseload quickly realize that the parole violator is more than likely going nowhere and the new charges are continued for an extended period of time. Conversely, the parole board continues the revocation hearing until a disposition is reached on the new criminal charges. The El Paso County jail has observed almost a 400% percent increase in the average length of stay of parole violators in the last seven years alone.

At the local or county level, recidivism is problematic as well. Those arrested for felony and misdemeanor charges find themselves in jail over and over for failure to appear or a failure to comply with prior sentencing provisions. The revolving door into the jail for these offenders is spinning at a faster rate than ever before. The sentenced inmate may face many court ordered sanctions beyond incarceration, such as treatment including alcohol/drug or anger management classes, restitution and/or fines. After the loss of employment from incarceration, the inmate must find employment, and while providing financial support for family must also pay for costly treatment and potential restitution. Failure to comply with court ordered sanctions results in new contempt of court charges and ultimately incarceration. The end result of this cycle is the perpetuating revolving door syndrome; a stay in the county jail.

Inmates serving misdemeanor sentences, either in the jail or on work release, recidivate at a higher rate than ever before and it is not unusual for a misdemeanor offender to have an average of seven previous incarcerations. Chronic misdemeanor offenders find themselves spending more and more time in the county jail. Sentences and average length of stays tend to increase with multiple offenses, especially if the inmate serves consecutive sentences.

In addition to addressing the criminal issues of inmates, county jails have become responsible for warehousing those offenders in the system whose mental health issues are

the most significant contributing factors to their criminality. Today, the jails serve as mental health institutions as state and federal funding for bed space in treatment facilities has dwindled in the past 20 years. Jails historically have not been equipped to treat these individuals. The largest mental institutions today are the Cook County and LA County jails. In communities lacking proper resources to treat the mentally ill, jails become the answer. This also holds true for the homeless and the developmentally disabled. In lieu of treating the root cause of their criminality, society through the criminal justice system chooses to take the path of least resistance and place them in county jails.

Other populations, such as illegal immigrants, take their toll on the justice system as well. For example, in Colorado there are approximately 350 beds for illegal immigrants. The five largest counties on the Front Range could easily fill twice that number with those offenders facing new criminal charges and potential deportation due to their illegal status. Immigration and Customs Enforcement (ICE) typically prosecute those who are deemed as repeat offenders or have committed a felony in the United States. Most often, these offenders are deported and ultimately local charges are dismissed. Some might take the position that if they are deported then justice is served. On the contrary; they have consumed bed space in jails, only to later have their charges dismissed and be provided the opportunity to return to the U.S.; some within a week after deportation, and not be held accountable for their crimes. In our justice system, a U.S. citizen would not be granted this leniency, or in essence this immunity.

The issue surrounding the increase in these incarcerated populations that contribute to jail crowding is not whether these offenders belong in jail. The question is how the justice system impacts this dilemma of increased length of stay, recidivism and incarceration in county jail in lieu of prison. We have to realize that despite fluctuation in crime rates, offenders are spending more time in county jail. Prison bed space is limited and county jails are quickly becoming small prisons with a more transient population. Inmates waiting for a bed in prison, parole violators pending regression back to prison and those serving long term sentences and failing to comply with court stipulations live with the fact that county jail is their residence.

It is difficult to conceive that county jails and state prisons are synonymous, but the reality is they are quickly assuming the same identity. Inmates versus prisoners; are they one in the same? With this in mind, it is important to analyze the purpose of prison. Jails historically are short-term facilities and within the context of the justice system, the primary goal is the detention of pretrial detainees. Prisons serve the role and fill the goal of offender punishment, isolation, treatment, rehabilitation and reintegration, which is a far reach beyond just detention.

In order to address the issues of crowding and recidivism, county jails must assume a new identity that mirrors the prison system. Judges sentence offenders to county jail to punish and isolate which is no different than prison. Jails however, have not traditionally focused on treatment, rehabilitation and reintegration, yet ironically, it is a given that these inmates will return to society at some point. Recognizing this fact and understanding that the jail has become a revolving door, focusing on reintegration

programs must be a priority. Inmates must be equipped with values and life skills that will give them opportunities to succeed and become contributing members of society upon release. Failure to do so will produce the same consequence; recidivism that will perpetuate the revolving door syndrome.

Communities, in general, refuse to allow their tax dollars to be spent on jails. They prefer more officers on the street, improved parks, better road systems and even preservation of open space. Most have their own opinions concerning the treatment and housing of offenders, and in many cases, do not understand the civil rights of those incarcerated. Every aspect of jail design and operations is dictated by constitutional law and court decisions. No other local industry is even remotely influenced by court decisions and that is what makes jails a very expensive endeavor to construct and operate. As jails evolve and redefine their purpose of addressing the recidivism of its population and treat offenders for successful reintegration into the community, the cost to society will initially increase. Should society recognize this investment and the value therein, it will not be long and they will reap the rewards of a safe community and an increased quality of life. Crime prevention actually begins with identifying criminals and changing their behaviors that lead to criminal activities and a county jail plays an important role in that endeavor.