



Multnomah County Detention Center & Multnomah County
Inverness Jail, Portland, OR
Contraband Mitigation Assessment

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DISCLAIMER

RE: NIC Technical Assistance No. 24J1016

This technical assistance activity was funded by the Jails Division of the National Institute of Corrections. The Institute is a federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person(s) who provided the onsite technical assistance did so through a cooperative agreement, at the request of Sheriff Nicole Morrissey O'Donnell, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Mr. Brad Hompe and Mr. Chad Thompson. Points of view or opinions expressed the Technical Assistance report are those of the author and do not represent the official opinion or policies of the U.S. Department of Justice. Upon Delivery of the final Technical Assistance report to the agency that requested the assistance, the report becomes the property of that agency. The National Institute of Corrections will not distribute the report to non-NIC entities or consider it an agency record under the Federal FOIA, without the express, written approval of the agency.

INTRODUCTION

The Multnomah County adult detention facilities consist of two facilities including the downtown Multnomah County Detention Center (MCDC) opened in 1983 and the Inverness Jail (MCIJ) opened in 1987 and subsequently expanded in 1991 and 1998. The current capacity is set at 1130 (MCDC: 448. MCIJ 682). On June 4th, 2024, the population was 953. It was reported that the most recent (March 2024) average length of stay was 17 days. Bookings have been steadily increasing since 2022 when 1192 bookings were reported in October of 2022. In March of 2024 1715 bookings were reported, which averages to 55 per day.

Desiring to obtain another tool to improve operations, Sheriff Nicole Morrissey O'Donnell contacted Mr. Mike Jackson of the National Institute of Corrections (NIC) seeking technical assistance to conduct a contraband mitigation assessment. A review and evaluation of the two corrections facilities, specific to illicit substance contraband control and detection was requested. This request included a desired review of policy, operations, services, equipment, and physical plants. Specific concerns have been noted regarding the number of deaths attributed to fentanyl and cocaine overdoses. Since 2022 there have been four deaths attributed to overdoses.

Given the scope of services that can be provided by NIC, it was determined that the operational assessment would be conducted by two technical resource providers over a 3-day period. Brad Hompe and Chad Thompson were assigned to conduct the operational assessment. The on-site portion of the assessment took place June 4 to June 6, 2024.

MCDC and MCIJ are inspected annually by the Oregon State Sheriff's Association and a Multnomah County Grand Jury. The most recent Sheriff's Association inspection report for the MCIJ facility noted full compliance for 100% of the 319 applicable standards while the MCDC inspection resulted in full compliance for 307 of the 309 applicable standards. The Multnomah County Board of County Commissioners also completes two inspections annually in accordance with the County Charter. Additionally, the facilities' healthcare is accredited by the National Commission of Correctional Health Care (NCCHC).

Prior to the on-site assessment, a large amount of documentation and data was requested, provided to us, and reviewed. The data request is attached as an appendix to this report.

While the on-site assessment was conducted, numerous stakeholders, staff, inmates, and contractors were provided an opportunity to offer input. There were no apparent barriers to interviewing staff, inmates, and contractors, nor to any data or documentation that was requested. Specifically, the following people should be acknowledged for availing themselves for specific meetings:

Planning meeting 4/25/24

Sheriff Nicole Morrissey O'Donnell
Steve Reardon – Chief Deputy of Corrections Facilities
Katie Burgard – Chief of Staff

Jenny Carver – Deputy Chief of Staff
Melissa Froman – Executive Administrator

Kick off meeting 6/4/24.

Sheriff Nicole Morrisey O'Donnell
Steve Reardon – Chief Deputy of Corrections Facilities
Steve Alexander- Chief Deputy of Agency Services
Jenny Carver- Deputy Chief of Staff
Chris Liedle- Communications Director
Valdez Bravo- Deputy Director Multnomah County Health Department and Interim
Corrections Health Director

Medical/medication review meeting 6/4/24

Halcyon Dodd- MSDC Nurse Manager
Tim Victorella- Quality Manager
Eleazar Lawson- Medical Director
Michelle Cannavino- Mental Health Manager
Dylan Lerch- Detective
Tony Gaines- Deputy Director of Correctional Health
Valdez Bravo- Interim Director of Correctional Health

Close-out meeting 6/6/24.

Melissa Froman – Executive Assistant to the Sheriff
Katie Burgard – Chief of Staff
Nicole Morrisey O'Donnell – Sheriff
Valdez Bravo – Deputy Director Multnomah County Health Department and Interim
Corrections Health Director
Tony Gaines – Deputy Director Correctios Health
Dr. Eleazar Lawson – Corrections Health Medical Director
Steve Alexander – Chief Deputy of Agency Services
Jon Harms-Mahlandt – Chief of Business Services
Steve Reardon – Chief Deputy of Corrections Facilities

In addition to the above staff numerous other staff and inmates from both facilities were also interviewed during facility tours and throughout the assessment.

Assessment

As noted above in this report, the focus of this assessment is on contraband mitigation, specific to illicit drugs. It was reported and confirmed by a review of the record that other forms of serious contraband are not prevalent at the facilities. This is a tribute to the operations and the professionalism and integrity of the employees.

The issue of adults in custody introducing drugs into detention facilities, overdosing, and dying due to such decisions is not unique to Multnomah County. This is a national epidemic and crisis. Detention facilities are a microcosm of the community and the adults in custody are a representation of social problems in the community. The correctional facilities in Multnomah County are receiving a high percentage of adults in custody that are addicted to drugs and/or are experiencing significant physical and mental health issues. Regardless of if the issues are prevalent nationally, detention facilities, and the county, have responsibility to operate a jail that meets constitutional requirements along with meeting applicable statutes, standards, and accepted correctional practices. This report will outline our findings and recommendations that are intended to assist Multnomah County meet these requirements.

INCIDENT REVIEWS

Deaths

As noted in the introduction, there have been several recent deaths at the facilities attributed to overdose. A review of available mortality and administrative review documentation revealed that the county would benefit from expansion and additional formalization of the review processes. A structured after-action review is necessary to analyze outcomes and actions so that future performance can be improved. In this case the goal would be to prevent future deaths. Such a formal process is not only important for operations improvement, but it demonstrates due diligence and serves as a liability mitigation tool.

The current corrections and health policies related to mortality and administrative review of deaths are brief, do not provide for mandatory review content, review format, staff to be included in the review process, nor a mandatory debriefing of the findings. Corrections has not had a consistent process of administrative review in the past. However, Chief Deputy Reardon has recently assigned reviews of some past deaths to a corrections captain and detective. A best practice policy and review format has been shared with Chief Deputy Reardon and Eleazar Lawson, Medical Director so that it can be used as a reference in further developing the policy and procedures.

- **RECOMMENDATION:** Further develop both the medical and correction death review policy, procedure, and format.
- **RECOMMENDATION:** As a matter of policy, collaborative review from health and corrections as well as a formal debrief meeting.
- **RECOMMENDATION:** Incorporate lessons learned into annual Inservice training.

Incidents & Intelligence

Upon review of drug contraband and overdose incidents it was discovered that there is a need for additional follow-up and documentation of that follow-up. This follow-up is necessary for accountability assurance as well as preventing future incidents. Follow up may include intelligence gathering, fact-finding, investigation, classification actions, discipline, and law enforcement referral. Here again, such follow up and debriefing is necessary to not only to improve future performance but also to demonstrate due diligence. This process also serves as a liability mitigation tool.

- **RECOMMENDATION:** As a matter of policy, require investigation of incidences of serious contraband and overdose. Require documentation of the findings and actions taken as well as a debrief meeting to review the investigation and findings. In cases of overdoses, it is recommended that both healthcare and corrections participate in the debrief.
- **RECOMMENDATION:** Disseminate pertinent findings to the shift supervisors to be reviewed in shift briefings and incorporate lessons learned into annual Inservice training.

To conduct the necessary intelligence gathering, surveillance and administrative investigations, sufficient resources must be provided, including staff. Currently intelligence staff is limited to one staff person making the MCSO's efforts almost entirely reactive to emergencies and incidents. Additional staff will not only enhance the ability to analyze available data, but also provide resources to begin to proactively act before an emergency or incident occurs. An additional benefit to proactive analysis is the detection of suicidal ideations by an AIC providing a path to intercepting the AIC and involving mental health staff before they can act. In 2024 thus far, it was reported that there have been fifteen (15) overdoses requiring the adult in custody-AIC to be sent to the emergency room. Additionally, there have been multiple occasions where drugs have been found.

While the Sheriff has assigned a detective to be available to the facilities and Special Investigations Unit-SIU may assist, these efforts are concentrated on criminal or Prison Rape Elimination Act-PREA investigations. The detective is also assigned to multiple other law enforcement duties, and investigations outside of the detention facilities. The need to provide follow-up as outlined above is critical and emergent due to the potential deaths that overdose can cause and given the problem is known it would be irresponsible not to provide the resources to complete such tasks.

In order to provide efficient and effective incident follow-up, as well as proactive actions, investigative staff and intelligence staff are necessary and widely accepted as a best practice in correctional facilities. Given the volume of contraband entering and found within the Multnomah County correctional facilities and the potential consequences, including deaths, this requires resources be dedicated to the matter. The gathering and sharing of analyzed data and intelligence should be a high priority. Intelligence gathering using data from incarcerated

individuals' phone calls, video visits, and the upcoming installation of tablets is a crucial aspect of maintaining security and order within any correctional facility. These actions enhance safety for both the incarcerated individuals and staff. It also supports investigations as well as aids in the management of incarcerated individuals' behavior and contributes to the overall operational efficiency of a facility. One avenue to funding necessary positions to expand the intelligence team is including the funding of such positions in your tablet contract. If negotiated, the hiring and supervision of such positions should fall under the Sheriff. Goals of the intelligence unit include:

- **Enhancing Security and Safety**
 - **Preventing Criminal Activity:** Monitoring communications can help identify and prevent illegal activities, such as drug smuggling, gang coordination, or escape plans, thereby ensuring the safety of both those in custody and staff.
 - **Identifying Threats:** Intelligence gathered from these communications can reveal potential threats, including planned assaults on staff or other AIC, allowing for preemptive measures to be taken.
 - **Identifying AIC's struggling with mental health issues and or suicidal ideations** proactively involving security and mental health staff before the AIC acts.
- **Controlling Contraband:** Insights from monitored data can help detect and control the flow of contraband, which is critical for maintaining a safe environment within the facility.
- **Supporting Investigations**
 - **Solving Crimes:** Information obtained from AIC communications can be invaluable in solving ongoing investigations, both within the facility and in the broader community.
 - **Gathering Evidence:** Recorded communications can provide concrete evidence in legal proceedings, aiding in the prosecution of criminal activities orchestrated from within the facility.
 - **Tracing Connections:** Monitoring can help trace connections between incarcerated individuals and external criminal networks, providing a broader understanding of criminal operations.
- **Managing Inmate Behavior**
 - **Behavioral Insights:** Analyzing communication patterns and content can offer insights into inmate behavior and relationships, helping staff manage interactions and prevent conflicts.
 - **Assessing Rehabilitation:** Understanding the nature of inmates' communications can aid in assessing their rehabilitation progress and readiness for reintegration into society.
 - **Early Intervention:** Intelligence gathered can indicate signs of distress, mental health issues, or radicalization, enabling timely intervention and support.
- **Enhancing Operational Efficiency**

- Resource Allocation: Effective intelligence gathering allows for better allocation of resources, such as staff and surveillance, to areas where they are most needed.
- Policy Development: Data from monitored communications can inform policy decisions, helping to develop more effective strategies for managing those in custody and ensuring facility security.
- Training and Preparedness: Information from intelligence efforts can be used to improve staff training programs, ensuring they are well-prepared to manage various situations.
- Legal and Ethical Considerations
 - Balancing Privacy and Security: It is essential to balance the need for security with respect for inmates' privacy rights, ensuring that monitoring practices comply with legal and ethical standards.
 - Transparency: Clear policies and transparent practices help maintain trust and ensure that intelligence gathering is conducted fairly and justly.
 - Legal Compliance: Ensuring that all monitoring activities comply with federal, state, and local laws protects the facility from legal challenges and upholds the rights of incarcerated individuals.
- Supporting Rehabilitative Goals
 - Identifying Support Needs: Monitoring communications can help identify inmates who may need additional support or intervention, such as those struggling with substance abuse or mental health issues.
 - Facilitating Positive Communication: Encouraging and monitoring positive communications with family and support networks can aid in rehabilitation and reintegration efforts.
 - Preventing Negative Influences: Intelligence gathering helps to identify and mitigate the influence of negative external contacts that may hinder an inmate's rehabilitation.
- **RECOMMENDATION:** Create an intelligence unit and investigative team led by a Lieutenant to complete the administrative investigations and intelligence gathering outlined above. Create position descriptions and provide training to those in these roles.
- **RECOMMENDATION:** Develop a fact-finding/internal administrative investigative policy, procedure, and process to ensure due diligence follow-up and documentation of such matters. When appropriate, results should be debriefed with the appropriate staff so that future performance can be enhanced.

CONTRABAND SOURCES

Numerous changes have been made under Sheriff Morrissey O'Donnell to prohibit the introduction of serious contraband into the facilities and to prevent overdoses. This includes, but is not limited to:

- The development of the “Corrections Recommendations Project 2024” which includes partnership with Multnomah County Corrections Health to implement recommendations related to joint corrections and corrections healthcare issues.
- Increased body scanner training
- Increased personal, area and targeted searches.
- Increased training efforts focusing on basic corrections practices.
- Development of a Field Training Officer-FTO program
- Development of a partnership with the Public Defender’s Office to ensure legal mail is provided in a safe manner.

While incidents have significantly decreased, incidents of drug contraband and drug overdoses continue. Below is a review of areas where contraband may be introduced into the facility.

Intake

As outlined above, the intake area processes a large number of intakes. The area lacks a pre-booking area and lacks sufficient spaces to provide for the proper flow and holding necessary for desired security processes.

A body scanner has become a necessity for a detention facility. While body scanners have been added to the booking/intake areas at both facilities to assist in the detection of contraband, MCDC’s was placed in an undesirable area due to a lack of space to provide for the necessary security flow to prevent cross contamination. Additionally, the body scanner at MCIJ is set to a lower level and does not provide the same level of clarity when someone is scanned. Not only does this provide an added level of difficulty to contraband detection but it has created a confidence issue with the staff who operate it.

For body scanning to be effective staff must be trained and proficient in its use. While all staff at MCDC are required to be trained in the use of the body scanner if they are working an intake position, staff at MCIJ are not. On the day of our tour at MCIJ, it was noticed that staff working in the processing area were not proficient in the use of the scanner. As noted, training in this area has been recently increased, however ongoing training needs will need to be addressed to maximize the benefits of the body scanner.

It was also reported that practice is not to scan pregnant intakes or those who claim to be pregnant regardless of if they take a pregnancy test. Further complicating this concern is the fact that the intake area at MCDC lacks the space and process to monitor these intakes for the desired monitoring period.

It was noticed at both MCDC and MCIJ that a single staff will strip search up to six (6) persons at a time. This practice causes concern about staff not being able to provide the needed attention to ensure contraband is not transferred. It is desirable for staff to be recorded when performing such searches to protect them from allegations. At MCIJ the area does not have a camera to record the officer conducting the searches. Such a camera to view the officer only, and not those being searched, is desirable for PREA adherence and protection against claims.

Most holding cells at both facilities do not have cameras so that those held in intake can be monitored and recorded.

- **RECOMMENDATION:** Continue body scanner training efforts and require training prior to staff working intake at either facility. Consider training a staff member to be your in-house agency trainer so that training is more accessible.
- **RECOMMENDATION:** Consider updating / replacement of both scanners with more modern equipment/technology, modern equipment provides better resolution scans at the same or lower x-ray dosages. Many of these machines are available through a variety of cooperative agreement or government term contracts which could make upgrading more affordable.
- **RECOMMENDATION:** Review the procedure for scanning pregnant intakes and/or the process for monitoring those not scanned to ensure contraband is not introduced into the facility.
- **RECOMMENDATION:** As a matter of policy and/or post order protocol, limit the number of intakes one staff member strip searches at one time.
- **RECOMMENDATION:** As a matter of policy, require all strip searches to be conducted in an area where the staff actions are in camera view. Use the L-search method when a camera is not available where one staff conducts the stretch and the other observes the staff conducting the search.
- **RECOMMENDATION:** Add camera to the MCIJ area that records staff performing strip searches.
- **RECOMMENDATION:** Add cameras to all holding cells.

Transportation

The transportation processing spaces are adjacent to intake. The transportation area is exceptionally busy due to court transports and transports between the two facilities. It is

notable that detention transportation in Multnomah County transports significantly more individuals than a typical detention facility due to having to transport back and forth between facilities.

Those coming and going via transport are only pat searched. It is standard correctional practice to strip search every AIC before and after any transport outside of the secure facility. The transportation holding area at MCDC is inadequate as it does not provide sufficient holding areas to separate and search those going and returning from transport. It is also desirable to scan each AIC being transported, however the spaces and flow do not allow the scanner to be used for transportation searches at MCDC. It was observed that the holding spaces and scanner location do allow for the strip search and scanning of individuals being transported at MCIJ.

- **RECOMMENDATION:** As a matter of policy, strip search those returning from a transport. Consider body scanning those returned from court at MCIJ.

Mail

Inmate mail has become one of the primary means that is used to introduce contraband into correctional facilities. Specifically, drug-laced mail (paper, stamps, adhesive strip, etc.) is of concern as it is not only dangerous to staff managing the mail but is difficult to detect. The dangers to staff and those in custody due to the presence of and use of drugs cannot be underestimated. Overdoses and overdose deaths are of specific concern. Given the need to protect staff and inmates, changes in how mail is managed have become a necessity to ensure the safety and security of the institution.

Given the need to protect staff and those in custody it has become a necessary and accepted correctional practice to provide alternative mail solutions and alternative means of communications. Providing only copies or electronic scans of incoming mail is one solution. In conjunction with this, it is also now common practice to provide those in custody alternative means to communicate with friends, family, and attorneys. This can be accomplished through specially designed email and electronic messaging services that can be provided via a tablet or kiosk. Tablet and kiosk systems also provide a significant level of security features and intelligence gathering capabilities that are beneficial.

Books are currently allowed to be ordered, providing they are soft cover and meet content criteria. The books are required to be received directly from the vendor. There have been known instances of individuals sending books in that are disguised to appear they are coming from a vendor when in fact they are not. These items can contain drug-soaked pages. Again, it has become necessary to provide alternative means to receive books. This includes making reading content available on a tablet.

Multnomah County has been in the process of implementing a tablet program that will include mail scans, electronic messaging, reading content and other services for some time. Given the severity of the contraband problem and the number of overdoses and overdose related deaths, finalizing this contact and implementing this process is an emergent need.

- **RECOMMENDATION:** As a matter of priority finalize the tablet contract and implement the use of the tablets that includes mail scans, books and messaging.

When observing the current mailroom observations and discussing mailroom operations with staff it was evident that they understood the importance of scanning the mail for contraband and not allowed content. Due to having to use multiple software programs simultaneously the staff in this area need a dual monitor workstation. Currently there is a vacancy in the mailroom leaving only one staff person to process all facility mail. It was reported that this is causing processing delays.

- **RECOMMENDATION:** Provide this post double monitors.
- **RECOMMENDATION:** Fill the open position in this area.

Fraudulent legal mail has also been used as a means used to introduce contraband into correctional facilities. To combat this Multnomah County has collaborated with the public defender's office to implement a process where mail is picked up directly from their office and taken to the facility mailroom. While this addresses a significant amount of legal mail the threat still exists that legal mail is used to introduce contraband into correctional facilities.

- **RECOMMENDATION:** Consider researching viable drug detection scanners to be used for legal mail and other security spot checks

Visitation

The facilities offer video visitation and no-contact face-to-face social visitation. The visitation booths do not have cameras on either the AIC or visitor side. Legal visitation is available in the no-contact area and there are also contact rooms available. The no-contact areas offer paper pass ability when needed. The contact rooms do not have cameras nor are they directly observed by staff. This is concerning due to the possibility of contraband exchange and physical assault. There have been incidents of unintentional and intentional contraband exchange, as well as assaults that have taken place in such contact visitation settings.

- **RECOMMENDATION:** Add cameras to the no-contact visitation areas on both the visitor and AIC sides.
- **RECOMMENDATION:** Add cameras to the contact visitation areas.
- **RECOMMENDATION:** As a matter of policy, legal visits should be held in the no-contact area unless there is a special need. Contact visitation should require demonstrated need and supervisor approval.

- **RECOMMENDATION:** Develop a notice and form that must be signed by all legal staff before each contact visit which outlines rules of engagement and a waiver of liability.
- **RECOMMENDATION:** Require all legal visitors to have any items that are allowed into a contact visitation to be scanned and searched. Require all legal visitors to clear the metal detector.

Perimeter/Facility Entrance:

The main entrance of the building at MCDC does have a walk-through metal detector and property scanning machine. This security/screening process serves as a building security/screening check point. The jail entrance only has a walk-through metal detector and space does not allow for a property scanning machine. Staff at the facility are issued access identification which allows them access to the facility. Control center controls access into the secure area of the jails however staff and staff property are not scanned or searched. While there does not appear to be a problem with staff introducing contraband into the facilities currently, this has been a concern at other jails throughout the nation and facilities are now being designed with screening areas that allow for the screening of staff.

Contract food service staff must pass metal through a metal detector a MCDC and are allowed limited items into the facility. The items brought in are not scanned or searched at the jail entrance.

The MCIJ main entrance does have a walk-through metal detector and property scanning device. At MCIJ, contract food service staff nor any of the items they bring in are scanned or searched and currently use a staff dedicated entrance that does not have screening equipment nor is there space for such.

- **RECOMMENDATION:** Require contract food service staff at MCIJ to enter through the main entrance when it is staffed. Require property to be searched, scanned, and require passing of the metal detector. Provide lockers at this entrance for storage of items not allowed in the facility. Consider staffing the entrance to allow for the 4 a.m. shift to be searched/scanned.
- **RECOMMENDATION:** Require all other non-staff, including volunteers, to pass through the metal detector and have any items brought in scanned/searched before jail entrance.

- **RECOMMENDATION:** Require that all individuals who enter the secure portions of the jail, other than no contact visitation to have their hand stamped upon entrance and verified by a black light upon exit.

STAFFING

Staffing is arguably the most critical resource in a correctional facility. Staffing is also the costliest ongoing line item in any correctional facility's budget and therefore there is a need to manage staffing resources efficiently and effectively. It should be noted that insufficient staffing and the effect of such was reported and observed to be of significant concern. It was reported that there are currently 36 correctional staff vacancies and another 15 to 20 are consistently out on long-term leave. Compounding the staffing shortage is a shift trade procedure which allows staff to trade shifts, setting up a schedule of only working 2 days per week and making them less available for overtime needs. Additionally, the excessive use of sick leave was reported to be of concern.

The overall staffing shortage at the facilities is a critical issue for several reasons. Due to staffing shortages, there are lock downs daily due to the inability to fill posts. This in turn prohibits staff's ability to actively supervise those in custody and prohibits those in custody from being able to participate in healthy daily activities due to being confined to cells. Critical tasks, such as contact searches, are not able to be completed due to the short staffing. Additionally, staff burnout is a concern as staff are forced to work excessive hours due to the vacancies. This also may negatively affect the overall climate and security and safety at the facilities.

Adequate staffing suggests that there must be the right number and type of staff, in the right place, at the right time, doing the right thing. A staffing analysis that accounts for facility schedules along with staff net working hours is necessary to ensure the right number of staff are in the right places at the right times. A staffing analysis will not only tell you how many staff you need but it will bring forward any opportunities to move staff to maximize staffing efficiencies. NIC provides training is a staffing analysis model specifically designed for jails. Some jurisdictions have found it beneficial to utilize a third-party consultant for the first analysis and having trained staff conduct the annual updates showing any changes in overtime, sick leave, hiring delays, etc.

Frustration with the number of vacancies along with the recruitment and hiring practices was shared as a common concern. While we did not review recruitment and hiring practices as part of this assessment it is important to point out the concerns raised given the staff shortages and the effects this is having on the climate and overall safety and security. One concern raised was the fact that many applicants were lost during the basic criminal records check which is done after the interview. Another concern was the overall length of the hiring process and especially the background check process. Concern was also placed on the fact that all potential new hires are sent to a singular doctor who conducts the physiological evaluation which at times creates difficulties with getting someone on their schedule.

- **RECOMMENDATION:** Review resources dedicated to recruitment and hiring and adjust as necessary to keep up with the demands of the Sheriff's Office.
- **RECOMMENDATION:** Review current recruitment and hiring practices. Consider innovative recruitment and hiring practices such as streamlined hiring events/walk in interviews/job fairs/etc.
- **RECOMMENDATION:** Consider focused recruitments at technical colleges and military bases using alumni and veteran staff to assist in those recruitment events.
- **RECOMMENDATION:** Consider conducting the basic criminal records check before a candidate can be scheduled for the hiring board interview. While this may not speed up the hiring process, it would create efficiencies in the use of the interview board member's time.
- **RECOMMENDATION:** Consider utilizing more than one doctor to perform the physiological evaluation portion of the hiring process.
- **RECOMMENDATION:** Create a position description, qualification requirements and mandated training for those selected for background investigator positions. When filling vacancies in these positions consider requiring prior investigatory/case management experience as a pre-requisite for filling this critical role.
- **RECOMMENDATION:** Set timeline parameters in which a background investigation is to be completed and monitor for compliance/quality control.
- **RECOMMENDATION:** Review and amend the trade allowance procedure so that it does not negatively affect the staffing levels.
- **RECOMMENDATION:** Train a team in the NIC Staffing analysis process and conduct a staffing analysis. Given the size and complexity of the corrections operations, consider the services or a consultant for the first analysis process.

TRAINING

Investing in comprehensive initial and ongoing training programs not only benefits the employees but also contributes to the overall success and stability of the correctional facility. Both pre-service and in-service training are of paramount importance for many reasons including:

Ensures Safety and Security

- **Personal Safety:** Employees must be trained in personal safety protocols to protect themselves and others in a potentially volatile environment.
- **Management:** Effective training in managing AIC behavior, de-escalation techniques, and crisis intervention is crucial to maintain order and prevent incidents.
- **Emergency Procedures:** Employees need to be well-versed in emergency procedures, including lockdowns, evacuations, and responding to medical emergencies, to ensure swift and appropriate action during crises.

Setting Clear Expectations

- **Role Clarity:** Training helps new employees understand their specific roles and responsibilities, reducing confusion and increasing productivity.
- **Performance Standards:** Clearly defined expectations regarding job performance, conduct, and professionalism help new staff meet the standards required for effective facility operation.
- **Legal and Ethical Guidelines:** Familiarity with the legal and ethical frameworks governing correctional work is essential to ensure compliance and protect the rights of both staff and those in custody.

Instilling Organizational Culture

- **Shared Values:** Introducing new employees to the core values and mission of the correctional facility fosters a sense of belonging and purpose.
- **Professional Conduct:** Emphasizing the importance of integrity, respect, and professionalism helps maintain a positive and cohesive work environment.
- **Team Cohesion:** Training programs that promote teamwork and collaboration contribute to a supportive work culture, which is essential in high-stress environments like correctional facilities.

Enhancing Professional Development

- **Confidence and Competence:** Comprehensive training instills confidence in new employees, making them feel competent in managing their duties and contributing effectively to the facility.
- **Job Satisfaction:** Well-trained employees are more likely to feel satisfied with their jobs, leading to higher morale and lower turnover rates.

Promoting a Safe and Productive Environment

- **Consistency:** Standardized training ensures that all employees are on the same page regarding procedures and policies, leading to consistent and fair treatment of those in custody.

- Risk Mitigation: Proper training helps identify and mitigate risks, reducing the likelihood of incidents that could jeopardize the safety and security of the facility.
- Operational Efficiency: A well-trained staff can operate more efficiently, reducing errors and increasing the overall effectiveness of the correctional facility.

It was shared that training was significantly hampered by the COVID-19 pandemic and many new staff did not receive the in-person training or mentoring desired for corrections during that time nor has there been the staffing resources since to provide remedial training. To address this, a “Corrections 101” class has been developed and is being provided to all staff as part of in-service training.

Orienting and subsequent FTO periods for new employees in a correctional facility along with comprehensive ongoing in-service training, are paramount to the successful operation of any correctional facility or system. These processes serve first as the foundation for a newly hired employee, setting expectations, ensuring the safety of both the incarcerated individuals and the staff, and instilling the culture of the office.

Establishing these training programs and opportunities for new employees who are beginning their careers in a correctional facility are not just procedural necessities, they are a critical strategic investment that set clear expectations, ensure safety, and foster a positive and cohesive work culture. When comprehensive orientation and field training are prioritized and coupled with supportive ongoing in-service training, correctional facilities operate more effectively, maintain higher safety standards, and create supportive environments that encourage professional growth and ethical behavior.

When reviewing MCSO’s onboarding process for new hires it was noted that a new corrections employee is given a four-week Orientation period and then ten (10) weeks of Field Training inside the correctional facilities. This is done in part because the MCSO is dependent on the State of Oregon to conduct basic corrections certification classes, and it was reported to commonly take between 6-9 months before a seat in a training class is available. During the four-week orientation period there was very little time spent on preparing the new hire to work specifically inside the correctional facilities but rather much of the training is firearms and defensive tactics oriented. A limited introduction Crisis Intervention Training, De-escalation, Suicide Prevention, Mental Health First Aid and some basic scenarios are conducted during the initial four-week orientation. Currently, many of the basic training topics relevant to corrections are either pushed to an on-the-job training event with the new hires Field Training Officer (FTO) or are not covered until the new hire reaches the academy.

In January of 2024 MCSO initiated a more formal Field Training program, choosing, and formalizing training for their staff who act in this capacity. There is one Sgt who acts as a coordinator, covering both facilities and all ten (10) of the current FTO’s. The MCSO should be commended for taking this step and bringing their new hire training program in line with best practices from across the country. No formal FTO period currently exists for newly promoted first time supervisors.

An important part of corrections orientation training for all staff, volunteers, and contractors who encounter those in custody is a class that includes topics such as ethics, professionalism and avoiding inmate manipulation. While it was confirmed that there are some components in place for corrections staff, the volunteer program, healthcare, and foodservice we did not review the actual lesson plans. Given the national frequency of staff developing inappropriate relationships with those in custody and introducing contraband into facilities it is important to ensure this training includes the necessary components, is trained before any AIC contact and is regularly provided as part of in-service training. Training resources in this area have been sent to Chief Deputy Reardon.

- **RECOMMENDATION:** Consider expanding the FTO program by adding a coordinator to each facility and adding additional FTO's.
- **RECOMMENDATION:** Consider developing a supervisor development program and/or corporal track to develop future supervisors.
- **RECOMMENDATION:** Consider expanding the FTO program to include an FTO process for sergeants.
- **RECOMMENDATION:** Incorporate the elements of Corrections 101 into the initial orientation training.
- **RECOMMENDATION:** Review Corrections 101, healthcare, and foodservice lesson plans regarding ethics, professional boundaries, and avoiding inmate manipulation to ensure that desired components are included.
- **RECOMMENDATION:** Add drug recognition and impairment recognition to new hire orientation and in-service training.
- **RECOMMENDATION:** Create a formal job description for training unit staff.
- **RECOMMENDATION:** As a matter of policy, require instructors to attend an instructor development course.

SUPPORT SERVICES

Healthcare

Healthcare services at the facilities are provided by the Multnomah County Corrections Health Department. We toured the medical units, interviewed medical staff, and observed medication handling and delivery practices at both facilities. While we did not receive or review the data, it was reported by medical and corrections staff that a high percentage of

those in custody were prescribed medications. Those in jail are often med-seeking and it is common for those prescribed to misuse or divert such medications. For many reasons, chief among them being reduced criminal/drug activity and reduced recidivism, facilities generally practice a conservative approach to prescription medication for those in custody. This came to the attention of the team not from a medical viewpoint since neither consultant is a medical expert. Rather, this was an issue of staffing as this high number of inmates requiring medication multiple times a day requires staff escorts. Concerns were also raised about the number of confirmed and suspected cases of those in custody misusing and diverting medications. Given the addiction and withdrawal issues presented by those in custody, this presents a significant challenge to corrections and healthcare leadership.

It was reported by both corrections' leadership and healthcare staff that recently communications between the disciplines have improved which has allowed for an improved multi-disciplinary approach to delivering, monitoring, and improving services. Both Sheriff's office staff and public health should be commended for these efforts. It was reported that the improved communication process includes regular multi-disciplinary meetings and sharing of incident information so that security and healthcare may cooperatively be improved. This includes communication and follow-up when those in custody are suspected and/or confirmed to have misused medications. Both weekly and monthly meetings are taking place. Continuation of this process is necessary to meetings to review data and practice as well as to ensure all disciplines are on board with care plans and special needs of special needs AIC.

When reviewing pharmacy and medication delivery practices it was observed that the pharmacy at MCIJ where narcotics are kept does not have an access-controlled door and does not have a camera in the area. Medication inventories, narcotic counts, and sharps counts consistent with correctional practices appeared to be in place. While observing medication passes it was discovered that often there is little or no effort to confirm that the AIC has properly consumed the medication to combat medication misuse and diversion. Currently narcotics and suboxone are delivered in crushed form.

Staff shortages was raised as a concern, and it was noted that on the day of our onsite assessment corrections healthcare had about fifty (50) vacancies. This is concerning for several reasons. While agency staff are assisting in meeting the daily needs, this should only be used as a temporary solution. Temporary staff that are not developed as part of the local culture have the potential to create issues with inconsistency. Additionally, providing a consistent regiment of training and experience necessary to create the desired culture is difficult when staff are moved in and out of the facility on a temporary basis. The same recommendations made in the staffing regarding recruitment apply to healthcare.

- **RECOMMENDATION:** Write into policy/protocols that all suboxone is delivered in crushed form.
- **RECOMMENDATION:** As a matter of policy/protocol, deliver all narcotics in a crushed and floated form to prevent misuse.

- **RECOMMENDATION:** As a matter of policy/protocol, deliver other medications known to be commonly misused in a crushed and floated form.
- **RECOMMENDATION:** In a coordinated effort between corrections and healthcare, review the medication delivery training and provide regular update training. Emphasis should be placed on preventing inmates from cheeking, palming, discarding, hoarding, etc. Consider training corrections staff in this along with medical staff.
- **RECOMMENDATION:** As a matter of policy, regular quality assurance observation of medication delivery to ensure medication pass is being done as expected.
- **RECOMMENDATION:** Formalize the communication and follow-up process for the reporting of medication misuse to ensure this is communicated to health staff and follow-up, such as patient education, delivery form change, or discontinuation of the medication is completed and documented.
- **RECOMMENDATION:** As a matter of practice, add the following to the agenda for the monthly corrections/healthcare multi-disciplinary team meeting:
 - A review of the number of those in custody on medications.
 - A review of recent medication misuse incidents and follow up actions.
 - A review of the suboxone program participation numbers and operations of the program.
 - A review of any confirmed overdose cases.

Food service

Food services are provided by a vendor and those in custody are not involved in kitchen work, therefore our review of this area was limited to a review of sharps and tool control in the area. Such control and accountability are important regardless of who is employed in the kitchen as misplaced items could very well accidentally end up in the hands of an AIC and become a weapon. At both facilities it was observed that offices and shadow boards/cabinets containing sharps were not secure. Additionally, the shadow boards were missing items that were not signed out.

- **RECOMMENDATION:** Reinforce security, control, and inventory of sharps expectations with the vendor. Consider implementing a regular security audit of this area as a matter of quality control.

AIC MANAGEMENT

Supervision

Although many areas of the facilities are designed as direct supervision they are not operating as such. The units are not consistently staffed nor are the principles of direct supervision and active supervision or effective inmate management consistently applied. On some shifts, units are locked down entirely. On other shifts, lockdowns occur for two hours during each meal period as there are not sufficient relief staff to provide for staff meal breaks. The facilities are also equipped with ample exercise and program space, but again staffing prohibits the full utilization of these areas. Given the above, active supervision is not taking place on a regular basis nor are productive activities being maximized. Several dorms at the MCIJ site had 65 or 75 AIC and one staff person. For effective direct supervision this number should be lower.

- **RECOMMENDATION:** Once sufficient staffing needs are met consider utilizing NIC resources to develop facility Strategic Inmate Management-SIM trainers. Consider implementing a change team to operationalize the training that includes the training of all corrections staff.
- **RECOMMENDATION:** Consider opening an additional dorm so that the population in dorms 10 through 13 are reduced to a manageable number of AIC. This has been proven to be beneficial in other units at both MCDC and MCIJ.

Classification

The facilities are in the process of implementing an objective classification system which is necessary for creating a behavior and risk-based classification system and for the successful operations of direct supervision.

Housing

Cell and area searches are critical tasks in ensuring the control of contraband. Two cell or bunk searches are required per shift based on random cell or bunk numbers provided by supervisors. While those searched are logged, there is no efficient way to determine what cells or bunks have not been searched within the past 30 days. Also, due to staff shortages and lockdowns, searches are not being completed. Area and unit searches are also not being completed as desired due to staff shortages.

Currently used library books are provided on the housing units for leisure reading. Books have been known to be used to transfer contraband such as illicit drugs. Also, specific books may also be requested through a library loan program through the local library. This is especially concerning as one could coordinate the lacing of a specific book that is to be brought into the facility. Tablet programs have the capability to provide leisure reading content.

At MCIJ a work crew provides services such as sanitation, grounds work and laundry services outside of the secure facility. Many changes have taken place over the years to ensure appropriate supervision and control of this program. All crews are directly supervised. Currently, those that participate are strip searched and body scanned when they come back into the facility each day. Random urinalysis tests are also done however training is not required on how to do the collection and testing.

- **RECOMMENDATION:** Develop a system of tracking and accountability to ensure all cell/bunk and area searches are searched within required timeframes.
- **RECOMMENDATION:** Provide for leisure reading material via the tablet and eliminate the current used and library loan books.
- **RECOMMENDATION:** As a matter of policy, training for those that are collecting and testing urine.

AIC Accounts:

It was learned that an AIC is allowed to do two (2) releases of money each month up to \$500 each. The money releases are not restricted in any other way. This was concerning as the potential for those in custody to use funds to provide for illegal activities to include the payment for supplying contraband.

- **RECOMMENDATION:** Review the money release process to determine if changes/restrictions are desired.
- **RECOMMENDATION:** Utilize the money release data as intelligence and an investigative resource.

SUSTAINABILITY AND PLANNING

Data management

When obtaining and reviewing data it was found that there is not an all-inclusive jail management system-JMS. Multiple home-grown systems are being used making data entry and tracking difficult. Being able to track activities and obtain data is a necessary component of accountability and liability mitigation in a corrections facility. Additionally, such data is necessary for future planning and needs acquisitions. We learned that Sheiff's leadership is currently researching options to address this. This is a critical need.

- **RECOMMENDATION:** As a matter of priority develop specifications for a JMS and take the necessary steps to purchase and implement the system. Consider querying other jails to determine what systems have performed well.

Policy& Procedure

The management of policies and procedures is critical to the operations of a corrections facility and must be readily available to and understood by staff. The current policies are in the process of being updated. The facilities currently use Power DMS to store the policy and procedures. Many polices are combined into one document making the process of looking up a specific policy cumbersome and inefficient. While there has been some recent communication with staff on how to use the search feature, there is no index.

- **RECOMMENDATION:** Consider developing an index for each policy document that contains more than one policy.
- **RECOMMENDATION:** As a matter of policy, require annual documented reviews of all policies.

Change Management

The current leadership has taken several steps to assess the operations and has identified many changes that are desirable and/or necessary. Many have already been implemented, with many pending. The Recommendations Project has been developed to document and track the recommendations items specific to corrections healthcare. The list has recently been expanded to include all recommendations. It will be important to vet, prioritize, and plan for the implementation of each recommendation moving forward. Given the sheer number of potential changes, monitoring for change burnout will be important so you do not lose accountability of the end goals. Developing a monitoring process as well as an accountability process will also be necessary to ensure goals are met and sustained.

- **RECOMMENDATION:** In addition to the expansion of the recommendations project consider the development and implementation of a self-audit tool.

Facility Planning

It is important to note that the detention population has changed dramatically which necessitates the need for changes in correctional practices. This includes, but is not limited to, the fact that there are higher indents of addiction and more prevalence of serious health and mental health issues. This dictates the need for additional resources such as specialty services, training and dedicated housing designed for select population management.

As pointed out throughout the report MCDC facility has reached the age out stage and no longer meets today's correctional needs. There is a long list of expensive projects that are pending for the facility. These projects may buy time to keep systems working but will not correct the issues lacking in facility design nor provide spaces needed to meet today's correctional needs. Additionally, the costs of having two facilities should not be overlooked as there are many added costs due to the duplication of services and added transportation costs.

The needs assessment, planning, design, building, and transition to a new facility takes a cooperative effort between the Sheriff's office and the county commission. While a significant undertaking, this is a necessary process to ensure modern facilities are in place to meet community values and maintain safety and security of staff, the community and those in custody.

- **RECOMMENDATION:** Consider starting the process as outlined above to replace the MCDC facility and possibly combine operations into one facility. Consider using services from NIC under the New Jail Planning Initiative as starting point. Consider the services of consultant(s) or a consultant team to assist in this process.

CONCLUSION

We would like to thank the Sherrif and her staff for the hospitality during the assessment. All staff presented to us in a professional and welcoming manner. It is clear that the Sheriff and her leadership team are committed to meeting the requirements to operate a safe and secure facility in a fiscally responsible manner. This is reflected not only by the request for this technical assistance, but other assessments and improvement processes currently being utilized.

We have outlined our observations and recommendations in hopes that it will assist you in planning for change as you move forward. We realize that some of our recommendations will require resources but feel they are necessary and critical to operations especially given the seriousness of drug contraband issues and the consequences of such.

Because of the critical staffing shortage, we have attached as an appendix a document titled "Jail Staffing and the Federal Courts" as a refence that reinforces how important adequate staffing is to meet the constitutional requirements of operating a jail along with avoiding unnecessary litigation. Meeting the staffing and other resources obligations for the correctional facilities is the responsibility of Multnomah County government and will require a cooperative effort with and support to the Sherriff's office.

APPENDIX A

DATA REQUEST

- Background data on the facilities (year built, design capacity, construction type, etc.).
- Average Daily Population (2024 and previous 3 years). By classification level, if available.
- Average Number of Daily Admissions (2024 and previous 3 years; identify peak periods during the day, week, year).
- Average Number of Daily Releases (2024 and previous 3 years; identify peak, periods during the day, week, year).
- Population breakdown – County, state, revenue/marshal, male/female, adult/juvenile, etc. (Identify any significant changes in population breakdown for 2023 and the previous 3 years)
- Listing of housing units and holding areas designating the capacities of each, and the population housed.
- Floor plans of the existing facility (see related document below). Preferably sized as 8.5" x 11", or 11" x 17" with post locations and camera locations.
- Copy of the facility's mission statement...vision...or purpose statement.
- Copy of applicable state jail standards/state jail code including training standards/mandates.
- Copy of the most recent state inspection, review, or assessment of the facility along with any corrective measures taken.
- Copy of most recent NIC assessment report and corresponding project plan.
- Copies of the facility's most recent annual report with statistical data such as admissions, average daily population, transports, meals served, visits, etc.
- Activity schedules or plan of the day for the facility representing meal service times, visitation, med rounds, laundry, recreation, courts, shift changes, formal counts, lockdown, wake up, commissary, spiritual or religious services, programs such as education, substance abuse, etc.
- Summary of critical incidents such as suicides, deaths, assaults, escapes, facility destruction, current litigation, court rulings, consent decrees or other relevant legal issues etc. This can be reviewed/discussed on site if preferred.
- After action documentation and/or investigative reports for any drug related death(s) in past 3 years.

- After action documentation and/or investigative reports relating to the use of Narcan for the past three years.
- After action documentation and/or investigative reports relating to serious contraband such as drugs, tobacco, weapons from outside, cell phone, etc. for past three years.
- All policies, procedures, methods used to conduct Medicated Assisted Treatment (M.A.T.) in the facilities, all available outcome data related to M.A.T. programs for the past three years.
- List of all social programs that are offered within the facilities with current schedules of which programs are being conducted. To include, which section(s) of the incarcerated population is served by any particular program and who conducts them i.e., staff or volunteers.
- Inmate handbook.
- Policies and procedures manual (including post orders) in electronic form.
- Current organizational chart.
- List of all staff by shift and post assignments. (Shift Schedules) Copy of any document outlining union requirements for staffing levels.
- Service Contracts (e.g., health care, food service, phone, tablet, commissary, maintenance, etc.).
- Volunteer program information to include contract, rules, training curriculum, and vetting procedures for volunteers entering the facilities.
- Copy of annual In-service training plan. Copy of certification and in-service training topics with training objectives, if available. Copy of entire curriculum for any certification and in-service training on use of force, inmate behavior management, supervision, and emergency response.
- Most recent staffing analysis.
- Contraband data for 2023 and past three years. (total # of incidents, # by category/item)
- Staff vacancy listing
- Staff retention data for 2024 and past three years. (Numbers hired, leaving and longevity)
- Any other information / documents / reports, not included in this request, you or your staff feel is pertinent to this T.A.
- Copies of the FTO program documents and training
- Oregon State Police recommendations
- Overdose data from the health services
- Auditor's report and recommendations

- Corrections Recommendations Project list
- Pre-service orientation training for corrections staff as well as contract staff

APPENDIX B

Excerpts from:

**Jail Staffing Analysis
Third Edition**

Jail Staffing and the Federal Courts

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Jail Staffing and the Federal Courts

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:

- Protect inmates from themselves, other inmates, staff, and other threats
- Maintain communication with inmates and regularly visit occupied areas
- Respond to inmate calls for assistance
- Classify and separate inmates
- Ensure the safety of staff and inmates at all times
- Make special provisions for processing and supervising female inmates
 - Deliver all required inmate activities, services, and programs (medical, exercise, visits, etc.)
- Provide properly trained staff

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.

Courts view staffing levels and practices as central to the constitutional duty to protect

The United States Constitution imposes an extraordinary duty to protect on jails that has no counterpart in the public safety. ¹ 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.

Do citizens have a *constitutional* right to be protected from crime or to have a fire extinguished? No, 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.²

¹ When fire, police and other public safety personnel provide services, the Constitution certainly comes into play, establishing many requirements for the manner in which services are delivered. But in these cases, the duty to protect commences when officials decide to act.

² While the constitution does not mandate such services, state law, local ordinances, local policies and procedures, and even union contracts, might create requirements for staffing levels or patterns.

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 our duty to protect is constant and mandated, we do not have the option to lower our level of care just because we do not have enough staff. If a shift supervisor leaves a needed post vacant because there are not enough employees to staff all posts, he/she increases risk and exposes the agency and government to higher levels of liability.

Duty to Protect

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).

In a Colorado case³, 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 the failure to provide an adequate level of security staffing, which may significantly reduce the risk of such violence and assaults, constitutes deliberate indifference to the legitimate safety needs of prisoners.

Staffing Levels

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).*

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).

Liability

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)

Court Intervention

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).

Connecting Staffing Practices to Other Conditions

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:

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

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.”

Idleness. “Prisoner idleness...will increase as a result of staff reductions...”

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.”

Training. “Reduction in security staff positions will prevent...complying with staff training requirements of the Court's order...”

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.

Lack of funds is not an excuse

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)

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.⁴ In a 1977 decision,⁵ Supreme Court Justice Powell observed:

...a federal court's order that a State pay un-appropriated 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.

The Indianapolis case (see Footnote 3) concluded:

It is not the province of a federal court to instruct the legislature on how it should finance its obligations. The district court did not attempt to do so. The court did what was within its authority--order a wrongdoer to pay the cost of remedying its wrongdoing

⁴ *United States v. Board of School Commissioners of City of Indianapolis, 677 F.2d 1185 (7th Cir.1982).*

⁵ *Milliken v. Bradley, 433 U.S. 267 (1977).*

Recent Federal Cases

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:

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.

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.

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.

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.

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.

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.