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Research
Bulletin

Crowding at the Cook County Jail:
Historical Perspective and Current Strategies

October 1989

Crowding at the Cook County Jail has received considerable attention in recent years. But the problem of crowding has plagued the county's correctional system since its inception more than 100 years ago. Despite numerous investigations and studies over the years, the problem has now reached crisis proportions.

This bulletin examines the history of jail crowding in Cook County, and traces the factors that have contributed to the current crisis. The report also examines the different approaches county officials have used to deal with the current problem—from increasing capacity to releasing inmates on their own recognizance and placing some inmates in alternative programs such as electronically monitored home confinement. Finally, the bulletin looks at some of the recent strategies that have been proposed to deal with the situation.

Although the bulletin focuses on crowding in Cook County, its findings apply to corrections managers in other jurisdictions as well. And by placing the issue of jail crowding in the larger context of processing defendents through the criminal justice system, the bulletin should help officials in all components of the system better understand the dynamics that contribute to jail crowding and other problems.

The Cook County Department of Corrections (CCDOC) operates the third largest jail complex in the nation and is the largest single-site jail facility. The jail is administered by the county sheriff and contains a total of nine divisions: five general population divisions; one female division; one division for medical, psychiatric, and drug treatment; one division within the county hospital; and one division that previously held periodic imprisonment inmates (mostly work release), but now holds general population.

Although the capacity of the jail now stands at 6,237, the population is more than 7,000 inmates, a total that has increased by one-third in the first nine months of 1989. Currently, crowding at CCDOC is so severe that nearly 1,000 inmates are forced to sleep on mattresses on the floor.

Since 1982, the jail has been operating under the terms of a consent decree arising from a class-action federal lawsuit filed by the Legal Assistance Foundation of Chicago on behalf of the pretrial detainees in CCDOC. This agreement effectively established a population limit, so that no inmate would be forced to sleep on the floor or in any other area not designated for sleeping. In early 1989, a federal judge, citing the county's failure to comply with this consent decree, ordered county officials to begin paying fines of $1,000 per day for each day the jail exceeded its population limit. Through mid-September, $270,000 in fines had been paid.

Since the consent decree was entered in 1982, jail officials have simultaneously focused their remedial efforts in two directions—a significant expansion of jail facilities and some rather controversial measures directed toward the population of pretrial inmates, who make up the vast majority of the jail's population. Throughout the 1980s, pretrial inmates have made up approximately 87 percent of the jail's average daily population (Figure 1).

As part of the consent decree, jail officials were also given greater flexibility to release nonconvicted inmates because the development of alternatives for sentenced inmates would require direct judicial approval and participation. The primary means by which CCDOC officials have reduced the jail's daily population is through a release program officially called Administrative Mandatory Release, which is analyzed in this research bulletin. The bulletin also looks at the historical factors leading to the present state of jail crowding, and describes the attempted and proposed strategies to combat it.

Jail crowding has been described as "the most pressing problem" facing criminal justice systems across the nation.[1] In a recent survey, jail managers across the country ranked jail crowding as the most serious criminal justice problem.[2] Nearly 55 percent of these managers reported that their jails were filled beyond the rated capacity, and another 13 percent reported that they were at 96 percent to 100 percent of rated capacity.[3]

Recent jail population statistics reported by the Bureau of Justice Statistics (BJS) indicate similar trends.[4] The total number of jail inmates in the nation increased 32 percent between 1983 and 1987, while the total rated capacity of the nation's jails rose only 15 percent. Consequently, during that time the percent of rated capacity being occupied rose from 85 percent to 98 percent.

Jails and Prisons

To the general public, the terms "jail" and "prison" may seem synonymous but in fact they are two very different types of institutions. Most jails are administered by local governments and hold both convicted and nonconvicted individuals. Convicted offenders serve relatively short sentences in jail, usually less than one year. Nonconvicted persons are detained while awaiting trial or other court proceedings. Jails tend to be located within the inmates' own community, near criminal courts, and typically have few rehabilitation, education, counseling, or other programs.

In contrast, prisons exist primarily as a sanction for criminal offenses, and are operated by state and federal governments. Prisons generally hold convicted offenders sentenced to terms of confinement for more than one year, and are usually larger than jails.

Both prisons and jails need to reserve some confinement units for special purposes, such as medical services, segregation of certain inmates from the general population, and temporary replacements for units that are under repair. Fluctuations in population are greater in jails than in prisons, thus jails have a greater need for reserve space. This is because of the shorter periods of incarceration in jails, the variation between weekend and weekday levels, and sudden population increases that occur when specialized police investigations lead to multiple arrests. In addition, pretrial detainees present a special problem for jail administrators because these inmates have not been convicted of the crime for which they are being held. It therefore could be argued that they should not be subject to loss of rights in the same way as convicted inmates.

A recent Bureau of Justice Assistance report cites the U.S. Court decision, *Gross v. Tazewell County Jail* (533 F. Supp. 413, 419 (1982)), which states: "as a matter of common sense and fundamental fairness, the criminal justice system must insure that pretrial detainees are not housed in more deprived circumstances than those accorded to convicted persons. Overcrowding in a local jail cannot be quantitatively equated with overcrowding in a state penal institution." (*Our Crowded Jails: A National Plight* (Washington, DC: Bureau of Justice Assistance, 1988))■

A History of the Problem: 1872 to the Present

Early History

Crowding has plagued the Cook County correctional system since its inception more than 100 years ago. In the 1870s the county constructed both the House of Correction, designed to house convicted offenders, and the County Jail, designed primarily to hold persons awaiting trial. Annual reports of the County Board of Inspectors for the years 1872 to 1921 indicate serious crowding problems in the House of Correction. The structure, originally built in 1871 to house 480 inmates, had an average daily population of 641 in 1885, and 710 in 1889. Although an addition in 1908 raised the capacity by approximately 600 cells (to 1,080), the average daily population by 1915 was 2,323.

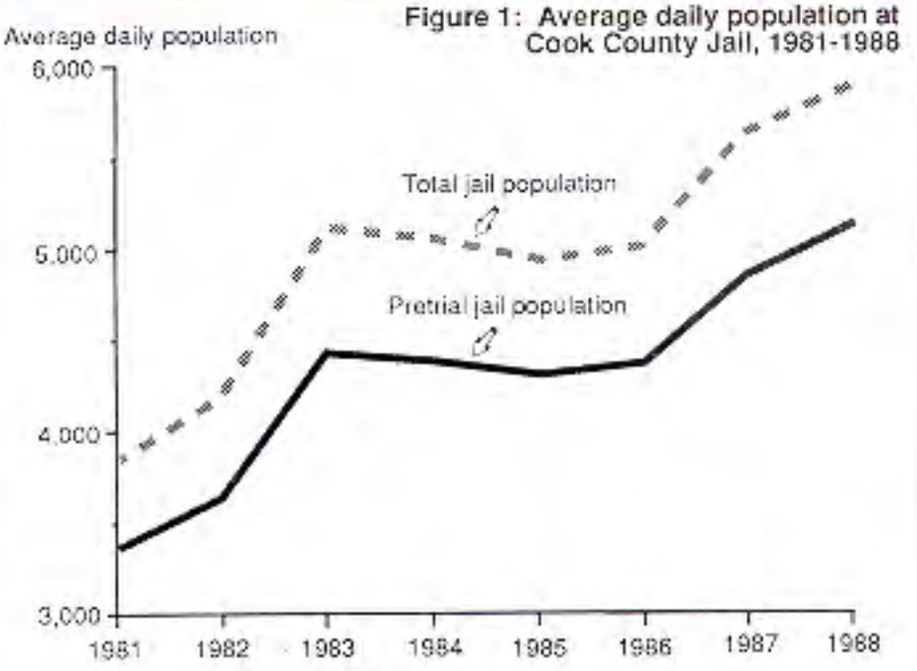
During the same period, the County Jail had similar problems. Although that structure contained only 316 single-occupancy cells, the jail population in 1921 reached a staggering 1,013 inmates on a single day. Because of this crowding, a new jail facility, with a capacity of 1,302, was constructed in 1929, located at its present site on Chicago's near Southwest Side.

Crowding problems continued into the 1950s. An inmate riot in 1954 focused media attention on the jail, and prompted a grand jury investigation. The 1956 grand jury report detailed numerous problems, including crowding.[5] The building, which had been built to house 1,300 prisoners in small cells, held a daily average of 1,800 in 1958. Many of the same problems at the House of Correction were cited in 1952 by a commission appointed to study conditions there.[6] Single occupancy cells were found to be occupied by two or three people who were locked in for periods of 14 hours or more.

Reports by the John Howard Association and the Chicago Crime Commission detailing deplorable conditions at the two institutions resulted in a 1967 grand jury investigation.[7] One response to this investigation was the passage of the County Department of Corrections Act of 1969, which consolidated the House of Correction and Cook County Jail into the Cook County Department of Corrections (CCDOC).

Although jail expansion was not called for in the grand jury recommendations, beginning in 1970, the

Figure 1: Average daily population at Cook County Jail, 1981-1988



Source: Illinois Department of Corrections

("CCDOC embarked on a massive building program, which was not completed until 1985.

The Duran Case

In 1974, pretrial detainees filed a class-action suit in federal court, protesting the conditions of confinement and naming the Cook County sheriff and the Cook County Board of Commissioners.[8] The suit alleged "inadequate and inhumane" living conditions which violated the plaintiffs' constitutional rights. The case, then known as *Duran v. Elrod*, resulted in a consent decree eight years later, on April 13, 1982.[9] The provision of that consent decree related to crowded conditions stated the following:

"Each pretrial detainee shall have one permanent bed in a cell. No pretrial detainee shall be housed where inmates are required to sleep on the floor, or on mattresses on the floor, or in any area not designated as sleeping quarters."[10]

Violation of the Consent Decree and the Beginnings of AMF

Eleven months later, on March 23, 1983, plaintiffs charged in U.S. District Court that jail officials were violating the consent decree by allowing inmates to sleep on the floors. The court maintained that the methods employed by jail officials for controlling the jail population would be best left to the decisionmaking of "the relevant branches of state government." However, the court also ordered that, in the absence of such guidelines, jail officials were to release on their own recognizance those persons with the lowest bail amounts, especially those who had been confined the longest time.[11]

While temporary reductions in population resulted largely from decreased jail admissions, the 1983 court decision specifically ordered jail officials to begin releasing inmates when the population reached its ordered limit (4,500 at that time). Under this policy, referred to by jail officials as Administrative Mandatory Furlough (AMF), officials release inmates with the least serious charges and lowest cash bond amounts on their own recognizance (that is, with no cash or security deposit required). This practice was formally initiated in August 1983 when the jail population began to rise beyond capacity. In an attempt to minimize the public safety risk associated with such practices, only misdemeanants held on bonds of $10,000 or less (presumably the least serious offenders) were eligible for AMF. A total of 6,534 defendants were granted AMF during the final five months of 1983 (Figure 2).

The AMF practice continued over

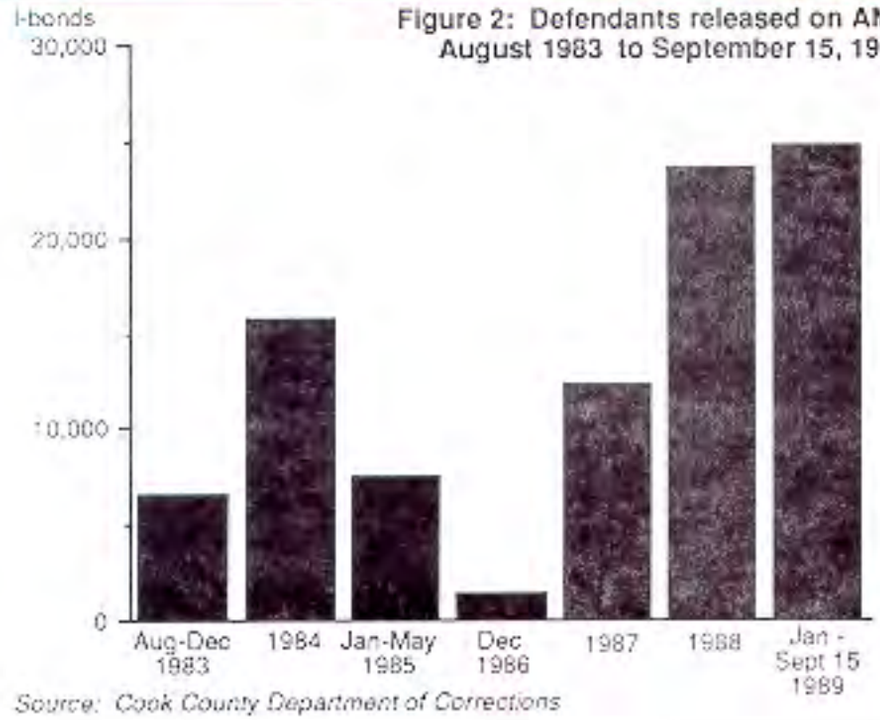


Figure 2: Defendants released on AMF August 1983 to September 15, 1989

Source: Cook County Department of Corrections

Problems In Large Metropolitan Jails

Jail crowding seems particularly acute in larger metropolitan jurisdictions. The Bureau of Justice Statistics recently collected data from jails in the nation's 25 largest jurisdictions (those with average daily populations of at least 100 inmates), and found that on June 30, 1987, occupancy exceeded rated capacity by about 11 percent.

The National Institute of Justice's recent National Assessment Program survey stated that "jail crowding correlates directly with size of community." For example, the survey found the following:

- For counties with populations below 100,000, 54 percent of jail managers reported that their jails were at or below 95 percent of capacity. Only 20 percent of these jails were above 105 percent capacity.
- For counties with populations of 500,000 to 750,000, 71 percent had jail populations of more than 105 percent of capacity.
- In counties of more than 750,000 population, the percentage with jail populations exceeding 105 percent dropped to 58 percent. However, only 3 percent of these communities had jail populations under 95 percent of capacity.

Clearly, the largest metropolitan communities have the least amount of jail space to spare. ■

This report was written by Authority research analyst Mark Myrent. The calculations for I-bond impact assessment were produced by James V. Spring and Carolyn R. Block.

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The Involvement of Federal Courts

Crowded conditions at correctional facilities not only cause staff and inmate problems; they can be ruled unconstitutional. In the past decade, federal courts have become increasingly active in determining the conditions of confinement in jails and prisons. The courts have often found conditions of confinement unconstitutional and have required government officials to take remedial, and often expensive, courses of action.

On at least two occasions, however, the U.S. Supreme Court overturned federal District Court findings of unconstitutional confinement conditions. In *Bell v. Wolfish* (441 U.S. 520, 542 (1979)) and *Rhodes v. Chapman* (452 U.S. 337, 348 (1981)), the Supreme Court held that executive and legislative officials must have discretion in the administration of prisons and jails.

Despite these decisions, many lower courts continue to find existing conditions of confinement to be unconstitutional. The courts often require jail administrators to keep the population under a court-ordered ceiling, or "cap," even if the administrators lack the resources or political support to do so.

About 28 percent (102) of the jurisdictions with large jail populations in the 1987 Bureau of Justice Assistance study had at least one jail under court order to reduce the number of resident inmates. Similarly, in the National Institute of Justice's recent National Assistance Program survey, more than 38 percent of the jails were reported to be under a court order restricting the conditions of confinement. This part of the survey included all 175 U.S. counties with populations greater than 250,000, providing a comprehensive representation of the large metropolitan-type jails. ■

the next 18 months, with 15,681 defendants released in 1984, and 7,483 defendants released in 1985. With the opening of a 500-bed unit in 1985 for inmates receiving medical and psychiatric care, the AMF practice was discontinued between June 1985 and November 1986. From November 1985 to November 1986, however, the population rose almost 10 percent, and the AMF practice was once again revived. A total of 1,450 defendants were released in December 1986 alone, and another 12,385 in 1987.

The Contempt Order

On April 7, 1988, Judge Milton Shadur issued a contempt of court order, proclaiming that efforts by the county board and CCDOC officials to correct problems at the jail were inadequate. According to the John Howard Association, a prison reform, advocacy, and watchdog organization assigned to monitor the consent decree, crowding at the facility had become so acute that at times 200 to 400 inmates had to sleep on mattresses on the floor. Judge Shadur gave the county 60 days to reduce crowding so that each inmate had a permanent bed in a cell, or else risk fines of $1,000 per day. The jail population was to not exceed its then capacity of 5,559. At the time of the contempt order, jail officials revealed that they were releasing inmates with bonds of up to $20,000, and releasing not only accused misdemeanants but accused felons as well. By the end of the 60-day period (June 1, 1988), officials raised the bond limit for AMF to $30,000.

As a result of these efforts, jail officials successfully reduced the population to about 5,200 by June 1 (approximately 359 below the cap), thus averting the $1,000 per day fines. The AMF policy, though, increasingly came under fire, since it allowed persons accused of crimes such as delivery or possession of a controlled substance, theft, deceptive practices, forgery, burglary, and motor vehicle theft to be released without posting any cash bond.

During the April 7 to June 1 period, the sheriff and CCDOC officials were being publicly criticized by Cook County Circuit Court judges, who said their bonding authority was being usurped. In other words, defendants for whom bonds had been set at certain levels for the purposes of ensuring their appearance at later court hearings were having that cash bond later nullified via the AMF practice at the jail—cash bonds were being transformed into recognizance bonds. The Circuit Court judges, as well as other community leaders, were also concerned that some defendants, particularly drug offenders, would commit more crimes once they were back out on the street.

Despite this criticism, jail officials continued to raise the upper bond limits for AMF. At the end of July 1988, the limit was raised to $50,000, although defendants charged with violent crimes or Class X crimes, or those referred by judges for medical, psychological, or drug treatment, were ruled ineligible for AMF. During July 1988, jail officials publicly estimated that 50 to 60 inmates were being released on these jail-issued I-bonds each day, with as many as 117 defendants freed on a single day.

However, the crowding problem continued to worsen. In late August, jail officials began to release suspects accused of more serious crimes, such as robbery and *residential* burglary, as long as they did not involve weapons. These releases were granted, however, only when the bond amounts did not exceed $10,000. Just five days later, though, that bond limit was raised to $25,000.

In mid-September 1988, following a status hearing before Judge Shadur on current jail conditions, Sheriff James O'Grady began to publicly propose various solutions to the jail crowding problem. Jail officials by this time were releasing an average of 90 inmates per day on recognizance bonds, and yet there were still several hundred inmates sleeping on the floors of the jail. These proposed solutions, which are reviewed

in detail later in this bulletin, included construction of a permanent addition to the jail as well as temporary modular cells during the interim, use of house arrest with electronic monitoring as an alternative to incarceration, transfer of work release inmates to a community facility, and a long-range needs assessment study.

Even as these proposals were being discussed and some were being implemented, crowding at CCDOC continued. In February 1989, Judge Shadur, responding to chronic crowding at the jail, began issuing fines retroactive to mid-December 1988 in the amount of $1,000 for each day that inmates continued to sleep on the floor. By that time, almost 400 inmates were sleeping on mattresses on the floor each night, despite the release of record numbers of inmates on I-bonds. A total of 23,657 inmates were released on AMF during 1988, almost twice the 1987 total. Besides renovating the periodic imprisonment division for use by regular inmates, officials were also granted approval by Judge Shadur to move beds into each of 64 day rooms, where inmates spend much of the day watching television, relaxing, and eating. The 280 beds added by this action were, however, ordered to be removed by December 1990.

Current Status

As of September 1989, crowding at the jail has reached even higher levels. According to officials from the John Howard Association, the population has reached more than 7,000, with approximately 1,000 pretrial inmates sleeping on the floor. This does not include the approximately 350 periodic imprisonment inmates sleeping in the gymnasium. Further, county officials have now paid more than $270,000 in fines, as crowding continues. These fines are paid into a CCDOC Inmate Welfare Fund (expended for goods directly benefiting inmates). Besides sleeping in dayrooms, inmates have also been forced to sleep under stairwells that lead from dayrooms to the cells. This condition exists even though 24,843 inmates had been released on AMF I-bonds during the first 8 1/2 months of 1989, a total that already surpassed the record 23,657 inmates released during 1988.

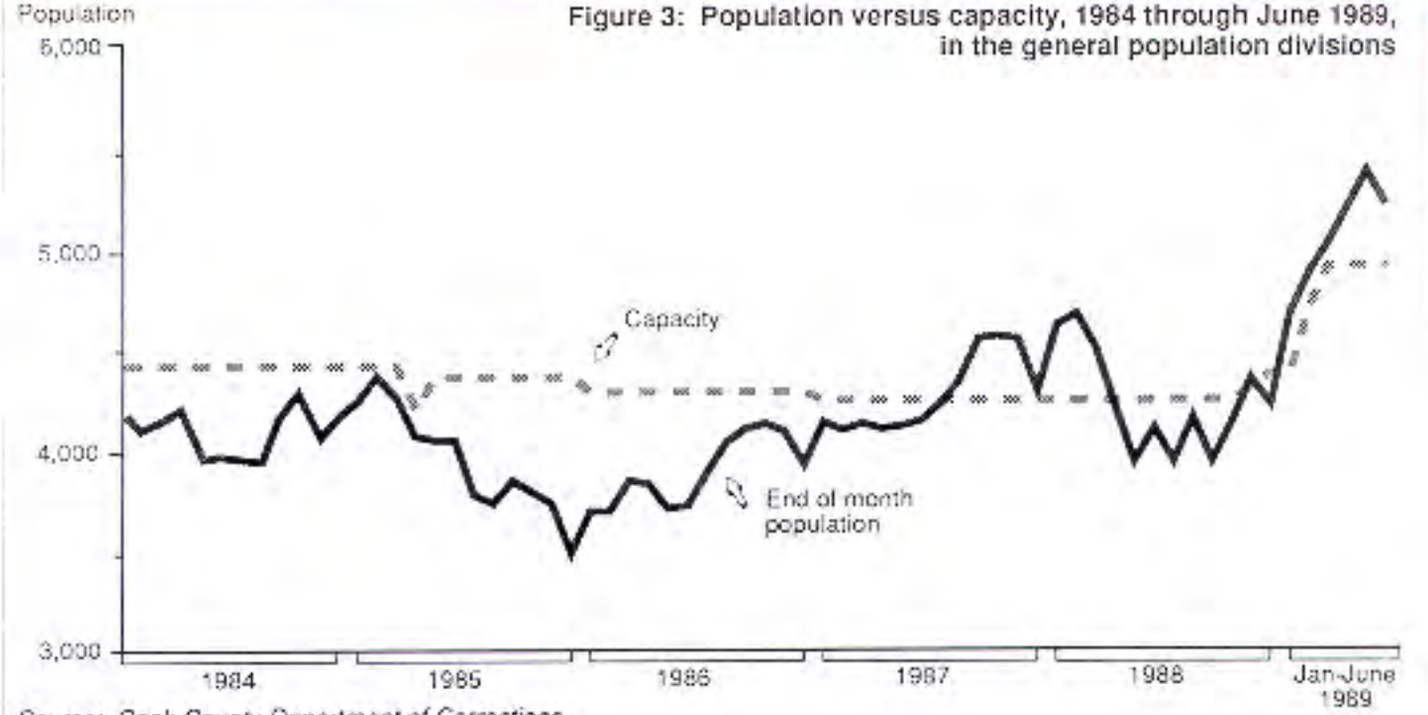
The bond limit for AMF stands at $50,000. Within that limit, however, some defendants are still ineligible for I-bonds, including those charged with violent felonies; those held on violations of probation or parole, or on fugitive warrants; those requiring psychiatric hearings or special medical care; and those who are known to have violated conditions of an earlier AMF release.

The Crowding Crisis Over Time

To understand the magnitude of the crowding crisis at CCDOC, it is helpful to focus on those jail divisions in which the crowding exists—the general population divisions. Figure 3 compares the capacity of those divisions to the populations that have resided there between January 1984 and June 1989.[12]

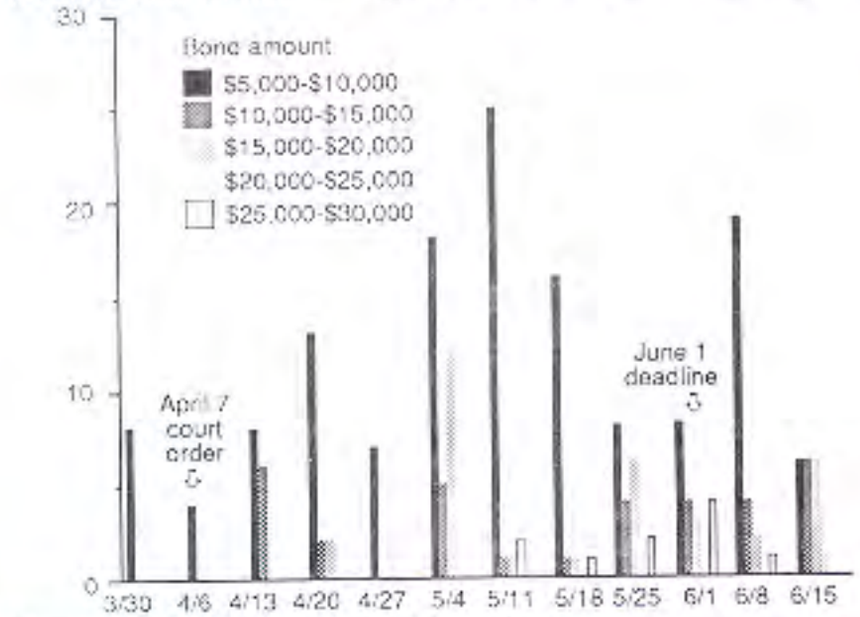
Crowding in these divisions began to worsen from September 1987 until March 1988, when officials began expanding the upper bond limit for AMF I-bond releases. This increase in crowding was due to a gradual rise in the inmate population beginning in early 1986. After officials successfully reduced the population in June 1988, it began to rise rapidly in August of that year. This increase was attributed to two factors. First, increasing numbers of defendants were being brought to the

Figure 3: Population versus capacity, 1984 through June 1989, in the general population divisions



Source: Cook County Department of Corrections

Figure 4: Administrative Mandatory Furlough practices at Cook County Jail for inmates with bond amounts of more than $5,000



Source: Cook County Department of Corrections

jail from the county's night bond court. These defendants were due in court the same day to have their bonds reviewed, so jail officials kept them in jail until their next hearing to make sure they would appear at these hearings. Second, there were delays in screening the new, more serious categories of defendants that were now eligible for I-bonds—those charged with robbery and residential burglary. These defendants are more carefully screened by checking court records from the clerk's office for warrants or other open cases.

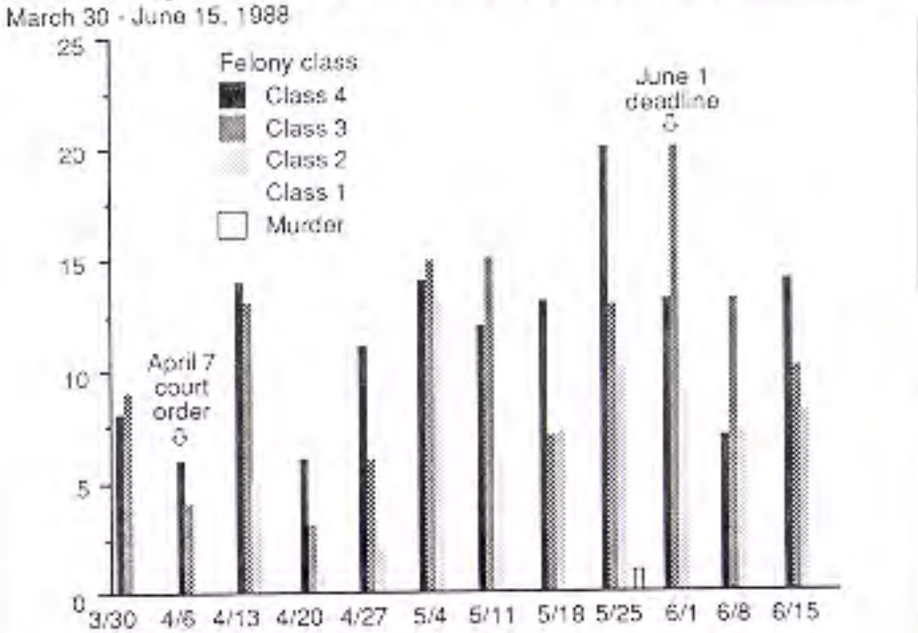
Analysis of 1988 Changes in I-bond Practices

On April 7, 1988, Judge Shadur issued the contempt of court order, giving officials 60 days to reduce the jail population below its cap of 5,559 or risk fines of $1,000 a day. Consequently, from April 7 to June 1, 1988, jail officials began raising the upper bond limit for AMF eligibility. This resulted in the release of persons accused of more serious crimes, persons incarcerated on special holding situations (such as warrants and probation violations), and persons who already had been held for longer periods of time. Figures 4 through 7 show the characteristics of persons receiving AMF, from March 30 to June 15, 1988. A representative sample day (Wednesday) was selected to represent each of the 12 weeks of this time series. The time series includes data from a two-week period prior to the April 7 contempt of court order, an eight-week period between the court order and the June 1 deadline, and a two-week follow-up period after the deadline. Over the 12-week period an average of 61 inmates were released per day.

This analysis revealed the following:

- Prior to April 7, 1988, AMF was granted only to persons with bond amounts of $10,000 or less (Figure 4). After that time there was a gradual increase in the number of persons granted AMF with higher bond settings. On May 4, five persons receiving AMF had bonds between $10,000 and $15,000, 12 had bonds of $15,000 to $20,000, and 16 persons had bonds of $20,000 to $25,000. Persons with bonds between $25,000 and $30,000 began receiving AMF two weeks later.
- Prior to April 7, AMF was granted only to persons charged with a Class 3 felony or less (Figure 5). During the remainder of the time series Class 2 felony defendants were routinely included as well. There were 13 Class 2 felony defendants who received AMF on May 4, and between six and 10 on each of the sample days thereafter. In addition, one Class 1 and one murder defendant received AMF on May 25.

Figure 5: Administrative Mandatory Furlough practices at Cook County Jail for felony defendants

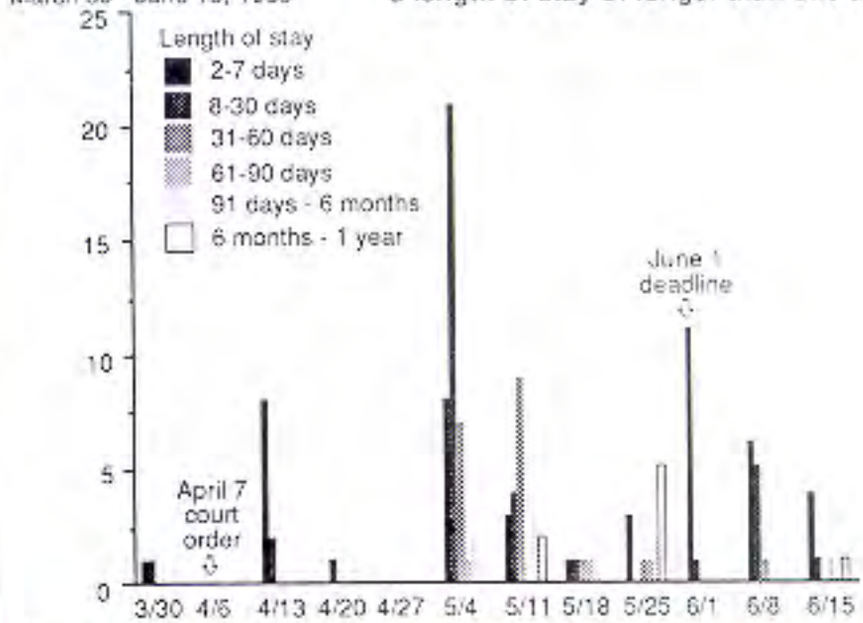


Source: Cook County Department of Corrections

- Prior to April 7, AMF was rarely granted to persons who were held on a warrant (Figure 6). This practice changed almost immediately, however. On each sample day of April 13 and 20, May 4, and June 1 and 15, between 10 and 18 persons held on warrants received AMF. On four of those five days, persons held on warrants accounted for more than one-fourth of the total number of persons receiving AMF. There were also instances of a probation violator receiving AMF on May 11 and June 15. Three persons being held for another jurisdiction were also granted AMF on May 25.

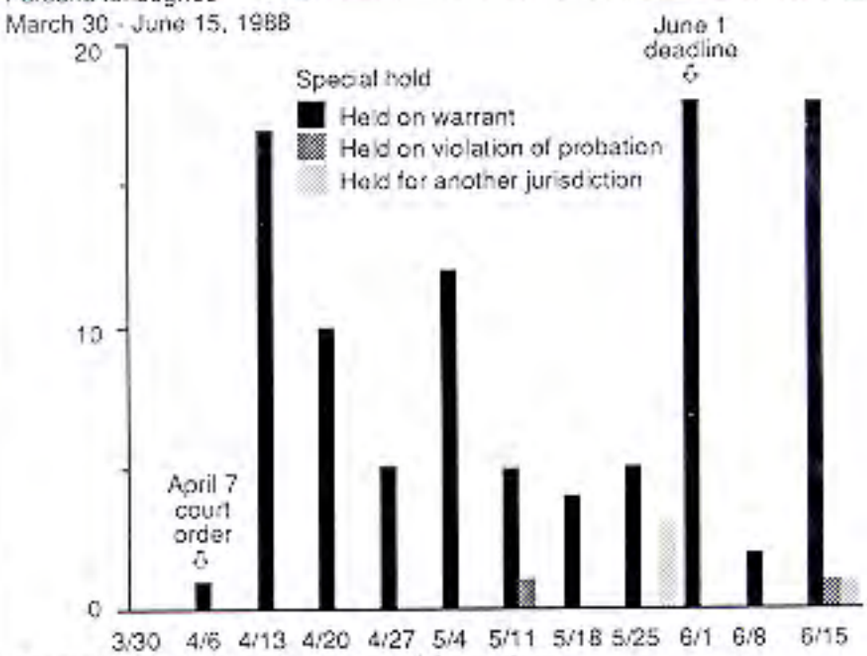
- Prior to April 7, AMF was generally granted only to persons admitted to the jail within the previous 24 hours. This procedure usually takes place at the booking area, before inmates are assigned to dormitory locations. Subsequently, however, persons incarcerated for longer periods of time began receiving AMF (Figure 7). On May 4, 38.2 percent of the defendants receiving AMF had been incarcerated for more than 24 hours. Included were 21 persons with stays of eight to 30 days, seven with stays of 31 to 60 days, one with a stay of 61 to 90 days, and two persons with stays of 91 days to six months. On each of the subsequent sample days from May 11 through June 15, persons with stays of more than 24 hours constituted between 12.3 percent and 29.2 percent of those receiving AMF.

Figure 7: Administrative Mandatory Furlough practices at Cook County Jail for defendants with a length of stay of longer than one day



Source: Cook County Department of Corrections

Figure 6: Administrative Mandatory Furlough practices at Cook County Jail for inmates in special hold situations



Source: Cook County Department of Corrections

Estimated Impact of AMF on Jail Population

What would the population of CCDOC have been had AMF I-bonding not been implemented as a strategy to relieve jail crowding? Available data allow for an analysis of this question beginning in November 1986, when AMF was revived, following an 18-month suspension.[13] Inmates in periodic imprisonment and in Cook County Hospital have been excluded from end-of-month population totals, as well as estimates.

Figure 8 illustrates the actual recorded end-of-month population and the likely population, had there been no AMF for misdemeanor defendants between November 1986 and August 1989 and no AMF for felony defendants from April 1988 through August 1989.

The findings indicate that the AMF program has had a substantial impact on the jail population. In the most recent month, August 1989, for example, the estimated end-of-month population without AMF would have been 8,440 rather than the actual level at that time of 6,969. That is a difference of 1,471 inmates, or 21 percent more than the actual population.

This calculation assumes that all other criminal justice system factors affecting the jail population would have remained constant from November 1986 through August 1989. Such an assumption, while necessary for the calculation, is unlikely. For instance, it is possible that CCDOC officials would have relied more on alternatives to incarceration, such as house arrest, over this period because of more serious jail crowding.

Strategic Proposals

On September 19, 1988, Sheriff O'Grady appeared before the Cook County Board to propose five measures intended to ease crowding at the jail and reduce the number of inmates released through AMF:

- A $50 million, 750-bed addition to the jail, to be built on land adjacent to the present location;
- A $75,000 long-range study to determine jail needs into the next century;
- A $75,000 study to determine the feasibility of using temporary modular cells to house 320 inmates while the new addition is being built;
- A $394,000 pilot program under which 400 inmates awaiting trial would be released, but required to wear electronic monitoring devices to keep track of their whereabouts; and
- A $3.2 million plan to transfer the jail's periodic imprisonment program to community-based housing outside the jail.

Under the last proposal, the periodic imprisonment program would be moved permanently out of the jail and into an off-site building such as a vacant hospital. The county could then use the existing periodic imprisonment division of the jail for regular pretrial and sentenced inmates. The justification was that inmates who are already allowed to leave the jail during portions of their sentencing schedules could be reasonably housed in a less secure facility, with minimal risk to the community.

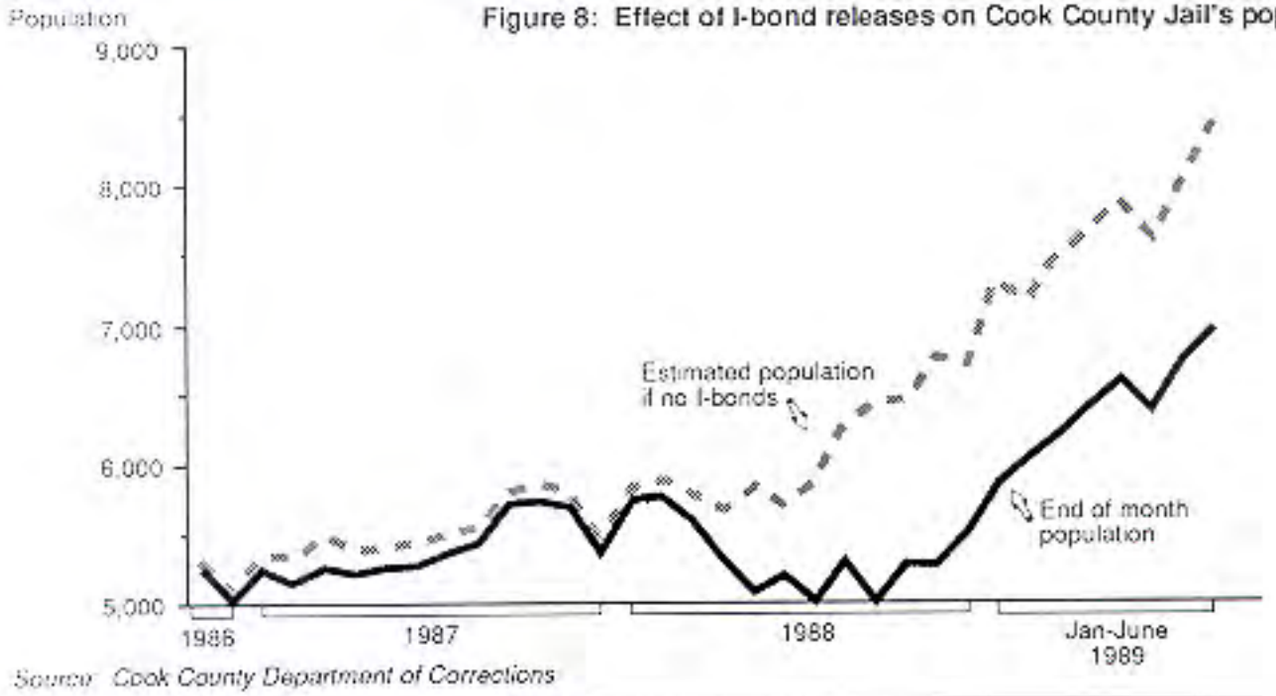
Outcome of Proposals

One of the five proposals was dropped from consideration and another "put on hold." The plan to transfer periodic imprisonment inmates to a community setting was determined to be much too costly. Instead, those inmates were moved to the jail's gymnasium, where they are currently sleeping on mattresses on the floor. The purpose of this strategy was to convert the area used for periodic imprisonment to a more secure facility, so that regular pretrial and sentenced inmates could be moved in. County officials have indicated that toward the end of 1989 those periodic imprisonment inmates will no longer be detained at the jail, and will instead be transferred to the jurisdiction of the county's adult probation department. The proposal to study the feasibility of using temporary modular cells also was initially dropped when county officials questioned whether these structures offered the degree of security needed for the inmates. However, in September 1989, officials revived this concept, proposing that a 500-bed portable jailhouse be erected in a recreational yard at the jail.

Plans for jail construction, however, are proceeding with two separate additions having been funded. The first is a 760-bed facility targeted to open at the end of 1990. The other is a 1,080-bed facility targeted to open in 1992.

In addition, the electronic monitoring proposal has been implemented. Jail officials began testing equipment from several vendors at the end of 1988, and officially began the program in June 1989. Under the program, an inmate

Figure 8: Effect of I-bond releases on Cook County Jail's population



Source: Cook County Department of Corrections

wears an electronic device on the wrist. When the inmate is called at home by jail officials, he or she must attach the device to the telephone to verify that the correct person is answering the call.[14]

While defendants with bonds up to $50,000 are receiving the jail I-bonds, the electronic monitoring program is being used on those defendants with bonds exceeding $50,000 who are charged with property crimes. Candidates for this program are also being carefully screened using criminal history record information from the state and Chicago Police Department repositories, the Cook County Department of Corrections, and the Clerk of the Cook County Court. The state's attorney's "war room" has provided these data to jail officials.[15] As of August 1989, only three of the first 123 defendants in the program had violated their house arrest, were rearrested, and housed into the jail. The following month, however, officials reported that the number of violators jumped to more than 75. Despite this increase, a vigorous expansion of the program was initiated at that time, with nearly 400 inmates participating. To further expand the program, officials raised from $100,000 to $300,000 the bond amount of eligible defendants. The county board, in fact, approved funds to allow for the inclusion of an additional 400 inmates in the program.

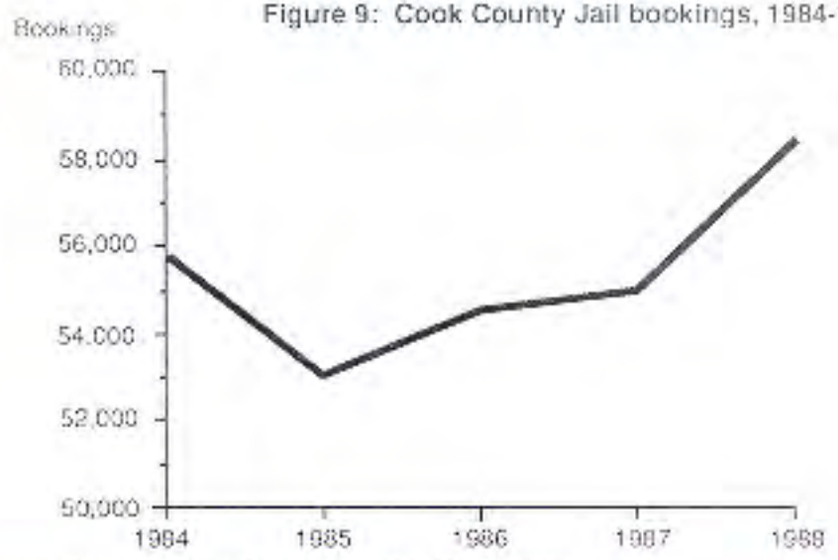
Two groups of consultants have been involved in studies to assess jail planning needs. In April 1989, a technical assistance team from the National Institute of Corrections (NIC) conducted a short-term assessment at the request of jail officials. NIC consultants had conducted a similar assessment in 1983, but most of their earlier recommendations were not implemented. The results of the 1989 assessment will be reviewed at the end of this bulletin.

In May 1989, the County Board approved funds for a medium-range four-month study of the felony adjudication process in Cook County and its impact on jail crowding, to be undertaken jointly by the Justice Department's Bureau of Justice Assistance (BJA) and the National Institute of Corrections. The actual study is being conducted by the American University's Adjudication Technical Assistance Project (ATAP), which is a project of BJA.

The study focuses primarily on the procedures and practices of the Circuit Court, the State's Attorney's Office, and the Department of Corrections in handling felony defendants in the pretrial and post-conviction stages of the adjudication process. The study also examines the degree to which the county criminal justice system is responsive to community concerns and to which it maximizes the potential for community resources to assist in system improvement.

The study report, which was scheduled for submission to the County Board by October 31, 1989, presents findings and recommendations, and suggests a timetable to implement reforms.

Figure 9: Cook County Jail bookings, 1984-1988



Source: Cook County Department of Corrections

General Causes of Crowding in Cook County Jail

The overall trends in Cook County Jail crowding can be traced to several factors.

Length of Stay versus Jail Admissions

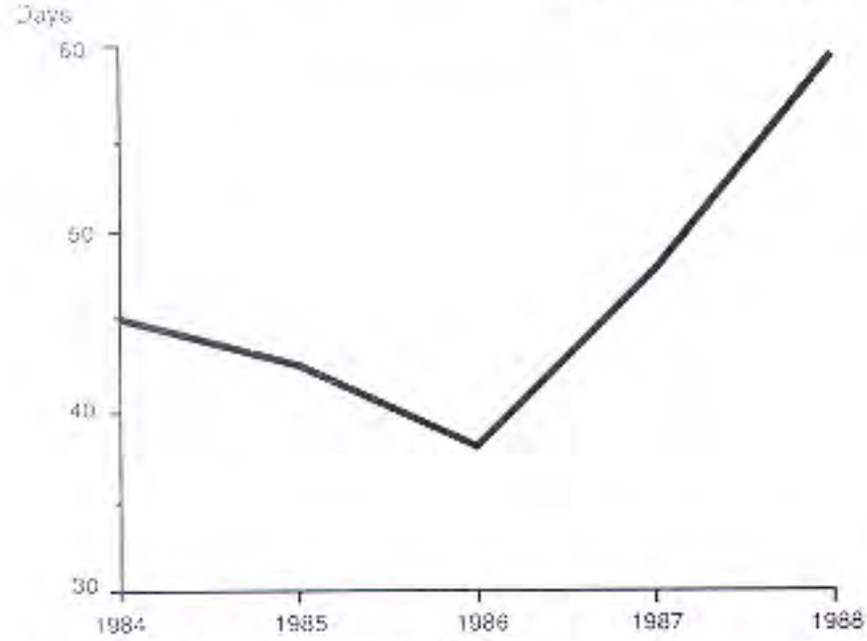
The two major factors that determine any jail population are the number of admissions and the inmates' length of stay.[16] Corrections experts generally attempt to determine which of these factors is causing a crowding problem, or whether it is a combination of the two.

A recent study at Illinois State University suggests that jail crowding is related to jail use patterns.[17] The study notes that jail population growth has generally been the result, not of increases in the rate of admissions to jails, but of increases in the proportion of the jail population serving sentences, of increases in inmates' length of stay, or both. This may very well be the case in Cook County. The number of jail bookings has increased only about 4.6 percent between 1984 and 1988 (Figure 9), but the magnitude of the crowding problem increased tremendously during that period.

The percentage of sentenced inmates in CCDOC has remained at about 13 percent from 1981 to 1988, and therefore is not a factor in population growth. However, the length of stay of pretrial inmates has risen significantly.

According to the latest NIC consultants' report, there has been an "ever increasing length of stay in Cook County." The report, in fact, indicated

Figure 10: Average length of stay for Cook County Jail inmates, 1984-1988 (I-bonds excluded)



Source: Cook County Department of Corrections

that the average length of stay during 1988 was more than four times the average length of stay in Los Angeles County. In recent years there has been a significant increase in the average length of stay for non-I-bonded inmates in Cook County—from 38.13 days in 1986 to 59.9 days in 1988 (Figure 10). This increase has been due, in large part, to the systematic removal of misdemeanants from the jail. The expansion of the I-bonding program means almost certain release for accused misdemeanants awaiting trial. The remaining pretrial felony defendants can be expected to experience longer court proceedings, due to the greater complexity of their cases and the harsher consequences at stake.

It is clear, therefore, that the AMF program, which targets defendants with bonds of up to $50,000, is not effective in removing those pretrial inmates who have the longest court delays.

Crackdown on Crime

Factors affecting lengthy jail stays, however, are found in other areas outside of the jail's operation. Responding to the public's concern, government officials have demonstrated a "get tough" attitude toward crime control over the last decade. Beginning in the late 1970s, the Illinois General Assembly passed legislation increasing the severity of many prison sentences. Mandatory prison terms were also imposed for certain crimes. This trend has continued throughout the 1980s.

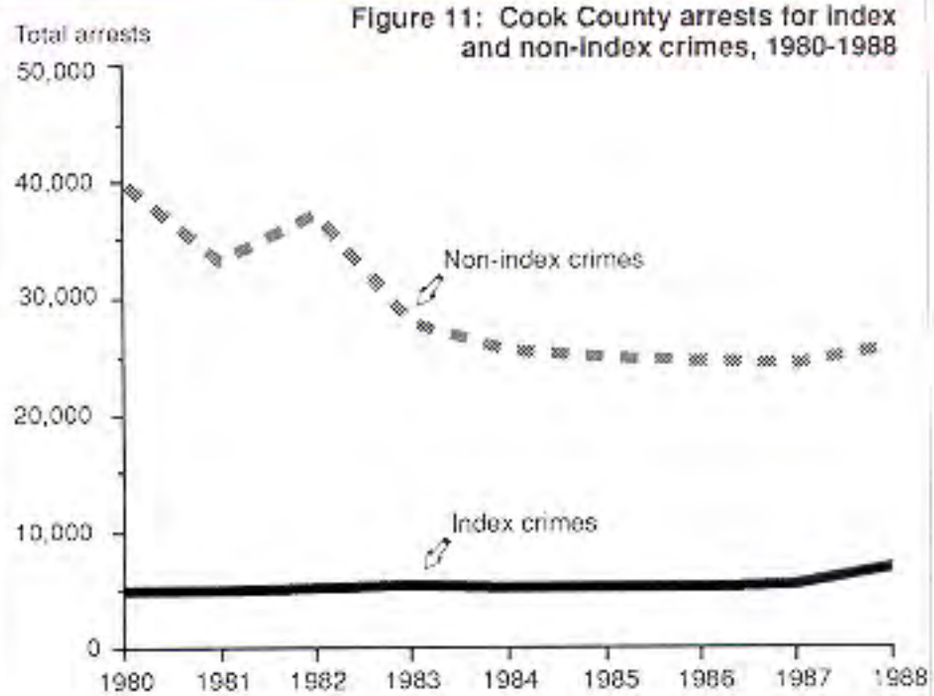
The effect these get-tough laws can have on Illinois jails is twofold. First, with more persons being sentenced to prisons, the number of convicted offenders in jails awaiting transfer to the state facilities will also grow. However, this is not a major problem at CCDOC, since inmates there are transferred to Illinois Department of Corrections facilities every Friday.

Second, with the increased number of crimes carrying mandatory prison sentences, defendants are less likely to plead guilty to those charges. The result is that more cases go to trial, resulting in longer pretrial lengths of stay for pretrial inmates residing at the jail.

In addition, a 1986 amendment to the Illinois Constitution and the legislation that followed permit judges to deny bail to defendants charged with certain types of serious crimes if the presumption of guilt is great and if the defendant would pose a risk to the community if released.[18] This judicial option creates the potential for increased numbers of pretrial detainees.

Finally, efforts to relieve *prison* crowding may transfer the problem to local jails. Under a 1983 state law, for

Figure 11: Cook County arrests for index and non-index crimes, 1980-1988



Source: Illinois Uniform Crime Reports

example, convicted misdemeanants can no longer be sent to state prisons, but must instead serve their sentences in county jails.[19]

The Role of Drug Crime

Policy responses to crime in the past few years have especially emphasized the problem of drug crime, and several new laws specifically address this issue. In Cook County the number of index crime arrests has generally remained stable (although there was a 28 percent increase from 1987 to 1988), and the overall number of non-index crime arrests has decreased significantly since 1980. However, arrests for drug crimes have more than doubled during that time (Figures 11 and 12).

As a result, virtually every component of the Cook County criminal justice system has experienced corresponding increases in caseloads. The Cook County Circuit Court's backlog of pending felony cases, for example, increased almost two-thirds between 1983 and 1987.

The impact of drug cases can be seen in Figures 13 and 14. In the court's Municipal Department, the total number of defendants charged at preliminary hearings rose 53 percent between 1984 and 1988, but the number charged with drug crimes rose 159 percent during the same time. The percentage of all defendants who were charged with drug crimes rose from 32.9 percent in 1984 to 55.7 percent in 1988.

Similarly, in the County Department of the Circuit Court, the total number of defendants charged in felony trial courts rose 24.1 percent from 1984 to 1988, while the number charged with drug offenses rose 101.7 percent. The percentage of all defendants in felony trial courts who were charged with drug offenses rose from 20 percent in 1984 to 32.5 percent during 1988.

One major reason for the large contribution drug arrests make to court backlogs may be the lack of a felony review process for drug cases by the state's attorney's office. According to a recent report studying the Cook County criminal justice process, defendants charged with drug crimes had a higher percentage of dismissals and findings of no probable cause, and they failed to appear in court more often, than all defendants combined.[20]

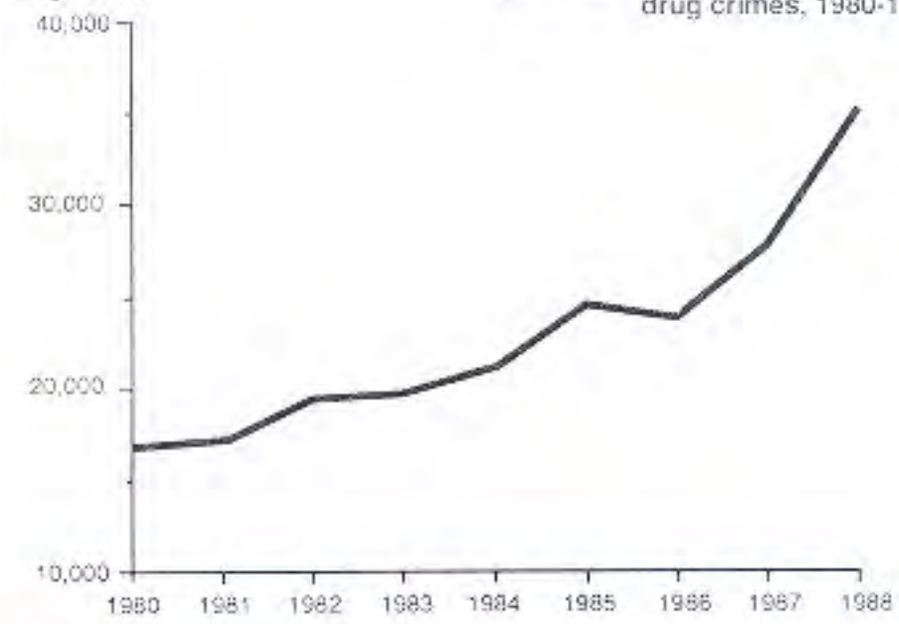


Figure 12: Cook County arrests for drug crimes, 1980-1988

Source: Illinois Uniform Crime Reports

Court Delays

The trial delays resulting from the backlog of felony cases have been cited by Circuit Court judges as well as by NIC consultants. Although the Illinois Speedy Trial statute guards against lengthy delays initiated by the state, very lengthy delays may be initiated by the defendant.[21] Numerous continuances may be requested by the defendant's counsel, frequently by public defenders who have extremely large caseloads and who are often representing several clients simultaneously. In addition, continuances may be used by some defendants as a strategy in cases where imprisonment seems to be a likely outcome. Defendants receive credit toward their prison sentences for pretrial time served in the jail. Although the majority of inmates prefer state prisons over jails because of better programs, activities, and jobs, there are some who prefer to be in Chicago, where they can be closer to relatives, or because they perceive the jail as a quicker and more direct route back to the street.

Possible Solutions to Jail Crowding

Jail crowding has been cited as a national problem since the early 1970s. A number of agencies and organizations have addressed this issue and offered strategies for local officials.

Model Programs

It may not be necessary to initiate completely new and innovative strategies to solve CCDOC's crowding problem. Many of the proposals currently offered by corrections experts are based on an earlier model which was researched, developed, and tested more than a decade ago. The U.S. Department of Justice initiated a research program in 1973, and an action program in 1978, to assist local communities facing a jail crisis. The five-year research effort was sponsored by the National Institute of Law Enforcement and Criminal Justice, and resulted in a report which outlined a full range of alternatives to jail.[22] The action program, administered by the Law Enforcement Assistance Administration (LEAA), tested the system-wide planning approach to alleviate jail

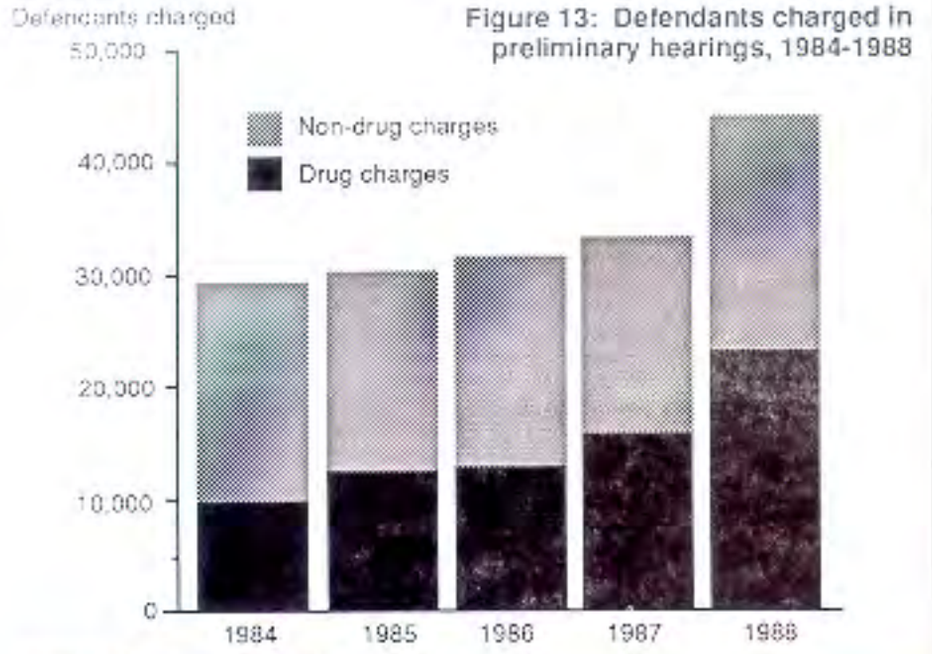


Figure 13: Defendants charged in preliminary hearings, 1984-1988

Source: Criminal Justice Project of Cook County

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

At the local level, the core program included a Phase I planning effort, followed by a Phase II implementation project. The planning phase involved the creation of a local Jail Policy Advisory Board made up of policy heads of the judiciary, sheriff/department of corrections, prosecution, public defender, pretrial services and probation, as well as legislators and interested citizens. The board's staff analyzed data on jail classification decisions, jail populations, lengths-of-stay, and court processing time. Following review of these data, specific jail populations were targeted that should be detained, and various alternatives were considered for the remaining pretrial and sentenced inmates. System-wide criteria were then developed for detention, release, and various diversion alternatives. The end product was a Jail Population Management Plan outlining jail population goals, the methods to screen and control the jail population, and the alternatives to be implemented.

Phase II implemented the plan through inter-agency task forces, policy changes, and legislation, if needed. The critical elements of the implementation projects included the following:

- Adaptation of a "central intake" concept, including early pretrial screening; prosecutor screening, including victim/witness impact statement; public defender screening; and jail intake/classification, all within 24 to 48 hours of arrest.
- Comprehensive pretrial services, including a screening and interview process; verification of relevant information, particularly prior criminal record and drug/alcohol abuse; presentation of information and appropriate recommendations, including victims' concerns; screening of the jail population; and supervision and tracking of those not incarcerated.
- Public inebriate and mental health diversion to appropriate medical services facilities.
- Citation release component, with fixed percentage goals for targeted misdemeanor ordinance violations.
- Community corrections centers.
- Sentencing alternatives, including community services and victim restitution, supervised release, work release, and fines.
- Jail information system improvements, including adaptation of model systems.

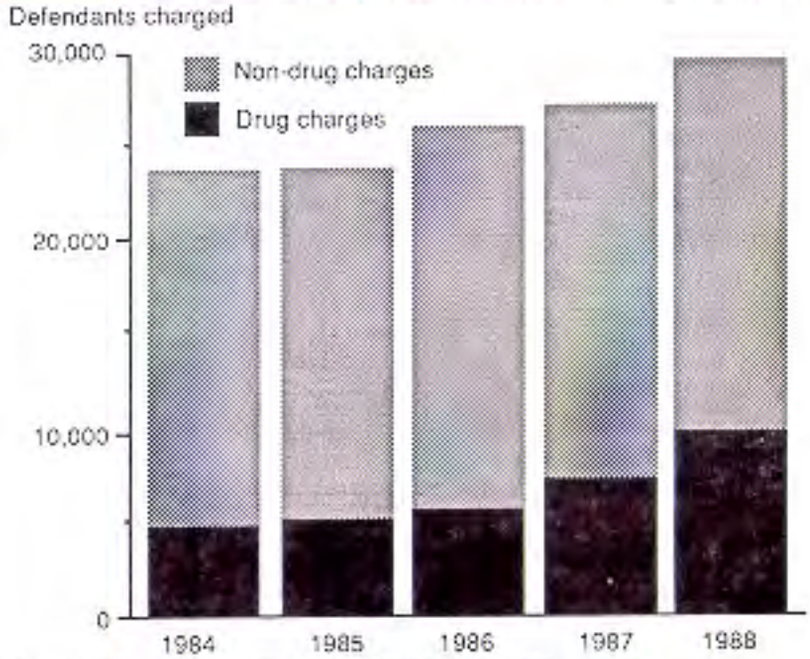


Figure 14: Defendants Charged in felony trials, 1984-1988

Source: Criminal Justice Project of Cook County

NIC Technical Assistance Study

The latest NIC technical assistance project for CCDOC resulted in seven recommendations, some of which were reiterations of NIC recommendations from 1983.[23] Based on its interviews and limited data examination, the NIC group made the following recommendations:

1. Establish a jail crowding committee comprising key representatives of the Cook County criminal justice system.
2. Acquire funding for and conduct an extensive criminal justice system study and needs analysis.
3. Initiate a pretrial release program.
4. Establish a Cook County Sheriff's Department Task Force on Jail Population Management.
5. Acquire funding for and conduct a project that would establish in the jail the capacity for professional population projections and a microcomputer-based modeling component to assist the Sheriff's Department in developing anti-crowding strategies.
6. Publicize the jail problem periodically in a letter from the sheriff to all members of the criminal justice community.
7. Seek legal advice from an experienced jail/constitutional attorney concerning the jail's release policies.

The John Howard Association also has gone on record with similar proposals. In particular, they have advocated a long-range criminal justice system study which would serve as a needs assessment to precede all other remedial efforts.[24]

Jail Crowding in Other Large U.S. Cities

- In Los Angeles County, the nation's largest jail complex (with 10 separate facilities) has a rated capacity 13,464 but currently holds more than 22,000 inmates. A $10 million-a-year program provides busing for 2,000 inmates a day to and from their scheduled court hearings from these facilities. The federal court order under which the jail operates forces local officials to release inmates on their own recognizance whenever the jail population reaches its ordered capacity (22,000).

  The primary strategy for reducing the pretrial population has been the use of citation release, whereby misdemeanants with bonds up to $5,000 are issued citations by law enforcement officers to appear in court, without the need for a bond hearing. In response to the large number of drug offenders clogging the court system, officers have also been given the technology to conduct field tests of controlled substances, so they can dismiss a drug case quickly if the test is negative. Recently, in addition to proposed jail construction, a number of other proposals were directed toward pretrial inmates. They include expanded hours for the courts and limitations on case continuances. Officials there have also implemented strategies targeting sentenced inmates, such as an early release mechanism.

- New York City has seen its jail population nearly triple in the past 11 years, and has been under a court order to reduce it since 1980. Recently, New York City police officers were accused by the media of ignoring certain "petty" crimes such as car break-ins and storefront burglaries because of jail crowding resulting from increased drug arrests. In the past, strategies have included the use of jail barges on the East River, conversion of other facilities to jails (such as a World War II Navy Yard brig), and expansion of current jail facilities. Currently, officials are directing their efforts toward drug offenders, with prosecutors encouraging first-time offenders to plead guilty in exchange for a guaranteed probation sentence.

- The Washington, D.C., jail has experienced severe crowding for the past eight years and is currently under a federal court order. In response to a recent NIC consultants' report, local officials are implementing a number of strategies aimed primarily at pretrial inmates. Most of their efforts have focused on adjusting court calendars in order to give priority to those defendants who have resided in the jail for the longest periods of time. Washington also has had a pretrial services agency since 1961, which has been cited by local officials as having a tremendous impact in controlling the jail's population so that crowded conditions were not further compounded.

- The jail in Philadelphia is reported to have some of the worst crowding in the nation. Under its federal court order, a specially appointed jail monitor is attempting to implement a variety of pretrial and sentencing strategies. Since jails in Pennsylvania may hold convicted felons with sentences up to five years, Philadelphia jail officials must target their sentenced population more so than many of the other large metropolitan jails. Consequently, the state is awarding grants for counties to implement alternative sentencing programs. Philadelphia has also implemented five separate screening mechanisms in order to increase the use of release-on-recognizance. The jail's court order allows for the use of jail I-bonds similar to those used in Cook County but, so far, the sheriff has refused to implement such a program.

- In Detroit, jail crowding was determined to be largely caused by lengthy stays for pretrial inmates. A consultant study by the National Center for State Courts identified the number of continuances granted in the local court system as a major factor in these delays. Local judges followed the study's recommendations and have cut down on these continuances by holding in contempt those defense lawyers who make unreasonable continuance requests, and threatening case dismissal when the continuances are initiated by the prosecutors. This response has been seen as a major success by criminal justice experts in reducing court delay, and also represents a partial victory for reducing jail populations.[26] ■

Other Research

There have been some newer studies of certain innovative concepts for reducing jail crowding as well.[8] For example, a recent NIC-sponsored monograph suggested that improving the use of bond could result in lower bonds and more defendants released (or released sooner) at a tolerable risk. To accomplish this, a policy of reduced bond forfeitures is recommended, so that when defendants fail to appear at scheduled court hearings, they can recover a certain portion of the bond amount depending on how quickly they return to court.

Conclusions

It is interesting that none of the recommendations for CCDOC call for construction of additional jail facilities. In fact, officials from both the jail and the John Howard Association have agreed that additional jail beds are only stop-gap measures. Constructing and operating local jails are extremely expensive. Even though new construction techniques may reduce initial costs substantially, operating costs alone will continue to present an important obstacle for fiscally pressed local governments. During the federal fiscal year ending June 1983, local jail expenditures in the United States totaled more than $2.7 billion, with operating costs averaging $43,000 per bed.[9] Assuming an average institutional life span of 30 years, NIC has estimated that the cost of operating a jail generally exceeds original construction costs by a factor of ten.

The following responses have been made to the major NIC recommendations:

- Cook County officials have already formed a committee, headed by Chief Criminal Court Judge Thomas Fitzgerald, to meet regularly and discuss jail crowding issues and solutions.
- Although the county has contracted for the consultant study to be coordinated by the Adjudication Technical Assistance Project (ATAP, see p. 9), this project will fall short of the long-range planning study recommended by NIC. That recommendation calls for a needs assessment into the next century with a particular focus on "system efficiency specifically related to jail crowding and court delay."
- Authorization for a statewide network of pretrial services agencies was passed two years ago by the Illinois legislature, but funding was not provided.

One of the chief concerns of NIC and others has been the minimal amount of information used by jail officials in making their I-bond decisions. The only information used for most of these decisions is the defendant's bond amount and offense charge. The only exception is the I-bonding of certain inmates who have already resided in the jail for some period of time. The dropping of charges or lowering of the bond amount may allow officials to reassess these inmates' eligibility for AMF I-bond release. In these cases, jail officials search the court clerk's database for any outstanding bond forfeiture or other warrants, or open cases, prior to releasing the inmate.

The NIC report recommends using complete criminal history record information from the state's attorney's "war room" as the foundation of a pretrial information function. The concern of various officials, however, is that a pretrial services agency, while enabling better release decisions to be made with more complete information, could result in more restrictive release practices and therefore compound rather than relieve jail crowding. Cook County's jail crowding problem is due largely to court delays that result in increased lengths of stay for pretrial inmates. As noted earlier, the AMF program is not effective in removing those pretrial inmates who have the longest court delays. Detroit was faced with a similar problem and implemented remedial strategies narrowly focused on this factor. When judges in Detroit's criminal court system began holding defense lawyers in contempt for unreasonable continuance requests, and dismissing cases in response to state-initiated delays, court delays abated significantly.

The medium-range study being conducted by ATAP is expected to include specific recommendations for reducing the backlog of pending felony cases in the Cook County Circuit Court, and could therefore generate some timely answers.

Chief Circuit Court Judge Harry Comerford has recently proposed a night trial court program to help relieve the felony case backlog problem. This proposal calls for the use of five courtrooms during nighttime hours to conduct trials involving drug offenses and related crimes, for defendants unable to make bond. This strategy is most noteworthy in that it addresses the specific cases that contribute most to overall court delays, that is, drug cases.

The NIC consultants noted that in other jurisdictions it was generally high levels of judicial leadership that reduced jail populations to more manageable levels. The strongest recommendation was for all of the principal leaders of the criminal justice system to come together to manage this problem which has no singular cause and, thus, no singular solution. The jail crowding committee formed by Judge Fitzgerald, in particular, seems to demonstrate that county officials are now making such cooperative strategic efforts. The importance of collaborative planning cannot be overstated. As the NIC report concluded, "it is a matter of paying now or paying later, and 'later' always costs more."

Notes

[1] Abt Associates, *National Assessment Program: Assessing Needs in the Criminal Justice System*, 1984, cited in Andy Hall, *Alleviating Jail Overcrowding: A Systems Perspective* (Washington, DC: National Institute of Justice, 1985).

[2] Randall Guynes, *Nation's Jail Managers Assess Their Problems* (Washington, DC: National Institute of Justice, 1988).

[3] For a detailed discussion of rated capacity, and how it differs differs from "design capacity" and "ideal capacity," see *Trends and Issues 89: Criminal and Juvenile Justice in Illinois*(Chicago: Illinois Criminal Justice Information Authority, 1989), pp. 156-158.

[4] *Jail Inmates 1987* (Washington, DC: Bureau of Justice Statistics, 1988).

[5] *Joseph D. Lohman, Sheriff, Cook County Sheriff's Office: A Final Report, 1954-1958*, no date.

[6] Myrl E. Alexander and Robert J. Wright, *The House of Correction: A Survey Report* (Chicago: Preliminary Report to the Mayor's Commission on the Chicago House of Correction, 1952).

[7] *The Cook County Jail: Report of the December 1967 Cook County Grand Jury*, no date.

[8] *Duran v. Elrod*, No. 74 C 2949 (N.D. Ill. 1974).

[9] The case became *Duran v. O'Grady* upon election of James O'Grady as Cook County sheriff in November 1986.

[10] *Duran v. Elrod*, No. 74 C 2949 (N.D. Ill. 1982).

[11] Specifically, the Court ordered that if "no Illinois state court of competent jurisdiction...specified a different method of selecting the persons to be released to (reduce the population, jail officials) are directed to release on their own recognizance the persons held in default of the lowest amount of bail, and among persons held on the same amount of bail the ones who have been confined the longest time." *Duran v. Elrod*, No 74 C 2949 (N.D. Ill. 1983).

Slip Op. at 5, Aff'd, 713 F.2d 292 (7th Cir. 1983) cert denied 465 U.S. 1108 (1984).

[12] The end-of-month capacities and populations used in Figure 3 exclude the following:

- The women's division, where jail officials have continuously controlled population growth, and released inmates when the numbers approach capacity.
- The treatment division, where inmates with medical, psychiatric, and drug-dependency problems are housed; this division is not usable for regular inmates.
- The county hospital division, where a small number of inmates with serious injuries or illnesses are temporarily housed.
- The periodic imprisonment division, but only during the time when sentenced periodic imprisonment inmates were held there. (Beginning December 1988, regular inmates were moved into that division.)

[13] This analysis encompasses the entire CCDOC population, with two exceptions. Division 9 is located at the county hospital, and was therefore excluded. In addition, the periodic imprisonment inmate population was excluded, both while periodic imprisonment inmates were housed in Division 7 and when they slept on the gymnasium floor.

To determine how long each released defendant would have remained in the jail population if he or she had not been granted AMF, an estimated length of confinement was calculated for each of 24 bond amount categories. For the lower bond amounts corresponding to the misdemeanor defendants receiving AMF beginning in November 1986, the length-of-confinement data that served as a baseline were selected from the four preceding months (July to October). For the higher bond amounts corresponding to the felony defendants receiving AMF beginning in April 1988, the length-of-confinement data used for baseline indicators were selected from the seven months prior to that (September 1987 to March 1988). Average lengths of stay for particular bond amounts were derived in this way.

The data used for the "Estimated Impact of AMF on Jail Population" were derived from the Cook County Correctional Institution Management Information System (CIMIS), as authorized by the system manager, Dwayne Peterson. The analysis was carried out Authority staff members Carolyn R. Block and James V. Spring. A detailed description of the methodology may be obtained by contacting the Authority.

[14] For a more complete discussion of electronic monitoring, see Roger Przybylski, *Electronically Monitored Home Confinement in Illinois* (Chicago: Illinois Criminal Justice Information Authority, 1988).

[15] The "war room" is a special unit established by the Cook County State's Attorney's Office to conduct criminal history and warrant checks on defendants prior to bond hearings. Federal, state, and local criminal history and wanted persons files, as well as probation and parole records, are searched using computer terminals that are linked to these automated databases. Information is collected and disseminated to assistant state's attorneys in the five suburban munici-

jail court districts via a sophisticated network of high-speed laser printers and facsimile equipment.

[15] Jake Katz, Howard Messing , and Robert Harris, *An Assessment of Jail Crowding - Cook County, Illinois (LEA Project #89-J1056)* (Washington, D.C.: National Institute of Corrections Jail Center, 1989).

[17] John Klofas, *Disaggregating Jail Use: Variety and Change in Local Corrections over a Ten Year Period*, presented at the annual meeting of the Academy of Criminal Justice Sciences, Washington, D.C., March 1989.

[18] A hearing must be held to determine whether bail should be denied to a defendant charged with a non-probational offense when it is alleged that the defendant's release on bail would pose a real and present threat to the physical safety of any person (Illinois Constitution, Article I, Section 9; Ill. Rev. Stat., ch. 38, par. 110-6.1).

[19] Ill.Rev.Stat. 1989, ch. 38, par. 1005-8-6(b).

[20] The Criminal Justice Project of Cook County, *Crime and Criminal Justice in Cook County: An Overview* (Evanston, Ill.: Center for Urban Affairs and Policy Research, 1989).

[21] Ill.Rev.Stat. 1989, ch. 38, par. 103-5.

[22] Hall, 1985.

[23] Katz, *et al. 1989*.

[24] Letter from the John Howard Association to the *Chicago Tribune*, September 7, 1988.

Letter from the John Howard Association to Cook County Commissioner Charles R. Bernardini, September 12, 1988.

[25] Stevens H. Clarke , "Pretrial Release: Concepts, Issues, and Strategies for Improvement"; *Research in Corrections*, Vol. 1, No. 3; October 1988.

[26] Information about jail crowding in other large U.S. cities was obtained through telephone interviews with NIC consultants Jake Katz and Howard Messing and with Pretrial Services Resource Director D. Alan Henry.

[27] James J. Stephen, *The 1983 Jail Census* (Washington, DC: Bureau of Justice Statistics, 1984), p. 9.

Recent Authority Publications

Working for the Criminal Justice System in Illinois: Biennial Report for the Fiscal Years 1988 and 1989 (July 1989)

Annual Audit Report for 1988: Illinois' Computerized Criminal History System (June 1989)

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