

**INTERGOVERNMENTAL RELATIONS IN
LOCAL JAIL FINANCE AND MANAGEMENT IN FLORIDA:
A COMPREHENSIVE REPORT**

EXECUTIVE SUMMARY

AUGUST, 1993

Advisory Council on Intergovernmental Relations



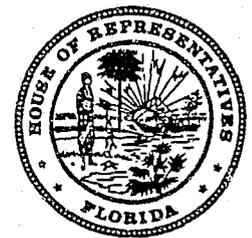
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**INTERGOVERNMENTAL RELATIONS IN
LOCAL JAIL FINANCE AND MANAGEMENT IN FLORIDA:
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EXECUTIVE SUMMARY

This report summarizes research conducted by the Florida Advisory Council on Intergovernmental Relations addressing a series of issues pertaining to the finance and management of local jails in Florida. Initiated in the Fall of 1989 with a series of public hearings focussing on the extent, consequences, and causes of local jail overcrowding in the state, the study covered the following broad objectives:

1. To identify the causes of overcrowding in Florida's local jails;
2. To identify and evaluate the effectiveness of alternative policies, programs, and procedures available to control the growth in local jail populations in a manner consistent with public safety;
3. To identify the fiscal impact placed on Florida's counties by the requirement that they fund jail construction and operation, and to identify alternative methods of jail finance;
4. To identify and evaluate the key issues pertaining to the privatization of local jails in Florida.

In meeting these objectives, the ultimate goals were to identify and recommend legislative and non-legislative resolutions to the problems facing the state's counties in jail finance and administration, and to facilitate their development and implementation.

While the report devotes significant attention to describing the functional, institutional, and intergovernmental context of local jails in the United States in order to establish a national context within which Florida's local jails can be placed, the principal findings of the report pertaining to Florida's experiences are summarized below according to the topical area that they concern. Persons wishing to receive a copy of the full report should call the Council offices at (904) 488-9627.

Intergovernmental Dimensions to Local Jail Finance and Management in Florida

Functions of Local Jails In Florida

- * As is the case nationally, local jails in Florida are integral components of the state's criminal justice system. While the state's local jails perform multiple functions, data collected by the Florida Department of Corrections (DOC) indicate that most jail inmates are awaiting trial or have been sentenced to a term of imprisonment in the facility.

- * DOC data indicate that the importance of the pretrial detention role of the state's local jails far exceeds the correctional functions they perform. Thus, the number of pretrial detainees held in Florida's local jails accounted for well over 60% of the statewide jail population for most of the 1986-1991 period, and it has not been uncommon for the pretrial population to represent upwards of 80% of all local jail inmates in individual counties. This represents a significant departure from the national pattern, where, on average, approximately 50% of local jail populations consist of pretrial detainees.

Locus of Functional and Financial Responsibility for Local Jails in Florida

- * Consistent with Anglo-American traditions and current national patterns, responsibility for the administration and finance of local jails in Florida rests with local government. Under various provisions of Florida Law, county governments have been assigned responsibility for the finance, construction, and operation of local jails in the state. While municipalities clearly are authorized to establish detention facilities, the abolishment of city courts and committing magistrates by the 1973 amendments to Article V of the state constitution led most of the state's city governments to close their jails by the late 1970's.
- * County governments have considerable flexibility in establishing administrative arrangements for jail operations. Thus, counties may delegate responsibility for jail administration to the sheriff, another public official, or to a private entity. Despite the existence of these administrative options, the sheriff continues to operate the jail in 54 of the state's 67 counties. In 11 of the remaining jurisdictions, the board of county commissioners operates the jail, while in the remaining 2 counties, operation of the jail has been privatized.

Profile of the Florida Jail

- * As of June, 1992, Florida's 67 counties operated 105 local jails. Together, these facilities had a combined inmate population of over 36,000 persons. Over 60% of Florida's jail inmates were pretrial detainees, which represents a significant departure from the national pattern, where just over 50% of the local jail population consists of defendants awaiting trial.
- * Reflecting national patterns, Florida's jails vary considerably in size, and range from the 14 bed Dixie County Jail to the 2,189 bed Duval County Main Jail. Less than 3% of the state's local jail inmates were held in small jails (jails with legal capacities of under 100 inmates), while nearly one-third were held in jails designed to hold in excess of 1,000 inmates.

Patterns of Jail Construction and Population Increases In Florida

- * The state's counties have substantially increased local jail capacities in recent years, from approximately 21,000 beds in calendar year 1986 to well over 39,000 by mid-1992. Moreover, during the 1981-1991 period, Florida's county governments added well over 21,000 beds to the state's local jail system.
- * Parallel with the growth in facility capacity, the population of the state's local jails also has increased significantly in recent years. The number of inmates confined at the local level grew from just over 21,000 in 1986 to nearly 35,000 in 1991, an increase of 65%. Increases in the number of persons held pending trial accounted for more than half this increase.

Fiscal Impact of Local Jails In Florida

- * Reflecting the unprecedented expansion of local jail capacities and populations in recent years, the fiscal impact placed upon the state's counties by their responsibilities in this area is substantial, and more than doubled over the latter half of the 1980's. Collectively, Florida counties reported spending approximately \$565 million on the construction, operation, and maintenance of local jails in fiscal year 1989.
- * Notwithstanding the considerable general purpose state assistance county governments receive, until recently Florida was one of relatively few states where local governments exercised considerable responsibilities in the detentions and corrections area but in which state government did not provide any corrections aid to local government. While the state moved to make certain special revenue sources available to counties to assist them in this area, revenues generated from such sources mostly have been restricted to capital (construction) projects.
- * On average, Florida's counties allocated over 20% of their ad valorem revenues to jail construction and operations in fiscal year 1989. Moreover, approximately 17% of the ad valorem revenue capacity of Florida's county governments was used to fund jail capital and operating costs in that year.
- * The state's small population counties allocated significantly higher proportions of their ad valorem revenues and ad valorem revenue capacity to fund jail construction and operations in fiscal year 1989 than did mid-sized and large population counties. This suggests that jail financing requirements have come to impose a disproportionate burden on precisely those counties that can least afford to bear it.

Federal Court Oversight of Florida's Local Jails

- * By the close of 1992, local jails operated by twenty of the state's 57 counties had been the object of class action suits filed in the federal courts by inmates

alleging unconstitutional conditions of confinement. Although many of these suits have become inactive, in those instances where the federal courts have directed that overcrowding and other problematic conditions of confinement be remedied, the consequences for county governments have been serious.

State Regulation of Local Jail Conditions In Florida

- * Paralleling national trends, local jails in Florida became subject to a state-administered jail standards and inspection program in 1967. Under the authority granted by the Legislature, the state Department of Corrections (DOC) has promulgated a detailed regulatory code that governs the structural conditions of local jails, and the conditions of confinement within these facilities. In order to assure compliance with the code, DOC conducts regular inspections of local facilities, and may initiate action in the state courts to compel county governments to remedy substandard jail conditions.
- * Although state regulation of local jails in Florida remained relatively innocuous until 1981, under the terms of a consent decree entered into in the landmark Arias v. Wainwright (1979) federal class action suit, DOC has since filed 54 lawsuits against officials in 48 counties alleging violations of departmental standards. As with previous federal court actions, the outcome of this stepped-up enforcement process became manifest in attempts by county governments to build out of overcrowded conditions.

The Impact of State Prison Overcrowding on Local Jails

- * Rapid increases in the number of admissions to the state prison system in combination with the operation of various early release mechanisms instituted in order to avoid overcrowding at the state level have resulted in rapid turnover in the state prison system's inmate population since the mid-1980's. This turnover has resulted in the release of large numbers of offenders from the state prison system prior to the expiration of their court-imposed sentences.
- * Although there has been no systematic analysis of the impact of early prison releases upon Florida's local jails, many sources suggest that these policies contributed significantly to the increases in local jail populations that became manifest over the latter half of the 1980's. This "spillover" of state prisoners to local jails raises serious questions of equity and accountability as county governments have become subject to increasing jail expenditures and state-initiated litigation seeking to address overcrowding at the local level.

Intergovernmental Influences Over Jail Population Size in Florida

- * In addition to imposing mandates pertaining to conditions of confinement within local jails and implementing policies that have forced many facilities to house increasing numbers of state-sentenced offenders, state government

impacts local jails by influencing who is admitted to jail and how long they remain there. Among the most prominent influences in this regard is the legislature's enactment of the Florida Criminal Code and other statutory provisions that define the types of behavior for which individuals can be arrested and subject to pretrial detention and sentences of incarceration in local jails.

- * Beyond statutory enactments, the manner in which the law is applied and implemented by the variety of state and local entities that operate at the local level in Florida ultimately determines the size of jail populations through the influence it exerts over jail bookings and lengths of stay. Included among such entities are state and local law enforcement agencies, jail booking officers and administration, defense counsel and the prosecution, the judiciary and clerks of court, and probation agencies.
- * Notwithstanding several technical assistance programs that have been offered through the executive and judicial branches of state government, county officials have largely been left to their own devices in attempting to influence the behaviors of the many entities that impact the size of local jail populations. Given the autonomy of many of these agencies, and the absence of state mandates or incentives aimed at developing coordinated action, county officials face an often difficult task in enlisting the cooperation of law enforcement, the courts, and others in order to implement policies, programs, and procedures designed to control growth in the local jail population in a manner consistent with both public safety and the county's ability to fund jail construction and operations.

Florida Jails in Crisis: Jail Overcrowding and Intergovernmental Relations

Historical Legacy of Local Jail Overcrowding in Florida

- * Florida's local jails have long been characterized by substantial levels of overcrowding. As far back as 1980, studies indicated that 26 of the state's 93 local jails experienced overcrowded conditions, with one-half of these having inmate populations in excess of 120% of their rated capacities.
- * Despite aggressive capital expansion programs implemented by many counties during the 1980's, unprecedented increases in inmate populations over the 1985-1989 period contributed to the enduring nature of local jail overcrowding in the state. Thus, despite the three-fold increase in system-wide capacity that was achieved over the 1980-1989 period, the level of overcrowding in Florida's local jails was more severe in 1989 than it was in 1980.
- * While Florida's counties made substantial progress in reducing the level of system overcrowding in the 1990-1992 period as nearly 10,000 new jail beds were brought on-line, historical patterns suggest that the current surplus of

local jail capacity will be a temporary phenomenon.

Jail Overcrowding and Pretrial Detention In Florida

- * In light of the significant additions made to the capacity of Florida's local jail system in the 1980's and early 1990's, the problem of local jail overcrowding cannot be attributed to the failure of county governments to expand facility capacity. Instead, jail overcrowding has been caused by the unprecedented increases in inmate populations that became evidenced over the 1980-1990 period.
- * The increasing inmate populations that have contributed to local jail overcrowding in Florida are attributable primarily to the large and growing numbers of pretrial detainees held in county jails. Thus, pretrial detainees have long accounted for a majority of the state's local jail population, and the pretrial detention population increased more rapidly than the sentenced population over the 1986-1990 period, when growth in the statewide jail population and the degree of overcrowding were at unprecedented levels. Significantly, increases in the number of pretrial detainees held on misdemeanor charges substantially exceeded growth in the number of defendants held on felony charges during this period.

Factors Contributing to High Rates of Pretrial Detention

- * The tendency of Florida's county jails to house disproportionately large numbers of pretrial detainees relative to local jails in other states has long been recognized. In acknowledging this pattern, several studies conducted in the early 1980's questioned the extent to which discretionary policies and procedures adhered to by law enforcement, court system, and corrections agencies in processing criminal cases were responsible for this tendency.
- * As a further reflection of the role played by various "policy factors" in contributing to the high rates of pretrial detention in Florida, studies conducted over the 1981-1983 period offered a series of recommendations intended to promote the adoption of managerial initiatives designed to limit the growth in pretrial populations in a manner consistent with public safety. By and large, these recommendations have failed to become reflected in state law or other statewide policy initiatives.
- * As the 1980's progressed, a variety of sources consistently stressed that the policies and procedures of various criminal justice agencies operating locally were critical factors contributing to increases in the pretrial detention populations of local jails. In particular, a number of local criminal justice system studies completed by independent research and consulting teams indicate that as a result of ineffective management of jail admissions and lengths of stay, substantial numbers of criminal defendants who pose little risk to public safety have been detained in the state's local jails, in some cases for

extended periods of time.

Managerial Options Available for Controlling Growth in Pretrial Detention Populations

- * In citing various policies and procedures adhered to by law enforcement, the courts, and other agencies as contributing to high levels of pretrial detention and overcrowding in Florida's county jails, knowledgeable observers often have advocated the development and implementation of specific managerial initiatives in order to remedy these problems. By and large, these options are designed to insure that available jail space is used to detain persons pending trial only when all other means of assuring public safety and appearance at trial have been exhausted. Taken together, the initiatives present various agencies with a continuum of policies and procedures ranging from law enforcement diversion to alternatives to monetary bail and court delay reduction initiatives.
- * Despite the availability of various techniques and approaches for managing growth in the pretrial detention population of local jails, certain barriers exist to their widespread adoption in Florida. Chief among these is the current structure of intergovernmental relations in the criminal justice area, which is commonly viewed as presenting various agencies with few incentives to adopt these. Because municipal law enforcement, prosecutors, public defenders, and the judiciary are not responsible for funding or operating local jails, they may not be willing to allocate the resources necessary to develop and implement such initiatives. Even at the county level, where strong incentives exist for more effective management, a lack of understanding of the forces contributing to the problem of jail overcrowding constrains action. Finally, even where such an understanding is present, enlisting the cooperation of the many independent agencies whose agreement is necessary to move forward on the development and implementation of individual initiatives has proven to be a difficult task.

Support for and Implementation Status of Pretrial Management Procedures in Florida

Implementation Status of Pretrial Management Procedures in Florida

- * ACIR survey data suggest that many state attorneys, public defenders, and chief circuit judges tend to view a number of policies and procedures as effective tools for managing the growth in local jail populations. However, implementation of many such initiatives by these officials remained relatively limited as recently as January, 1991.
- * In response to ACIR surveys, officials most often cited resource limitations and excessive caseloads as barriers to more widespread implementation of policies and procedures designed to control the growth in the number of pretrial detainees held in Florida's local jails. In other instances, officials

cited the difficulty of securing the cooperation of other agencies, and the absence of legislative authorization as reasons for failing to implement such policies and procedures.

- * ACIR survey data also indicate that while many policies, programs, and procedures are available to local governments to help control the incidence and length of pretrial detention in a manner consistent with public safety, implementation of these in Florida has been somewhat limited and lacking in uniformity.

Pretrial Services in Florida Counties

- * Over the last three decades, pretrial services programs have emerged as important components in federal, state, and local criminal justice systems. Tracing their roots to the bail reform movement of the 1960's, these programs provide the criminal courts with an institutional capacity to perform pretrial release investigations, and to monitor compliance with conditions of release by defendants who are returned to the community pending trial.
- * In Florida, the value of pretrial services programs lies in their ability to compensate for the generalized lack of effective case screening and review by the state attorneys and public defenders in the initial hours and days subsequent to the arrest and jailing of persons accused of criminal acts. In addition, they have provided the courts with a supervised alternative to monetary bail. In this latter capacity, pretrial programs have proven effective in securing the pretrial release of large numbers of criminal defendants who otherwise would have been detained for varying lengths of time due to difficulties encountered in meeting the financial requirements established by bail bondsmen.
- * While 24 of the state's counties have established pretrial services agencies and programs, substantial discrepancies exist in terms of resource allocations and other operational features of these. Notwithstanding these distinctions, many of the state's pretrial services programs appear to be "full service" providers as measured by the range of duties and responsibilities that have been assigned to them.
- * Information received by the ACIR from a sampling of counties suggests that county expenditures made in support of pretrial services programs can be offset by substantial reductions in county jail costs as a result of the ability of such programs to decrease the incidence and length of pretrial detention.
- * According to data gathered from several sources, failure to appear rates for pretrial services programs in Florida are remarkably low, and compare favorably with other methods of release in terms of their ability to return defendants to court for trial and other required proceedings. These data suggest that, when properly designed and implemented, pretrial services

agencies can work to secure the release of large numbers of criminal defendants while minimizing failure to appear rates.

Examples of Effective Management of Local Jail Population Growth In Florida

- * Despite the findings presented above, several Florida counties have put into place comprehensive programs that have enabled them to effectively manage the growth in their local jail populations in a manner consistent with public safety. Most prominent in this regard have been Lee and Volusia Counties, which in recent years have reversed rapid rates of jail population growth and jail spending. In addition, Alachua County over the course of the 1980's developed a multi-faceted approach to managing jail population growth that enabled the county to avoid the conditions of chronic overcrowding, regulatory intervention, and massive jail construction that many other jurisdictions experienced over the last decade.
- * Although Alachua, Lee, and Volusia Counties embarked upon their reforms at different points in time and at the behest of different governmental entities, in the end they came to embody remarkably similar policy interventions. Consistent with the advice of national experts that any effective program of managing local jail population growth reflect a "systems approach", the reforms implemented in each county were multi-faceted in nature, and included policies, programs, and procedures implemented by local law enforcement agencies, county governments, corrections, and the prosecution, defense, and the courts.
- * In designing and developing various managerial initiatives, officials often were seeking to exert more effective control over the two key determinants of jail population size: admissions to jail, and the average length of stay of jail inmates. To a lesser extent, policies, programs, and procedures were implemented in order to introduce greater efficiencies in the operations of discrete agencies such as state attorney and public defender offices. However, to the extent that these efficiencies tend to expedite the processing of cases in which the defendant remains in jail pending trial, these interventions also have played a role in wider system efforts to control jail population growth.
- * Through interviews with key system officials, direct observation, and the review of prepared materials, research efforts identified a number of factors that facilitated the successful reform processes in Alachua, Lee, and Volusia Counties. Included among these were the exercise of county initiative and strong judicial leadership in the reform process, the presence of outside observers who provided technical assistance to county officials, and resource enhancements that were channeled into the operation and evaluation of the local criminal justice system. Finally, in each county, one or more multi-agency forums were used to develop, build consensus on, and monitor the implementation of discrete managerial initiatives.

These and other findings presented in the full report summarize the results of research conducted by the ACIR on jail finance and management issues over the period extending from the fall of 1989 through the summer of 1992. Although no recommendations have been developed to accompany the report, portions of the research have been presented to the Council at different points during the study period. In turn, these findings served as the basis for formal Council recommendations. Included among these was the 1990 action of the Council which recommended that a constitutional amendment be placed before the Florida electorate that would authorize the legislature to impose a one-cent criminal justice sales tax, portions of which would be earmarked to offset county jail expenditures. In addition, the Council in 1991 directed staff to develop legislation that would create a statewide pretrial release system in Florida. This recommendation ultimately became embodied in legislation filed by several Council members in the 1991, 1992, and 1993 legislative sessions. While receiving a considerable amount of attention in legislative committee hearings, legislation containing the Council recommendations was not enacted.

Persons wishing to receive a copy of the full report should contact the Council's offices at (904) 488-9627.