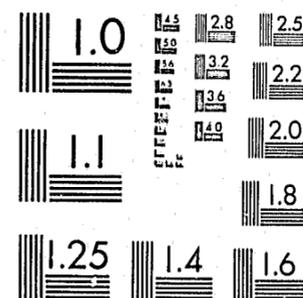


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EXECUTIVE SUMMARY BEHIND BARS KENTUCKY LOOKS AT ITS COUNTY JAILS

OFFICE OF THE SECRETARY
KENTUCKY DEPARTMENT OF JUSTICE
1981

U.S. Department of Justice
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BEHIND BARS:

KENTUCKY LOOKS AT ITS COUNTY JAILS

executive summary

PREPARED BY:

KENTUCKY DEPARTMENT OF JUSTICE

OFFICE OF THE SECRETARY

SEPTEMBER, 1981

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INTRODUCTION

In June of 1980, Governor John Y. Brown, Jr., appointed a Task Force on Jails. In its final report submitted in November, 1980, the Task Force recommended the following:

- the administration and operations of jails should remain under local control
- statewide standards should be developed to insure conventional compliance
- a Kentucky Jail Institute should be created to develop, monitor, and enforce standards
- the fee system should be abolished
- the state should establish a system in which the state pays salaries and operating expenses of jails which meet standards
- a Jail Construction and Renovation Authority should be established to issue bonds which would be retired through lease agreements with local governments

As a result of the lack of a data base for Kentucky's jails, it was not possible to conduct an evaluation of the Task Force's recommendations in terms of the fiscal impact on both the state and counties. In order to address this problem, the Governor's Office assigned the Department of Justice the task of coordinating the collection of jail data to serve as a basis for making decisions on the various jail issues.

While most data was collected by the consortium members, a certain portion was contracted out to the Jailers' Association. In order to defray some of the costs of the data collection and analysis activities, a grant was obtained from the National Institute of Corrections. The grant also enabled staff to obtain the services of a consultant to provide some oversight functions. Due to the availability of information, the data was collected for the fiscal year 1979-80 period.

The purpose of the study is to provide a data base for use by decision-makers as a policy planning tool and guideline in determining what course of action Kentucky should pursue in jail system reform. While the study does not provide exact figures on each jail, it can be used as a system overview. It is anticipated that it will serve only as the beginning in the establishment of a data base for Kentucky's jails and additional information will be necessary at a later date.

SYSTEM OVERVIEW

The 119 county jails* which currently operate in the Commonwealth are under the jurisdiction of county fiscal courts. The fiscal court approves an annual budget for the jail as well as appropriates money for any capital improvement to the facility. While the county is not mandated to provide funds for the jail, KRS 67.130 does require fiscal courts to allocate a sum necessary to maintain and operate county property. Day-to-day administration is the responsibility of the jailer.

Kentucky is the only state to retain the elected office of jailer. The only qualifications for the office are a minimum age of 24 years, residency requirements of one year in the county and two in the state and a U.S. citizenship requirement.

Revenue Sources

The state contributes a significant sum of money to the operations of the jails through a series of fees provided by KRS 64.150. In most instances, the fees are paid directly to the jailer. The total fees paid during fiscal year 1979-80 include:

<u>Dieting Fee</u>	<u>Release Fee</u>	<u>Irons Fee</u>	<u>Court Attendance</u>
\$8,626,997.00	\$173,892.00	\$2,327.00	\$187,414.00

Jailers may receive the fees only for persons charged with violations of state law and contempt cases. In cases of offenses which are excluded such as city ordinances and federal violations, the unit of government requesting the service of the jail pays the fee.

The state may also reimburse the jailer the same fees paid to sheriffs for like services. The only service of the sheriff which is likely to be performed by the jailer is that of taking a bond for which he is eligible for a \$5.00 fee.

At the end of each year, any fees which have been received by the jailer and not expended on the jail are turned over to the county. The county may in turn, use the excess fees for the next calendar year jail operations or for any general government purpose.

The state in accordance with KRS 441.010 pays medical expenses for indigent prisoners who have violated state law. A Legislative Research Commission (LRC) study noted that only about one-half of the counties participated in the program in 1980. The paperwork requirements and restrictions of the program are generally given as reasons for the low level of participation. Consideration of reform proposals in this area is expected during the 1982 session of the General Assembly.

*The Washington County Jail has been closed since 1978.

Revenue Sources (Continued)

An additional source of revenue was made available to the jails as a result of action taken during the 1980 session of the General Assembly. KRS 24A.175 provides that, effective July 15, 1980, \$5.00 from each court cost charge collected by circuit court clerks be turned over to the fiscal court to be used solely for the operation of the jail. An LRC study of 116 counties estimated that the new provision would generate approximately \$1,671,820 over the first twelve months.

The Department of Corrections pays \$11.00 per day per state prisoner to jails which participate in either the Community Center or the Gradual Release Programs. The jails must meet specific conditions prior to participation in the programs.

Jail Operations

The jailer's salary cannot exceed a maximum amount set by statute. The statute does permit the Department of Finance to annually increase the maximum in accordance with the consumer price index. In fiscal year 1979-80, the maximum compensation allowed was \$21,823. Jailers in some counties receive compensation from the county for serving as courthouse custodian. This income as well as bond fees must be included with the other fees in determining the maximum salary.

Monitoring Responsibilities

While the state to a large degree subsidizes county jail operations, it exercises minimal control over facility conditions and operations. Although some state agencies have statutory authority to promulgate regulations for jails, enforcement provisions are either nonexistent or not exercised. Existent regulations provide guidelines in specific areas, but the state has yet to establish a comprehensive set of jail standards. The state agencies involved in monitoring the jails include the Department of Corrections, the Fire Marshal's Office and the Department for Human Resources.

Population

A diverse group of people make up Kentucky's jail population including men and women, juveniles and adults, sentenced and pretrial, drug and alcohol abusers, juvenile status offenders* and public offenders.

*Status offenders refer to youths charged with offenses which are not considered crimes for adults including runaway, truancy and beyond the control of the parents.

*Population
(Continued)*

KRS 221.015 which was passed during the 1980 session of the Kentucky General Assembly may greatly reduce the jail population. Due to go into effect July 1, 1982, the bill decriminalizes public intoxication. The bill allows an intoxicated person to be taken to a detention facility only until he is no longer incapacitated, and only if no treatment facility for emergency treatment is available.

*Pretrial
Services*

After the Bail Reform Act of 1976 outlawed commercial bail bonding, Kentucky instituted a statewide pretrial release program administered by the Administrative Office of the Courts.

While KRS 431.015 permits law enforcement officers to issue citations instead of making an arrest for a misdemeanor committed in his presence, it is a practice seldom used. Most persons are at least logged into the jail prior to release.

The methods of release which must be approved by the trial judge include:

- release on recognizance
- execution of an unsecured bail bonds
- release with restrictions on travel, place of abode and associations
- require the execution of a bail bond

The method of release which does not require the trial judge's approval includes:

- post 10 percent bond as specified in the uniform bail schedule for traffic violators and minor misdemeanors. If the clerk's office is closed, the jailer, if authorized, may take the bond and release the person arrested.

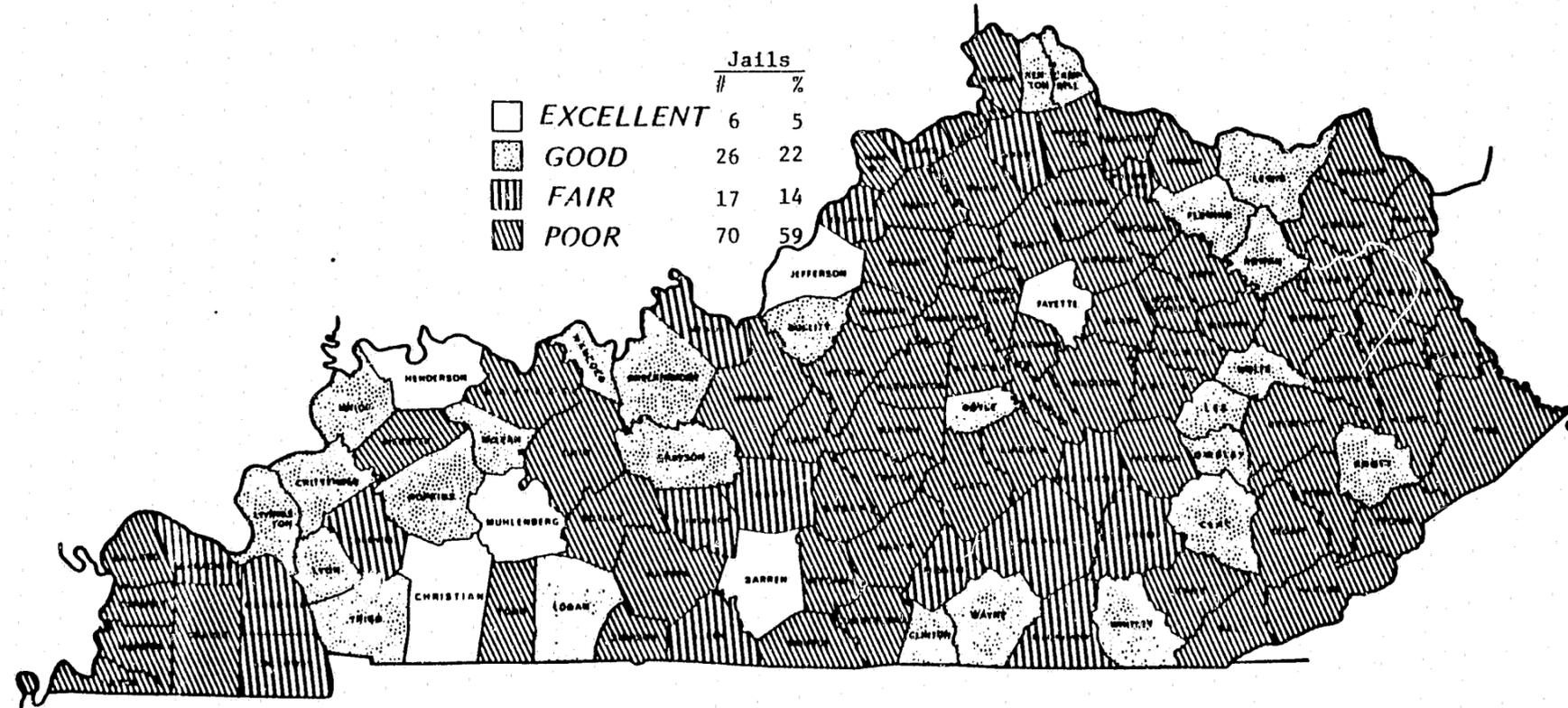
**FACILITY
CONDITIONS
FINDINGS**

All 119 jails were inspected by the jail consultants of the Department of Corrections and rated according to a system routinely used by the Department.

*Classification
of Jails*

As Table 1 demonstrates, the largest percentage (59%) of the state's jails falls into the poor category. This fact in addition to other findings that poor jails have 47% of all jail beds and serve 43% of the state's total population is cause for concern.

CLASSIFICATION OF COUNTY JAILS



KENTUCKY DEPARTMENT OF JUSTICE 1981

Classification of Jails (Continued)

On a more positive note, 27% of all jails are rated good or excellent and account for 42% of the total jail beds in the state. While only 6 jails are rated as excellent, the group accounts for 1,190 of the total jail beds. This is due to the inclusion of the state's two largest jails, Fayette and Jefferson, in the group.

The jail consultants have recommended that 46 of the 119 jails be completely renovated or new facilities be constructed in their place. All 46 of these jails fall into the poor category and account for 65% of all poor jails. Seventy-six percent of these jails are in the eastern half of the state.

The consultants also identified jails for possible use as multi-county facilities. The jails were recommended based on two criteria: the quality of the facility and the capability to serve additional populations. Five are in the eastern half of the state while six are in the western half.

Age

The 119 county jails range in age from 5 years to the 202 year old jail in Nelson County. Thirty-three percent of Kentucky's jails are over 75 years of age. The study found that age and quality were directly related with the better facilities being the newer facilities.

Types of Deficiencies

In jails rated as excellent, good and fair, the deficiencies which ranked in the top 4 include safety, separation, administrative areas and support areas. The type of deficiency characteristics of the poor jail is somewhat different from the other classifications. The fact that plumbing and penal equipment rank so high for poor jails may well be attributed to the older age of the facilities.

Separation deficiencies ranked high because of the jails' lack of facilities to separate minimum, medium and maximum security prisoners. In many smaller jails, most of the cells are allocated for adult male prisoners, as this group represents the largest percentage (89.7) of the population. A cell or two are usually reserved for adult women or juveniles and if both groups require incarceration at the same time, it is often necessary to transfer one party to an adjoining county jail.

Types of Deficiencies (Continued)

In many of the small jails in the state, there is one multi-purpose area which serves as both the kitchen and booking area. Visitation booths are not the norm as most visits are made through the cell bars. Historically, jails in the state have not focused very much attention on medical services which accounts for the lack of medical exam rooms. Very few of the jails have either indoor or outdoor recreation areas or dayrooms. The lack of such facilities is an indication of the small size of most jails and the high costs associated with development of these areas.

The fact that safety deficiencies ranked in the top 5 of all classifications and ranked #1 in good and excellent jails is cause for concern. Among the requirements in this area are a second means of egress, sprinkler system, fire/smoke alarm and fire hydrant.

POPULATION FINDINGS

The population data is based on a 39 county sample. According to statistics maintained by the Pretrial Release Program, 218,238 persons were incarcerated in county jail facilities during July 1979 through June 1980. The population sample contained 73,567 cases or 33.7% of the total.

Sample Demographics

The projected state average daily population was 2,978, composed of 90% males and 10% females. The age ranges of the population touched the extremes from eight years of age to over seventy years. The average age of a person in jail was 30.8 years, which is slightly higher than the national average.

A review of the records indicated that 67% of the jail population did not stay in jail more than two days. It is important to remember that two days may in actuality be only a few hours due to the structure of the fee system. Due to the data collection process, it was impossible to design a method to track cases from month to month, therefore, the longest a person could be recorded as staying was 31 days.

Offense Data

The majority (46.2%) of the known offenses were alcohol related; public intoxication, drunk in a public place and driving under the influence. Eliminating the driving under the influence cases, there were 23,322 alcohol-related cases in jail which represents 31.7% of the total population.

Almost 65 percent of those incarcerated were charged with misdemeanors, while traffic infractions accounted for 17.4 percent of the total cases. Only 13.3 percent of the population were charged with felonies.

Offense Data

Age was related to the type of offense committed by males. While 89 percent of those charged with controlled substance violations were less than 30 years old, 63 percent of those charged with public intoxication were aged 31 or more. An unexpected finding was that 55 percent of those incarcerated due to mental illness or emotional disturbances were 30 years of age or younger. A similar pattern was found for female offenders. Furthermore, males were fifteen times more likely to be incarcerated for public intoxication than females.

Occupancy Rates

One important finding of the study was that 25.6% of the jails were operating at less than a 50% occupancy rate. The following table summarizes the occupancy rates:

Table 2
RANGE OF OCCUPANCY RATES

<u>% of Occupancy</u>	<u>% of Jails</u>
0-25	5.1
26-50	20.5
51-75	35.9
76-100	30.8
Over 100	7.7

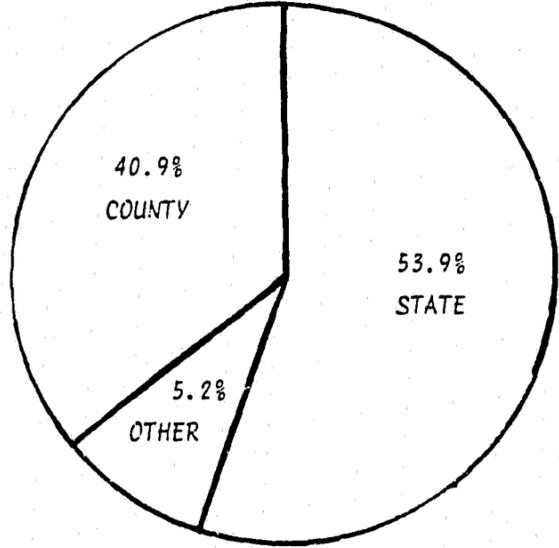
Effect of the Decriminalization Bill on Occupancy Rates

The decriminalization of public intoxication will have a significant effect on the jail population. The removal of the public inebriate from jail will cause a notable decrease in the occupancy rate of the jails from 71.4% with public inebriates to 55.7% without public inebriates. The 15.7% decrease in occupancy rate will have a significant consequence on the fees received from the state for jail operation. Overall, the smaller jails will be affected more, with a 28% decrease in average daily population as compared to a 19% decrease in the larger jails.

REVENUE AND
OPERATIONAL
EXPENDITURES
FINDINGS

Figure 1 indicates that the state is the major source of funding for the jails, with the county serving as the second source.

Figure 1

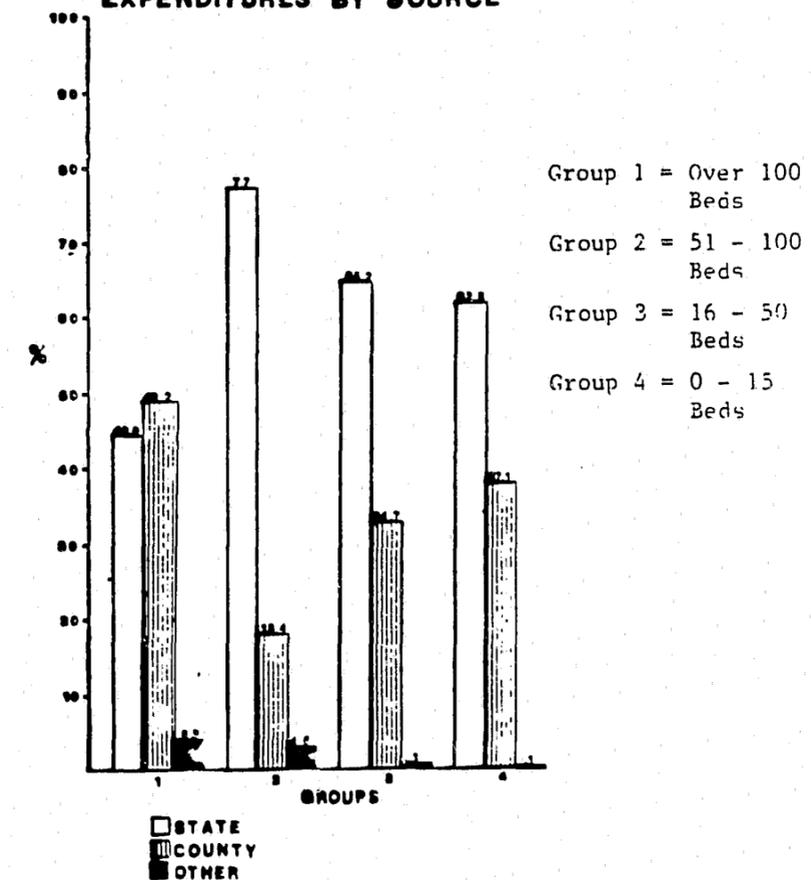


A correlation was found between the amount of money the state contributes and the percent which the county contributes. As demonstrated in Figure 2, the larger the state contribution the smaller the county's contribution. This may be attributed to the fact that there are basic costs associated with operating a jail of any size. If the state fees do not meet the basic costs then the county must contribute. However, if the state fees are adequate, there is little incentive for the county to appropriate funds.

*Revenue and
Operational
Expenditures
Findings*

Figure 2

**PERCENTAGE OF
EXPENDITURES BY SOURCE**



*Capital
Improvements*

The capital improvement costs were considered separately from the operational costs. The total amount expended on capital improvements during fiscal year 1979-80 was \$1,329,898. The county was the major contributor for capital improvements and 87% of the jails underwent some type of improvements.

Per Diem

In order to determine the cost of incarceration for each jail, a per diem rate was developed based on actual operating expenditures. The following table summarizes the per diem amounts by size groupings for jails in which both operational and population data was available.

Table 3
SUMMARY OF SAMPLE PER DIEM

<u>Bed Capacity</u>	<u>Average</u>	<u>Range</u>	
		<u>High</u>	<u>Low</u>
Over 100 beds	\$11.66	\$12.32	\$7.18
51-100 beds	\$11.21	\$11.46	\$10.85
16-50 beds	\$12.55	\$19.85	\$7.87
1-15 beds	\$10.79	\$12.96	\$5.83

A correlation was found between the occupancy rate and the per diem as demonstrated in the following table:

Table 4

<u>Occupancy Rate</u>	<u>Per Diem</u>
90% & Up Occupancy Rate	\$12.39
55-89% Occupancy Rate	\$11.63
0-54% Occupancy Rate	\$10.30

One possible explanation could be that jails with higher occupancy rates are more confident about staffing at sufficient levels because of the insured flow of state fees to support such efforts.

*Statewide
Projections*

Since operating cost data was available for only a sample of the jails, an effort was made to extrapolate the data for statewide projections. The following formula was used:

$$\frac{\$7,089,559^*}{\text{(Fees for 69 County Sample)}} \quad \frac{\$13,152,042}{\text{(Sample Total Operating Expenses)}}$$

$$\frac{\$9,139,651^{**}}{\text{Unknown of State Total Operating Costs}}$$

The projected cost for operating the jail system statewide was:

\$16,955,226

This figure can be compared to the state contribution of \$9,139,651 indicating that an additional \$7,815,575 was needed to operate the jail system above and beyond the state's contribution in fiscal year 1979-80. The \$7,815,575, if assumed by the state, would represent an increase of 85.5% in jail funding.***

The statewide operating cost was then used with the following formula to develop a statewide per diem cost:

$$\frac{\text{Statewide Operating Costs} \div 365 \text{ Days}}{\text{Statewide Average Daily Population}}$$

$$\frac{\$16,955,226 \div 365}{2,978} = \$15.60$$

The actual per diem needed to operate the jails is \$15.60 as compared to the current state per diem of \$8.41. The state per diem figure is based on all state fees excluding bond fees and gradual release payment. The projected statewide per diem represents an increase of 85% in the per diem allocation.

Using the three expenditure categories, the following is a summary of how the projected statewide per diem would be spent on current percentages:

Personnel:	\$10.21
Prisoner Maintenance:	2.67
Other Support:	<u>2.72</u>
Total:	\$15.60

*Includes all state revenue received by the 69 counties in the operating costs sample.

** Includes all state revenue except bond fees.

*** The 85.5% increase in jail funding will be slightly lower if bond fees were considered.

CONCLUSIONS

The fee system which is the major source of revenue for operating Kentucky's jails is based solely on the number of persons entering the jails. This structure results in several problems including:

1) Promotes incarceration and overcrowding - The fee system encourages local officials to support practices which result in the incarceration of the majority of persons arrested for some period of time. The jailers must work closely with local law enforcement officials to insure their cooperation in bringing persons arrested to the jail. While there is no evidence that persons are being incarcerated illegally, there is little incentive under the present system to develop alternative programs for specific population groups for whom incarceration may be inappropriate. As previously noted in the report, approximately 50% of the jail population is composed of alcohol offenders and traffic violators. Only 13% of those incarcerated are charged with felonies. Thus, the taxpayers are spending large sums of money, an average of \$15.60 per day, to incarcerate individuals who may not be considered a threat to the community. The perception of the public that jails are protecting communities from serious offenders simply is not supported by the data.

In addition, the fee system encourages overcrowding in the jails. While this study did not address the question of American Correctional Association standards regarding space requirements per prisoner, it can be safely assumed that due to the age of Kentucky's jails, the majority would not meet the minimum requirements of 70 square feet per prisoner. Therefore, even jails operating at 60% occupancy may be considered overcrowded. The issue of overcrowding is even more critical in light of the inadequate staffing patterns and facility safety deficiencies identified in the study.

2) Inequities in state revenue distribution - Counties appear to have relied heavily on the fee system for revenue to operate the jail. However, the degree of the reliance differs from county to county. While county money may account for 76% of the operating expenses of the jail in one county, another county may not contribute at all. In fact, there are four counties in the state whose jails appear to be wholly subsidized by state revenues and who actually make money from the jail through excess fees.

The inequities are further demonstrated by the range in jailers' salaries of \$5,585 to \$21,823, the maximum salary allowed by law during fiscal year 1979-80. In most counties, the jailers are totally dependent on the fee system for their salaries. The exception is counties which supplement the jailer's salary by paying the jailer to perform courthouse custodial duties. A few counties which opt for fee pooling pay the jailer a straight salary. The situation is even more inequitable in light of the fact that many jailers' wives receive little or no compensation for their work in the jail. Thus, in these cases, the jailer's salary is actually compensation for two full-time persons.

As 59% of all county jails are rated as poor and 65% of the poor jails have been recommended for complete renovation or new construction, it is obvious that attention should be focused on facility improvement. However, substantial appropriations for capital improvements may not be the best use of limited resources in light of the findings regarding occupancy rates. It is clear from the data presented that jails do not operate at full capacity. This is indicated by the fact that 61.5% of the jails are utilized less than 75% of the time. Only eight of the 39 jails maintained an occupancy rate higher than 90%.

The overall occupancy rate of 71.4% will decrease with the implementation of the decriminalization of public intoxication statute to a usage rate of 55.7%.

RECOMMENDATIONS

- I. The fee system should be reformed or eliminated to insure a more equitable distribution of limited state monies. Counties should be required to contribute specified amounts in order to receive state funds. Excess fees should be eliminated.
- II. A comprehensive set of standards for the jails should be developed and address such areas as staff training, operating procedures and facility conditions. A system should be instituted in which the receipt of state funds is contingent on complying with the standards.
- III. The need for a fully operational jail in each of Kentucky's counties should be reviewed in light of present occupancy rates and anticipated occupancy rates after decriminalization of public intoxication. Adjoining counties with low occupancy rates should be encouraged to share facilities. While it is recognized that substantial transportation costs would be incurred, it is believed that they would be significantly lower than the costs of maintaining the jails.
- IV. Prior to extensive renovation or new construction, counties should consider the population which the jails serve. A 1977 report by the National Clearinghouse for Criminal Justice Planning and Architecture cites significant monetary differences for building maximum, medium and minimum security cells. If the characteristics of the jail population remain the same, there is little reason for counties to build expensive facilities designed to serve primarily maximum security prisoners.

END