

Report of the Jail Alternatives Task Force

July 2014

*As accepted by the Tompkins County Criminal Justice /Alternatives to
Incarceration (CJATI) Board*

July 23, 2014

Introduction

In late 2013, a proposal to add seven beds to the Tompkins County jail resulted in a robust debate about whether resources should be directed toward alternatives to incarceration (ATI) rather than to an expansion of the Jail's capacity.

The debate is not new to Tompkins County. Over the past two decades, often prompted by proposals to expand the Jail, the County Legislature has chosen to invest significant public dollars into a broad array of alternatives to incarceration. These investments have contributed a very wide array of ATI programs and an incarceration rate in Tompkins County that is among the lowest in New York State.

While the Legislature ultimately concluded that the seven additional beds are needed to reduce the number of inmates boarded-out to jails in other counties, it committed itself to engage in a thorough review of additional ways to safely and prudently achieve further reductions in the jail population.

To fulfill that commitment, the Legislature's Public Safety Committee asked the County's Criminal Justice/Alternatives to Incarceration Board (CJATI) to establish a task force to undertake a study and to present its findings and recommendations to the Committee on a schedule that would allow consideration of its recommendations as a part of the 2015 County Budget.

The Public Safety Committee also directed that at least half of the meetings be held in the evening to facilitate public involvement and all were open to the public. Audio recordings of each meeting were posted on the County's web page.

The CJATI established a 12-person Jail Alternatives Task Force that included criminal justice professionals, members of the judiciary, human service practitioners, and community members, some of whom have 20+ years of experience in advocating for, developing, and supporting ATI efforts.

The group met nine times, including several presentations by experts who explained practices, policies, and procedures that influence how individuals enter and move through the criminal justice system. Using a system-mapping approach, the task force identified areas throughout the system where changes or programmatic interventions might result in reduced jail time.

The task force also considered best practices and programs used in other communities to reduce the number of people incarcerated pre-trial, and reviewed copious information on long-term interventions. Statistical profiles of the jail population were developed for use by the task force, and the insights and ideas of members and the public were shared and debated.

At the mid-point of its review, the task force also hosted a well-attended public input session where citizens expressed concern regarding generally high rates of incarceration, and offered recommendations to reduce incarceration and recidivism. Many of those comments related to major structural change, such as employment and mentoring initiatives, transitional housing, and criminal justice paradigms. While some of the recommendations require debate and involvement well-beyond the charge of the task force, the community's input helped shape the task force's discussions and final recommendations, including the encouragement that work on such major issues continue. (The public comments are detailed in the Appendix of this report.)

Based on the information and insights presented at these meetings, the task force has arrived at the following findings and recommendations for consideration by CJATI and, ultimately, the Tompkins County Legislature.

Findings

The Task Force has arrived at several findings, including:

- Tompkins County currently provides a wide array of effective alternatives to incarceration, including some that are nearly unique within New York State, that contribute to the County's very low rate of incarceration;
- At every step of the criminal justice process, the "default option" is to safely pursue alternatives other than incarceration. The Task Force believes that many law enforcement agencies, courts and agencies involved in the justice process do consider and use alternatives to incarceration.
- There are potential opportunities to make near-term, incremental reductions in the jail population, or avoid population increases that might otherwise occur, largely by *augmenting current ATI programs*, and enhancing current networking and training efforts for key decision-makers;
- The existence of a CJATI that meets monthly has helped sustain the County's commitment to effective, high-performing alternatives to incarceration. It is important

that CJATI remain an active, viable organization in order to both monitor performance and ensure the implementation of recommendations endorsed by the Legislature;

- Most inmates at the Jail are “unsentenced.” They have been arrested and are awaiting trial or final sentencing. The median length of stay for unsentenced inmates is 8 days (the mean/average is 37 days.) The median length of stay for a sentenced inmate is 11 days (the mean/average is 34 days.) *While the average lengths of stay for individuals are short, over 200 unsentenced inmates were in jail for more than 30 days in 2013, representing a population that may benefit by additional programming.*
- Important new ATI programs, initiatives and policy changes have been implemented over the past six months and appear to be generating positive outcomes. They include:
 - *Counsel at first appearance.* Tompkins County is among the first counties in New York State to institute a countywide requirement that attorneys be present at initial arraignment. This “counsel at first appearance” program uses a State Indigent Legal Services grant to support costs related to that initiative.
 - Further streamlining use of counsel at first appearance, the County has also adopted a *presumptive approach to eligibility for assignment of counsel*, ensuring that the initial determination of financial eligibility does not lead to excessive and costly delays.
 - *A defender based advocacy pilot program*, also funded with a State Indigent Legal Services grant, is now available to defense attorneys as a part of sentencing. The program seeks to avoid or mitigate incarceration by providing an in-depth review of the individual’s life circumstances and potential restorative measures;
 - The County Mental Health Department now has an “*Open Access*” policy that allows individuals receive mental health services without an appointment. It is hoped that this change of policy will reduce the potential of individuals suffering from acute mental health issues being arrested and incarcerated.
 - The County Sheriff has volunteered to participate in a pilot program by *Black Creek*, the provider of our jail booking software, that will assess inmate populations to craft appropriate interventions and formulate jurisdiction-specific, individualized offender re-entry plans to reduce recidivism;

- As a part of a more broad-based future discussion, consideration should be given to ways of addressing gaps in the human services safety net that may contribute to recidivism.

Recommendations

Consider for Implementation

Based on its findings, the Task Force believes the following recommendations should be considered for **near-term implementation** by the County. Each has the potential to be a cost-effective means of directly impacting the jail population.

1. Restore OAR staffing to three FTE Client Service Workers (currently two), allowing OAR to provide bail assistance to an estimated 10-12 additional inmates, and to provide additional re-entry and case management assistance to inmates prior-to, and after, release. The County should also work with OAR to ensure the bail fund continues to remain adequate to support all who are eligible;
2. Reduce the number of “weekenders” in jail by using the Supervised Work Alternatives Program (SWAP) work details, administered through the County Probation Department, as an alternative to weekend jail sentences. This can be done without additional cost by simply expanding current weekend details run by the Probation Department;
3. Improve communication with and training for judges and magistrates to encourage increased safe utilization of ATIs. Prepare and distribute to the judiciary a quarterly report presenting statistics regarding jail population, sentencing patterns, bail trends, and other factors that may foster greater awareness and consistency;
4. Seek amendments to the State Charitable Bail Statute that will increase the maximum bail support for “charitable bail” organizations such as OAR from the current \$2,000 to \$3,500, and explicitly permit consideration of bail for violations and felonies.

Consider for Exploration

The task force also found several other areas that are generally within the County’s control and warrant **further exploration** by CJATI or others based on their potential for affecting the jail

population either directly or indirectly. All will require additional definition and analysis prior to a determination of feasibility and impact.

1. To directly reduce the jail population:

- a. Re-create the Reduced Incarceration through Community Service (RICS) program that results in a shorter (maximum 60 day) sentence for those who participate in a supervised community-service work program during the day (and return to jail at night);
- b. Institute a “desk bail” program such as that managed by the Ithaca Police Department that would allow the Sheriff to establish a low bail (\$100-\$200) at the time of arrest as a half-way measure between an appearance ticket and the establishment of bail at arraignment. This may require a change in State law and a determination of whether a “holding cell” is needed;
- c. Increase number and timeliness of alcohol and drug assessments done in the jail. This may include designating the Jail as an OASAS-certified (Office of Alcoholism and Substance Abuse Services) site in order to secure State reimbursement for assessments, and/or doing assessments via video conference.)

2. To address factors that contribute to recidivism and incarceration:

- a. Provide additional drug and alcohol rehabilitation services within the jail;
- b. Provide additional life-skills, vocational, and educational programming within the jail, including the use of distance learning technology;
- c. Establish a formal Re-Entry or Transition Team (or case manager) that identifies and works with inmates appropriate for transitional services (such as DSS program assistance, employment, housing, etc.), answerable to and reporting regularly to CJATI. This could involve existing community agencies and resources (e.g., Probation Department or OAR) or agencies currently operating in other areas (e.g., Treatment for Safer Communities); and
- d. Expand the Assertive Community Treatment (ACT), a State-funded program that already exists in some parts of the County, providing intensive mental health services to individuals when and where they need them;

- e. Cooperate with the City's initiatives, based on programs in Vancouver and Burlington, to address substance abuse and behavioral issues that may currently result in arrest;
- f. Review judicial mandating participation in re-entry programs in the jail, with compliance resulting in reduced jail time.

Future Work to Create an Effective Transition Program

The focus of the Task Force was to identify ways of reducing the population of the County Jail. However, in the community discourse, concerns were voiced about profound flaws in the penal system that have resulted in unconscionable levels of incarceration and the destruction of lives, families, and communities. While it is beyond the scope or expertise of this Task Force to address the systemic factors contributing to criminal behavior in the first instance, we recognize that poverty, income inequality, racism, family violence and more play a role. Thus, we have included a white paper on re-entry programs prepared by Co-Chair Deborah Dietrich. These programs are designed to begin preparing incarcerated persons for their return to the community as soon as they enter jail. Successful interventions here can significantly reduce recidivism.

With the encouragement of the group, Co-Chair Deborah Dietrich of OAR has prepared the attached white paper that lays out elements of a transition, or re-entry, program that we believe warrants review by CJATI and many others in the community.

The task force, in particular, recommends that priority be placed on a review of the previously recommended proposal to create a formal re-entry team that would develop transition plans for sentenced inmates of the Jail.

Ms. Dietrich's report contains the following elements:

- Transitional housing, including a harm reduction shelter, halfway house, and more permanent supportive housing units such as those provided by Chartwell and Magnolia House;
- Improved Access to Integrated Mental Health and Substance Abuse Treatment;
- Mentoring, including models such as a Veteran's Track in County or City Court (with a strong mentoring component); Circle of Recovery which provides a support network for

individuals in recovery from alcoholism and substance abuse; a mentoring program based on the Mentor Student Program; and an employment mentoring model;

- Employment programs, to train and employ those released from jail or prison.

Conclusion

After five months of review, the Task Force has come to appreciate the significance of the ATI programs that are already in place, as well as what we believe to be a sincere preference among all involved in the criminal justice system to avoid unnecessary incarceration of an individual if alternatives exist. However, we also conclude that the level and type of Alternatives to Incarceration available to the criminal justice system is dynamic, and evolves as we apply the lessons of prior experience and new thinking that can come from a robust challenge to current paradigms. There is always room to do better.

The recommendations presented in this report may produce incremental, but meaningful and near-term, reductions in the jail population. We present them to CJATI and the Legislature with an understanding that each recommendation will need to be analyzed for cost, and then compared against a reasonable expectation of benefits.

If the Legislature chooses to adopt our recommendations, the effective implementation and monitoring of these initiatives will be critically important. We encourage the Legislature to continue its support of CJATI as a unique, collaborative, single-focused entity and to hold it accountable for monitoring the performance of new or expanded programs.

The Task Force appreciates the opportunity to contribute to the important discussion about reducing the number of individuals who are incarcerated, and hopes CJATI, and the County Legislature will give our recommendations serious consideration.