

## **4. Possible Changes to Alternatives to Incarceration & Other Justice System Changes as they Impact Bed Needs**

### **Why Alternatives as Part of this Needs Assessment?**

The scope of Dewberry's/Mark Goldman & Associates' work for McLean County did not include studying alternatives to incarceration for pre-sentenced and sentenced offenders. However in order to adequately project bed needs for the future – which was part of the Needs Assessment -- all factors that impact bed needs should be considered, and these include alternatives to incarceration and justice system changes. Hence, to a limited extent the consultants reviewed existing alternatives and how they might change and impact bed needs in the future.

### **Overview and Rationale for Alternatives**

Alternatives to incarceration are pre-trial and sentencing options that justice and social service professionals, communities, and governments at all levels can use to help minimize criminal activities, improve safety to communities and victims, and achieve the three justice system goals: rehabilitation, punishment, and deterrence.

It is well documented that the cost of incarceration is far more than the cost of non-custody alternatives and sanctions, and because studies show that incarceration can also make some people worse, the use of alternatives offers less expensive and more rehabilitating ways of addressing and reducing crimes for certain alleged and convicted offenders.

The primary reasons to utilize alternatives to incarceration are:

- To minimize crime and recidivism.
- To help individuals address the underlying causes of their criminal behaviors.
- To minimize disruptions to families and communities.
- To encourage stability and accountability.
- To minimize the use of juvenile and adult detention and correctional facilities.
- To promote public safety.
- To provide appropriate means of security for alleged and sentenced offenders and for pre- and post-adjudicated juveniles.
- To foster rehabilitation and to enhance the likelihood of individuals becoming contributing members of society, rather than burdens.
- To manage a jurisdiction's limited resources, including staff, money, and facilities.
- To help mitigate, eliminate, or reduce certain behaviors, such as drug use, which can have severe negative impacts on families and communities.
- To employ evidence-based practices – including the fact that incarceration of low risk offenders can result in higher rates of recidivism compared with the use of non-custody options.

- To save money.
- To address alleged and sentenced adult and juvenile offenders based on their particular treatment and security-related needs, and the risks to their victims and the community.

For years McLean County housed many inmates in other counties' jails due to overcrowding of the MCDF. This is no longer the case largely due to the implementation of non-custody alternatives and sanctions that are serving a large number of pre-sentenced and sentenced offenders.

If the County had to house its inmates out of county again, the minimum daily cost would be approximately \$50/inmate/day, potentially costing millions of dollars per year.

## **Alternatives for Whom?**

The alleged and convicted adult offenders who are best served by alternatives rather than incarceration are pre-sentenced alleged offenders and sentenced offenders who:

- Pose a low risk of harming others, and themselves.
- Are sober or want to be sober.
- Have a supportive family and a safe place to live.
- Are unlikely to flee the community.
- May benefit from community-based non-custody treatment programs either instead of incarceration or following periods of incarceration.
- May be able to help their families and their communities more when not incarcerated.

Because not all alternatives are appropriate for all persons, it is of utmost importance to develop a unique plan for a system of alternatives that is based on the security and treatment needs of a wide variety of individuals.

The recommendations on alternatives to incarceration for adults in the McLean County Justice System that follow in this chapter are based on the following:

- Profiles of McLean County adult offender populations (from available data and interviews), and considering their treatment, supervision, safety and security-related needs.
- Information on “what works” and “best practices” for various adult populations.
- Relative costs of available alternatives to incarceration.

## **The Current Situation at the McLean County Jail**

The McLean County Jail is overcrowded; there are not enough beds to house those that need beds; there are not enough beds in the requisite classification categories to correctly house offenders according to classification category; and, inmates are often not housed in

inappropriate housing units due to these factors and the limited and the antiquated design of the older linear portions of the building.

Because of the overcrowding situation, almost all pre-sentenced misdemeanants are now released on bond or own recognizance release. Most sentenced misdemeanants are sentenced to non-custody alternatives. This means that over time the complexion of the Jail has shifted to a higher and higher percentage of felons. At the same time a higher and higher percentage of those in jail have mental health issues.

Due to current circumstances, the commonly held perception is that only those who need to be incarcerated are incarcerated, with the exception of some mentally ill inmates including the homeless mentally ill, which is one of the main reasons for the interest in the Joint Use Community Crisis Stabilization Center being established in conjunction with Chestnut Health Systems.

## Current Pre-Trial Alternatives

### Pre-Trial Supervision/Release

This County-funded program has been in operation since 2007 and in 2014 reportedly showed a 90% success rate. In short, Court Services combs the jail roster on a daily basis and makes recommendations to the Court for offenders eligible for **Bond** or **Own Recognizance Release**. Some of those released may be ordered to be part of **SCRAM** or **SCRAM-X** (remote electronic alcohol monitoring), or be **electronically monitored**. Others may be released on **Domestic Violence Release with GPS Monitoring**. Electronic Monitoring requires that offenders wear an electronic device that alerts officials if the offender leaves an approved location. Electronic Monitoring can be used for 24-hour confinement (“house arrest”) or to enforce a curfew at the offender’s home when the offender is not working.

Reportedly, the Pre-Trial program has reduced the population in the County Jail by approximately 120 persons per year. Also reportedly an admirably high 85 percent do not reoffend because of diligent Court Services supervision, assistance with services, and reminders of court appearances. This program has been considered a success and has significantly reduced the number of beds needed in the County Jail.

Those on Pre-Trial Supervision often have conditions, such as no drinking or drugs, curfews, perfect attendance in school or work, participation in AA meetings, Victims Awareness programs and counseling. Specific programs ordered for Pretrial Supervision include:

- Substance Abuse.
- Mental Health.
- Sex Offender.
- GED/Vocation Training.
- Domestic Violence.

For those who warrant especially close supervision, Pre-Trial Supervision is augmented by Electronic Monitoring and if it is offered in the future, Day Reporting.

Pre-Trial Services supervises defendants unable to post bond that are released from jail as an alternative to continued pretrial detention. They estimate that of the 159 cases supervised in 2013 (with a total of 13,895 supervision days), \$694,750 was saved, with an average savings per client of \$4,370.<sup>1</sup>

At the time of this report, Court Services was considering changing this program somewhat so they would have a prioritized list rather than a new list each day. Court Services was also considering establishing clearer objective criteria for this program. Additionally, Court Services was studying ways to shorten the pre-trial investigation period.

Were Pre-Trial Services to be expanded to include more individuals approved for release, the need for additional jail beds could be somewhat mitigated.

## **Current Alternatives for Sentenced Inmates**

### **Probation**

This alternative is mostly used for domestic violence, drug, DUI, sex offenders, and for other higher risk offenders. The primary purpose of probation supervision is to serve the court, protect the community, and provide the necessary services through assessment, monitoring and treatment to reduce the probability of continued criminal behavior by an offender. Probation/Parole Officers within Court Services routinely conduct pre-sentence investigations and write pre-sentence reports in felony cases. The level and frequency of supervision is based on need, and it is aimed at enforcing the conditions of supervision related not only to safety but also to encourage treatment for substance abuse and mental health issues, and ensure offenders pay restitution and fines.

Probation often includes a number of conditions based on security, safety, and treatment needs of the probationer, the victim, and the community. Conditions of Probation may include:

- Report to the probation officer regularly.
- Report for alcohol and drug screening and get treatment.
- Stay employed, look for work, and/or go to school.
- Pay fines to the court (common for traffic offenses).
- Pay restitution to the victim (repairs, medical bills, counseling bills).
- Do community service, some hours of volunteer work for a local organization. But this requires a supervisor of some sort.
- Follow restraining orders to stay away from the victim (a common condition in sexual abuse and domestic violence cases).
- Participate in battering intervention programs for assaultive or abusive offenders.

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<sup>1</sup> Costs provided by Court Services. Does not take into account the possibility that some cases may have been disposed of more quickly had the alleged offenders remained incarcerated, nor the possibility that without Pre-Trial Services some alleged offenders could have been housed in facilities outside McLean County at rates higher than \$50/day, especially likely for those with medical, mental health, or other special needs.

- Participate in sex offender counseling.

There are three levels of Probation, four including Intake where a supervision plan is developed. Probationers can be moved forward or backward in supervision level as rewards or sanctions for good or unacceptable behaviors. High risk supervision often uses curfew, home confinement, daily reporting, and electronic monitoring as supervision tools.

When Probation conditions are not met, probationers can have their probation revoked and be incarcerated. **Administrative Sanctions** can also be administered for missed appointments, failure to not consume alcohol, and other such issues, in lieu of sending probationers back to court and possibly to jail.

At the time of the study, approximately 1,100 persons were on Probation. There were only six Probation officers, with an average case load (in 2013) of 192 individuals on standard Probation, although national guidelines suggest far fewer to maximize effectiveness. In 2013, a total of 661 individuals received court orders which included cooperation with monitoring and services through McLean County Adult Court Services Department; 236 of these offenders were court ordered to attend alcohol/drug treatment programs.<sup>2</sup> Those on Intensive Probation also have assigned case managers.

There are separate specialized probation units for DUI and for Domestic Violence offenders. These offenders are considered higher risk.

Currently, Probation is just for felons, although it is understand that many misdemeanants could also benefit from Probation. It is also recognized that Probation is over capacity at the current time, in need of more staff and more space. Were it to be expanded to include some misdemeanants, it could help further reduce bed numbers in the Jail.

## Drug Court

The Alcohol and Drug Court is currently available only for Post-Conviction Felony Offenders with a high risk and high need who have been referred by the State Attorney's Office. These primarily consist of those who are considered non-violent, are drug and/or alcohol dependent/abusers, who may have violated probation, who may be homeless, who may have a prior criminal involvement, who may be unemployed and have limited education. Violent offenders, gang members, and drug dealers, and those unable to meet the State Attorney's office policy for eligibility requirements are ineligible and an offender can only go through Drug Court once. This is a voluntary program. In order to qualify for Drug court, the following factors must apply:

- Substance abusers (alcohol and/or drugs).
- Offenses related to substance abuse.
- Probation violations – new drug related offenses and drug related technical violations.
- May have prior felony convictions.
- Diagnosed as drug dependent or abuser.

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<sup>2</sup> Information provided by Court Services.

- Non-violent offender as defined by State statute and McLean County State's Attorney guidelines.
- Convicted of one or more felonies.
- Adult.
- Male or female.
- Resident of McLean County.
- Must score moderate to high on LSI-R (a quantitative survey of offender attributes and offender situations relevant for making decisions about levels of supervision and treatment) and GAIN (Global Appraisal of Individual Needs).

There are three Program Phases, the first two with no less than 90 days, the third with no less than 180 days. Graduation requirements from Drug Court are:

- Completion of substance abuse treatment.
- Be drug free for 9 months.
- Be gainfully employed or furthering one's education.
- Be actively involved in recovery support activities.
- Be in a stable living environment.
- Have paid fines, court costs, and restitution in full.

The Court meets on a weekly basis and offenders can earn their way down to attending court every other week. Currently, there are 38-40 active individuals in this program. A Coordinator and Drug Court Probation Officer are employed through the County. They provide daily coordination and supervision of the Drug Court program, with Chestnut Health Systems and the Center for Youth and Family Solutions providing treatment of the individuals and their families. Each client in Drug Court receives intensive services from Chestnut Health Systems, while the Center for Youth and Family Solutions provides services including family counseling.

Drug Court could be expanded in the future by broadening its criteria to include some misdemeanants.

## **Recovery Court**

Recovery Court is a specialized problem solving court for non-violent criminal offenders who have been diagnosed with severe mental illnesses and whose mental illnesses are related to their current offenses. The program provides comprehensive intensive supervision by the use of frequent court appearances, treatment services, and community based supervision. It coordinates with Drug Court as the targeted populations often overlap. The benefits to Recovery Court participants include improving their emotional and mental health through medication and or treatment, building positive relationships with family, enhancing the quality of life, and increasing the likelihood of employment and/or further education.

A Recovery Court Coordinator and grant funded Probation Officer provide daily coordination and supervision of the Recovery Court program, while the Center for Human Services, Chestnut Health Systems and the Center for Youth and Family Solutions provide treatment and medical

assistance to the individuals. Treatment includes Moral Reconciliation Therapy, and participants go to court once a week.

The program can handle about 25 participants, but typically has around 17-19 on average. In 2013, eight individuals completed the program requirements and four were unsuccessfully discharged or had their probation revoked. Participants' convictions can be reversed if they are successful in recovery. Since its inception, the program has had a 63 percent completion rate, which is considered high given the target population.

### **High Risk-Intensive Probation Supervision (IPS) / Adult Redeploy Illinois (ARI)**

This is another alternative available to non-violent sentenced offenders in need of extra supervision and offers another level before sending an offender to State Prison or Jail. This program is meant to address service gaps such as overwhelmed court dockets, overcapacity in Adult Court Services, a lack of supervision availability during non-traditional office hours, and an overcrowded jail. High Risk Intensive Supervision can also help offenders with needs including substance abuse treatment, job placement services, mental health services, access to medication, and transportation.

This program is operated by Probation and simultaneously targets the high rate of technical violation admissions from the County to the Illinois Department of Corrections. Adult Redeploy Illinois was established by the Crime Reduction Act (Public Act 96-0761) to provide financial incentives to local jurisdictions for programs that allow diversion of non-violent offenders by providing community-based services. Grants are provided to counties, groups of counties, and judicial circuits to increase programming.

The Crime Reduction Act was based on the premise that crime can be reduced and the costs of the criminal justice system can be controlled by understanding and addressing the reasons why people commit crimes. It was also based on the premise that local jurisdictions (judicial circuits and counties) know best what resources are necessary to reduce crime.

The Adult Redeploy Illinois program is an example of a national best practice called "performance incentive funding," which other states are adopting in different ways. Adult Redeploy Illinois is based on the successful juvenile model which has been operating with positive results since 2004. In the first three years of the juvenile Redeploy Illinois program, four pilot sites reduced the number of youth sent to the Department of Juvenile Justice by 51 percent (well above the 25 percent goal), which represents potential youth incarceration cost avoidance to the State of nearly \$19 million.

The program offers sanctions for problem solving court and probation violations, incentives to improve and/or acknowledge positive behaviors, as well as ancillary services and additional supervision to individuals on probation who are in need of cognitive groups and or evening/weekend home visits and curfew checks. An IPS Coordinator and two grant-funded ARI officers are responsible for programming, monitoring and supervision.

Results expected with Adult Redeploy Illinois include:

- Reduced prison overcrowding with no increase in crime.

- Lowered costs to taxpayers (\$24,899 a year for prison vs. less than \$200 total for drug school for first offenders and \$3,500 on average for drug treatment).
- Reduction in the expensive vicious cycle of crime and incarceration.

There are currently 29 in the **Adult Redeploy** program, 20 of whom are considered high risk.

## **Community Services**

Community Service can be ordered in lieu of incarceration or monetary sanctions, or ordered as a mandate for violation of criminal statutes. This is a much-utilized sentencing option for those who commit traffic offenses. One Probation Officer is responsible for the day to day operation of this program. In 2013, 903 adult offenders were ordered to perform community service, with a total of 111,637 hours, of which 83,509 hours were completed.

Most Community Service participants can continue living at home or in a group home or halfway house. This is a good alternative for those who need to stay in school and/or improve their work skills and employment histories, and can also be used in conjunction with Probation, Drug Court, Recovery Court, and Redeploy Illinois. Some on Community Service may also be on Electronic Monitoring.

## **Jail Work Release & Weekender Programs**

These two periodic confinement programs are for offenders who are in school or working and who are deemed at low enough risk to release to the community during the day or the week. Weekenders spend the weekend in jail; Work Releasees are housed in the jail but are released during the day for work or school. Many of these offenders are in jail for domestic violence or drug related offenses.

In other jurisdictions and in McLean County some in the justice system believe that Work Release and Weekender programs (both involving jail beds) should be eliminated and people in these programs should instead be placed in alternative programs that do not require incarceration such as Day Reporting coupled, for some, with electronic monitoring. If one considers that they are deemed safe enough to be in the community during the day or week, then one must ask why are they not considered safe enough to be there during the weekend or at night? Eliminating these two periodic incarceration programs would of course reduce total bed needs in the jail and help reduce the likelihood of contraband entering the jail.

## **Recommended Additional Alternatives to Reduce Jail Bed Needs**

### **A Day Reporting Center**

As part of the renovated and expanded Jail or located elsewhere, a Day Reporting Center could eliminate or reduce time in custody for certain pre-trial and sentenced offenders. Selected non-violent offenders and others who have committed minor crimes against people could continue to work, and/or go to school and treatment programs, based on the individual's characteristics and needs (e.g., alcoholism, lack of job skills).

Day Reporting is often a good alternative for those with alcohol, drug, and/or mental health issues. The Center would be a location for urine/blood testing, and could include case management, counseling, and an array of treatment, classes, and self-help programs. Day Reporting could also be part of a Re-entry program, as a direct sentencing option, and/or for Probationers who would otherwise be revoked and jailed for violations.

### **Mental Health/Substance Abuse Diversion**

In addition to programs offered by the McLean County Center for Human Services and Chestnut Health Services, there is a need for more community-based programs for the mentally ill, those with substance abuse problems, and those who are both mentally ill and have substance abuse problems. Additional programs would provide for treatment in the community for adults diagnosed with psychiatric/ mental health and substance abuse disorders.

Chestnut Health Systems currently offers many addiction treatment services for adolescents and adults as well as mental health services. These community resources could be expanded to provide intensive treatment, education, and services for pre-trial and sentenced adults who are on not in custody but in an alternative program. Those who need greater scrutiny could be required to wear electronic bracelets that detect the consumption of alcohol or drugs. More community-based programs for the mentally ill and those with substance abuse issues would help divert more people from jail.

While this study was being completed, a big gap in available programs and alternatives to incarceration was beginning to be filled by the establishment of a Joint Use Community Crisis Stabilization Center on Chestnut's campus. This 14 bed facility's target population includes those who are charged with minor offenses who would otherwise be jailed.

### **Felon to Misdemeanant Diversion Program**

Some believe courts should have a Diversion program for first-time felons with cases filed in court as misdemeanors rather than as felonies. This could also reduce jail bed needs as misdemeanants are much less likely to remain incarcerated, and misdemeanants who are incarcerated are held for less time.

### **Good Time**

Inmates can earn (and most do) "Good Time" for good behavior while incarcerated. This greatly reduces their time served. For example, a day reduced for every day served, providing their behavior is acceptable while incarcerated. McLean County could consider expanding this program, which would further reduce bed needs.

### **Other**

Judges would like to increase the use of **GPS Monitoring** to ease the strain on jail beds, but some offenders cannot afford the per-diem cost of this, so other funding mechanisms for the indigent should be explored.

**Pre-trial Bond Reports** are also being used for some offenders, and this helps reduce the amount of bonds, making bond more affordable for more alleged offenders.

There is also no **Detox Program** now, although Chestnut's Community Crisis Stabilization Center will partially address this need. More detox beds may be needed.