

MONTGOMERY COUNTY, MARYLAND MASTER FACILITIES CONFINEMENT STUDY

January 15, 2014

TABLE OF CONTENTS

ACKNOWLEDGMENTS

INTRODUCTION

Project Background and Context
Report Organization

Task 1. CRIMINAL JUSTICE SYSTEM OVERVIEW

1.1 Approach and Methodology
1.2 County Profile and Population Characteristics
1.3 Overview of Criminal Justice Stakeholders
1.4 Criminal Justice System Process
1.5 System Review and Assessment Summary

Task 2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

2.1 Approach and Methodology
2.2 Summary Overview of Findings
2.3 Detailed Analysis and Findings
2.4 Conclusions

Task 3. INMATE POPULATION PROJECTIONS

3.1 Approach and Methodology
3.2 Current Trends and ADP Forecasts
3.3 Baseline ADP Projections
3.4 Jail Capacity Forecasts
3.5 Conclusions

Task 4. NEEDS ASSESSMENT

Introduction
4.1 Changes in Jail Population Profile and Patterns
4.2 Classification Analysis
4.3 Factors Impacting Jail Populations and Operations
4.4 Conclusions

Task 5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

5.1 Approach and Methodology
5.2 Cross-Agency Information Sharing
5.3 DOCR Record-keeping, Data Collection and Analysis
5.4 Conclusions and Recommendations

Task 6. UNRESOLVED ISSUES

6.1 Approach and Methodology
6.2 Unresolved Issues
6.3 Conclusion

TABLE OF CONTENTS

Task 7. ATIs IMPACT ON POPULATION PROJECTIONS

Introduction

7.1 Approach and Methodology

7.2 Mental Health Initiative

7.3 Day Reporting Initiative

7.4 Impact of New Initiatives on Population Projections

7.5 Conclusions

Task 8. IMPLICATIONS OF DEWOLFE V. RICHMOND

8.1 Approach and Methodology

8.2 DeWolfe v. Richmond Ruling

8.3 Senate Bill 422/House Bill 261

8.4 Conclusion: Implications for Montgomery County

Task 9. CAPITAL IMPROVEMENT PLAN

9.1 Introduction and System Overview

9.2 Capital Improvement Plan Elements

9.3 Supporting Information

APPENDICES

A Reviewed Documents, Data and Information

B Meetings Participants Lists

C Mental Health Workshops Participants List

D Research on Mental Health Practices

E Day Reporting Workshops Participants List

F Research on Day Reporting Practices

G Data Meeting Participants List

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ACKNOWLEDGEMENTS

The success of the *Montgomery County Master Facilities Confinement Study* would not have been possible without the input and assistance of the many individuals who supported this effort. This Final Report reflects a collaborative effort among the Montgomery County Department of Corrections and Rehabilitation, its criminal justice partner organizations and groups, and the RicciGreene Associates/Alternative Solutions Associates team.

We acknowledge Montgomery County criminal justice department heads and representatives from the following stakeholder agencies that participated in the *Kick-off Meeting/Visioning Session Workshop (January 23, 2013)* and would like to thank them for their involvement, guidance and support of this project, as well as for providing the consultants with full access to their work locations, facilities and staff:

- Department of Corrections and Rehabilitation – Arthur M. Wallenstein, Director; Angela Talley, Chief of Pre-trial Services; Robert Green, Warden/Chief of Detention Services, and Stefan LoBuglio, Chief of Pre-release and Reentry Services.
- Montgomery County Police Department – Thomas Manger
- Sheriff's Office – Darren M. Popkin
- Circuit Court – Honorable John W. Debelius III
- Adult Drug Court – Honorable Nelson W. Rupp, Jr.
- District Court – Honorable Eugene Wolfe
- County Council Public Safety Committee – Honorable Phil Andrews
- State's Attorney's Office – Honorable John McCarthy
- District Court Commissioners – David W. Weissert
- Office of the Public Defender – Brian Shefferman
- Department of Health and Human Services - Uma S. Ahluwalia
- DHHS/Clinical Assessment and Triage Services – Athena Morrow
- Maryland Division of Community Supervision/North Region – Jon P. Galley
- Criminal Justice Coordinating Commission – Michael L. Subin

We further thank staff members who attended work sessions with their Directors and Chiefs. These meetings, from Police/Sheriff's operations to full Court operations and to the huge turnout for mental health issues, were like no other County review the consultant team has ever conducted. Whether it was State's

ACKNOWLEDGEMENTS

Attorney work or the Department of Health and Human Services support of jail bookings, every single agency openly participated and shared their involvement, needs and perceptions for the future. From CCJC to CJBHI, Montgomery County criminal justice system demonstrates enormous collaboration.

The consultant team also wishes to thank Project Manager Ronnie Warner from the Department of General Services; members and staff from the DGS' Division of Facility Management, and Mary Beck and Bruce R. Meier from the Office of Management and Budget, for their engagement and support of the several tasks of this project.

Our compliments to all members of DOCR's Pre-trial, Detention and Pre-release Service divisions who are the gatekeepers of a very successful criminal justice system encompassing secure intake and processing, superior pre-trial assessment and court bail presentations, secure detention and pre-release services, and every single staff member who supports and participates in working with those offenders who go through the Montgomery County correctional system.

We appreciate those who participated in the many meetings, workshops, and exercises that required their attention throughout the course of developing this Master Facilities Confinement Study, and those who reviewed parts of early drafts or provided advice, analyses and valuable information in support of the Master Plan effort. A special acknowledgement goes to Claire Gunster-Kirby and the Department of Technology Services - CJIS Records staff for their assistance in collecting and providing specific data elements.

Respectfully submitted,

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INTRODUCTION

INTRODUCTION

Project Background and Context

This Master Facilities Confinement Study is a systemic criminal justice review commissioned by Montgomery County with the aim of establishing future bedspace requirements for the County's correctional facilities and pre-release center. While the study fulfills an important requirement for any funding requests from the State of Maryland for future construction of local detention centers, Montgomery County recognizes - and in fact emphasizes - that this study is much more than a means to that end.

Through the means of a comprehensive overview of the County's Criminal Justice System and its various stakeholders as they currently function, and with past, present and arising trends considered, the project's major needs assessment component were conducted. Recommendations for further improvements in pre-trial, detention and re-entry services, as well as for community-based alternatives were grounded in available data and evidence-based practices, and resulted from in-depth research and continued communication and collaboration with system practitioners and credentialed experts. These recommendations were made in good faith within the limitations of the data available that are expected to set the stage for the future of the County's Department of Correction and Rehabilitation, and their impact on the County's criminal justice operations will span far beyond corrections alone.

To reach its two major goals - conducting a needs assessment resulting in system-wide recommendations, and producing a capital improvement plan to support the seeking of funding for capital projects from the State - the Master Facilities Confinement Study is guided by principles that Montgomery County highlights in its Criminal Justice System. Firstly, jail bedspace demand is not solely a corrections issue; it is a factor affected and defined by the Criminal Justice System at large, as corrections does not function in a vacuum but reflects the outcome of numerous societal components. Additionally, bedspace needs do not stand alone, but must be considered in conjunction with overall offender flow and management. Thus, it follows that bedspace need projections and improvement suggestions must result from coordination and collaboration with numerous criminal justice agencies as well as supportive services and programs, such as those of the Department of Health and Human Services (HHS). Finally, in line with today's best practices and Montgomery County's ideology behind criminal justice practices at large, all efforts in the Master Facilities Confinement Study

INTRODUCTION

are guided by an underlying philosophy of least restrictive responses to criminal activity, without compromising public safety.

Report Organization

This Final Report presents the analysis, findings and recommendations of the Montgomery County Master Facilities Confinement Study. The report is organized around the nine (9) tasks of this project accomplished through three major phases over a twelve month period.

Phase 1: Tasks 1 through 3

In this first phase of the Montgomery County Master Facilities Confinement Study the consultants conducted a cross-agency criminal justice system assessment as a foundation for describing the Criminal Justice System's current state, flow, and practices driving bedspace and services demand. The goal of tasks 1 through 3 was to help criminal justice system stakeholders reach consensus about how well the system functions and how it might be improved, setting the foundation for a more in-depth needs assessment, recommendations, and modified bedspace forecasts.

Task 1: Review and Analysis of Existing Documents and Information

Within the scope of this task, information on Montgomery County's correctional and criminal justice services, facilities, policies, and practices was gathered, organized and assessed. The documents, data and knowledge required to inform and support the Master Facilities Confinement Study, were acquired by the means of face-to-face meetings with criminal justice stakeholders, continued cooperation and communication with the County, and both County-provided and otherwise available statistics and reports. Beyond the functions and practices currently in place throughout Montgomery County's Criminal Justice System, general population trends and census forecasts for the County were obtained and reviewed.

Task 2: Identification of Major Factors Driving the Demand for Correctional Beds

The purpose of Task 2 was to examine historical jail population trends within the context of the Criminal Justice System at large. Fitting the highly cooperative philosophy underlying Montgomery County's criminal justice functions, and recognizing that jail bedspace demand is not a corrections issue alone, changes in other justice system indicators and measures and across-the-board practices and policies were reviewed, with an eye toward possible impact on correctional bedspace demand. Throughout this process, communication with key criminal justice

INTRODUCTION

stakeholders supported the understanding of the relationship between Montgomery County's jail and the various operations of the justice system.

Task 3: Inmate Population Projections

The main objective of this task was to project Montgomery County's secure bedspace needs for the next twenty (20) years. Through statistical projections – considering historical trend indicators at the correctional facilities as well as trends and projections for the County's at risk population – baseline jail capacity forecasts for the County were developed in five-year increments. Within the scope of this task, projections were based on the assumption that current practices and policies will remain unchanged, and developed bedspace needs for the coming two decades demonstrate future needs *if* no changes are implemented. These projections support an understanding of where Montgomery County is currently headed, given current policies and practices, and provide a foundation for the rest of the study, particularly the needs assessment, resulting recommendations, and the potential impact on the baseline.

Phase 2: Tasks 4 through 8

This second phase of the Montgomery County Master Facilities Confinement Study sought to move past the initial description of Montgomery County's current criminal justice system functions and strengths by identifying gaps and recommending priority improvement needs across the service continuum.

Throughout these chapters, the consultants emphasized the interconnectedness of various services and programs, of agencies and service providers across the county and beyond, of changing policies and procedures, and of the system's ability to appropriately manage crucial information and population measures. By so doing, this Preliminary Report sought to help Montgomery County in determining the steps to take toward improving its criminal justice practices and the management of its correctional population, both as a whole and in terms of targeted services to meet crucial sub-population needs.

Task 4: Needs Assessment

Building upon the analysis and findings of tasks 2 and 3, this section further analyzed historical changes in criminal justice indicators and inmate population characteristics and trends, and their impact on DOCR's daily operations, programmatic requirements and bedspace

INTRODUCTION

needs. This task also provided a classification analysis, aligning projected needs with current facility capacities. The last part of this section identified opportunities, suggesting areas and initiatives where the County should focus in order to maximize the use of pre-trial and diversion programs to continuously manage its inmate population.

Task 5: Adequacy of DOCR Recordkeeping, Data Collection and Analysis

The purpose of this task was to assess the adequacy of recordkeeping, data collection, and analysis within DOCR to meet identified data needs and planning requirements. This discussion and evaluation stemmed from the consultants' experience in collecting and receiving data and information, as required to complete this Master Facilities Confinement Study, while also recognizing that the County is undergoing a significant shift in its information management system.

Task 6: Unresolved Issues

The main objective of this task was to note that not all issues can be addressed within the confines of the timeframe and scope of the current study, but that such issues (documented in this section as "unresolved issues") remain important and call for further County consideration and analyses.

Task 7: ATI's to Incarceration and their Impact on Population Projections

This section sought to explore two new initiatives – mental health and creation of a day reporting center – on future bedspace requirements, identified by partner agencies as necessary to enhance the solid continuum already in place. To further guide planning for future bedspace, this task assessed the impact that implementation of these initiatives could have on projected long-term jail bed needs.

Task 8: Impact of Maryland Appeals Court Decision DeWolfe v. Richmond

Recognizing the significant impact that legislative changes and new policies can have on criminal justice practices and trends on the county level, Task 8 aimed to assess the potential impact that the recent Maryland Appeals Court decision could have on Montgomery County's criminal justice system, that is to say, arrest and sentencing practices, booking trends and ultimately jail use.

INTRODUCTION

Phase 3: Task 9

The purpose of this final task of the Master Facilities Confinement study was to summarize the main findings of the report for inclusion in the County's proposed Capital Improvement Plan as a necessary step in order to secure State funding for capital projects.

Task 9: Capital Improvement Plan is a stand-alone document identifying the capital improvements that the County will require for the next several years based on an evaluation of current conditions, projected inmate population growth and estimated impact of alternatives to incarceration programs.

TASK 1. CRIMINAL JUSTICE SYSTEM OVERVIEW

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

1.1 Approach and Methodology

Systems Approach

Recognizing that factors that impact jail bedspace demand span beyond correctional practices and policies, system-wide criminal justice policies, practices and procedures were researched and identified. Incorporating both quantitative and qualitative data, this task was largely completed through continued involvement of numerous stakeholders, including law enforcement (Sheriff's department, the police), the courts (District Court, Circuit Court, Adult Drug Court), Office of the State's Attorney, as well as the Public Defender's Office, Community Supervision (formerly Parole and Probation, Department of Correction and Rehabilitation (Pre-trial Serviced Division, Detention Services, Pre-Release and Re-entry Services), Department of Health and Human Services (CATS) and other major criminal justice system agencies.

The process of data collection included an initial visioning session, interviews, surveys, focus groups, follow-up meetings with key stakeholders, review of information systems available, program and site visits, and a thorough examination of existing archived or collected data. Particular attention was paid to offender flow throughout the criminal justice process and the availability and use of alternative programs.

Methodology

Montgomery County's collaborative philosophy is aligned with evidence-based practices approach to Master Planning projects, greatly enhancing the facilitation of stakeholder input, communication, collaboration and consensus. A number of site visits and follow-up meetings allowed the continued sharing of opinions and knowledge, ensuring the Master Facilities Confinement Study was well-informed and incorporated the know-how and input of the wide variety of involved stakeholders.

A comprehensive review and analysis of existing documents, reports and County-provided information was achieved through the collection of a broad range of documents, supplemented by interviews with criminal justice stakeholders.

The following documents and data from all criminal justice agencies were gathered and reviewed in support of the criminal justice system analysis:

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

- Existing reports already prepared on system operations, crime rates and projection, agency workloads and detailed jail population data over the last decade provided by the County.
- Existing reports and data obtained through Internet research.

A complete list of documents can be found on the Appendix A of this report.

The consultant team spent three days on site in Montgomery County in late January, 2013, two days in mid-February, and a day in mid-March. During that time the consultant team had the opportunity to meet with representatives from:

- Police Department
- Sheriff's Office
- District Court and the District Court Commissioners
- Circuit Court, including the Circuit Court Adult Drug Court
- State's Attorney's Office
- Office of the Public Defender
- Department of Correction and Rehabilitation, including: Pre-Trial Services administrator and personnel from the Assessment, Supervision and Diversion units; Detention Services administrator and personnel (MCDC, MCCF); Pre-Release and Re-Entry Services Division's Chief and personnel, and DTS – CJIS records and data personnel.
- Department of Health and Human Services/Clinical Assessment and Triage Services (CATS)
- Office of Management and Budget
- Public Safety Committee, Council staff members
- Criminal Justice Coordinating Committee

Additionally, Field Supervisor II from the North Region Community Supervision Department (former Maryland Division of Parole and Probation) was interviewed over the phone. These initial visits were supplemented with follow-up phone calls and e-mails to obtain further clarification and/or add information that advanced the consultant's understanding of the system.

Nearly 60 stakeholders were interviewed during the site visits and subsequent phone calls and emails (see Appendix B). The insights from these meetings proved very helpful in several aspects of this and subsequent phases of the Master Facilities Confinement Study.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

1.2 County Profile and Population

Characteristics

Montgomery County is located in west central Maryland. The County is bordered to the south by the nation's capital, Washington, D.C., to the west by the Potomac River and Virginia, to the north by the Maryland counties of Frederick and Howard, and to the east by Prince George's County. The County is considered part of both the Washington Metropolitan Area and the Baltimore-Washington Metropolitan Area.

Montgomery County has a total of 507 square miles, 496 square miles of land and 12 square miles of water. The County includes the incorporated cities of Rockville (the County seat), Gaithersburg, and Takoma Park. There are also 12 incorporated towns and four villages, with the most recent being the Village of North Chevy Chase, incorporated in 1996.

Having reached a population of more than a million people last year – a first Maryland Jurisdiction of this magnitude¹ - Montgomery is the most populous of Maryland's 23 counties and Baltimore City, and the 42nd most populous County in the nation, up from 49th place in 2000. The top three population centers in Montgomery County are Bethesda (90,499), Germantown (86,395) and Silver Spring (71,452). With the expansion and development of these once rural northern and western parts of the County, the majority of the County's population now resides in the Gaithersburg/Germantown portion of the County.

While the rate of population increase is no longer as large as it was during the 80's and 90's when it peaked at 2.7% per year, projections made by the Maryland State Data Center, Department of Planning, estimate that the County's population is still expected to increase. However, the most recent 2010 Census available indicates that Montgomery County has entered a phase of slower growth typical of larger, more developed counties and the supply of undeveloped land, housing availability and affordability.

Age of Population

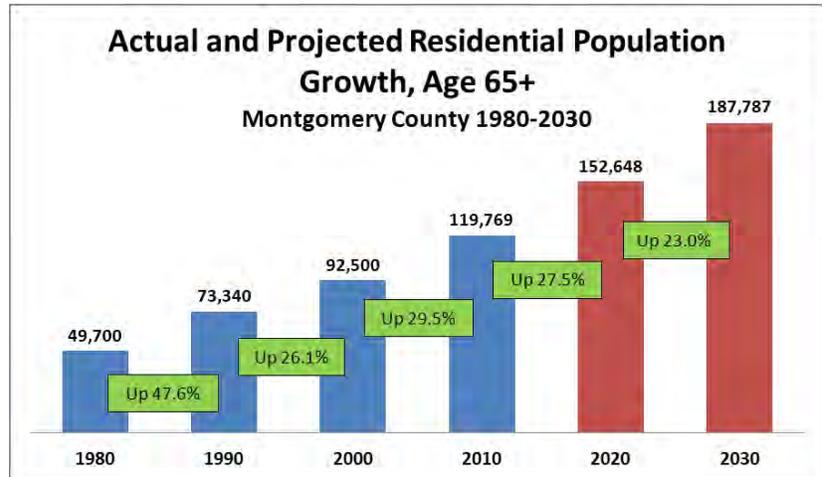
Montgomery County is experiencing demographic shifts similar to those being experienced nationwide. The most recent census data from 2010 reflects that Montgomery County has an aging population, with the most obvious change in the senior population being the growth in the overall number of individuals age 65 and over. The number of seniors

¹ <http://www.smartergrowth.net/news-parent/news/montgomery-countys-population-reaches-1-million/>

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

increased by 86% from 1980 to 2000, and is projected to grow an additional 65% from 2000 to 2020.

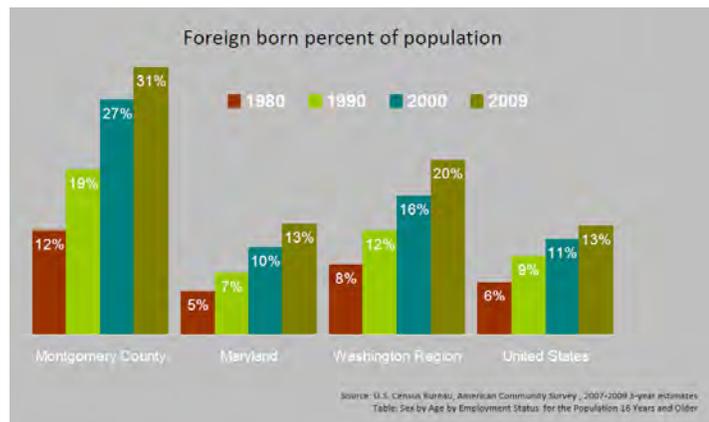
As a fraction of the overall population, the growth rate of the senior population is expected to increase dramatically in the coming decades (projected to be 14.4% by 2020).



Ethnicity Groups

Amongst the most leading forces sustaining the County's current population growth, it is important to notice that much of Montgomery's growth is a result of the increase in new residents, in particular, those from other countries.

As illustrated in the following chart, since 1980, Montgomery County has outpaced the state, region and nation in the growth of the foreign born population. One out of three Montgomery County residents was born outside of the United States.

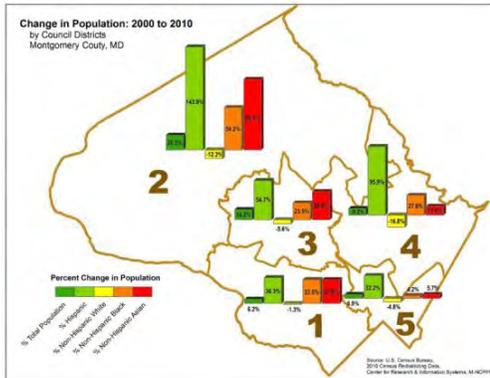


1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Over the past decade, Montgomery County's demographic profile has changed dramatically, becoming more diverse at a variety of levels. Part of this change can be attributed to two wide-scale demographic trends: the aging of the existing population and a surge in foreign immigration.

As a result of the influx of immigrants' new residents replacing out migrating residents, Montgomery County has continued to become an increasingly culturally and linguistically diverse County in the past decade.

According to the most recently released 2010 Census, Montgomery is now for the first time a majority-minority county. Of the estimated 971,777 people living in Montgomery County², the Census data notes the following population break-out:



- 50.7% other than non-Hispanic White (Black or African American, Hispanic or Latino, Asian or Pacific Islander)
- 49.3% non-Hispanic White, down 7.8 percent in the last decade
- 17% Hispanic or Latino, up 64.4 percent in the last decade
- 16.6% Black or African American, up 25 percent in the last decade
- 13.9% Asian and Pacific Islander, up 37.5 percent in the last decade

The gains in the minority population fueled Montgomery County's growth of 11.3 percent — or 98,436 people — since 2000. The highest growth has occurred in centers like Germantown, Clarksburg and Rockville, and these same areas have big gains in the minority population. According to DOCR, this changing demographic is evidenced in the correctional population, presenting some cultural and linguistic challenges to program access as well as operational challenges, as the adult correctional system continues its efforts to manage this population in a safe, secure and humane environment. A focus on successfully recruiting culturally and ethnically sensitive and diverse staff is a key component of this on-going effort, according to DOCR officials.

As noted in the Department of Correction and Rehabilitation Performance Plan, these demographic shifts have already resulted in changes on the composition of the inmate population, with the number

² At the time of this report, Montgomery County had become the first jurisdiction in Maryland to reach the million threshold with a population of more than one million in 2012 (1.005), after gaining more than 13,000 people since 2011. Source: <http://www.smartergrowth.net/news-parent/news/montgomery-countys-population-reaches-1-million/#sthash.MiliffV.dpuf>

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

of gang members and Hispanic/Latino inmates experiencing a significant growth. And although DOCR facilities are operating under capacity, actual available space is already limited by operational considerations related to keeping gang members or other high-risk individuals separated for safety issues. Currently, there are approximately 140 members of various local and national gangs housed at MCCF, requiring both that they are separated from rival gangs as well as from fellow gang members.

1.3 Overview of Criminal Justice Stakeholders

The following section provides a descriptive overview of key stakeholder agencies, their role in the Criminal Justice System, and relationship to jail activity. More detailed analysis of trends and activities for each agency is provided in Chapter 2.

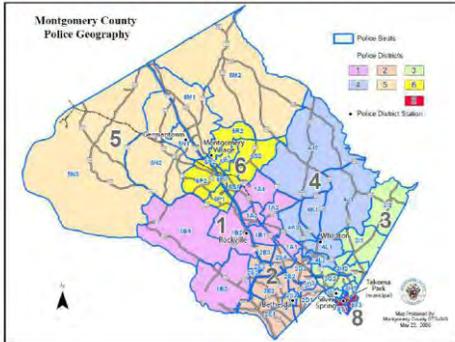
Arresting Agencies

Law enforcement agencies in Montgomery County have the responsibility of arresting defendants and booking them directly into the Montgomery County Detention Center Central Processing Unit (CPU).

The major agency within Montgomery County that books defendants into the MCDC is the Montgomery County Police Department, led by **Chief Thomas Manger**. Both the Police Department and the Sheriff's Office further serve the District and Circuit Courts, respectively, in serving and arresting individuals on bench warrants. Within the Police Department, the Warrants and Fugitives Unit (Criminal/Warrant Section) investigates, locates and arrests approximately 3,000 fugitives per year, for charges varying from serious felonies to lesser offenses and misdemeanors. While the Fugitive Unit also handles warrants from other jurisdictions, as well as Governor's warrants, out-of-state transports and extradition hearings, the Sheriff's Office takes custody of fugitives arrested in jurisdictions outside of Montgomery County for outstanding Circuit Court warrants and returns them to Montgomery County for prosecution.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Montgomery County Police Districts



Other primary law enforcement agencies conducting arrests in Montgomery County are:

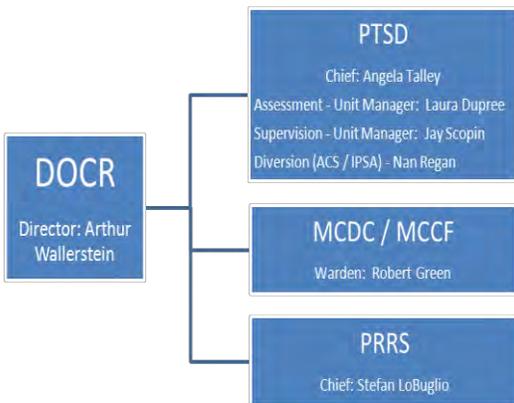
- The municipal police departments from the City of Rockville, City of Gaithersburg, the City of Takoma Park, and the Village of Chevy Chase.
- Montgomery County Sheriff’s Office
- Maryland State Police
- Metropolitan Transit Police
- Maryland Transit Administration (MTA) Police
- National Institutes of Health (NIH) Police

In addition, the MCDC CPU receives arrestees from Federal law enforcement agencies, including the U.S. Marshals, Federal Protective Services and U.S. Park Police.

Department of Correction and Rehabilitation
Arthur M. Wallenstein, Director

Established as a core agency of County government in 1972, the Montgomery County Department of Correction and Rehabilitation (DOCR) is a professional agency with a focus on *quality, constitutional practice and excellence in staff performance and community engagement*, with the mission to:

- Enhance public safety by providing Montgomery County and its citizens with professionally managed confinement facilities, community based supervision and reintegration programs for offenders;
- Ensure the safety and welfare of staff, visitors and offenders by operating its facilities and programs in a secure, humane environment which meets professional standards and constitutional requirements;
- Reduce recidivism by providing offenders with opportunities for self-improvement, employment skills and the inner resources necessary to make a successful adjustment within the community; and
- Meet current and future correctional needs of the County by use of effective planning and responsible fiscal and resource management.



1. CRIMINAL JUSTICE SYSTEM OVERVIEW

DOCR Strategic Components



DOCR provides progressive and comprehensive services for individuals accused and convicted of crimes through the use of pre-trial supervision, secure incarceration, and community treatment and reintegration programs. To achieve these goals, DOCR operates the following facilities:

- Ardennes Public Safety Facility, which provides space for Pre-trial Supervision Services, Alternative Community Services (ACS), and the Intervention Program for Substance Abuse (IPSA).
- Montgomery County Detention Center (MCDC) in Rockville.
- Montgomery County Correctional Facility (MCCF) in Boyds.
- Pre-Release Center (PRC) in lower Rockville.

DOCR’s community correctional facilities and programs are regularly accredited by the American Correctional Association, the Maryland Commission on Correctional Standards and the National Commission on Correctional Health Care. All of the standards are designed to diminish correctional security problems, diminish litigation against the County, create a safer work environment for staff, and provide a safe/constitutional living environment for inmates within the context of a safe community for local residents. PRC is also fully accredited and incorporates a set of well-established performance measures as part of its senior management work sessions. Pre-trial Services does not have a set of national accreditation standards, but has developed their own statistical performance measures that form the basis of senior management work sessions twice a month.



Pre-trial Services Division

Angela Talley, Chief

The Montgomery County Pre-Trial Services Division (PTSD) is responsible for assessing newly arrested defendants for the possibility of release into the community while awaiting trial and for follow-through with supervising those defendants safely in the community. The Pre-Trial Services Division also supervises those defendants who are offered diversion from trial in return for satisfactorily completing a community services or substance abuse program.

There are four independent components within the division:

- The Pre-Trial Assessment Unit;
- The Pre-Trial Supervision Unit;
- The Alternative Community Service diversion program (ACS), and
- The Intervention for Substance Abusers Program (IPSA).

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

The diversion programs - ACS and IPSA - are predominantly for first-time misdemeanor offenders, who will ultimately have their charges expunged following successful completion of one of these programs. There is an administrative fee to participate in these programs.

Assessment Unit

The Assessment Unit operates at the Central Processing Unit of the Montgomery County Detention Center (MCDC) and follows through with assessing all arrestees committed by the District Court Commissioners and those who have been unable to make bond, in an attempt to maximize the release of pre-trial detainees from local incarceration. Staff verifies personal information, analyzes criminal histories, and formulates recommendations to the Courts to enable the Judge to make informed bond decisions. Following national models of assessment for the judicial system, pre-trial release recommendations are made with public safety as the main priority. Approximately 30 to 35 individuals are seen daily by assessment staff.

The Supervision Unit, the Alternative Community Services (ACS) and the Intervention Program for Substance Abusers (IPSA) are housed at the Ardennes Public Safety building.

Supervision Unit

The Supervision Unit is responsible for case management and supervision of those offenders released under specified Court ordered pre-trial conditions while awaiting trial. Violations of pre-trial release conditions are immediately reported to the Courts for possible action. Pre-trial supervision maintains a failure to appear (FTA) rate of less than 3%.

In 2012, 2,904 defendants were placed under Pre-trial Supervision.

Alternative Community Services (ACS)

The ACS is a criminal justice diversion program providing adults charged with misdemeanors and non-violent offenses the opportunity to perform community services as an alternative to trial or as a condition of probation. This is a collaborative project among DOCR, the Department of General Services (DGS) and several urban districts to allow participants from both the ACS and IPSA programs, who would typically be deemed “higher risk”, to complete community service hours under stricter supervision.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Adult referrals to ACS originate from the District Court State Attorney's Office as well as the Maryland Division of Parole and Probation, and some individuals are transferred to the program from other jurisdictions. Offenders provide volunteer services to public and non-profit agencies. Besides the assigned community service hours, the program requires participation in educational programming. After successful completion of the program, clients are eligible to have their cases expunged (additionally, pre-trial offenders avoid trial). In 2012, the total number of ACS participants was 2,962.

In addition, the ACS program supports the Department of Correction Offender Work Force Initiative. The ACS program provides supervision and the source of labor for the community service *work crews* (maximum of 12 people per crew) that operate seven days a week, performing services under contract to other County and community agencies throughout the County.

In addition to clients from ACS and IPSA, the work crews take referrals from the Pre-Release Center and serve a small number of Drug Court referred individuals. Three community service crews function daily, each supervised by a correctional officer at community work sites. In 2012, a total of 616 defendants participated in the work crew program. Additionally, in February 2011, DOCR implemented a 30-person *weekend work crew* assigned to the Silver Spring Urban District. Since the first group of weekender inmates started operations in February 2011, the number of applicants has consistently increased on a weekly basis.³ As an example, the weekend of January, 19, 2013, the work crew was serving 24 participants.

Intervention Program for Substance Abusers (IPSA)

The IPSA aims at diverting all eligible first time offenders charged with misdemeanor drug crimes out of the court system and into programs that provide an opportunity to change behavior through education, treatment, and community service, while assisting offenders in maintaining a drug-free life and avoiding a criminal record.

Clients are referred to IPSA by the State Attorney's Office, with the approval of the arresting officer and, once found eligible and volunteer to participate, they are placed into one of three program tracks: the IPSA

³ In 2011, the weekend work crew replaced the weekender program in place at the MCDC for the last twenty (20) years, where all weekender inmates would come to the Detention Center for a forty-eight (48) hour stay without participation in any kind of neither programming nor productive activity. Following this new model of "weekend sentence", inmates previously sentenced to come to the Detention Center on weekends reside now at home during the weekend and work in the community picking up trash and performing other community-related jobs.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

alternative for criminal drug citation cases; the IPSA program for misdemeanor drug cases education track, or the treatment track.

In each of the tracks, clients commit to an assigned number of community service hours and participation in educational programming. Participants in the educational track receive more intensive educational programming and are screened for substance use weekly. The treatment track offers needed treatment components for participants with co-occurring substance abuse and mental health problems. IPSA is not, however, equipped to serve individuals with high levels of mental health problems, and it does not function as a mental health diversion program.

In 2012, the total number of IPSA participants was 1,735.

Detention Services Division

Robert Green, Warden

Under the supervision of Warden Robert Green, Detention Services is responsible for the operation of two confinement facilities, the Montgomery County Detention Center (MCDC) and the Montgomery County Correctional Facility (MCCF), which provide a maximum capacity to accommodate 200 and over 1,000 inmates, respectively.



Montgomery County Detention Center (MCDC)

Facts

- **Opened:** 1961
- **Capacity:** 200 beds
- **Functions:**
 - Central Processing Unit and Centralized Release
 - Pre-trial Assessment and 24-hour Magistration Services
 - Detention services for up to 72 hours
- **Population Served:** pre-trial male and female offenders
- **Population on 1/1/13:** 81

The MCDC facility, built in stages from the early 1960's until the early 1990's, is a core element of the adult criminal justice system, and is ideally located for police and public access in the middle of the County, right off Interstate 270, which makes it perfectly suited to operate as a central booking and discharge facility.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Originally, the facility served as the sole jail for the Montgomery County adult correctional system. In 1995, police booking procedures were radically altered for the positive and MCDC became the location for a Central Processing Unit (CPU). In March of 2003, when the new MCCF correctional facility opened, Montgomery County became essentially a two-jail operation, as formally called for in a 1995 planning resolution. Since 2003 until the present, MCDC has served as the booking, release and central processing facility for law enforcement agencies arrests, DOCR booking, and initial processing and appearance hearings before the District Court Commissioners for all male and female arrestees.

For those individuals retained after the initial hearing, both male and female, MCDC serves as the intake holding facility, playing a critical role in the first seventy-two (72) hours of incarceration. For many individuals entering the jail system, this is the time when struggling with drug and alcohol addiction, mental illness and potential violence and suicidal thoughts are most prevalent. MCDC is generally used solely for short-term incarceration before inmates are moved to other locations or released on bond or their own recognizance. This 72-hours holding facility maintains a capacity of up to 200 beds.

Short-term incarceration services involve initial housing placement, screening and classification, health care screening, mental health evaluation, pre-trial services and initial appearance hearings, and public defender services. In addition to accommodating the CPU and 72-hour housing, the MCDC also serves as a Central Discharge point for both long-term and short-term inmates under DOCR custody.

Approximately 15,000 arrestees are received annually, of which 7,000 are released at initial appearance hearings by the District Court Commissioner. Of all booked detainees, approximately fifty percent (50%) are either released at the 1:00 pm bail review hearing, or transferred to the MCCF and released within the first 5-6 days after arrest. The fact that more than one third of those entering MCDC are released initially, with additional releases occurring after the bail hearing, is indicative of the successful and important role that both District Court Commissioners and Pre-trial services play in managing jail population growth, while providing services and supervision to released detainees.

Several physical plant modifications and additions have been made to MCDC over the years. However, the overall age of the facility, the disrepair of the building systems, and the generally dilapidated physical

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

plant conditions of the facility suggest that the building has outlived its useful life. MCDC also presents a number of operational challenges, most notably a lack of physical space to accommodate the separation needs of arrestees and the need to relocate some staff and interfacing agency functions to permit a more efficient workflow. The vehicular sallyport yard does not provide the space and security required, creating the potential for security breaches at this critical point of entry in close proximity to the neighboring community.

The current physical plant of the Central Processing Unit (CPU), originally designed to serve as a Housing Unit, does not have the appropriate number or type of spaces required, nor the design configuration necessary to support this highly specialized function. Daily operations are challenging and potentially dangerous for the law enforcement officers using the facility, the correctional staff who operate the area and the 24/7 District Court operation located within. Major support areas beyond the CPU inside MCDC are also in need of replacement and, according to DOCR representatives, serious intervention and repair would be required to keep this facility operational. A current Capital Improvement Plan is underway at MCDC to temporarily alleviate some of these challenges. Indeed, at the time of this report, the Executive was performing certain renovations on MCDC, with the major focus of the upgrades being for roofing renovation, selected building system stabilization, and preparation of a new area for CPU operations and the District Court Commissioners. However, such renovations are not permanent, long-term solutions for an aging building.⁴

It is noted that this Master Facilities Confinement Study reflects the initial step to replace MCDC with a new Criminal Justice Complex (CJC). The CJC will serve as the Central Processing Unit (CPU) for the processing, custody transfer, holding and initial hearing of all new arrestees in Montgomery County. The CPU will be operated by the Montgomery County Department of Correction and Rehabilitation in conjunction with the Montgomery County Police Department and the Maryland District Court Commissioners, providing all the required program and support spaces to accommodate the processing and preliminary hearing requirements of the entire Montgomery County Criminal Justice System.

⁴ Source: PS COMMITTEE #3. February 16, 2012 WORKSESSION. Available on-line at: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2012/120216/20120216_PS3.pdf

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Montgomery County Correctional Facility (MCCF)



Facts

- **Opened:** 2003
- **Capacity:** 1,028 beds
- **Functions:**
 - Detention up to 18 months
 - Inmate Programs and Services
- **Population Served:** pre-trial and sentenced male and female offenders and youthful offenders
- **Population on 1/1/13:** 637

Opened in 2003, this state of the art correctional facility, located in Boyds, is responsible for the custody and care of male and female offenders who are in a pre-trial status and long-term inmates serving sentences of up to 18 months. Following an initial intake screening at the Montgomery County Detention Center (MCDC), inmates are transferred to the Correctional Facility.

This full service, 1,028-bed, maximum security facility is accredited by the American Correctional Association and is in excellent physical plant condition. The County planned ahead by providing expansion capability for a 224 bed addition, including adequate core building systems capacity. A major objective of this Master Facilities Confinement Study will be to identify the number and type of beds required in the next expansion phase, if needed, including any required program and support space.

MCCF is organized into three major functional areas: Custody & Security, Inmate Services & Programs, and Facility Operations. Each area is managed by a Deputy Warden.

MCCF is committed to providing progressive and comprehensive correctional services to all inmates. This is accomplished by the implementation of a wide variety of programs and services. Inmate's eligibility and program interests are determined upon entry into the facility. Each inmate is assigned a Case Manager whose responsibilities include facilitating successful community reintegration by aiding the offender with difficult decisions, making appropriate referrals, and providing general guidance. All inmates are encouraged to utilize their time wisely and productively while at the facility by participating in a variety of available programs and services, including:

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

- A classification and case management system to determine risk and custody level and to assess each inmate's needs;
- Acute and chronic medical care and dental services;
- Religious services, a therapeutic substance abuse program (JAS), and self-help programs;
- Choices For Change (CFC), a cognitive behavioral treatment program for inmates ages 21 and under;
- CFC programs for both adult men and women;
- Mental health services for crisis intervention, assessment, treatment and a Crisis Intervention Unit (CIU) to provide a safe and humane environment for offenders exhibiting acute and/or chronic symptoms that preclude them from general population housing;
- Model Learning Center, which operates full-time educational, vocational, and special education programs;
- Full service library, multi-purpose and recreation program areas, and therapeutic recreational programs;
- Community release social services and judicial coordination to assist with effective community and family reintegration;
- Employment development program which instills positive work habits and skills to enhance employability upon release; and,
- One Stop Employment Center to assist with skills assessment and job searches to secure sustainable post release employment.

Pre-Release and Re-Entry Services Division

Stefan LoBuglio, Chief

The Pre-Release and Re-Entry Services Division (PRRS) provides eligible sentenced adult offenders structured, community-based, residential and non-residential alternatives to secure confinement, in which they engage in work, treatment, education, family involvement and other supportive programming and services to prepare them for release. The programs are operated by the DOCR, and are supported by the taxpayers of Montgomery County, Federal and State reimbursement contracts, and the residents of the program through their room and board payments and home confinement fees.⁵

The PRRS division includes the residential Pre-Release Center and the non-residential Home Confinement program. The overall responsibility

⁵ All residents within Pre-Release and Re-entry Services programs pay program fees. The fee is twenty percent (20%) of gross income earned while living at PRC and ten percent (10%) of gross income earned while on Home Confinement. The maximum monthly charge is \$460.00 per month, or \$15.33 per day. Residents who are self-employed, or in other cases in which staff cannot determine or verify with any degree of accuracy the actual income, are charged \$15.33 per day. Those individuals who are in a full-time educational program but have a supplemental income will be charged 20% of any income over \$50.00 per week. Fees are charged from the first day of employment through release date and are automatically deducted from the resident's account. Residents' fees are about one tenth of the actual operational costs for the program.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

for the programs lies with the Chief of the Pre-Release and Re-entry Services Division.

PRRS staff conduct weekly interviews at the jail, with the pro-active goal of immediately identifying those individuals that are eligible for program placement. Referrals from defense and prosecuting attorneys, judges, probation agents, case managers within the Maryland Division of Corrections, and community corrections officials within the federal Bureau of Prisons offer further paths of program-access. At the time of initial screening, each case undergoes a thorough review to determine if an offender is best served by residential services through the PRC, non-residential through the home confinement program, or a combination of both. As an alternative to traditional detention and a step-down model offering both residential and home-confinement supervision, the PRRS is an invaluable component of the Criminal Justice System through both direct and indirect (i.e. lowered recidivism) bedspace management and alternative services provision. As of June 6, 2013, PRRS had served a total of 17,238 individuals.



Montgomery County Pre-Release Center (PRC)

Facts

- **Opened:** 1978
- **Capacity:** 173 beds (164 operational)
- **Functions:** residential and community services
- **Population Served:** there are four groups of male and female offenders who are eligible to volunteer and apply for the program:⁶
 - Those who are sentenced to the Montgomery County Department of Correction and Rehabilitation for eighteen months or less and who are within one year of their projected release date.
 - Inmates from the Federal Bureau of Prisons (BOP) system who are within six months of their projected release date and are returning to live in the Washington Metropolitan area. Federal probations cases whose sentence includes a term in a residential confinement center are also eligible for services.

⁶ In the past, inmates in the State Division of Correction (DOC), who were established Montgomery County residents, and were generally within six months of their projected release date were also eligible for placement at the PRC. According to Stefan LoBuglio, Chief of the Pre-Release and Re-entry Services Division, on July 9, 2011, due to fund cuts to this program by the legislature, the Maryland Division of Corrections discontinued the decade-plus arrangement that had the DOCR transition incarcerated individuals from state prison through the Pre-Release Program. Under the contract, these individuals had to be returning to Montgomery County, and the state paid a per diem of \$56.21. Communication (e-mail), March 7, 2013.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

- Selected pre-trial or pre-sentence individuals (when unique circumstances merit special consideration) who are released on a third party custody agreement by the court to the Pre-Release Center. Pre-Trial individuals are on bond status and are not yet sentenced. Pre-trial cases are generally referred for consideration by the judge or pre-trial supervision staff and are carefully reviewed on a case-by-case basis.
- Sentenced probationers referred to the PRC by the Circuit Court Drug Court Program.
- **Population on 1/08/13:** 144, including home confinement
 - 12 Drug Court
 - 29 Federal
 - 103 Local

Founded in 1969 and well-known to advocates of re-entry programs, PRC is a highly structured residential work release facility located in lower Rockville. The center consists of four units, housing up to 171 residents (one 50 bed male unit, two 46 bed male units, and one 28 bed women's unit). Generally, residents at PRC are either working outside the center or are actively looking for work.

The housing units have primarily 2 or 3-person rooms and a few single rooms with storage for each individual. A bathroom is located between every two rooms. Lounge/visiting areas, patio, table game area, and a laundry room are part of each unit. Staff offices are located in each unit. Resident Supervisors provide around-the-clock supervision of the units. The central areas consist of group rooms and classrooms, a Career Resource Center, and spaces for providing health care services.

While the facility's physical plant is aging, the basic structure is sound and generally well designed with a college dorm type atmosphere that is conducive to the re-entry of inmates back into the community. Although further building improvements will be needed (e.g. roof repair or replacement), the central location of this center, just a block from the shopping centers and restaurants of Rockville Pike, is an asset.

The center emphasizes the practical in getting its residents ready for the outside world. A group of county agencies and nonprofit organizations, probation and parole, and a consortium of faith-based groups and other post-release service providers make up the re-entry collaborative case management team. Residential services afford each offender the opportunity to reside within a structured and supervised setting, while maintaining pre-approved access to the community for key re-entry

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

purposes. While the PRC emphasizes the use of community services and programs, a variety of programming is offered on-site:

- Individualized Case Management and Work-Release Coordination
- Job Readiness Workshops
- Keys to Community Success Workshops (by Probation and Parole)
- Career Resources Center
- AA/NA meetings
- Meditation
- Conflict Resolution/Mediation classes
- Thinking for a Change, CBT program⁷
- Relapse Prevention
- A Women's Group
- GED preparation courses (cooperation with the Correctional Educational Association, CEA)
- Digital Literacy Courses (cooperation with CEA; continued education offered at Montgomery College)
- Health/HIV education (cooperation with Health and Human Services, HHS)
- A Family/Sponsor Group
- Mentoring via Prison Outreach Ministry's Welcome Home program
- Child Support

Home Confinement (former CART program)

In 1990, PRRS developed the highly structured non-residential CART Program (Community Accountability, Reintegration, and Treatment). Eligible residents, through a graduated transitional release, were able to serve their sentences while residing in a staff-approved private residence in the community, with the added support of intensive staff supervision, family involvement, counseling and the use of electronic monitoring equipment. In 2003, the CART Program was relocated to the PRC facility, and in the spring of 2005 the program was fully integrated into PRC operations thereby consolidating all Pre-Release and Re-entry Services programs. The non-residential component is now described as home confinement.⁸

⁷ PRRS introduced this staff taught Cognitive Behavioral Program on February 25, 2013, to address a recognized gap. Thinking for a Change is a CBT program developed by the National Institute of Corrections. At PRC, all incoming Residents receive the core 5 lessons of the 24 lesson CBT program. Those assessed at higher risk, receive the entire 24 class session program.

⁸ According to Stefan LoBuglio, Chief of the Pre-Release and Re-entry Services Division, the reasons for integrating CART into Pre-Release were as follows: 1) Counts on CART fluctuated significantly, and it was not cost effective to continue having 6 staff members supervising a program that had a count that could go as low as 6; 2) The desire to maintain continuity of case management services. Under CART, the client would have a CM in the Pre-Release Center and then another when transferred to CART. 3) Programmatically, PRRS wanted to look at "home confinement" as but another level of its existing pre-release program and not a distinct and separate program and, 4) By integrating CART into Pre-release, the department improved overall monitoring. Communication (e-mail), March 4, 2013.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Home confinement has a non-residential capacity of up to 50 people, resulting in an overall Pre-Release and Re-entry Services capacity of 216. From the residential services at the PRC, most offenders are transferred to home confinement after certain eligibility criteria are met, while other offenders might be appropriate for direct placement to home confinement at the start of their term.

Home confinement provides individuals the opportunity to reside in a pre-approved residence in the community, while serving their sentence and continuing with structured program activities such as employment and treatment as well as attending to family responsibilities. All residents on home confinement must submit detailed weekly schedules to their Case Manager for approval, and intensive supervision of all offenders on home confinement is accomplished through frequent on-site verifications in the community, regular Case Manager contact with the resident and his/her sponsor in the home and at the Center, regularly scheduled alcohol tests in the home, urinalysis, and the use of electronic monitoring equipment (GPS) when additional supervision and monitoring is required. Federal Bureau of Prisons and local County participants are eligible for Home Confinement, but residents transferred by the Maryland Division of Correction are not currently eligible.

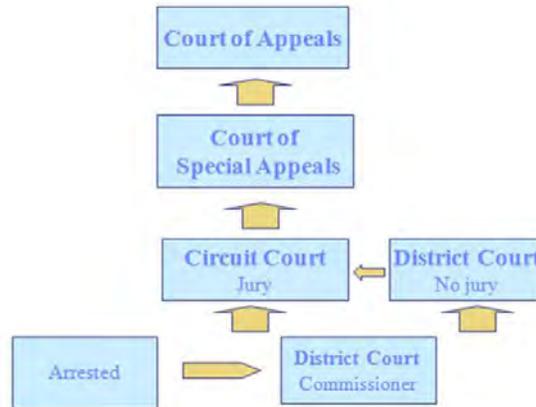
Within the Maryland Division of Community Supervision (formerly Parole and Probation), a community supervision enforcement unit monitors offenders on home detention and operates a warrant apprehension unit to bring in offenders who violate their terms of supervision.

The Judiciary

The mission of the Montgomery County Judiciary is to “provide equal and exact justice for all who enter the Courts.” As depicted in the following diagram, the Montgomery County’s Court system has four levels: two trial courts and two appellate courts. The *trial courts*, District and Circuit Courts, consider evidence presented in a case and make judgments based on the facts, the law and legal precedent. The *appellate courts*, Court of Special Appeals and Court of Appeals, review a trial court’s actions and decisions and decide whether the trial judge properly followed the law and legal precedent.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Montgomery County Court System



District Court Commissioners (DCC)

David W. Weissert, Coordinator of Commissioners Activity

For many people, Commissioners are the first point of contact with the District Court of Maryland. Commissioners are judicial officers, appointed by the Chief Judge of the District Court of Maryland. There are more than 278 District Court Commissioners around the state, available 24 hours a day, 365 days a year. The administrative commissioner for Montgomery County is Carolyn Creel.

Commissioners have four primary responsibilities:

- (1) Reviewing Applications for Statement of Charges to determine whether probable cause exists to issue charging documents; and
- (2) Conducting initial appearance hearings on all arrested individuals (warrant and warrantless) to decide the conditions of pre-trial release.
- (3) Issuing interim civil orders and service documents (summons, warrants, protective orders and peace orders)..
- (4) Establishing bail and processing bail bonds posted by members of the public on behalf of persons incarcerated.

DCC operations are an intrinsic element in inmate population management, as many arrestees are released by the Commissioner shortly after booking. After completion of the CPU arrest processing and fingerprint identification, all arrestees must be brought before a Commissioner for an initial hearing. The District Court Commissioner hearings in Montgomery County take place at the Montgomery County Detention Center's Central Processing Unit (CPU), where the Commissioners hold office. Aside from special or unusual

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

circumstances, arrestees will normally be scheduled for the initial hearing within four (4) hours upon arrival at the CPU, and no later than twenty-four (24) hours after arrest.

Initial hearings in front of a District Court Commissioner can result in release on bail, personal recognizance release, assignment to pre-trial supervision or retention in pre-trial detention pending judicial review the following day of the work week (Monday – Friday).



District Court

Hon. Eugene Wolfe, Administrative Judge

The District Court, created in 1970, is the Court of limited jurisdiction in Maryland. The Court handles all landlord and tenant cases, and has concurrent jurisdiction with circuit courts for other case types. Civil claims for amounts up to \$30,000, motor vehicle violations, misdemeanor offenses, certain felonies and peace and protective orders fall under the District Court’s jurisdiction. The District Court does not conduct jury trials.

There are 34 District Court locations in the State of Maryland, with over 1300 employees, including Administrative Judges, Commissioners, and District Court Clerks. The District Administrative Judge in Montgomery County is Eugene Wolfe, who has a team of ten Associate Judges, all chosen by the Chief Judge of Maryland’s District Courts and appointed for 10-year terms by the Governor.

The Montgomery County District Court is central to the Criminal Justice process and to jail bedspace management, not only because judges carry out verdicts and sentencing, but also as a result of the judges’ role in approving or diverting defendants to the various available alternative programs at different stages within the criminal justice process.



Circuit Court

Hon. John W. Debelius III, Administrative Judge

In contrast to the District Court, which operates under a unified system, each Circuit Court in Maryland operates independently, with operations funded primarily by the County or City in which it is located. Circuit Courts handle all major civil cases and serious criminal cases, matters of family law and juvenile cases, as well as most appeals from the District Court, Orphans’ Court, and administrative agencies.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

The Montgomery County Circuit Court is led by a team consisting of the Administrative Judge, John W. Debelius, the Clerk of the Court, Loretta Knight, and the Court Administrator, Pamela Harris, each of whom works with a broad supportive staff. By the end of fiscal year 2011, the Montgomery County Circuit Court had 22 Presiding Judges, including the Administrative Judge, and 21 Associate Judges serving in specific rotations. Circuit Court judges are elected to 15-year terms in the general election. In addition to the full-time judges, the Circuit Court has four Family Division Masters and two Special Masters.

Montgomery County has divided its Circuit Court geographically into two felony divisions. Each division (“Upcounty” and “Downcounty”) handles all felonies within its section of the County, with the exception of domestic violence, juvenile cases, complex economic crimes, police-involved shootings and police integrity cases. Those cases are handled by specialized units.

The Circuit Court has a strong history of supporting innovation and has been at the forefront of project development and performance measures testing. In fact, Montgomery County was the first jurisdiction in Maryland to use a differentiated case management (DCM) model to make case processing more efficient and streamlined, therefore reducing demand for judicial intervention at every phase of litigation.

Montgomery County Circuit Court has adopted many of the measures set forth by the National Center for State Courts to examine its performance. These measures, known as CourTools, allow courts managers to evaluate their own performance and compare themselves with other courts, as well as manage their resources in a way that identifies and addresses the public’s needs for court services.

The Montgomery County Circuit Court operates specialized Drug Courts for both adult and juvenile offenders with identified drug or alcohol dependency problems.

Circuit Court judges are influential throughout an individual’s criminal justice proceedings, both through their sentencing practices and by referring defendants to or approving placements into the alternative programs and services offered at the various stages of the process (e.g. pre-trial supervision or diversion, Drug Court, pre-release services).

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Circuit Court Drug Court

Hon. Nelson W. Rupp, Jr., Presiding Judge

Established in December of 2004 as a collaborative effort of criminal justice and treatment stakeholders, the Montgomery County Circuit Court Adult Drug Court Program is a post-plea, post-conviction comprehensive intensive treatment and supervision program, which offers offenders with drug/alcohol-dependency problems a new opportunity to break the chain of the cycle of drug/alcohol addiction and crime through intensive treatment and monitoring from the Drug Court Team, as well as direct attention from the court.

The mission of the Adult Drug Court Program is to “eliminate substance abuse, crime, and their consequence, by forging continuing partnerships with the Court, health treatment providers, concerned community organizations and law enforcement,” as stated in the Drug Court’s Participant Handbook. Leveraging its partnerships and authority, the Court directs substance-abusing offenders into evaluation and treatment to achieve personal responsibility and productive citizenship.

The Adult Drug Court team includes the Judge, Drug Court Coordinator, Case Manager, Office Services Coordinator with the Department of Health and Human Services, representatives from the Office of the Public Defender and the State’s Attorney’s Office, and a Senior Agent with the Maryland Division of Community Supervision. The Drug Court team is in charge of day-to-day functioning of the program, meets weekly to discuss each participant’s progress and assist the Judge in determining court and treatment responses to participant behavior, and attends the weekly Drug Court hearing. The Drug Court team has partnered with the Pre-Release and Re-entry Services, allowing Drug Court to utilize PRRS’s increased level of supervision either as a treatment sanction or as a drug-free housing available to a participant.

Procedurally, offenders may be referred to the Drug Court program 1) as a condition of an initial sentence through a negotiated plea agreement between the State’s Attorney and defense counsel, or 2) as a treatment strategy for offenders charged with a violation of the conditions of their probation.

A referral form is sent to the Coordinator, who completes a legal screen and ensures that the candidate is a resident of Montgomery County. The Probation Agent and the Assistant State’s Attorney also conduct legal background checks to be sure that all charges are discovered. The Coordinator reviews the candidate’s substance abuse history to be sure

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

that he/she qualifies for clinical eligibility for the program. The referral is forwarded to Outpatient Addiction Services Unit at the Department of Health and Human Services, where an eligibility assessment and treatment evaluation takes place using the Addiction Severity Index. If it is determined that the prospective participant is clinically eligible, the case is presented to the rest of the Drug Court team during the pre-court meeting. The Drug Court committee meets with the participants after the committee reviews their cases.

By committing to the Drug Court, defendants agree to frequent participation in regular sessions of the Drug Court, random drug and alcohol testing, regular case manager meetings, and both individual and group substance abuse therapy. The program is voluntary, lasts a minimum of twenty (20) months and is divided in four phases. Movement through phases is based on the accomplishment of goals and requirements. As participants advance through the phases, their requirements are reduced. Components of the abstinence-based program include: substance dependency assessment and treatment, mental health interventions, random alcohol and drug testing, regular court appearances, case management meetings and referrals, home visits, attendance at community support groups, employment, responses to self-destructive behaviors, education, restitution, and program fees. The average length of participation in the Drug Court is two years, but the actual time in the program will depend on a participant's progress. Upon the successful completion of the Drug Court Program, participants graduate from Drug Court and are fully released from their probationary status.

As of February, 13, 2013, there were approximately 70 individuals participating in the Drug Court Program.

State's Attorney's Office (SAO)

Hon. John McCarthy, Montgomery County State's Attorney

In Maryland, each political jurisdiction (the counties and Baltimore City) are served by an elected State's Attorney, who serves a four-year term. Aiding the State's Attorney in the performance of his duties is a number of Assistant State's Attorneys, appointed by the State's Attorney.

The two major functions of the Office of the State's Attorney are:

- (1) Prosecuting at trial all violations of Maryland law that have a criminal sanction, and
- (2) Investigating criminal activity within its jurisdiction.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

The State's Attorney for Montgomery County is John McCarthy. As outlined on its official website, the mission of the SAO is "to serve the public interest through the fair and honest administration of justice by exercising its responsibilities to prosecute criminal violations in Montgomery County, educate the public with regard to criminal justice issues, provide training to lawyers for future services, address inequality and promote fairness in the criminal justice system, ensure access to the criminal justice system, promote professional relations with judges and attorneys and further the efficient use of criminal justice resources."

The over 100 employees of the SAO comprise 70 full-time State's Attorneys, including the elected State's Attorney, two appointed Deputy State's Attorneys, and a highly skilled support staff of legal assistants, investigators, and victim/witness coordinators. Additionally, the SAO recruits student interns to screen District Court criminal cases, assist in preparing cases for trial, contact witnesses, and gather evidence.

Prosecution Management staff coordinate caseloads; schedule docket assignments, receive visitors, direct phone calls, and enter and audit data in the Criminal Justice Information System (CJIS) for the Circuit, District, and Juvenile Courts. In January 2012, the SAO launched its case management program, Justware, in conjunction with its Integrated Information System (IJIS) partners. This program interfaces with other County public safety agencies to increase productivity and enhance the SAO's ability to responsibly prosecute criminal cases.⁹

As with many large SAOs in Maryland, the Montgomery County's office is divided into specialized prosecution divisions based on types of crime. The seven prosecution divisions are:

- Community Prosecution and Outreach
- District Court Division
- Family Violence Division
- Felony Division
- Gang Prosecution Division
- Juvenile Court Division
- Special Prosecution Division

The Montgomery County Office of the State's Attorney utilizes a Community Prosecution model. Community Prosecution brings together geographically organized teams of Assistant State's Attorneys (ASAs), Community Outreach Specialists and other support personnel

⁹ The SAO's estimates that, on average it takes 15-30 minutes to prepare for a District Court trial. In comparison, it takes a minimum of 3-4 hours to prepare for a jury trial in the Circuit Court.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

who share responsibility for the prosecution of crimes committed within each of Montgomery County's police districts. Senior ASAs are assigned to each of the Montgomery County police districts and share responsibility for screening cases of community impact in that district. The State's Attorney notes that the familiarity of each ASA with his or her police district helps the office in responding to crime trends and determining the persons responsible for crimes in that area.

In January 2007, the State's Attorney assigned a senior prosecutor to work part-time with the Montgomery County Police Department's Major Crimes Cold Case Unit to assist in the investigation and review of old homicide and rape cases. In January 2009, a statutory change allowing law enforcement to take DNA samples upon the arrest of certain offenders opened up another area of cold cases. The prosecutor's office now also reviews other cold felonies.

Similarly in January 2007, the office established a program at the Police Training Academy that included placing a senior Assistant State's Attorney at the Academy to assist in legal training. The staff at the Academy trains both the recruits and sworn officers from numerous law enforcement agencies, including the MCPD, Montgomery County Sheriff's Office, Maryland National Capital Park Police, Rockville City P.D., Gaithersburg City P.D., and the Office of the Fire Marshall.

The SAO plays a crucial role at many junctures of an individual's criminal justice process, as it is often the main referral agency for offered diversion and post-sanction alternative services. In conjunction with the DOCR, the SAO offers several diversion programs for minor alcohol, property, and drug crimes.

In 2008, in recognition of docket-management issues, budgetary issues, and concerns about recidivism and compliance, the SAO began to divert a large number of non-incarcerable cases prior to their court dates.¹⁰ Offenders charged with possession of alcohol by minors or paraphernalia citations now receive notices to appear for a diversion docket. These dockets are heard every other Wednesday afternoon and are staffed by the SAO along with representatives from IPSA and ACS. First-time offenders are offered the opportunity to participate in the

¹⁰ In 2008, the District Court team faced a backlog of more than 6,000 citations. A backlog increases the time between arrest and trial, thereby increasing the likelihood of witness unavailability, speedy-trial objections, and recidivism of offenders awaiting trial who are not in treatment. By working with the District Court Administration and manning eight extra traffic dockets a week from March to July 2009, the State's Attorney's Office was able to eliminate the backlog.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

program or to set their cases in for trial. This early intervention docket prior to the first trial date has reduced docket crowding and police overtime. Most importantly, the success rates for participants have risen, and the time required to complete the program has dropped, according to SAO's representatives.

In 2011, a preliminary hearing docket was implemented with the State's Attorney to divert to pre-trial services uninsured motorists and defendants driving with suspended licenses due to failure to pay court fines or child support payments. Alternate Community Service (ACS) staff assisted offenders to reinstate their driver's license and obtain insurance ultimately leading to administrative dismissal of charges. The program has since been discontinued.

Office of the Public Defender (OPD)

Brian Shefferman, Esq., District Public Defender

Created by the legislature in 1971, the Public Defender's Office is responsible for representing all eligible, indigent criminal defendants in the District and Circuit Courts within the geographic boundaries of the courts. Representation by the OPD extends to criminal (or juvenile) proceedings in which a serious offence has allegedly been committed.

The Public Defender for Montgomery County, District 6, is Brian Shefferman, who is assisted by a Deputy District Public Defender, an additional 25 Assistant Public Defenders, and a number of devoted volunteers. In addition to criminal matters, the staff supports the Public Defender in the provision of assistance, reviews, and representation of indigent individuals involuntarily confined to mental health facilities under the Maryland Department of Health and Mental Hygiene jurisdiction.

In performing its duties, the OPD is not only crucial to an individual's criminal justice proceedings in terms of the overall verdict and sentencing (i.e. plea bargains, incarceration or no incarceration), but it also plays an important part in either shortening or prolonging an individual's length of stay in a correctional facility through case processing and representation practices throughout the process.

Sheriff's Office

Darren M. Popkin, Sheriff

The Montgomery County Sheriff is a State elected official. Under Sheriff Popkin's direction, the different operational sections of the office engage

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

in general law enforcement, judicial enforcement, prisoner transport, domestic violence intervention, fugitive apprehension and security related functions.

The Sheriff's Office serves the Circuit and District Courts in the conduct of judicial affairs, providing a safe environment for the daily operations of judicial activities, employees, and visitors in the courthouse. It is responsible for serving all Circuit Court bench warrants as well as the District Court's civil warrants. The Sheriff's Office performs about 2,000 bench warrant arrests a year.

Additionally, the Sheriff is responsible for transporting and guarding prisoners between the Montgomery County Detention Center (MCDC) and the Montgomery County Correctional Facility (MCCF), the various court holding facilities, as well as health care facilities and various other institutions. The Sheriff's Office performs about 20,000 such prisoner transports a year.

Community Supervision (formerly Division of Parole and Probation)

John P. Galley, DOC Regional Director

Parole and probation services in Maryland are a State function. The Division of Community Supervision of the Maryland Department of Public Safety and Correctional Services (DPSCS) is responsible for Montgomery County's probation and parole services, including performing various investigations at the Court's request. A Community Supervision Enforcement Program and a Warrant Apprehension Unit are responsible for individuals on home detention and who have violated their supervision conditions, respectively. Montgomery County has three probation field offices located in Rockville, Gaithersburg and Silver Spring. The probation office and day reporting center in Rockville is in close proximity to the PRC, supporting cooperation between the two divisions.

Beyond supervision duties, probation officers can refer individuals to the alternative programs offered by the pre-trial and pre-release and re-entry services to fulfill conditions of probation. Similarly, individuals can be referred to the Montgomery County Circuit Court's Drug Court as a part of the conditions of their probation. Cooperation between the Community Supervision division and DOCR is a crucial component of the Montgomery County's Criminal Justice System.

The Maryland Parole Commission holds public hearings across the State, both in person and via videoconference, and it is responsible for determining suitability for early release of County inmates into the

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

community on a case-by-case basis, outlining conditions of release for each parolee.

Department of Health and Human Services (HHS)
/ Clinical Assessment and Triage Services (CATS)

The Clinical Assessment and Triage Services Unit (CATS) is a screening and assessment unit consisting of mental health professionals employed by the Montgomery County Health and Human Services Department. They work on site at MCDC's Receiving and Discharge Unit and in the Medical Unit, reviewing all initial suicide screening forms and routine referrals generated by the mental health screening tool administered to all booked inmates. The mission of the CATS unit is to immediately identify and refer high-risk inmates to DOCR therapists to determine treatment and housing disposition. Additionally, CATS aims to divert individuals with chronic mental illness, substance abuse/dependence and/or co-occurring disorders, who are charged with non-violent offenses.

Currently, emphasis is placed on the role CATS plays in Montgomery County's diversion services. For individuals who are being diverted to community-based services by Pre-Trial Services staff, CATS therapists facilitate linkages to community providers. Additionally, CATS and pre-trial services now run a mental health diversion pilot program, giving a small number of willing defendants with chronic mental illness, charged with minor offenses, the possibility of committing to needed treatment and supervision in lieu of incarceration. Participants in the program have their cases placed on a stet docket, with a possibility of having them expunged after successful completion of the program requirements and treatment plan. To date, 12 individuals have participated in the pilot diversion program, three of whom had successfully completed. In 2012, CATS conducted 2,200 assessments and recommended diversion on 30% of the cases.

As a point of assessment, referral, and possible diversion to alternative services, the CATS unit can impact the bedspace needs of Montgomery County's correctional facilities, particularly as review and assessment is done very early on in the Criminal Justice process.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Crime Victims

In Maryland, victims of crimes are offered a range of services throughout the criminal justice process. Notification on the status of cases in criminal court, pretrial conferences, court accompaniment, and crisis intervention are provided in most counties by the State's Attorney's Office. Within the Department of Public Safety and Correctional Services, victims' services units provide information about the detention and release of offenders and their whereabouts, and advise victims on obtaining financial compensation through the Criminal Injuries Compensation Board.

In Montgomery County, the Victims' Service Advisory Board, which meets monthly to review victims' services and needs, acts as a local advocate for victims by submitting annual reports to the County Executive and the County Council on the progress of programs for victims and their families and of needed improvements to any such services. Further, the board makes funding recommendations and assists the director of the HHS in the development of the annual victims' services and families plan.

Through conducted reviews, recommendations, and improvement suggestions, the board aims at giving crime victims and their families – all members of the Montgomery County general public – a voice in the Montgomery County's Criminal Justice System and can serve to influence the County's policies, services, and practices in victims' services and beyond.

Criminal Justice Coordinating Commission (CJCC)

Michael L. Subin, Executive Director

The 34-member CJCC, which operates under the Montgomery County Executive's office, "promotes the orderly coordination and communication of criminal justice policies among the multiple criminal justice and law enforcement agencies" by providing analytical and informational support to the criminal justice system at large. A central task of the CJCC is the assessment of organizational functions and effectiveness and the administration of justice in Montgomery County.

As an advisory and educative body to the County and the public, the Commission promotes efficiency, cooperation, and fairness at all levels of the County's criminal justice processes, and plays an important role in many system improvements and exemplary practices.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Chaired by Sheriff Darren Popkin, the Commission is comprised of representatives from the Maryland Department of Juvenile Services and House of Delegates, the Department of Public Safety and Correctional Services, the Montgomery County Circuit and District Courts, the County Council and the Office of the County Executive, Fire and Rescue Services, Department of Health and Human Services, Montgomery County Public Schools, DOCR, the Department of Technology Services, the Sheriff's Office, the County and Municipal Police Departments, the Public Defender's Office, the Victim Services Advisory Board, and members of the public.

1.4 Criminal Justice System Process

In essence, all criminal justice systems are a collection of practices and procedures carried out by many independent agents. It is often the relationship between the various agents that ultimately determines how effectively and efficiently justice is administered. These realities make collaboration among the several criminal justice agencies crucial.

The following is a general summary of the process a criminal case would take through the Montgomery County's Criminal Justice System, described around major critical stages and the various intervening agencies, and how the functions performed by each agency impacts jail utilization.

Case Flow Diagrams

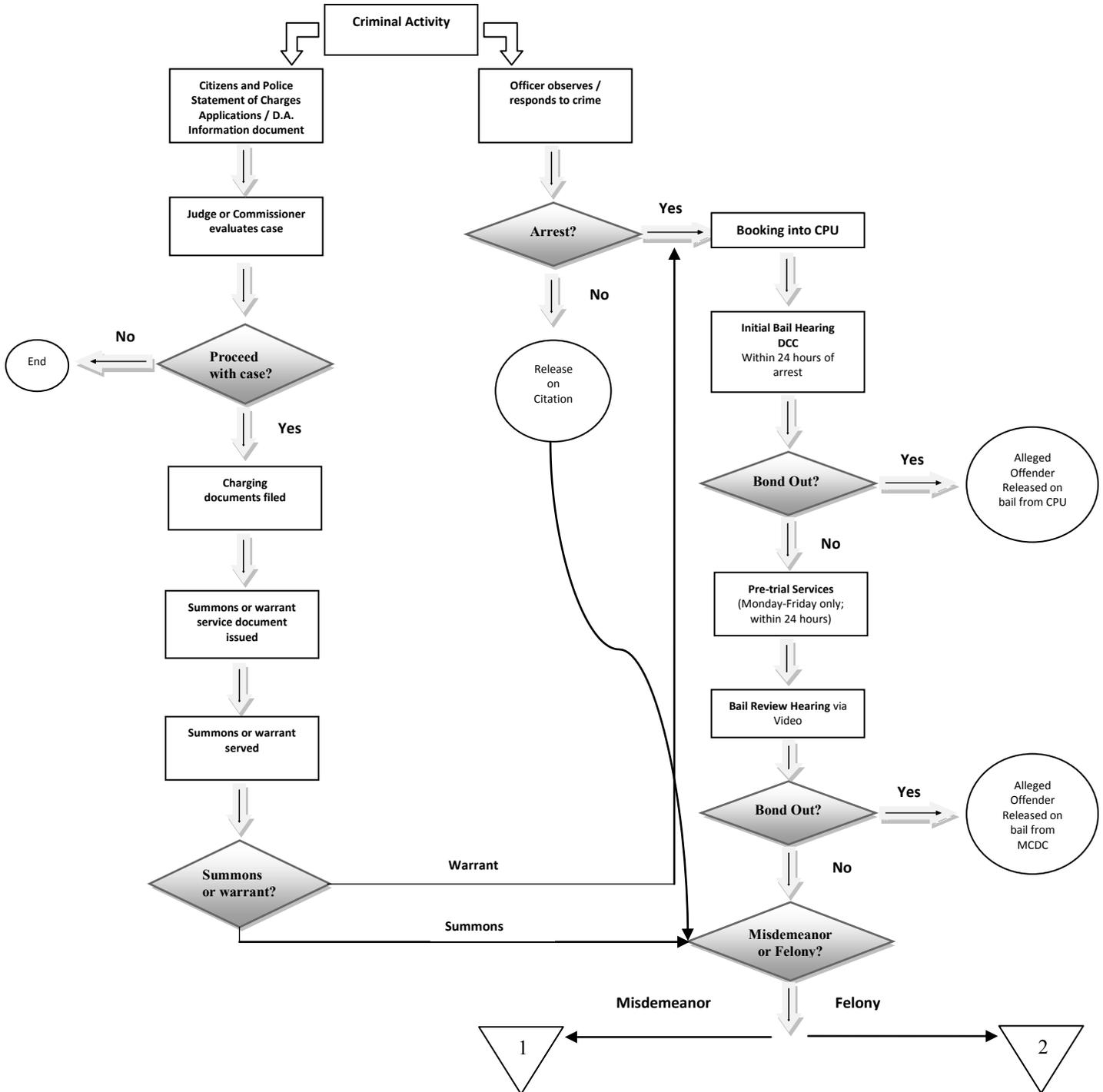
Figures 1 and 2 illustrate the movement of an alleged offender through the criminal justice system (from crime to punishment) in Montgomery County, illustrating the three main ways in which the DOCR gets its inmates:

Figure 1, depicts the criminal justice system processes from arrest to the point at which charges are ready to be filed by the State Attorney.

Figure 2, illustrates the processes that take place after formal charges have been filed against an alleged offender.

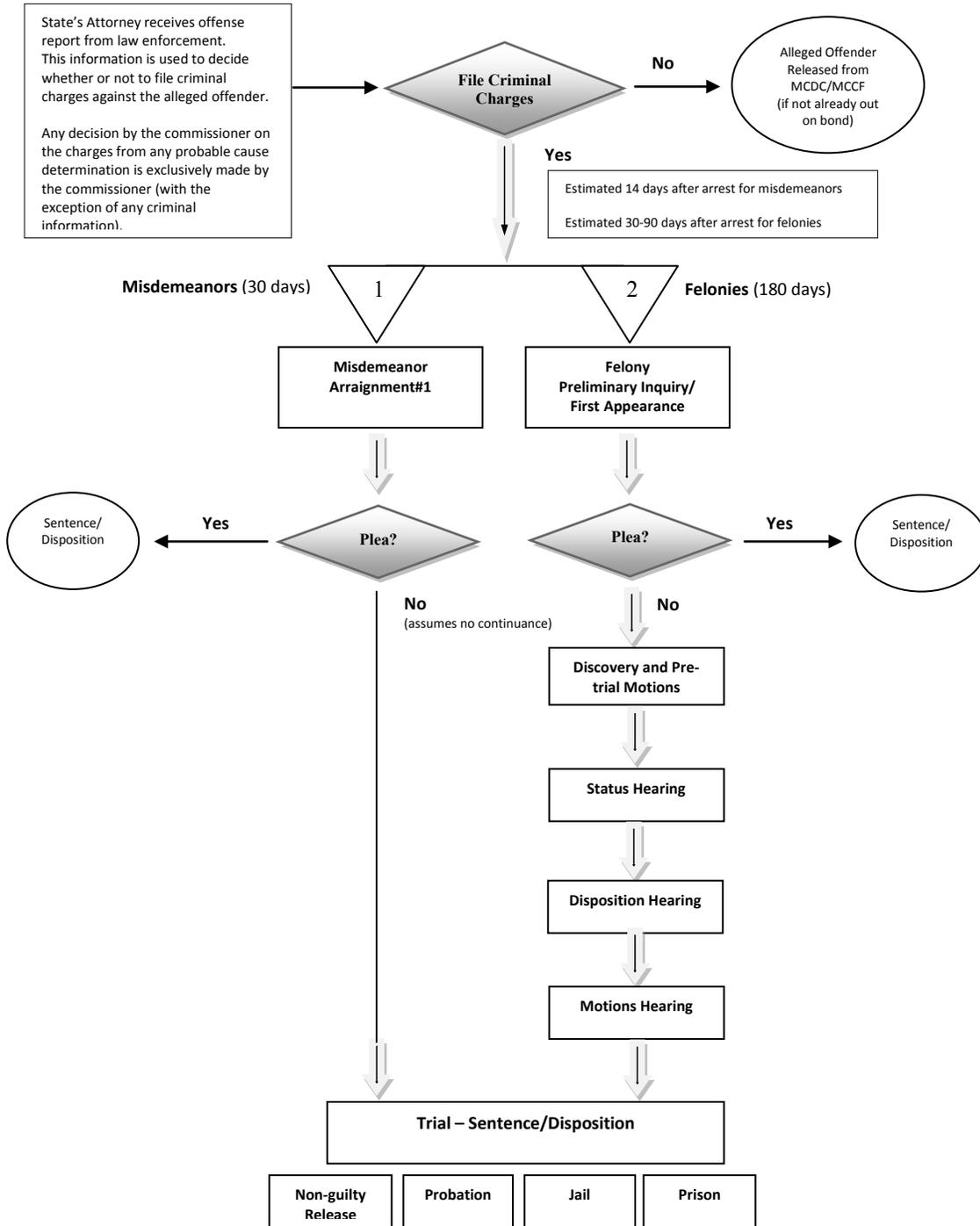
1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Figure 1. Arrest to Filing of Charges



1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Figure 2. Filing of Charges to Case Disposition



1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Criminal Justice Events, Processes and Practitioners

Multiple agents are directly involved in the events and processes associated with the movement of criminal cases through the criminal justice system. The purpose of this narrative is to document an understanding of case processing in Montgomery County, as a foundation for exploring the impact of these various processes on jail bedspace utilization.

Generally speaking, the first way in which people enter the jail - often a person's first contact with the C.J.S. - is through arrest. Local jails are often thought of as the historical first contact with the correctional system, sometimes with the entire Criminal Justice System. When a person has committed a crime, the law enforcement agency will bring to the Court the person believed to be responsible. Sometimes this will be done by means of a warrant, sometimes by a criminal summons. Persons who are arrested are given a chance to hear the charges against them and post bail. From the time of their arrest until they appear at the Court, they may be housed in the local detention center (MCDC or MCCF).

After appearing before the Commissioner or the Judge, some people will be released on bond or personal recognizance. Others will be held in custody until their trial. This is the second way in which people enter a DOCR facility (MCCF).

Finally, the Court holds a trial and hears the facts of the case from both the prosecutors and the defense. If the person on trial is convicted, then the Court will pass sentence. The sentence can be a fine, public service work, restitution for injuries or incarceration. Sentenced an offender to a period of incarceration is the third way in which DOCR gets its inmates. Those who have been sentenced to a short term of imprisonment, 18 months or less, will be held in the MCCF and, if eligible, transferred to the PRC as they near release.

Event/Process:	Commission of a Crime Arrest/Filing of Charges
Agents Involved:	Law Enforcement (arresting agencies) Courts (if warrant issued prior to arrest)

The criminal justice process generally begins when a person is alleged to have committed a crime. Law enforcement agencies typically learn about crime from victims or other citizens, from discovery by a police

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

officer in the field, or from investigative work. This is followed by either a warrantless arrest or the issuance of a charging document.

Criminal cases are also initiated with the issuance of a charging document caused by a citizen's complaint taken to a District Court Commissioner or the District Court, or an "information" document filed by the State's Attorney.

Arrests

As a general rule, Maryland law differentiates arrest powers based on whether the offense for which the arrest is being affected is a felony or a misdemeanor. In the case of most offenses, felonies are "more serious" and misdemeanors are "less serious".

After determining that a crime has been committed, police must identify and apprehend a suspect before a case can proceed through the criminal justice system. A police officer can make an arrest if a crime was committed in the officer's presence. A police officer can also make an arrest without a warrant in the case of the commission of a felony if the officer has probable cause to believe that a crime was committed. If a misdemeanor was committed not in the officer's presence, a warrant is required to make an arrest. Additionally, law enforcement agencies are responsible for the arrest or apprehension of individuals who have committed some contempt against the court (bench warrants).

Charging Documents

The issuance of a charging document, regardless of whether an individual is arrested, formally initiates the criminal process. The charging document is a written accusation alleging that the defendant has committed a crime. Pertinent to law enforcement agencies, this charging document may come in the form of a citation or a statement of charges.¹¹

Citations: In Maryland, citations are issued to a defendant by a law enforcement officer and filed by the officer in the District Court. Citations may only be used when specifically authorized by statute.¹²

¹¹ Citizens can also file a statement of charges. In this case, a Judge, or after Court hours a Commissioner, is responsible for reviewing applications for statement of charges to determine whether probable cause exists to issue charging documents. If the judge/commissioner determines that there is probable cause, a charging document is issued. The judge/commissioner will then determine whether to issue a summons for the person to appear in court or a warrant for the person's arrest. If a summons is issued, no arrest is made and the person is simply given a copy of the charge and ordered to appear before a District Court judge for an initial appearance. All summonses for defendants in criminal cases shall, at the time of issuance, bear a return date of not less than 72 hours prior to the scheduled trial. If a warrant is issued, the document will be given to a law enforcement agency, which is responsible for finding and arresting the accused person and bring him/her in front of a Commissioner.

¹² Senate Bill 422 has expanded the type of offenses that may be charged by citation.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Citations do not necessarily involve the arrest of the defendant, but rather command the properly identified defendant to appear in court when notified of the date. In such cases, the initial appearance is before a judge on the date of arraignment or trial.¹³

Pre-booking Diversion: The Montgomery County Police Department operates a Crisis Intervention Team, which consists of patrol certified officers specially trained to respond quickly and knowledgeably to incidents involving individuals with mental illness and to divert such individuals, as appropriate, to community mental health providers, in contrast to arresting, booking and jail.

Statement of Charges: Before the arrest of an alleged offender, a statement of charges may be filed by a judicial officer with the District Court, based on an application of a law enforcement officer. The application contains an affidavit demonstrating probable cause that the defendant committed the crime charged.

Event/Process:	Booking into CPU Initial Bail Hearing
Agents Involved:	Law Enforcement (arresting agent) DOCR (jail operations) DC Commissioners (initial hearing)

A defendant is entitled to be brought before a District Commissioner for bail determination no later than within 24 hours after arrest. District Court Commissioners and DOCR staff indicate that it takes between 30 minutes to several hours (four on average) to get from CPU booking to initial hearing.

In Montgomery County, all arrestees and/or persons in custody of the local law enforcement agencies are transported to the MCDC's Central Processing Unit, operated by DOCR in conjunction with the MCPD and the DCC, to be presented before a District Court Commissioner.

¹³ In an initial appearance hearing, the District Court Judge performs the same function as a commissioner in cases involving defendants who have been arrested. The first event in the District Court is an initial appearance to determine if probable cause exists to charge the defendant with a crime. Defendants are not allowed to testify or to offer evidence at the hearing, but they have the right to hear the evidence against them and to cross examine the state's witness. *Misdemeanor charges:* If the court finds no probable cause, charges may be dismissed (although the state's attorney may re-file charges later). If a defendant is charged with one or more misdemeanor, those charges remain and will be set for trial on another day at the District Court level. *Felony charges:* If a judge finds probable cause, the case is sent (held over) to the Circuit Court for arraignment and possible trial. The State is given 30 days within which to file a formal criminal information, charging the defendant in the matter. If the judge does not find probable cause that a felony has been committed by the defendant, the felony is dismissed or the case is scheduled for trial in the District Court.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Currently, an initial bail hearing typically involves the defendant and the Commissioner. When a defendant appears for bail hearing, s/he is advised of the nature of the charges against him/her, the penalties should s/he be convicted, and the right to counsel, in the event s/he cannot afford private counsel. The defendant is then given a District Court trial date. When the charge is a felony under exclusive Circuit Court jurisdiction, the judicial officer informs arrestees that if they have not, or are not indicted by a grand jury, they have a right to a preliminary hearing, but only if requested within ten days. This is an adversarial preliminary hearing to determine whether there is probable cause to formally charge the arrestee, and it requires the arrestee to stand trial and defend against the charges.

The District Court Commissioner has to comply with the pre-trial release provisions of Maryland Rule 4-216. That rule requires the Commissioner to determine whether there is probable cause for the arrest and, if so, whether the defendant should be released on his or her own personal recognizance or on bail, or should be assigned to pre-trial supervision or retention in pre-trial detention pending a judicial review hearing immediately or at the next session of court during the week (Monday – Friday).

Currently, it takes the commissioner between 15 to 30 minutes to conduct the pre-trial assessment questionnaire, and around 30 to 45 minutes to complete the initial appearance process. In addition to the questionnaire, the commissioner has access to several criminal justice databases to review the defendant's criminal history and to determine whether there are pending charges, any prior occasions when the defendants failed to appear in court, or any outstanding warrants. The commissioner also relies on information provided in the statement of probable cause or the charging documents, the defendant's Record of Arrest and Prosecution (RAP) sheet, and information learned from the defendant.

While the primary consideration for bail or release is whether conditions can be fashioned which will reasonably ensure the appearance of the defendant at trial, the defendant's potential danger to the community if he/she was released is also a key factor.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Event/Process:	Pre-trial Services Bail Review Hearing
Agents Involved:	DOCR (jail operations) Pre-trial Services Assessment Unit Public Defender State's Attorney District and Circuit Courts Pre-trial Services Supervision Unit IPSA/ACS/Work Crews CATS

Defendants who are denied pretrial release by the commissioner, or those who remain in custody 24 hours after the commissioner has set the conditions of release, are entitled to a bail review hearing before a judge.

By this stage, these individuals would have been committed to DOCR, processed and booked into the jail system at the MCDC for bond review. Pre-trial Assessment staff is responsible for interviewing and investigating each defendant for bail release eligibility within 24 hours (the next business day) following admission into the jail.

Bail review hearings are conducted by the Courts via closed circuit television, with links from the District and Circuit courts to MCDC. District Court video bond hearings are held at 1:00 p.m. Monday through Friday. Circuit Court video bond hearings are conducted Fridays at 11:30 a.m. Pre-trial assessment staff participates daily in video bond hearings to present release plans and to provide verified factual information that becomes available to assist the judge in making informed bond review decisions and in setting conditions of release.

Pre-trial Recommendations are made utilizing the least restrictive means of release, while ensuring the defendant's return to Court and with public safety as the main priority, following national models of assessment for the judicial system. PTSU Assessment staff is also responsible for performing appropriate revisits of cases to assist defendants in meeting required conditions of bond and to collect any missed or changed information which may result in release. The Pre-Trial Expeditor is the person responsible for reviewing the cases referred and interviewing these defendants to see if there has been a change in a defendant's status or to try to create exit strategies. These cases can be scheduled for another bond hearing for possible reconsideration of bond and/or conditions.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Adults charged with misdemeanor and non-violent offenses are offered the opportunity to perform alternative community services (ACS) as an alternative to trial or as a condition of probation. First time offenders arrested for minor drug crimes are assessed for participation in the intervention program for substance abusers (IPSA). Upon successful completion of either diversion program, offenders may have their cases expunged. Additionally, the CATS pilot program offered diversion particularly for defendants suffering from mental illness.

In 2011, a **preliminary hearing docket** was implemented with the State's Attorney that diverts uninsured motorists and defendants driving with suspended licenses due to failure to pay court fines or child support payments to pre-trial services. ACS staff assist offenders in reinstating their driver's license and obtaining insurance, ultimately leading to administrative dismissal of charges.

Event/Process:	Arraignment Trial and other post-arraignment proceedings
Agents Involved:	DOCR (jail operations) Sheriff's Office (transports) Public Defender State's Attorney District and Circuit Courts

Nearly all misdemeanors are tried in District Court and most felonies in Circuit Court. However, there are some charges that provide for jurisdiction in both courts (concurrent jurisdiction), and it is up to the State's Attorney's Office to decide, at least initially, in which court a case will be heard. Additionally, when an alleged offender is charged in the District Court with an offense that carries a potential penalty of imprisonment, the defendant has the option to request a jury trial at which time the case is moved to Circuit Court, where a jury can decide the case.

District Court

Most people experience the court system through the District Court. Cases held there include motor vehicle (traffic) cases, criminal misdemeanors and specified felonies, such as certain theft, forgery, bad check, and credit card offenses. The time standard associated with criminal cases is 30 days after the defendant's initial bail hearing with the commissioner or after the defendant's initial appearance before a District Court judge (in cases in which a criminal summons was issued by the Court in lieu of an arrest warrant).

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

At the District Court level, cases are seen before a judge only (no jury trials). An entire trial rarely lasts more than 2 hours. Trials are generally simpler than those held in the Circuit Court and trial postponements are far less frequent. Due to the less serious nature of the offenses, there is less discovery activity and usually less preparation required by the defense and prosecution.

When a case is called in the District Court, the case proceeds to trial. The discovery process centers on the use of “interrogatories”, which are written questions for the other party. The prosecutor’s presentation of witnesses and evidence typically includes testimony from the arresting officer.

Generally, sentencing proceedings occur on the same day as the trial, with the judge issuing a verdict and sentence immediately following the trial proceedings. Based on the evidence presented, the judge either finds a defendant guilty or not guilty on each charge in the case.

If the defendant pleads guilty or “no contest” the judge sentences the defendant immediately (or may reschedule the case for a sentencing date, which allows Probation time to prepare a pre-sentence report). If the defendant pleads not guilty, the case is scheduled for a pre-trial conference. If the case is not resolved that day, it is placed on the weekly Resolution Docket. The majority of cases on the Resolution Docket are pled out or dismissed on that date, and only a very few are postponed.

Circuit Court

At the Circuit Court level, all criminal cases are initiated by the State’s Attorney’s Office, either through Grand Jury Indictment or through the filing of an “information” document. A summons is then issued with a scheduling order to the defendant, to notify that he or she has been charged and must appear in court on a specified date. A warrant may also be issued to hold the defendant in custody. The time standard associated with criminal cases is 180 days.

The typical trial proceedings of the more serious Circuit Court cases consist of several stages:

- 1) **The initial appearance**, which typically occurs within a month of a grand jury indictment. Although an initial appearance can often be little more than a reading of the charges to the defendant by a court clerk, followed by the defendant’s perfunctory plea and request for

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

either a jury or bench trial, it may provide an opportunity for the beginning of plea negotiations. While court proceedings are pre-scheduled according to the Court Criminal Differentiated Case Management Plan when the case is filed, the schedule can be modified at the status conference, where the State's Attorney's Office and defense counsel negotiate the date for hearings and the trial.

- 2) **Discovery and motions.** Based on the information provided during discovery, the defendant may decide to plead guilty, and the parties may reach an agreement as to the number of charges to be brought against the defendant and/or the sentence(s) to be imposed on him or her.
- 3) These matters are formalized or held at the **disposition hearing**, where the presiding judge takes the plea and sentences based on the agreement reached by the State's Attorney and defense counsel. When the defendant does not plead guilty, the case goes to trial.
- 4) Prior to the trial, the court holds a **motions hearing** to resolve any outstanding motions.
- 5) Most **trials** in Circuit Court involve juries. At the Trial, a jury determines whether the defendant is guilty of the alleged crime beyond reasonable doubt, based on the evidence presented before the court. If a defendant in a Circuit Court case waives his/her right to a trial by jury, a bench trial occurs in the same fashion as in District Court.

Upon Court request, the Probation Department prepares a report for the judge summarizing the crime, the defendant's personal and criminal background, and a victim's statement. The probation officer includes a recommendation for sentencing in the report. Victims are entitled to present impact information to the court for consideration at sentencing.

The prosecutor's role at the sentencing hearing is limited to that of recommending a sentence to the presiding judge. The defense counsel is entitled to present mitigating information to the presiding judge, and is also entitled to make a sentencing recommendation. The presiding judge is generally free to accept or disregard the prosecutor's sentencing recommendation and has much latitude in imposing a sentence.

When a verdict is rendered, either by a judge or jury, the actual decision is either "guilty" or "not guilty". If the person on trial is convicted - found guilty - the Court will pass sentence. The sentence can be a fine, public service work, restitution for injuries or incarceration. Resolutions of criminal cases other than by findings of not guilty and guilty include:

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Nolle prosequi: A nolle prosequi declaration can be made to the judge by the prosecution, when the filed charges are being dropped. Such a declaration can be entered either before or during trial.

Stet: A suspension of the prosecution with the State given the opportunity to reopen the case without the need for the defendant to be charged. The majority of stets result in no further prosecution.

Probation before judgment: This is a common resolution in many District and Circuit Court trials. The defendant is found guilty or pleads guilty, however the final entry of judgment is technically suspended. This gives the defendant an opportunity to request expungement of his/her record upon successful completion of the conditions of probation.

1.5. System Review and Assessment Summary

A system assessment was conducted to review the key policies and practices that have led to improvement of the CJS that further long-term planning objectives for the judicious use of existing detention resources and management of change.

Understanding the historical dynamics of the Montgomery County jail system required the analysis of a wide range of information and empirical data drawn from multiple sources and made available to the consultants by the County. The review of key practices that have helped to manage the demand on the jail included:

1. Pre-arrest and pre-booking options
2. Pre-trial release decisions and services
3. Adjudication policies and practices
4. Diversion and sentencing alternatives options
5. Sanction policies and programs
6. Jail step-down, re-entry and discharge planning
7. Adherence to evidence-based practices

For each area, the consultants examined policies, reviewed available data, assessed need, and pointed out the effect it had on jail demand. The information obtained provides a baseline understanding of current system policies, practices and activities, and forms the foundation for further exploration of strengths and challenges.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Findings

1. Pre-arrest and pre-booking options

Representatives from both the criminal justice and community treatment systems view arrest as an important point from which to establish linkages, engage the defendant in pre-booking diversion interventions, and promote collaboration between the systems.

Law enforcement “cite and release” policy for less serious offenses as well as the continuum of pre-booking alternatives relative to inebriates (e.g. taking individuals to a detoxification facility such as the Avery Road Treatment Center, Second Genesis or other community settings to sober up instead of booking them into the CPU), have helped to manage up-front detention demands.

Some further involvement in the criminal justice system has been prevented by police engaging jail diversion by a) providing training in specialized responses to those with mental disorders; b) being informed about community services and c) being empowered to make referrals to a responsive treatment system. However, a generalized lack of residential settings is challenging the extended use of true diversion from jail of individuals with mental health issues. As a result, the CPU has often become the only viable intervention for law enforcement officers to resolve issues involving persons who suffer from mental disorders. There is an identified need to enhance pre-arrest and pre-booking options in the community to divert from jail this particularly increasing group.

2. Pre-trial release decisions and services

As a “first responder”, the Montgomery County DOCR Pre-trial Services Division (PTSD) is applying the first steps of diversion in hopes of preventing future recidivism, while reserving limited jail resources for those who pose the biggest risk to public safety.

Pre-trial release services in Montgomery County are an indispensable component of the CJS, providing an alternative to confinement. Expediting release, making treatment a high priority at the pre-trial stage and reducing pre-trial failures and re-arrest, are just a few ways pre-trial release has supported jail population management goals through the years.

Pre-trial staff is doing a great job supplying the courts with information about a defendant to inform decision making in a timely manner; identifying diversion candidates; monitoring pre-trial inmates to

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

facilitate pre-trial reviews through the expeditor, and monitoring, tracking and supervising pre-trial defendants. Any release from confinement is based on the decision of a Judge or a Commissioner.

Pre-trial release under supervision is a vital component in the spectrum of pre-trial alternatives, one which permits the safe release of higher risk defendants (i.e., those deemed ineligible for release on personal recognizance) who are ineligible for less restrictive options. In addition, pre-trial supervision can play a central role in jail reduction plans.

Additionally, Courts have the option of placing pre-trial supervision defendants on curfew or home detention as an effective tool to deter future criminal behavior. Many jurisdictions such as Montgomery County utilize electronic monitoring (EM) equipment for offender supervision. The use of EM allows for the release of defendants charged with more serious offenses, if coupled with staff supervision and intensive case management. Defendants on EM are able to engage in treatment services in the community prior to trial. Commended for its enhanced surveillance capabilities, in Montgomery County GPS-EM has become the alternative sanction of choice to alleviate jail demand for a number of aggregate populations, including sex offenders, domestic violence offenders and higher-risk pre-trial populations not previously eligible.

3. Adjudication policies and practices

The timing of receipt of police reports, the assignment of counsel, upfront screening, sharing of discovery and offer of pleas all directly affect jail trends. Generally speaking, when these activities stall, the effect can be seen in the average length of stay for defendants who remain in custody pending disposition and in defendants released “time served” because the time available for a sentence has been spent awaiting the verdict.

Like many jurisdictions, mounting workload and declining budgets are a reality for most components of the Criminal Justice System in Montgomery County. Nonetheless, the judicial branch, in partnership with local pre-trial processing key system participants (State’s attorney, public defense, law enforcement, jail, and community supervision) has been able to identify those practices that contribute to court case processing delays and implement corresponding improvements over the years. Indeed, with the goal of expediting cases, improving the efficiency of the CJS and managing the jail population, there are several

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

practices that Montgomery County's Courts and other judiciary agencies have adopted as management tools.

In terms of case management, Montgomery County has implemented many of the elements of an early case resolution approach, resulting in jail bed savings. Practices that have helped the timely resolution of cases are:

- The great job done by the Montgomery County Office of the Public Defender (OPD) in adjudicating and guaranteeing immediate access to defense services as well as in the establishment of a client services team, which expands the representation of clients beyond traditional criminal defense. The team approach is an experiment in "holistic" defense, which combines the services of attorneys, social workers, paralegals, investigators, administrative staff and interns and seeks to address problems that are collateral to the criminal charge. These include addiction, mental illness, inadequate education, lack of access to social support services and family conflict. Traditionally, the OPD has represented indigent clients charged with criminal offenses. With the new team approach, the OPD branches out and assist clients in various other necessary areas, based upon the client's individual needs. One of these areas is re-entry.
- State's Attorney's Office (SAO) efficiencies such as: a) restructuring its charging unit to be more selective in the cases and charges it prosecutes, by focusing on issues such as the time to submission of offense reports and immediate screening of felony warrantless arrests where prosecutors and the arresting officer review cases and make immediate filing decisions. This practice has helped to either drop more cases immediately or to reduce the cases to misdemeanor, collaterally decreasing jail demands; b) commitment to provide discovery promptly; and c) implementation of procedures by which any citizen who appears before a Commissioner is required to appear soon thereafter before a representative of the SAO (usually within 72 hours, as recommended by the commissioner) or the case might be declared *nolle prosequi*. If the SAO declines to proceed, no charges are filed. This practice has reported marked success in both reducing the number of citizen complaints in Court (therefore reducing District Courts' congestion due to excessive complaints) and ensuring the quality of those cases that do proceed. Additionally, in collaboration with DOCR, the SAO implemented in 2004 a preliminary hearing docket to divert uninsured motorists, persons charged with driving on a suspended license, and persons

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

failing to pay court fines or child support payment to the PTSD for diversion and assistance in resolving the issues without trial. However, this practice has been discontinued.

In 2008, in recognition of docket-management issues, budgetary issues, and concern about recidivism and compliance, the SAO began to divert a large number of non-incarcerable cases prior to their court dates. Offenders charged with possession of alcohol by minors or paraphernalia citations receive notices to appear for a diversion docket. These dockets are heard every other Wednesday afternoon and are staffed by the SAO along with representatives from IPSA and ACS. First-time offenders are offered the opportunity to participate in the program or to set their cases in for trial. This early intervention docket prior to the first trial date has reduced docket crowding and police overtime. Most importantly, the success rates for participants have risen and the time required to complete the program has dropped.

- The assignment of judiciary officers daily to conduct first appearance hearings and of permanent judges (Monday through Friday) to conduct bail review hearings has had a significant impact on the stabilization and reduction of the jail population.
- Increasing both District and Circuit Court processing and case clearance rates, fast-tracking individuals who are incarcerated, establishment of a disposition docket at the District Court level, modifications to case scheduling procedures and enforcement of a rigorous postponement policy (consistent support of the Circuit's Court Differentiated Case Management plan), as to reduce the time for case resolution and release of the offender the day the case is resolved through plea bargain, diversion, drug treatment and other post-trial alternatives. Additionally, the incorporation of substance abuse and co-occurring disorders' assessments into the plea bargaining process has been a key element in strategies to link the justice and treatment systems in an attempt to reduce recidivism, by addressing the root causes. In particular, the outcomes for Adult Drug Court participants are quite positive.
- Finally, a focus on expediting the adjudication of probation/parole violation hearings resulting in a significant reduction in the average time for case resolution from filing to disposition and an associated decrease in the average daily population of the jail. In Montgomery County, the administration of violations seems to be timely, since both the District and Circuit Courts have dedicated VOP dockets and are under administrative guidelines to dispose of cases in a timely fashion. Additionally, the State's Attorney's Office can and will "fast-track" VOP hearings upon request from the agent by filing

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

motions with the Judge. Finally, Community Supervision is often engaged in having serious matters brought to the “attention” of the Judge quickly by contacting the Judge’s Chambers or “hand carrying” the violation petition to Chambers.

4. Diversion and sentencing alternatives options

The availability of diversion and sentencing alternatives is a powerful tool for decreasing the jail population. Jails must be part of a system of alternatives that allows jurisdictions to move inmates to less expensive community-based options, as inmate classification and inmate behavior allow.

In Montgomery County, alternatives to incarceration are offered at several points after arrest and booking: pre-trial as a condition of bail; deferred prosecution; deferred sentencing; and pleading guilty with treatment as a condition of probation. Diversion programs provide pre-trial service agencies with an opportunity for early intervention, with the goal of preventing recidivism, thus saving taxpayers from future criminal justice costs. The County currently operates several diversion programs that function as alternatives to confinement, including:

- Alternative Community Services (ACS)
- Intervention Program for Substance Abusers (IPSA)
- Weekend Work Crew program
- Pilot program for mental health offenders (discontinued at present)
- Adult Drug Court program

Additionally, DOCR has incorporated the Pre-release Center into the jail population management plan as an appropriate resource for releasing pressure from the detention facilities, allowing inmates to serve all or part of their sentence in a less restrictive, program-oriented residential setting and as an “early release option” via home confinement with electronic monitoring. This step-down approach is reflective of best practices for re-entry, as identified in the National Institute of Corrections “Jail to Community Transition” model. While at the PRC, inmates participate in a variety of programs designed to assist them with their transition.

Also, relative to jail bedspace demand, it is important to acknowledge the use of probation (community supervision) as a form of disposition. By placing an offender on probation, a County can avoid the need for jail space, at least in the short term. In Montgomery County, probation before judgment for first-time offenders is a very common resolution in many District and Circuit Court trials.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

Collectively, all these programs have become an integral part of the Montgomery County's CJS, with the growth of the DOCR inmate population significantly tempered by their impact. The use of these meaningful diversion and alternative sentencing programs has been seen in the rates of release, re-arrest and returns to jail.

While Montgomery County employs a number of court-based diversion programs, there is a reported lack of resources for defendants with mental health issues. Diversion options, such as mental health courts, are an appropriate option to consider for defendants suffering from mental illness.

5. Sanctioning policies and programs

The success or failure of treatment and supervision programs in the community strongly affects jail demand. Appropriate supervision and monitoring serve as an effective tool to deter future criminal behavior. Research shows that recidivism is not reduced when incarceration is the sole intervention. It is the swiftness and certainty of the sanction that is important, not the severity.

In Montgomery County, supervised pre-trial release is provided by DOCR's Pre-trial Services Supervision Unit. The Community Supervision Department (former Parole and Probation) provides supervision to offenders that have been sentenced to probation as a sentence.

Following best practices, Montgomery County has integrated a variety of options throughout the system. A continuum of time-sensitive policies regarding revocation and program options exist that allow offenders to move up and down a graduated-sanction continuum (based on the severity of their offense or violation and their level of risk) before using incarceration.

- Pre-trial Supervision Unit uses two types of violation reports to manage compliance with pre-trial release conditions: 1) Violation notifications are used to inform the courts of infractions that are less severe and not considered a public safety threat, and 2) Petition to revoke bond requests are sent to the Courts for recalcitrant offenders (more serious violations such as contacting the victim, getting re-arrested, or not reporting for intake and subsequent appointments). The unit also utilizes supervisory reprimand hearings. These are special cases brought to the unit manager when a caseworker feels that the offender will benefit from a little more

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

guidance to keep on track, which are not quite at the stage of being violations.

- Community Supervision. In *serious supervision cases* listed under VPI or Sex Offender and Domestic Violence, minor technical violations prompt reports to the Court most likely in the form of a Request for Warrant. Generally, a failure to report to the agent or comply with special conditions, as well as any contact, arrest or citation (or, civil Protection Order) with law enforcement will prompt a Request for Warrant. *General supervision cases* (cases supervised in lower classification level), anything short of a major new arrest (e.g. felony or serious misdemeanor committed by a felony probationer) and absconding from supervision, allow more discretion. In these cases, Community Supervision manages non-compliance through increased supervision contacts, referrals to address behavioral issues of the offender and sanctioning under the Department's policies before Court action is requested.
- The Drug Court promotes a new model for rehabilitation intended to promote community safety through effective interventions that end the cycle of addiction. The program relies on a series of sanctions to sanction participants struggling to meet the high expectations of the Drug Court Program. Sanctions can vary from increased programs requirements, phase demotions, increased monitoring and supervision, and ultimately, periods of incarceration. Incarceration at the MCCF is used as the last sanction before program termination/discharge.

At present, there is a lack of a "step-up" sanction for offenders who violate probation conditions. As reported by Community Supervision representatives, probationers that are recalcitrant offenders, as well as violators of probation mostly for property, nuisance crimes and chronic substance abuse, often revolve through the violation of probation process due to technical violations. Some get into drug court, others are simply disinterested in probation until they are detained.

A balanced continuum of intermediate steps to respond to revocations through the provision of more immediate and comprehensive services for these habitual CJS actors could help the County to increase the likelihood of compliance in the future. Such a continuum might include day reporting centers and halfway houses. These types of interventions would provide probation with an additional resource along the sanctioning continuum while further managing these populations in a cost effective way and maintaining community safety.

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

In particular, day reporting centers may offer an alternative to incarceration for habitual probationers and parolees, as well as for more serious cases, while still keeping them under community supervision. They provide some form of increased structure and closer supervision than general supervision conditions, but are less restrictive than a residential treatment or jail setting. Day reporting centers also allow for treatment providers to provide services for offenders at a centralized location. Additionally, a day reporting center could also be used to monitor the behavior of arrestees in the pre-trial setting.

6. Jail step-down, re-entry and discharge services.

The manner in which a jurisdiction releases inmates affects the rate at which they return to jail. Constructive opportunities for transition to the community can interrupt the cycle of re-arrest and return.

In partnership with the DOCR, several criminal justice system agencies and other community programs are collaborating in this important effort. The CJS is committed to working with clients, their families and the community to address the multitude of problems that have driven people into the criminal justice system.

To help the re-entry process, Montgomery County offers the PRC as a step-down option to eligible inmates who volunteer, but does not have an option to move inmates to a minimum-classification facility as a residential alternative, particular for more serious mental health cases. Although mental health services are available at the detention facilities from the point of admission, at present, the discharge of those who suffer from mental illness is a problem, especially for those who do not have appropriate nor stable housing. Jail discharge planning holds promise for individuals suffering from mental illness. However, this needs to be coordinated with mental health providers both at the Pre-release center and at the time of discharge, and community-based resources must be available and willing to accommodate this population.

Additionally, using the concept of a day reporting center to ensure linkages for those at a high risk of recidivism upon release could help increase the likelihood of a successful re-entry.

7. Adherence to evidence-based practices.

Reducing the recidivism rate reduces the ranks of the incarcerated and relieves the entire criminal justice system of the costs associated with recycling people through the system. Research has shown that in order

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

to have the greatest influence on recidivism, jurisdictions must take an evidence-based approach that links an offender's risk level to the length of supervision and services provided.

Montgomery County has a long history of using evidence-based practices to manage offenders appropriately by risk and need throughout the criminal justice continuum. From entry into the system to completion and re-entry, anyone who has a direct or indirect involvement with an offender is consistently focused on assisting that person to be successful.

As such, risk and needs assessments are fully integrated into the entire criminal justice process. Risk assessments are conducted prior to making pre-trial and sentencing decisions, as well as in making determinations about jail classification, and treatment facility confinement, levels of supervision, and length of the probation period.

Conclusions

For many years, Montgomery County's Criminal Justice System (CJS) has supported the paradigm that jail should be the last resort and uses a variety of pre-trial, diversion and alternative sentencing programs rather than incarceration to ensure that the limited number of jail beds is reserved for those offenders who pose a risk to the public.

With the goal of using incarceration as the last resort, criminal justice key system participants in partnership with DOCR, have helped to manage the overall jail population by a) making available a full continuum of alternatives to jail from arrest through discharge/release; b) relying on evidence-based sanctions and quality treatment; c) collaborating with the treatment community, and d) adopting a positive emphasis on change.

The Montgomery County Department of Correction and Rehabilitation's Pre-Trial Services agency has reported high levels of success in transitioning offenders into the community. The coordinated success of these programs demonstrate effectiveness in responding to the immediate treatment needs of offenders, providing cost savings, reducing the jail population, linking offenders to treatment services and allowing working offenders to continue paying taxes.

The Drug Court program is an alternative to interventions such as incarceration or general probation, with the goal of addressing the root

1. CRIMINAL JUSTICE SYSTEM OVERVIEW

problem (drug addiction). It has introduced a new conceptual framework that reasserts the primacy of treatment and redefines the system's response to a well-documented "revolving door" that returns alcohol- and drug-dependent offenders to the court for subsequent offenses. As an alternative to less effective interventions such as incarceration or general probation, the Drug Court quickly identifies substance-abusing offenders and places them under strict court monitoring and community supervision, coupled with effective, individually assessed treatment services. The Pre-release Center is another example of a new way of thinking about the central mission of the CJS, one that builds in transition planning and step-down options from jail and coordinated efforts with other CJ agencies and community providers, making the reduction of future crime a central goal. In a given year, the program serves over 700 clients and 85% successfully complete the program. In 2012, the PRC saw 95 percent of program participants released with housing.

In sum, the consultants' review of the current system, based on existing documents and information, supports Montgomery County's reputation as a national leader in innovative programs that promote a least restrictive approach to serving pre-trial populations and individuals transitioning from jail to community. The current efficiency of the CJS resides in the collaboration and coordination among criminal justice agencies, working in a manner that optimizes limited resources and results in an efficient processing of cases through the criminal justice system.

This approach is grounded in policy and supported by funding that provides the programs, services and staff necessary for successfully managing jail population growth. As such, the importance of supporting this collaborative environment with financial support for the local and State initiatives described in this report is paramount.

TASK 2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

2.1 Approach and Methodology

Approach

The purpose of this chapter was to explore the factors driving current jail bedspace demand in Montgomery County. The analysis was based on a series of interviews with key criminal justice stakeholders, supplemented by a review of relevant county literature and departmental data where available.

The findings documented herein build upon the descriptive overview of Montgomery County's criminal justice system agencies and activities (Task 1), providing both a context for existing conditions and a frame of reference for future need (Task 3, Inmate Population Projections).

The consultant reviewed current trends and practices across criminal justice system flow and discussed current practices, potential changes and future initiatives as identified by agency representatives. While the impact of the policies and practices identified – existing or anticipated – may not all be empirically measurable as to jail bedspace demand, they do provide an important measure of the issues, attitudes, and variables confronting justice and corrections stakeholders, currently and moving forward. As such, the consultant felt it of value to document them in detail.

Methodology

A number of criminal justice system indicators were reviewed, including: criminal justice policies; changes in criminal laws; current crime and arrest rates; efficiency of the adjudicatory process and sentencing practices; resources available to key decision makers; and the availability and use of diversion programs throughout the criminal justice system.

This analysis was supplemented with questionnaires sent to various agents within the criminal justice system, two separate visits to Montgomery County by the consultants, and follow-up personal, telephonic or email interactions with cross-agencies staff to discuss the objectives of the study and to identify policy issues impacting the analysis.

When available, ten (10) years of criminal justice system data were analyzed. All criminal justice statistics used in the analysis were compiled by the several County criminal justice agencies and electronically forwarded to the consultant team.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

This “systems approach” to jail needs assessment and planning recognizes the inter-relationship between criminal justice agency policies, practices and activities, and jail utilization. However, it is important to note that the consultant was not tasked with conducting a functional assessment of each agency or evaluating agency performance. Rather, the express purpose of the system review was to obtain a detailed understanding of the roles, responsibilities and relationships of each agency/department relative to jail bedspace demand.

2.2 Summary Overview of Findings

The consultant’s examination of the Montgomery County criminal justice system reinforces national opinion that Montgomery County is in the forefront of best practices in terms of its approach and philosophy of proactively *managing* bedspace demand, rather than *reacting* to it.

Overall, our analysis revealed that a consistent, significant factor driving bedspace demand downward is the cross-agency cooperation and collaboration that exists throughout Montgomery County’s criminal justice system continuum, allowing for the least restrictive approach - particularly with pre-trial defendants, through a broad use of alternatives, diversion, and programmatic initiatives.

More than a third of all defendants brought to the Central Processing Unit are released at the initial District Commissioner’s Court Hearing, and more than half of *all* defendants are released within 72 hours, largely based on recommendations made by the DOCR Pre-Trial Assessment Unit. Others are diverted to programs such as ACS and ISPA, or placed in post-conviction jail alternatives such as Drug Court or the weekender work crew program.

The shared approach, philosophy, and commitment are clearly institutionalized as a way of doing business in Montgomery County, and the benefits are reflected in positive criminal justice and correctional system outcomes such as this.

Looking forward, it is expected that these practices will remain in place, with no significant changes that would negatively alter the impact that these initiatives have had on jail bedspace demand.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Major factors impacting bedspace demand in Montgomery County are summarized below. This is followed by a more detailed discussion of current system functioning, historical trends, and criminal justice stakeholder input relative to jail utilization currently and with an eye towards the future.

Trends in Population and Crime

Montgomery County has experienced jail population downtrends similar to those being experienced nationwide, largely creditable to the broad programming and diversion efforts the County has undertaken. Beyond this, the reason Montgomery County has not experienced increasing incarcerations may be in part due to an overall drop in crime and arrest trends. Another explaining factor may be the County's slow overall population growth.

Law Enforcement Trends

In 2012, there were 13,790 bookings into the CPU, down 15.7% from 2009 figures. Of this number, 8,631 defendants (63%) were actually admitted to the jail custody division, with other alternatives allowing 36% of those booked to avoid incarceration. Amongst the several initiatives which are believed to have contributed to the decline in CPU bookings the following were mentioned by many stakeholders across several agencies:

- Policy on drug paraphernalia charges and other minor offenses cases, allowing police officers to issue summonses rather than make arrests and book people in jail for some lower-level offenses.
- Strategic policing practices, such as community policing and community prosecution focused on the prevention of crime, which, together with the institution of community partnerships engaged in problem-solving strategies, have resulted in drops in crime.
- More people with mental health problems being identified upon entry into the criminal justice system and being diverted from jail at a pre-booking stage by the MCPD Crisis Intervention Team – a result of pre-booking diversion practices being highlighted heavily as part of CIT training.

Judiciary Trends

Last year, there were 6,808 new felony cases filed, down from 6,847 in 2010 and 7,417 in 2011. The District Court has experienced a decline overall, although an increase in misdemeanor filings occurred in 2012. The following changes in sentencing and diversion practices were identified by the judiciary as having had a significant impact on the stabilization and reduction of the jail population:

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

- The examination and broader use of pre-trial choices, expedited disposition for incarcerated offenders and plea agreements by judges, as well as improved trial scheduling practices and changes made to postponement policy.
- Sentencing alternatives (e.g. weekend work crew program and probation before judgment) leading to an expanded use of diversion programs.
- Increased use of the specialty Drug Court Substance Abuse program (where offenders participate in drug and alcohol treatment in lieu of incarceration).
- Other long standing diversion programs (e.g. IPSA and ACS) utilized during prosecution/pre-trial services, adjudication/sentencing and the correction phase of the criminal justice system.

Corrections Trends

The current capacity of Montgomery County DOCR facilities is sufficient to meet present needs, as demonstrated by the following indicators:

Admissions

Consistent with the crime and arrest trends, there has been a decline in jail intakes (admissions). Since 2009, DOCR jail population has fallen about 16% to 8,780 inmates in 2012. About one third (1/3) of all intakes are released within three days.

Average Length of Stay

For the most part, the average length of stay (ALOS) for pre-trial defendants has remained quite constant over the last 10 years, at about 20 days. The ALOS for the sentenced population has seen some dramatic fluctuations ranging from 85 to 112 days. The upward fluctuations might reflect changes in the judges' use of the 18-month maximum County jail sentence and/or an increase in the practice of deferring State prison sentences and rather sentencing inmates to County jail time, because of the perception that inmates will receive better services in the County jail. As a result, the combined ALOS (pre-trial and sentenced populations) has not been declining, remaining relatively constant at about 40 days overall.

Average Daily Population

Although the average daily jail population (ADP) increased steadily until 2010, the ADP has since experienced a 12% drop (from 1,099 in 2010 to 967 in 2012). Historically, ADP has not exceeded functional capacity at any DOCR facility during the ten-year study period. The decline in the

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

jail population has served to lower the County's jail incarceration rate to 96 inmates per 100,000 people – a number well below the national rate of 243 inmates in county jails per 100,000 people.¹ Today, Montgomery County's ADP for the adult correctional system is one of the lowest per capita in the nation.

Inmate management strategies and policy initiatives seem to be the factors having the greatest impact on the historically sustained stability of the jail population and on the most recent inmate population reductions. These include:

- Continued development of the pre-trial risk assessment instrument and enhancement of supervision services fully supported by the District Court, Circuit Court and State's Attorney's Office. Working with the courts, prosecutors, and the defense bar, the pre-trial division annually diverts over 2,300 individuals arrested from jail back into the community before adjudication.
- Implementation of an automated case assignment system within the pre-trial supervision unit, reducing processing times and increasing document accuracy.
- Establishment in 2011 of a weekender work crew program in lieu of serving time (weekends) at the jail.
- Modifications of the good time credit program (time off for productive behavior) in late 2010 to help counter the loss of programs due to budget cuts, allowing for legally permitted diminution credits, resulting in earlier release dates.
- Enhancement of inmate re-entry and transition programs intended to help deter the return of former inmates to jail. Montgomery County Correctional Facility opened the first in-jail One-Stop Career Center in the United States, adopting a holistic approach for providing wrap-around services and discharge planning.
- Establishment of a regular schedule of parole hearings for eligible inmates at the local level in 2010, resulting in more people being released on parole (as many as 10 people per month) therefore reducing the average time that individuals would otherwise have spent in jail.²
- More flexibility in PRRS selection processed and an increased use of the PRC in lieu of jail time, for example through collaboration with the Drug Court.

¹ Calculated using data from the US Bureau of Justice Statistics: "Jail Inmates at Midyear 2011 – Statistical Tables" and the 2010 US Census Population.

² At the request of the Public Defender's Office, discussions began in late 2007 regarding the lack of parole hearings for locally sentenced inmates. Before that time, parole hearings occurred rarely or not at all. In 2008/2009 parole hearings for eligible inmates at the local level picked up a little and in 2010 a fairly regular schedule was established and continues to today (email communication with MCCF Deputy Warden Malagari. April, 26th, 2013).

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

In Montgomery County, jail bedspace demand is down, as the noted inmate population decline indicates. This is testament to criminal justice system stakeholders recognizing their collective role in the judicious management of jail beds and working collaboratively to pursue alternatives to incarceration – making the system more efficient, while maintaining public safety and minimizing costs.

Regular population management reviews, together with the work performed by pre-trial services staff in continued effective implementation of screening practices including high supervised release recommendation rates, has helped DOCR impact bed space utilization downward. In sum, it appears that current bedspace demand in Montgomery County is more the product of pro-active system policies and practices to manage jail use, than traditional criminal justice indicators alone.

However, there are factors impacting current bedspace demand particularly for certain populations. For example, across the criminal justice system interviews a common theme emerged regarding a lack of alternatives for inmates with mental health conditions. Because community-based resources, particularly residential beds, are limited (or inaccessible), inmates with mental health conditions are less likely to be released to pre-trial supervision or alternative sentencing options. This results in an increased usage of jail beds and creates operational and management challenges for facility staff.

Another factor identified as impacting current jail bedspace demand was the lack of a non-incarcerative “step-up” alternative for probation violators and a “step down” alternative for those who could transition to community supervision as part of the re-entry process. While not quantified, there was general consensus that current jail utilization could be impacted with an alternative option such as a day reporting center to serve these currently incarcerated populations.

2.3 Detailed Analysis And Findings

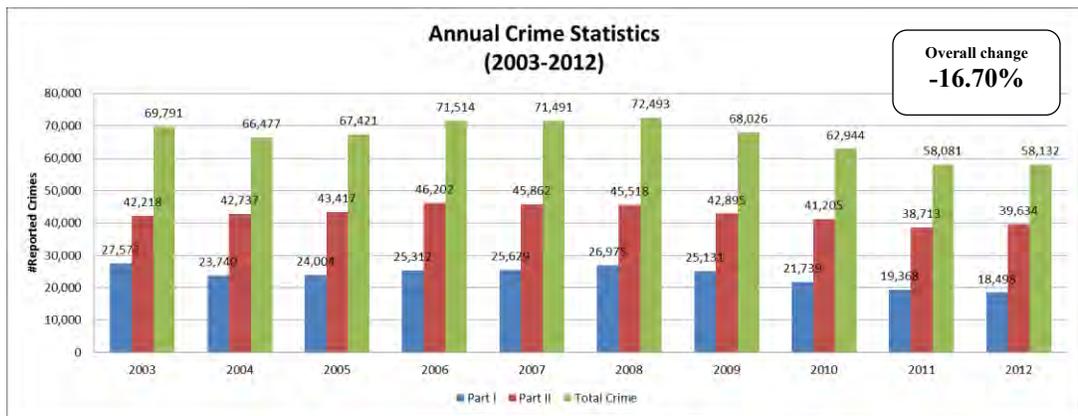
The following narrative provides a more detailed discussion of current factors impacting bedspace demand, including and in addition to those summarized above. This analysis reflects input from key stakeholder interviews and meetings supplemented by targeted data analysis. The findings are organized according to each point in the criminal justice system flow, not by level of importance or impact.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Reported Crime

Crime trends from 2003 to 2012 are presented in the Uniform Crime Reporting (UCR) Program's Annual Reports, representative of the percentage change in crime, based on data reported in a prior equivalent period.³

The following chart presents total reported crimes in Montgomery County for the years 2003-2012.



After a sustained peak in the middle of the decade, overall crime declined 20% from a high of 72,493 in 2008 to 58,132 in 2012, a slight uptick from 2011. Part II crimes experienced a similar pattern, down 13% from 2008 to 2012, with a slight 2% increase in 2012. Part I crimes experienced the most significant and constant decline (down 31% during the same period). While Part I crimes represented only 32 to 37% of the total reported crimes, these are the more serious crimes and these offenders are more likely to be incarcerated and less likely to receive alternatives to incarceration.

Although Montgomery County overall has experienced a marked downward trend in crime rates for the last four years, crime has not gone down in every area of the County. Using 2011 as an example, the County has experienced significant, sustained pockets of crime (e.g.

³ Crime statistics play a prominent role for both offense and arrest analyses. The UCR system sorts crimes into two primary categories, Part I and Part II crimes. Part I crimes are considered the "more serious" crimes and include four offenses classified as violent crimes (murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault) and four offenses classified as property crimes (burglary, larceny, motor vehicle theft, and arson). Part II crimes are considered the "less serious" crimes. Montgomery County totals include crime data from Montgomery County Police Department (which also captures data from the Rockville City and Gaithersburg City Police Departments), Montgomery County Park Police, Takoma Park Police Department, Chevy Chase Village Police Department, and the Maryland State Police. In analyzing offense data, the reader should be aware that a UCR volume indicator does not represent the actual number of crimes committed but rather, it represents the number of reported offenses. Also, there are several handicaps which make crime data unreliable. For example, the UCR index does not account for two of the major crime categories for which people are admitted to jail: drug and alcohol related crimes.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

flash mobs, street robberies, pack robberies with multiple defendants, home invasions, etc.) in different areas of the County (see table below).

Table 2.1. Sector Specific Crime Statistics, 2011

District	Sector	Crime	% Increase
1	A4	Robbery	66%
	B	Theft from Vehicle	21%
	B	Burglary	35%
2	D1	Burglary	19%
	E	Theft from Vehicle	12%
3	G2	Burglary	37%
	H1	Burglary	25%
	I	Aggravated Assaults	35%
4	J2	Burglary	34%
	K	Robbery	12%
	L	Robbery	38%
5	M2	Burglary	33%
	M3	Burglary	18%
	N3	Burglary	65%
6	P	Robbery	18%
	R	Aggravated Assaults	26%
	S1	Burglary	17%

Source: FY13 Operating Budget. Montgomery County Police Department. Public Safety Committee #1, April, 9, 2012.

In particular, at-risk neighborhoods such as City Place, Silver Spring and Wheaton Central Business Districts and other large shopping venues, have seen increases in criminal activity, requiring the deployment of additional patrol resources.

Despite the increase of certain crimes in certain sectors of the County and despite its large population base, Montgomery County's Part I crime rates are much smaller than those of the other four most populous jurisdictions within the State (Anne Arundel County, Baltimore City, Baltimore County and Prince George's County).

Reported Areas of Consideration

1. Continued increase in gang-related activity

Of special concern in Montgomery County are gang-related crimes. For several years already, the County has experienced an increase in younger gang members and more violent gang crimes (aggravated assaults).⁴

⁴ According to the Department's Legislative Analyst Susan J. Farag (Public Safety Committee #3, July 21, 2011 Memorandum), there are two general types of gangs that are active in Montgomery County: neighborhood gangs and transnational gangs. Together, those gangs comprise approximately 1,150 members. Neighborhood gangs are not well-organized, but they do use social networking and are most prevalent in terms of activity, but not criminal activity. These gangs are comprised of young males between the ages of 14 and 22 years old; they are territorially based on neighborhoods and have distinct rivals. The crimes they commit are most often robberies, assaults, and CDS and weapons possessions. Although these gangs are the most visible in the hotspots areas of the County and account for most gang members in the County, they do not account for the majority of crime. Enforcement of these groups requires constant street operations for identification and disruption of their activities which lead to crime. The transnational gangs are more violent and account for the majority of documented gang crime due to members having clear membership with the gang. These gangs are much more organized but tend to be more clandestine. The more serious the incident, the more thorough the investigation needed.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Linked to the increase of neighborhood and organized gangs is also an increase over the past several years in pack robberies. The term “pack robbery” describes a non-commercial robbery involving three or more suspects. While commercial robberies have showed a consistent decrease from 765 in 2010, to 724 in 2011 and to 563 in 2012 (January to September)⁵, “pack” style street robberies have increased approximately 7.3% over the same period.

The County has been focusing heavily on gang activity through an on-going collaborative effort amongst the Montgomery County Police Department (MCPD), the Department of Correction and Rehabilitation (DOCR) and the State’s Attorney’s Office (SAO).

Within the Special Investigations Division, the MCPD has a county-wide centralized gang unit called the Gang Task Force, tasked with investigating all gang-related crime in the County. There are special Gang Officers assigned to each of the six district stations, which work collaboratively with the DOCR, prosecutors from the SAO, a crime analyst from the MCPD and patrol officers, as well as Educational Facility Officers, the Recreation Department, and various community members. The Gang Task Force also has one officer assigned to the Regional Anti-Gang Enforcement (R.A.G.E.) Task Force Unit, which works in partnership with several local law enforcement agencies.⁶

Since 2005, MCCF has had a full time designated gang coordinator, on call 24 hours a day. The addition of the gang coordinator allows DOCR to know immediately when a possible gang member has been arrested, before he/she enters the jail population. Once in jail, there are no signs, symbols, or colors and the Gang Unit works very hard to keep the gang members neutral. For the safety of the staff and inmates, it is very important that the correctional facility Gang Unit stays up to date on the most recent gang activities (new gangs, rivalry gangs, gang symbols and colors, potential gang fights). The DOCR Gang Unit is a full member of the MCPD Unit and provides serious intelligence to MCPD and the State’s Attorney’s Office (SAO).

⁵ Initiatives such as the Montgomery County Police Community Action Team (P-CAT) leading to multiple arrests by patrol officers immediately after some robberies, an increase in Robbery detectives and aggressive follow-up by investigators, as well as improvements in the crime-analysis capabilities, are mentioned by law enforcement representatives as having had a positive impact on reducing commercial robbery numbers over the past few years, especially for the repeat offenders/groups responsible for multiple robberies.

⁶ Some statistics to consider for an understanding of gang activity in Montgomery County are: there are a total of 35 identified active gangs totaling about 1,200 gang members (37% Latino, 29% African American and 34% of mixed ethnic groups). Members of the MS-13, the Bloods, the Crips and their subsets are the most prominent gangs in the County. Gangs are mostly comprised of young males between the ages of 14 and 22. The crimes they commit are most often robberies, assaults CDS and weapons possessions, with multiple suspects involved during the incidents.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

The SAO has also made gang-related violence a priority and has made significant progress against it by establishing an organized protocol for dealing with these cases. The SAO's Gang Prosecution Unit handles all gang-related cases from start to finish. This specialized unit works closely with other agencies to identify gang cases and take them from charging through trial to sentencing. It focuses on prevention and intervention. A crucial component of the Gang Prosecution Unit's success is its partnership with other organizations. The unit has worked closely with federal agencies, including the FBI, ATF, and the Office of the U.S. Attorney. As recent as in FY12, the SAO was awarded a portion of the Bi-County Gang grant to fund three Investigators and one Assistant State's Attorney to work in the Gang Prosecution Unit.

Especially since the implementation of the "all crimes approach" to address gang activity by the SAO's Gang Prosecution Unit, Montgomery has experienced an increase in gang arrests involving groups of people. For example, 292 cases committed by gang members were prosecuted in FY09, 330 cases in FY10, and 493 cases in FY11, representing a 69% increase over time.

The more the County learns about gang activity throughout its different allied agencies, the more accurate these agencies will be classifying and investigating events as gang-related or motivated incidents. Law enforcement agents believe that Montgomery County will continue to experience an increase of gang activity and gang members in the near future. This has been especially true throughout the metropolitan area, with concentrations of gangs present in areas near Langley Park and Takoma Park, Wheaton, Rockville, and Gaithersburg.

Accordingly, criminal justice stakeholders expect that gang arrests will continue to increase over time, which could have an impact on the number of arrests and subsequently jail bedspace demand. However, it is worth noting that a) gang-related crime comprises less than 1% of the total reported criminal incidents in Montgomery County, and that b) the most recent gang-related crime reports for Montgomery County indicate that, following a trend that began in 2008 (from a total high of 507 recorded incidents in 2007), the number of reported gang incidents has continued to decline.⁷

⁷ It should be noted that the SAO figures represent *cases* where the perpetrator was a gang member, as opposed to MCPD figures, which represent *crimes* committed by gangs.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Table 2.2. Reported Gang Incidents

	2005	2006	2007	2008	2009	2010	2011	Change
Gang Incidents	323	360	507	442	309	232	248	-23.21%

Source: Montgomery County Police Department, Special Investigations Division, Annual Reports (available on the Internet)

2. Focus on crime hotspots

Both local MCPD and SAO representatives reported initiatives to address crime hotspots and surges of a particular type of offense. Of special concern at the time of this report was the increase in the number of burglaries, more particularly residential burglaries.

When crime rates for a particular type of offense increase, the immediate and natural response is to deploy more human and technological resources to help defeat and solve a particular kind of growing crime. The MCPD uses special units such as SAT, P-CAT and other patrol units to address areas identified as crime hotspots.

In order to address hotspots of criminal activity in the upcoming years, the MCPD expects to create one District Community Action Team (D-CAT) in each of the six police districts by adding 34 police officers in field services. Each team will be comprised of one Sergeant, one Corporal, and five Police Officers. This model offers each District the flexibility to deploy teams rapidly and as needed to address pockets of crime as they arise in different parts of the County and prevent future crime. When these additions are fully executed, the current centralized P-CAT will focus on the most serious crime trends affecting the County. MCPD representatives believe that the D-CAT initiative will increase arrests in the hotspots, with a related increase in bedspace demand. It is yet to be seen if this bears out or if this increased police presence will have a deterrent effect.

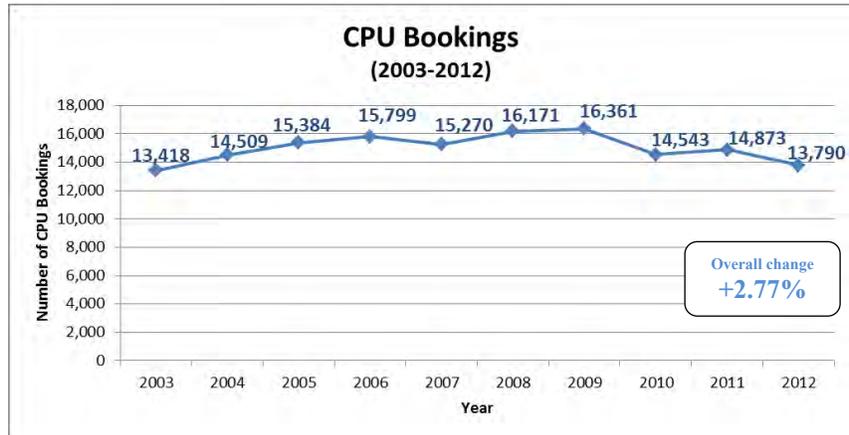
Arrest Trends

All adult arrestees (warrant and warrantless) and/or persons in custody by local law enforcement agencies in Montgomery County are transported to the Central Processing Unit (CPU) at the Montgomery County Detention Center.⁸ Annual bookings into the CPU have increased negligibly (less than 3%) during the ten-year data study

⁸ The CPU represents a joint undertaking of the Montgomery County Police, the DOCR and the District Court of Maryland. The Unit is used by several law enforcement agencies, predominantly the MCPD, to handle the booking and processing of all adults arrested for criminal activity and for numerous traffic offenses and civil cases in the County.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

period, from 13,418 bookings reported in 2003 to 13,790 bookings by the end of 2012.



While arrests can impact jail demand because they initiate the criminal justice process by which all other decisions flow, the relatively flat arrest trend in Montgomery County is one reason why jail admissions have not increased significantly.

Reported Areas of Consideration

1. Crime to arrest closure rates

When reported crimes and arrests are compared, the number of arrests is far below the number of crimes reported to the police. Specifically, there are about four (4) crimes reported to the police for each arrest, as shown in the table below.

Table 2.3. Montgomery County Reported Crime vs. Arrests (2003-2012)

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Change
Part I	27,573	23,740	24,004	25,312	25,629	26,975	25,131	21,739	19,368	18,498	-32.91%
Part II	42,218	42,737	43,417	46,202	45,862	45,518	42,895	41,205	38,713	39,634	-6.12%
Total Crime	69,791	66,477	67,421	71,514	71,491	72,493	68,026	62,944	58,081	58,132	-16.70%
Population	910,498	914,991	921,531	926,492	931,694	942,748	959,013	971,777	991,645	1,004,709	+10.35%
Crime Rate per 100,000	7,665	7,265	7,316	7,719	7,673	7,690	7,093	6,477	5,857	5,786	-24.51%
Arrests	13,418	14,509	15,384	15,799	15,270	16,171	16,361	14,543	14,873	13,790	+2.77%
Crime/Arrests	5.2	4.6	4.4	4.5	4.7	4.5	4.1	4.3	3.9	4.2	-19.2%

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Despite reported fluctuations in the number of police officers over the years, the 10-year trend data indicates that the MCPD closure rate (arrest to crime) has remained relatively constant at approximately 1:4. This closure rate is below the national ratio of about 1:2 (Bureau of Justice Data, 2011).

In order to improve current closure rates, the MCPD has developed a staffing plan for a gradual increase in staff. As reported in the FY13 Operating Budget (Public Safety Committee #1, April 23, 2012 Memorandum), the Department is expected to expand detective ranks and to add seven new police officers in investigative services. Additionally, specialized equipment has been added to the DNA lab to allow for the quicker processing of DNA samples for prosecutions of cases.

Expanding detective ranks together with the addition of new investigative staff and needed specialized equipment will ensure that more cases are followed up by full-time detectives as well as that cases are handled faster and more efficiently with results reaching police officers and prosecutors in time for trial, according to MCPD representatives. Department personnel anticipate that these changes will have a beneficial impact on case closure rates. If so, bookings at the CPU would be expected to increase, with potential for increased jail use.

2. Number of law enforcement officers

The national average for staffing levels of law enforcement agencies is 240 officers per 100,000 residents (Bureau of Justice Data, 2011). In Montgomery County, the number of sworn officers (119 per 100,000 residents) is much lower. Additionally, compared to other benchmark jurisdictions, Montgomery County ranks second to last in terms of sworn officers per capita.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Table 2.4. Total Number of Officers Montgomery County and Benchmark Jurisdictions

Benchmark Jurisdictions	2005		2006		2007		2008		2009		2010		2011	
	# Officers	Total Officers (per 100,000)												
Montgomery County PD	1193	128	1211	131	1235	133	1277	135	1164	121	1169	120	1159	119
Anne Arundel County PD			644	124	640	123	638	121	641	120	634	118	634	118
Baltimore County PD	1816		1826	230	1882	236	1896	237	1902	237	1899	236	1899	231
Howard County PD	368		380	140	400	145	419	151	432	153	438	152	445	155
Prince George's County PD	1403		1394	164	1561	194	1504	177	1564	183	1562	191	1526	177
Fairfax County PD			1409	138	1454	141	1545	139	1422	134	1401	129	1404	126

Source: FBI - UCR

Municipal police departments are also an integral part of the County's overall public safety complement. The following chart shows municipal police force data. When municipal sworn officers are taken into account, the County's per capita ratio increases slightly to 138 officers per 100,000 residents.

Table 2.5. Sworn Complements by Municipality

Jurisdiction	Population	Sworn Complement	Ratio Sworn Complement/Pop (per 100,000)
Gaithersburg City	59,933	76	127
Rockville City	61,209	57	93
Chevy Chase City	9,545	10	105
Takoma Park City	16,715	36	215

Source: FBI - UCR

In addition, an average of 60 officers per month are on no duty, restricted duty or light duty, or are tasked with handling non-first responder functions, such as hospital guard details, inmate transports from out of County, inmate processing and inmate transports from the jail. This creates additional challenges in maintaining enforcement field service efforts, according to MCDP.

Communications with MCPD and others indicate that the County intends to add upwards of 100 new sworn officers over the next three

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

years to the current workforce. If this goal were to be achieved, it would no doubt add to the number of arrests and bookings into the jail systems. In 2012, there were approximately 11 bookings into CPU (arrests) made for each MCPD officer (1,159). Using this as a gross estimator yields a potential of about 1,100 additional arrests over the next three years, which could translate into a +/- 7% increase in ADP over the same timeframe (if the current arrest to ADP ratio is applied) or about 27 beds a year. However, it could also be argued that the larger police presence might serve as a deterrent to criminal activity, thus reducing arrests and jail utilization. Additionally, it is unknown whether the funding for the additional officers beyond year one will be approved, or whether some of these anticipated arrests will fall under the citation category.

3. Senate Bill 422

Senate Bill 422 expands the type of offenses (certain local ordinance violations and misdemeanors carrying 90-days or less) that may be charged by citation in lieu of arrest or, post-arrest, in lieu of continued detainment, giving arresting agencies greater authority to cite suspects without having to book them, if certain conditions are met. Additionally, the bill also restricts the issuance of arrest warrants by District Court Commissioners based on allegations by citizens.

Operating since January 1st, 2013, this is a change in current practices that could result in a downward impact in the number of arrests, the volume of individuals being processed through the CPU and the number of commissioner hearings over time.

As perceived by MCPD representatives, local law enforcement agencies could experience efficiencies if the issuance of citations requires less processing time than custodial arrests. In this regard, the reform would mean more time for police officers to focus on more serious crimes and crime prevention. However, this benefit can only be fully realized if all citable individuals can be positively identified at the time of the citing. At present, a police officer may issue a citation to a defendant if the officer is “satisfied with the defendant’s evidence of identity and reasonably believes that the defendant will comply with the citation”. If large numbers of individuals need identification verification, as law enforcement expects, efficiencies in police processing time will be diminished, even if the number of true arrests is reduced.

Additionally, some officials also believe that the citation law could result in an increase in the failure to appear (FTA) rates and still generate an

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

increase in bench warrant arrests if the individuals do not appear for the court date on the citation. While it was noted that the same could be said of those released at first hearing, law enforcement officials believe that the more formal process (arrest and Commissioner's hearing) imparts a greater sense of "gravitas" on the defendant, making him/her more likely to appear in Court.

At this point in time, these scenarios are anecdotal and untested due to the newness of the bill. However, it was noted (but not substantiated by any data) that jurisdictions who recently implemented a similar citation law (e.g. Denver) did not experience an increase in subsequent arrests on bench warrants.

Pre-booking Diversion Practices

The MCPD operates a Crisis Intervention Team (CIT), which originally started in 2000 to serve as a resource to ensure the best possible outcome for the consumer, the public and the police. The CIT is composed of a group of certified volunteer officers specially trained to recognize and handle the mental ill individuals and to divert them, as appropriate, to community health providers –in contrast to arrest, booking and jail. CIT officers are de-centralized and are deployed in every district on every shift to help identify non-violent, misdemeanor offenders who need mental health services, and work with the DHHS to divert them to appropriate care.

Over the years, police calls for services relating to mental illness have increased in Montgomery County and will for the foreseeable future, according to CIT representatives.

Current informal and formal police options for dealing with mentally ill individuals include:

- Providing individuals with information about community mental health services (contact only);
- Advise family of resources available (court referral);
- Complete an emergency evaluation petition (EEP) and transport the individual to an emergency facility;
- Contact the Mobile Crisis Team; and/or
- Refer to available community mental health resources (the Crisis Center, Springfield State Hospital, Adventist Behavioral Health, etc.).

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Reported Areas of Consideration

Early identification and diversion of individuals with mental health issues is mentioned as a key need or point of emphasis for the arresting agencies. Although pre-booking diversion has increased since implementation of the CIT, according to CIT's officer Scott Davis (email communication March, 4, 2013), 12-20% of the mentally-ill individuals encountered by officers end up in jail. Indeed, although police officers have the option of reducing the incidence of inappropriate incarceration by diverting non-violent mentally suspects from the criminal services, there are several barriers to diverting people with mental illnesses, among them: a) limited access to community-based system of intervention and treatment services; b) limited availability of community residential options, and c) limited follow-up and appropriate levels of care, as indicated by MCPD CIT officer Scott Davis (email communication March, 04, 2013).

While it is true that police officers can divert individuals who do not qualify for an emergency evaluation petition and are willing to access mental health services voluntarily to the DHHS's Crisis Center, the reality is that the Crisis Center only has up to six (6) triage and evaluation beds to accommodate individuals for 72 hours.

County-wide, there is a shared sentiment among criminal justice stakeholders that referral options for individuals suffering from mental health issues are limited at the front-end, which is causing several problems at later stages within the criminal justice process. Due to a lack of community resources, individuals are brought to the CPU and formally entered into the criminal justice system. Once incarcerated, DOCR becomes, by default, the residential mental health provider.

Clinical Assessment and Triage Services (CATS) representative Athena Morrow, who is responsible for the mental health screening and assessment of arrestees at the CPU, acknowledges that CATS staff face many of the same issues as other agencies with regard to limited community alternatives and bedspace for individuals in immediate need of a hospital/mental health placement upon admission into CPU. Moreover, while CATS is asked to perform pre-booking evaluations at times, the CATS program serves clients at post-booking and pre-bond junctures in their legal proceedings, with pre-booking assessments being a rare practice at present and only done at individual requests (in 2012, about 30 individuals were assessed by CATS personnel before being presented in front of the Commissioner).

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

To increase the chances of diversion at an early stage, CATS feels it would be ideal for its services to be moved to the pre-booking stage at the CPU, which would allow for earlier and better identification and referral of mentally ill arrestees and hopefully more diversions from jail.

The following table represents the percentage of people that throughout the years has been referred to CATS for a competency evaluation. This is a segment of the arrested population believed by PTSD staff to not be competent to appear for the bond review due to a mental illness.

Table 2.6. Competency Evaluations

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
% of Arrestees Requiring Competency Evaluation	4%	3%	4%	4%	5%	7%	6%	6%	4%	5%

It is the opinion of CATS representatives that these individuals do not belong in jail and should not be accepted into the CPU. Rather they should be treated like individuals with medical conditions severe enough to warrant refusal into the CPU and transported to an outside hospital. Moreover, even when an individual is deemed incompetent to stand trial, they end-up staying in jail because beds are not available at the appropriate facilities. This translates in these individuals spending longer lengths of stay in jail than needed, until a bed becomes available.

When mental health inmates cannot be diverted from the CPU, a lot of time is spent transporting mentally ill individuals from the CPU to outside emergency facilities or expedited transfer to MCCF for mental health services. The Sheriff's Office reported that an entire shift can be consumed with transporting inmates to the MCCF' Crisis Intervention Unit.

Pre-trial Release Practices

The following pages present the analysis of the various decisions made primarily during the pre-trial period relative to bedspace demand.

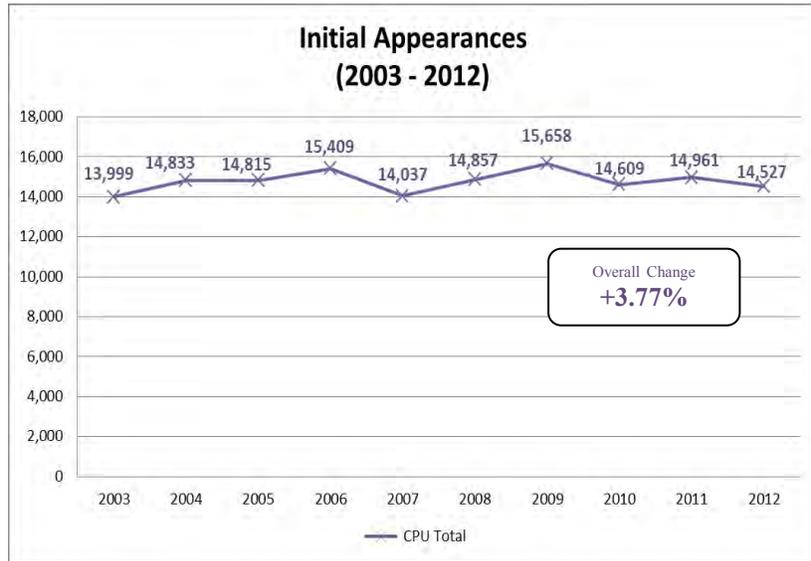
District Court Commissioners Hearing

The District Court Commissioners (DCC), as the first point of an "in/out decision", operate prior to any in-depth assessment or background information verification on part of pre-trial services.

As illustrated on the following chart, initial appearances in front of the Commissioner have increased over the last ten-years by 3.77%.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Coincident with the highest volume of arrests in central booking (CPU), in 2009 Commissioners experienced the highest volume of initial appearances on record.



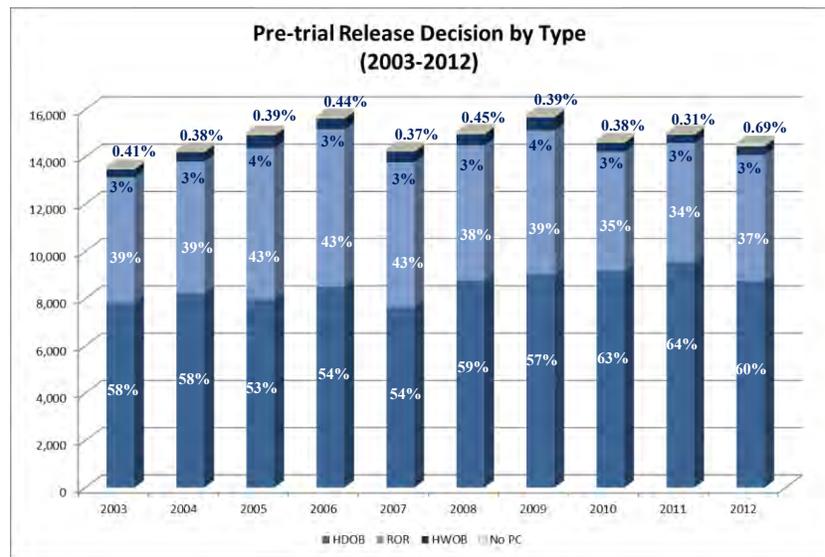
The pre-trial release by a Commissioner is accomplished either through release of an individual on his/her own recognizance (ROR) or through requiring payment of bond and conditions of bond (cash, surety, property, etc.). Additionally, Commissioners can include supervision of defendants who are released pre-trial as a condition of bail and/or ROR, thus referring the supervision and monitoring of these defendants to the Pre-trial Supervision Unit.

As illustrated in the chart on the following page, approximately 1% of about 15,000 individuals that appear before a DCC annually are released from the CPU without being charged with a crime.

As a general rule, Maryland Rule 4-216 provides that a defendant should be released on personal recognizance unless a determination is made that personal recognizance will not assure the individual's presence at the time of trial. Following Maryland's "least onerous rule", Maryland judicial officers release half of the arrestees on personal recognizance. In Montgomery County, approximately 38% of the defendants charged with a crime are released from the CPU on their own recognizance. While this indicates a good use of ROR, it could also suggest that financial bail is still widely relied upon, which could result in arrestees who cannot afford even minimal bail amounts to remain incarcerated while awaiting trial.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

The remaining 61% of the individuals brought to the CPU annually are charged and detained at the Montgomery County Detention Center (MCDC). Included within this percentage are individuals who commit crimes that make them not eligible for pre-trial release, individuals held without bond, and those who cannot afford the bond set by the DCC. Of this latter percentage, 20% are able to post bail in the hours following admission and before the bail review hearing, typically held within 24 hours.



Reported Areas of Consideration

1. Timing of Pre-trial Assessment Services

While initial hearings in front of a District Court Commissioner are held around the clock, the Pre-Trial Assessment Unit does not function 24/7, as originally intended. The Pre-Trial Assessment Unit works Monday through Friday from 7:30 a.m. to 4:00 p.m., conducting assessment interviews within 24 hours of arrest, except on Holidays, when no PTSA services are available.

It is the opinion of some pre-trial assessment unit's staff that offering 24/7 services could provide the Commissioner with more verified information, thereby increasing the opportunity for more defendants being released at the point of the DCC hearing. Conversely, it is the Commissioners' opinion that the assessment unit would face the same lack of inquiry sources that Commissioners face from 6:00 pm to 8:00 a.m. daily and on weekends/holidays.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Additional resources and procedural changes would be necessary if the pre-trial assessment unit were to operate 24/7, and the valued added benefits (i.e. bedspace savings) of such a change would need to be assessed in light of the increased operating costs (additional pre-trial staff and collaterally judicial staff for conducting subsequent bail review hearings within the mandated time frames).

2. DeWolfe v. Richmond

The DeWolfe v. Richmond right to counsel decision would require presence of the Public Defender at the Commissioner's bail hearings, 24 hours a day, 7 days a week, for indigent defendants. If fully implemented, this could create a backlog of cases at the CPU due to longer waiting periods between arrest and initial appearance, as well as lengthier pre-trial release proceedings in front of the Commissioners. This would be further exacerbated by the fact that neither the Public Defender's Office nor the State Attorney's Office is presently staffed to handle the anticipated volume of cases appearing around the clock, according to departmental officials.

The DeWolfe v. Richmond case is currently under review and the impact on Commissioner's Court and related agencies won't be fully known until a final ruling is handed down. However, a more detailed discussion of this case and its potential impact will be conducted in *Task 8 Impact of Maryland Appeals Court Decision in DeWolfe v. Richmond*.

Pre-trial Release Assessment

The primary function of the Pre-trial Assessment Unit is to provide information that will assist the bail review hearing courts in determining release eligibility and setting release conditions pursuant to Maryland Rule 4-216 and Criminal Procedure Article 5-202. Toward this end, pre-trial assessment unit staff conducts one-on-one interviews with $\frac{2}{3}$ to $\frac{3}{4}$ of all defendants who were not released at the DCC initial hearing and those who could not afford the bond set by the Commissioner.

Over the last three full fiscal years, the pre-trial assessment unit has interviewed an average of 7,500 defendants annually. This represents an approximate 40-50% of the 15,000 individuals brought to the CPU annually. The average number of interviews performed daily is 31. Based on current staff, each assessment caseworker performs a daily average of eight (8) interviews.

In 2012, 7,042 arrestees were assessed by the Pre-Trial Assessment Unit for potential release while awaiting trial. This figure represents an

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

approximate 11% decrease in the number of pre-trial interviews performed within the past few years, coincident with less people being arrested and processed into the CPU for an initial appearance. However, a slight increase is projected for the current year.

Table 2.7. Number of Pre-trial Assessment Unit Interviews

Number of Defendants held on Bond and Interviewed Prior to seeing a Judge for a Bond Review Hearing:		
Year	Total Number of Participants	Average Admissions Per Month
FY13 (Projected)	7356	613
FY 12	7042	587
FY 11	7566	631
FY 10	7932	661

Staff utilizes an objective risk assessment instrument, which was updated 5 years ago by James Austin. Based on the pre-trial assessment, staff make recommendations for release into the community without supervision or conditions, with supervision and conditions, against participation in the supervision program, or for case disposition. The assessment program policy precludes recommendations on financial conditions or bail as to discourage monetary conditions. Similar to the District Court Commissioners, the Pre-Trial Assessment Unit staff can also recommend an arrestee to be released without supervision (ROR). According to the District Court’s annual statistical reports, regardless of the form of pre-trial release, defendants’ appearance rate in Montgomery County is very good to excellent – higher than the national average.

Over the last three years, the percentage of defendants recommended for pre-trial release as a result of the assessment has dropped from 55% in FY10 to 53% in FY12. While slightly more candidates are recommended than not, staff have suggested that there might be value in updating the assessment instrument, as evidenced by frequent score adjustments and overrides. This will be addressed in further detail in *Task 6 Identification of Unresolved Issues, forthcoming*.

Overall, the pre-trial release program has proven to have a significant impact on the overall number of jail days saved, as well as on the decline and stabilization of the DOCR inmate population. The success of the program is highlighted amongst practitioners as one of the most significant factors keeping DOCR bedspace demand down.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Reported Areas of Consideration

1. High need offenders

Substance Abusers

Defendants with substance abuse problems have difficulty accessing residential treatment at Avery Road, a primary treatment facility for substance abuse referrals, because of the policy requiring that the referred individual must not have used substances within the 72 previous hours – a condition often unlikely to be met at the point of PTSU assessment (usually within 24 hours). Additionally, the overall decrease in community based detox and intermediate care substance abuse beds, has reduced already limited diversion options for this population.

Mentally Ill Defendants

As part of the pre-trial release assessment, staff ask the defendants if they have been treated and/or hospitalized for a medical illness, taken psychotropic medication, or attempted to commit suicide, as a way of identifying mental health issues. The unit co-operates with the Department of Health and Human Services' Clinical Assessment and Triage Services (CATS) team to divert eligible defendants with mental health issues.

Based on CATS' assessment, PTSD can make a recommendation to the Bail Review Judge to accept defendants into the Avery Road program. The individual needs to be participating in pre-trial supervision, as a condition for diversion, and then wait in custody until a bed becomes available (unless the subject has private insurance). At present, an area of concern identified by both PTSD and CATS representatives is the limited access to residential beds for those in need of mental health services.

Homeless Defendants

Compared to other offenders, detainees without a verifiable address or homeless individuals, who additionally often exhibit mental illness or substance abuse behaviors, usually end up spending more time in jail due to inadequate/insufficient community residential options.

In the past, DOCR had a Daily Supervision Services Program (DSSP) originally designed as a diversion program for homeless, male, substance abusers. The program was used to divert individuals from jail to treatment programs between their arrest and trial, following a recommendation by Pre-trial Services Diversion staff. DSPP participants lived at the Chase Partnership House for an unlimited period of time

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

and attended three to sixty months of daily addiction treatment at the DHHS Outpatient Addiction Services. Although all participants had to stand trial for their crime, successful completion of the DSSP resulted in significantly reduced sentences. Due to eligibility restrictions, PTSD was referring less and less people to the program, reporting difficulty identifying clients that met these requirements. In addition, after PTSD identified an eligible participant, the shelter often removed them from the program because they had a drug or alcohol relapse. This program was terminated a couple of years ago.

Clinical Assessment and Triage Services (CATS)

The Clinical Assessment and Triage Services (CATS) is designed to support the overall goals of diverting the mentally ill from the jail environment (which can exacerbate psychiatric symptoms) and helping to prevent the jail from becoming, by default, a “hospital” for the mentally ill. To that end, each inmate referred to CATS by pre-trial assessment staff is screened for diversion eligibility. The CATS program serves clients at post-booking and pre-bond junctures in their legal proceedings, working with DHHS’s Community Re-entry Services to identify appropriate mental health, substance abuse, and other services in the community. Upon CATS’s recommendation, and if appropriate services are identified, Pre-trial Services Unit Assessment staff will recommend a diversion plan to the bond hearing judge as a condition of release on bond, incorporating appropriate treatment and placing the defendant in a wide array of community resources.

While jail intakes have been declining, the number of people assessed for mental health has increased over the years. Between 2003 and 2012, on average, about 2,000 of the 9,000 inmates booked to MCDC on an annual basis were referred for mental illness evaluation, with CATS personnel recommending diversion on 25% of the cases. In 2012, CATS conducted 2,200 assessments and recommended diversion for 30% of all the interviewed defendants.

Table 2.8 CATS Statistical Summary

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Jail Intakes	8,348	8,516	8,982	9,155	9,134	9,878	10,171	9,137	8,782	8,631
Number of inmates assessed (%)	1,677	1,804	1,843	1,924 (21%)	1,821 (20%)	1,864 (20%)	1,958 (20%)	2,175 (22%)	2,192 (23%)	2,200 (23%)
Number of inmates recommended for diversion (% Diverted)	282 (17%)	369 (20%)	440 (24%)	406 (21%)	403 (22%)	488 (26%)	608 (31%)	675 (31%)	683 (31%)	667 (30%)

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Reported Areas of Consideration

1. Limited pre-trial release options for the mentally ill

At present, the release to community placement of individuals identified with a mental health issue is based on judicial release-on-bond conditions and pre-trial service supervision. In this regard, pre-trial assessment staff, in collaboration with CATS, are doing a great job facilitating the bail decision so that defendants spend their pre-trial time in the community or an appropriate facility other than jail.

However, there are significant limitations to existing and increased used of pre-trial utilization of services for this segment of the population, mainly: a) the insufficient number of community-based mental health treatment providers; b) the limited availability of mental health beds and crisis intervention services in the community, and c) admission criteria excluding those with criminal charges.

The existing availability of programs and services makes it difficult for staff to locate appropriate community-based programs. As a result, DOCR facilities serve as the receptacle places for those individuals unable to access community services and/or residential placement.

2. Limited diversion programs for the mentally ill

Individuals with mental illnesses who have been arrested for less serious, non-violent crimes should be diverted from jail to community-based mental health programs whenever possible. People receiving appropriate treatment in the community generally have a better long-term prognosis and are less likely to return to jail for a similar offense.

Recently, with the goal of diverting the mentally ill from the jail environment, Pre-Trial Services and CATS collaborated to implement a small pilot diversion program using existing resources, including placing Court cases on a “stet docket” for the program duration, as an incentive for offenders who are mentally ill to comply with and obtain specialized treatment. The target population included repeat offenders with chronic mental illness, with minor offenses who volunteer to participate. Participants could have their cases expunged upon successful completion of the program and treatment requirements.

To date, out of 12 participants, three have successfully completed the diversion program. At present, staff are evaluating the program in order to address specific challenges and future improvements, such as:

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

- Labor intensive on the front end;
- Unwillingness to work with these individuals, often known as frequent flyers;
- Shelter/referral problems;
- Insufficient forensic case management available and
- Difficulty in coordinating of services.

Absent specific length of stay data for pilot program participants and jail defendants with mental health conditions, it is not possible to empirically evaluate the impact of this program on bed days saved. However, for this program to have significant impact on bed use, the concerns identified above would need to be addressed with the goal of increasing participant success rates beyond the 25% noted above.

Bail Review Hearing and Pre-trial Supervision

Maryland's criminal procedure rules provide for a judicial bail review hearing for every person who is denied pretrial release by a Commissioner or who remains in custody for 24 hours after a Commissioner has set conditions of release.

Defendants participate in this review hearing via a two-way video and audio transmission. At bail review hearing, the accused is represented by counsel. An assistant State's Attorney is also present at the bail review hearing. Additionally, the Court has the assistance of a pretrial representative to provide relevant information and to make a release recommendation, to which judges usually give strong consideration.

Supervised pre-trial release is a vital component in the spectrum of release options. Individuals placed under the supervision of the Pre-Trial Supervision Unit are assigned a Case Manager and remain under such supervision until final disposition of the case. Upon intake, the Case Manager completes the Montgomery County Pre-Trial Release Supervision Instrument that assesses a participant's level of risk and determines the amount of contact the defendant must have with the PTSU. The risk assessment, developed by a consultant for Montgomery County, examines the risk items of drug/alcohol abuse, residency, age, gender, employment status, offense severity, and stability factors such as treatment compliance, affiliations, prior failures to appear, and communication ability through a verified telephone.

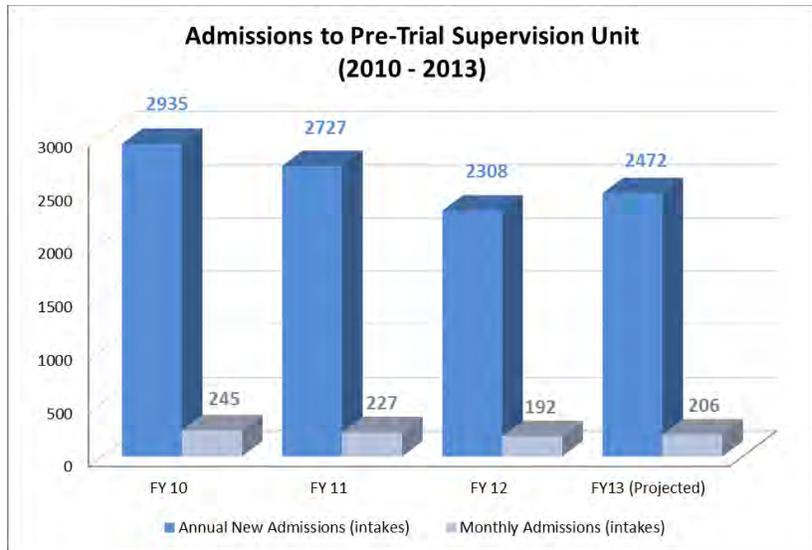
Participants in the PTSU move through a phased system of supervision levels depending on progress and performance. In addition to face-to-

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

face office contacts and telephone communication, PTSU staff conducts home and employment visits to monitor clients within the community. Another component of the PTSU is overseeing the defendants that are court ordered to be placed on curfew or home detention and supervised through electronic monitoring.

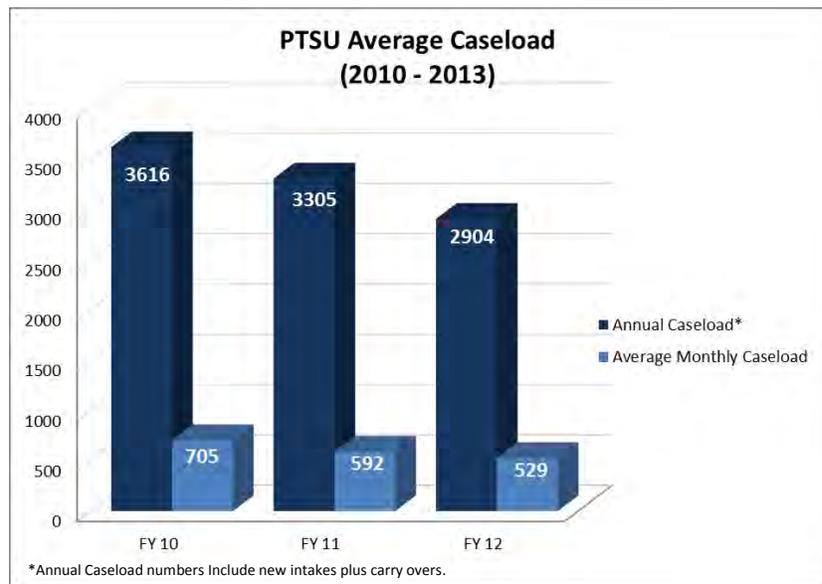
The average length of stay under pre-trial supervision was 82 days in 2012 and has remained relatively stable for the past few years. The domestic violence population, making up approximately 30% of the overall participants, is supervised for an average of 30 days.

The pre-trial supervision unit has experienced a decline in the number of new admissions (intakes) over the past four years. These numbers include Commissioner's referrals, referrals made by the judge at bond review hearing, and direct Court referrals. It should be noted that while the overall volume has declined since 2010, this is coincident with a decline in arrests trends, initial appearances in front of the District Court Commissioner and jail intakes. The end result has been fewer defendants under pre-trial supervision.



According to DOCR's monthly statistical reports, in FY12 the average monthly count was just shy of 530 offenders, compared to 705 in 2009, a 24% decline overall (see chart on the following page).

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND



The success of the pre-trial supervision unit is largely the result of strong relationships with other County services, Community Supervision, the Department of Health and Human Services, and the dedication of PTSU staff. The program's outcome and performance measures are described in the following pages based on year 2012 data.

Outcome Measures

A look at the main two typical success indicators, *failure-to-appear rates* and *re-arrests* (reported as 2.8 percent and 1.8 percent, respectively), indicates that the pre-trial supervision unit boasts a high success in the effective use of research-based assessment tools and assertive case management. In addition to the adoption of effective evidence-based pre-screening and risk-assessment methods, other practices mentioned by PTSU representatives as helping to historically keep Montgomery County's failure-to-appear rate at less than 3% are: a) the use of a telephone call system to provide proactive court date reminders for defendants on release, and b) the use of well-tailored monitoring, such as electronic devices, as an element of community supervision in the County, a program with an average of more than 90 participants per month and with no adverse incidents reported.⁹

⁹ It should be noted that some argue that a 3% FTA rate could suggest that the County is too conservative in its selection of candidates for pre-trial supervision. At less than half of the national average (7%), the County could "take a little more risk" and still be within the national norm.

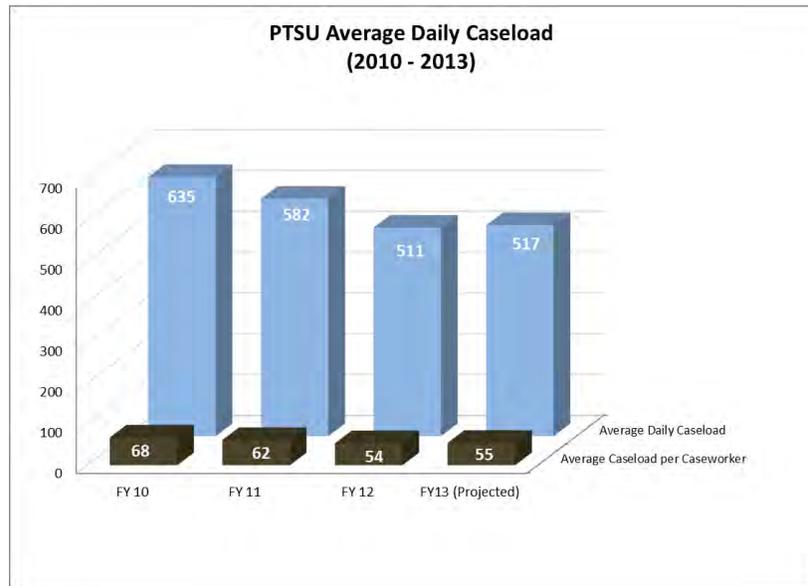
2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Another measure of success is *compliance with pre-trial supervision conditions* described as the percentage of released defendants who are not revoked for technical violations. A look at the rate of compliance with pre-trial release conditions demonstrates that of the 2,904 defendants supervised less than 10% were unsuccessful (i.e. cases resulting in bond revocation or pre-trial status changes).

Performance Measures

Caseload ratios: National standards of pre-trial supervision, such as the National Association of Pre-trial Services (NAPSA), recommend a maximum of 80 supervised defendants per supervisor. At present, the PTSU has a total of 10 supervisors (9 full-time and 1 part-time), including 6 general caseworkers and 4 caseworkers for specialized populations (3 for domestic violence and 1 for sex offender cases).

Looking at recent pre-trial program's overall caseloads rates shows that the pre-trial supervision unit is operating within caseload standards (see chart below).



However, the participant to staff ratio should be based on the nature of the case and the level of supervision, with more serious and intense supervision cases requiring fewer defendants per staff. The pre-trial program's participant to staff ratio for general and special populations is currently as follows:

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

- Domestic Violence caseworkers maintain a caseload ratio of 40-55 defendants per supervisor.
- Sexual Offenders caseworker maintains a caseload ratio of 62 defendants per supervisor.
- General cases caseworkers maintain a caseload ratio of 45-55 defendants per supervisor.

As per pre-trial supervision representatives, the current distribution of the caseload poses a challenge and, although adjustments have been made to face staff shortages, the current caseloads of the sex offender and the domestic violence supervisors is too large (the participant/ratio for specialized case supervision should be 35:1).

Time from Non-financial Release Order to Start of Pretrial Supervision:

There is no waiting time to enter the program, with the referral to the PTSU and the first screening interview typically occurring within 24 hours, well within benchmark standards.

Response to Defendant's Conduct:

The pre-trial supervision unit responds to non-compliance with court ordered release conditions consistent with national standards for pre-trial supervision and evidence-based practices for swift, certain, consistent and meaningful responses to participants' conduct (NAPSA Standard 4.3, ABA Standard 10-1.10 (f)).

Reported Areas of Consideration

Weekend monitoring of electronic surveillance

Pre-Trial has between 71 and 100 persons on electronic monitoring. According to PTSD representatives, there is no staff supervision of the technology from 5:00 p.m. through 8:00 a.m. on weekdays or any at all on weekends, which lowers client accountability if a violation occurs during this period. . On-call after hour's supervision coverage is needed to properly engage major violations, exclusion zone violation, strap tampering, strap cut off and equipment shut down power failure. While these are Pre-Trial persons in the community, they include domestic violence cases and other difficult case situations where electronic monitoring is needed and even false electronic notifications need attention. At the time of this report, DOCR was starting to integrate the PTSD system with that of the PRC to allow for 24/7 coverage.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Post-booking Diversion Practices

The DOCR, the HHS, the MCPD and the SAO work collaboratively in initiating most post-booking diversion options.

The SAO, in conjunction with the DOCR Pre-trial Services Division, offers several diversion programs for minor alcohol, property and drug crimes. These programs are for first-time offenders who are charged with non-incarcerable citations, simple possession, non-violent minor crimes, and alcohol-related crimes. They are designed to give offenders the opportunity to avoid a criminal conviction or jail sentence upon successful completion of the program.

In order to get the defendant's case inactivated or dismissed, the defendant needs to satisfy certain conditions, such as to complete a drug or alcohol educational or treatment component along with a community service component, general good behavior, paying restitution, not picking up new criminal charges, and a series of negative drug tests.

At present, in Montgomery County there are two programs to which defendants can be diverted from trial, once the SAO and criminal defendant agree to diversion, the Alternative Community Services (ACS) and the Intervention Program for Substance Abusers (IPSA). These programs are administered by the DOCR Pre-Trial Services Division.

Alternative Community Services (ACS)

Around for 30 years already, the ACS is a criminal justice diversion program providing community service placement and monitoring for pre-trial, adult first time offenders and sentenced adult offenders.

The current wait time for entry into the program for "early referral" diversion cases is approximately 10 days from referral to admission. For probation cases, the case is set up almost immediately and the time from referral to admission depends on the probation caseworker getting in touch with the offender and then being able to schedule an appointment. The waiting time can be up to one month, although most of these individuals are not incarcerated during this time.

The table below shows ten-years of ACS trends. In FY12, ACS successfully diverted more than 2,500 clients who were eligible for record expungement. During that same year, ACS had a total of 3,607 participants, with an average daily caseload of 961 cases. In FY11 the

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

ACS programs lost a supervisor during budget cuts, which according to ACS representatives, accounts for the drop in the number of participants they can admit into the program.

During FY12, 72% of the participants accomplished the conditions of their participation into the program. Those that did not, were returned to the Court's docket.

Table 2.9. ACS Program Statistical Summary

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of adult defendants referred to the ACS program:										
By the District Court's State's Attorney's Office	1,857	1,969	1,626	1,688	1,691	2,482	2,655	1,926	1,937	2,319
By The Maryland Division of Community Supervision (P&P)	1,001	780	847	881	971	1,180	1,566	1,501	1,392	1,213
Out of County/Other Referrals	111	83	77	76	83	79	71	54	75	75
Total Referrals	2,969	2,832	2,550	2,645	2,645	3,741	4,292	3,481	3,404	3,607
Total Program Participants* (includes "send backs" probation cases)	2,975	2,780	2,562	2,654	2,656	3,867	4,369	4,153	3,550	3,607
Number of participants successfully completing the program	2,414	2,091	2,231	1,992	1,974	2,869	3,238	3,254	2,753	2,598

Reported Areas of Consideration

1. Staffing

Ten years ago, the ACS program had 6 caseworkers with caseloads ranging between 102-145 participants, on average. The number of caseworkers dropped to 5 in 2006, and since then caseloads have averaged between 141-226 participants. This year (2013), according to ACS representatives, the ACS program has lost an additional 2 caseworkers.

At the time of the consultant's on-site visit (01/23/2013), the ACS program was operating at an average caseload of 240 participants per caseworker, well above the reported ideal range of 150-175 cases. This not only impacts quality of supervision, but also limits the number of new participants that the program is able to serve, despite eligibility of the candidate.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Table 2.10. ACS Average Caseload

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Average Daily Caseload	710	870	613	707	932	1,062	1,057	1,131	1,014	961
# Caseworkers	6	6	6	5	5	5	5	5	5	5
Average Daily Adult Caseload per caseworker	118	145	102	141	186	212	211	226	202	192

2. Program expansion

When asked if there were opportunities within the ACS program, representatives suggested that with appropriate resources, the eligibility criteria could be expanded to include certain non-violent felony offenders.

Community Services Work Crew

The ACS program supports the Department of Correction Offender Work Force Initiative, providing the source of labor for the community service work crews. Currently the program operates three daily work crews, which perform a variety of indoor and outdoor work at locations throughout the County while allowing the diversion of certain higher risk cases under increased supervision at worksites.

The design and implementation of the work crews has been a major collaborative effort in the making for over eleven years. As per DOCR representatives, supervised offender work crews have received praise from users, who cite cost savings, cost avoidance, and quality work, plus much-needed assistance with the provision of essential community services.

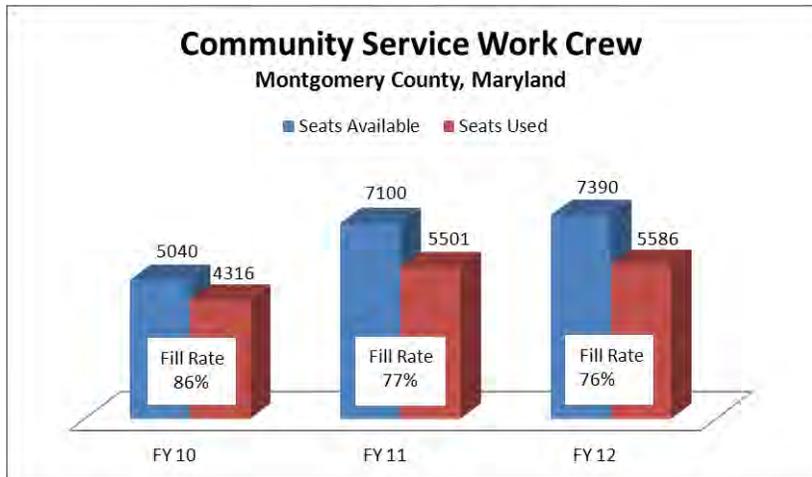
Participants are assigned to the work crew as part of their participation in the Alternative Community Services Program and the Intervention program for Substance Abusers. Additionally, the program also uses court-referred offenders from the Montgomery County Circuit Court Adult Drug Court who reside in the community (20-25 a year), the pre-Release Center, as well as out of State offenders and individuals transferred to the program from other jurisdictions. By and large, this program operates in concert with existing diversion and community supervision programs. Although the impact on bespace demand is generally minimal, it provides some restorative value to the community. As an example of work crew production, during the weekend of 1/19-20/2013 twenty-four “weekenders” were scheduled with 3 officers. A

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

total of 798 bags of trash and debris were collected, along with 27 illegal signs. Crews pulled weeds, raked and picked up litter, cut overgrown brush, and swept parking areas of targeted public spaces.

A look at the program trends demonstrates a 26% increase in fill-rate (show-ups) between 2007 and 2008. Staff have indicated that this is the result of several measures put in place by pre-trial diversion staff to increase historically low rates prior to 2007 (e.g. measuring appropriate expectations for caseworkers and incorporating them into evaluations; starting a “public relations” campaign to promote the program as a community “beautification project”, and using the work crew “tickets” for case workers). The +/- 10% decline in more recent years is reportedly due to staffing budget cuts.

	2007	2008	2009	2010	2011	2012
Average Fill Rate	60%	86%	84%	86%	77%	74%



During FY12, 616 individuals participated on the community service crew program. The average daily caseload was 15-16 participants. Unsuccessful terminations averaged 5, due to negative behavior/attitude while on the work site.

Reported Areas of Consideration

Work sites

Expanding work sites to include light duty work was noted to better accommodate disabled or pregnant individuals. Additionally, dedicating a work crew to convicted offenders (e.g. Pre-release Center participants) is desired.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Intervention Program for Substance Abusers (IPSA)

The IPSA program is a collaborative effort of the DOCR, the SAO, and the MCPD. Diversion to the IPSA program takes place after admission into the jail (if detained) and/or at the defendant's first trial appearance. The SAO and the MCPD jointly refer people to the program.

Eligible clients volunteering for IPSA will sign a program contract. As a condition of participation, defendants must agree to waive their right to a speedy trial and their case is placed on the "stet" or inactive docket for either a year or six months to ensure compliance with the treatment program, completion of community service, and a clean arrest record during that period. Offenders who successfully complete the program can have their criminal case *nolle prossed* and their record expunged. Those who are not successful have their cases referred for trial.

Participants in the IPSA program follow either a paraphernalia citation track or one of the two misdemeanor drug case tracks – education track or treatment track. The program requirements, intensity of contacts and drug testing vary from one track to another (minimum participation is 12 weeks for those assigned to the education track and 20 weeks for those assessed as needing outpatient substance abuse treatment), as does the amount of the fee collected (\$150 for citation cases, \$350 for misdemeanor cases).

The program achieves a successful completion rate of about 80%, and maintaining high levels of successful completion is a priority. To that end, IPSA has implemented caseload performance measures that quantify when an individual has completed the requirements of the program.

A review of IPSA annual statistics shows that the number of referrals into the program has increased significantly over the years, as have the number of accepted participants.

Table 2.11. IPSA Program Statistical Summary

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Number of referrals to IPSA	822	1,013	1,143	1,295	1,501	1,503	1,764	1,634	1,827	2,199
Number of eligible clients enrolled in the IPSA program	700	842	1,029	1,135	1,348	1,395	1,574	1,481	1,551	1,839
Number of defendants successfully completing IPSA	454	581	831	866	1,033	1,141	1,308	1,230	1,161	1,375

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

In FY12, the IPSA program successfully diverted more than 1,800 clients whose records then became eligible for expungement. There was an average of 183 referrals per month during the same time period and an average of 115 successful discharges per month.

While the number of caseworkers has remained consistent at 5 since 2007, the client to caseworker ratio has declined during the same period. However, staff has noted that current ratios approaching 100 exceed the client per caseworker range of 70-80 cases, reported to be the ideal caseload.

Table 2.12. IPSA Average Caseload

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Average Daily Caseload	365	437	389	451	536	517	507	425	428	488
# Caseworkers	4	4	4	4	5	5	5	5	5	5
Average Daily Adult Caseload per caseworker	91	109	97	112	107	103	101	85	86	98

Reported Areas of Consideration

1. Staffing

According to IPSA staff, the current average caseload per caseworker affects waiting times; the current wait time for an appointment is 4 – 5 weeks; when the target range is usually 3 to 4 weeks.

Similar to ACS, there is a perception that if more staff were available to conduct interviews, more eligible individuals would be able to participate. Also noted was a recent reduction in programming (a class was recently terminated).

2. Limited post-booking options for the mentally ill

Diversion programs staff estimate that a 6% of the ACS/IPSA participants have a diagnosed serious mental illness in addition to their substance abuse problem. For example, out of approximately 1,500 total cases between the two diversion programs, 89 participants reported being under the care of a psychologist or psychiatrist, with caseworkers estimating that about 20% of the participants experience difficulty in program compliance due to their mental health issues.

IPSA, in particular, is not currently equipped to accept higher mental health cases and program staff feels that, with the proper services and

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

treatment, there may be room for expansion to include a broader mental health population.

Weekend Work Crew Program

In February 2011, DOCR implemented a 30-person *weekend work crew* assigned to the Silver Spring Urban District. This alternative to incarceration program gives County residents convicted of misdemeanors the option of doing weekend cleanup work in downtown Silver Spring instead of serving time (weekends) at the jail.

Since the first group of weekender inmates was assigned in February 2011, the number of applicants has consistently increased according to DOCR officials.

Traditionally, jail weekender programs are fraught with operational and bedspace inefficiencies, as well as security concerns, such as introduction of contraband, and idle time. This program has helped to reduce bedspace demand for the target population and has also provided a viable alternative to weekend sentences.

Reported Areas of Consideration

Continuity of the program

This program has the support of both District and Circuit Courts' Chief Judges and the current State's Attorney – a major advantage as it is the judiciary with the consensus of the SAO who place a defendant in the weekender program in lieu of weekend jail sentences. While the program is recognized for its value, it is relatively new.

As such, it was noted during the interviews that with a different set of elected/appointed officials, the current supportive climate and utilization of the program could be impacted. However, it is the consultants' view that the hard work of DOCR in collaboration with key stakeholders, coupled with the many benefits of the program, will result in the weekend work crew program remaining as a viable sentencing option across future administrations.

Adult Drug Court Program

The Montgomery County Adult Drug Court program, in operation since 2004, is a voluntary post-plea/post-conviction program that offers an opportunity for recovery from dependence on alcohol and/or other drugs. There are two routes to enter the program: 1) as a response to a

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Violation of Probation or 2) as part of a plea agreement. Upon entry into the program, participants are placed on 2 to 3 years of probation, although once a participant successfully completes the program (on average after 18 months, depending on the offender's progress), her/his probation is terminated successfully.

Drug Court offenders must be Montgomery County residents, charged with a Circuit Court Violation of Probation with at least an 18 month sentence or recommended to the Drug Court as part of a binding plea agreement; be non-violent, and be physically capable of participating in the activities and programs. The program requires that the individuals submit to regular alcohol and drug testing and uses incentives and sanctions to encourage positive behaviors. If a participant is terminated, the original sentence is reinstated.

The majority of the drug court participants (75%) have been diagnosed with co-occurring disorders, and the program has a component through Outpatient Addiction Services that is specifically tailored for participants with co-occurring substance use and mental health disorders. Participants who commit a crime or exhibit violent or threatening behavior, show a lack of capacity or willingness to engage in treatment or comply with probation conditions imposed by the drug court, continue criminal activity, or have a mental illness severe enough to prevent active and full participation in the program may be removed from the program. A jail sentence is not used if participation ended due to a mental health issue.

Consistent with national drug court data, the Montgomery County Adult Drug Court Treatment program has been an effective intervention model for high end criminal justice system offenders demonstrating positive impacts on participants, the community, and the criminal justice system. In 2001, NPC Research, under contract with the Administrative Office of the Court, began conducting studies of drug courts in Maryland. In FY10, NPC Research presented a final report which demonstrated that particular to Montgomery County, the Drug Court program cuts drug abuse in half, drastically decreases criminal activity, and significantly reduces re-arrests. Stakeholders also agree that the model provides good program and client outcomes, including client engagement, retention and completion rates, abstinence, employment, housing, and reduced recidivism. Another added benefit of the program is its impact on jail bedspace utilization. When used in lieu of an 18-month sentence, the bedspace savings is considerable, albeit tempered by the return to jail for program failure and the more recent practice of

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

using the Pre-release Center during the first phase of the Drug Court program.

Since program inception in December 2004, the Drug Court has served 245 participants, of which 110 have successfully completed the program (45%), close to the national average of 50%.

Table 2.13. Adult Drug Court Statistical Summary

	2005	2006	2007	2008	2009	2010	2011	2012
Total Active Participants	26	47	57	63	85	113	119	115
Number Entered Program	21	22	31	27	35	46	33	30
Number Graduated	0	17	20	6	13	12	12	30
Number Discharged	1	21	21	13	18	27	34	47

The chart above shows that on an annual basis the number of active participants has increased over the 8-year period. However, the number of individuals entering the program on any given year has fluctuated over time, from a low of 21 in 2004 to a high of 46 in 2010. The program has experienced a recent decline in the number entering since 2010.

Reported Areas of Consideration

1. Utilization

The Adult Drug Court program is currently budgeted to operate at a capacity of hundred (100). However, Drug Court representatives have noted that the daily caseload averages about 70 participants. According to Drug Court’s Presiding Judge, Nelson W. Rupp, the program does not receive enough referrals to fill available slots. As also stated by Judge Rupp, in the “ideal” world, the Drug Court would be expanded to District Court.

Drug Court is a very intensive program, where participants are signing for a 2-year commitment with the threat of getting incarceration for the entire sentence upon failure and discharge. Even with an SAO referral to the Drug Court program, the decision to participate lies ultimately with the defendant. Given the choice, some defendants choose to “do their time” instead.

2. Limited access to sober/recovery housing in the community

Based on research demonstrating the effectiveness of sober housing, the Montgomery County Drug Court program relies upon the recovery

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

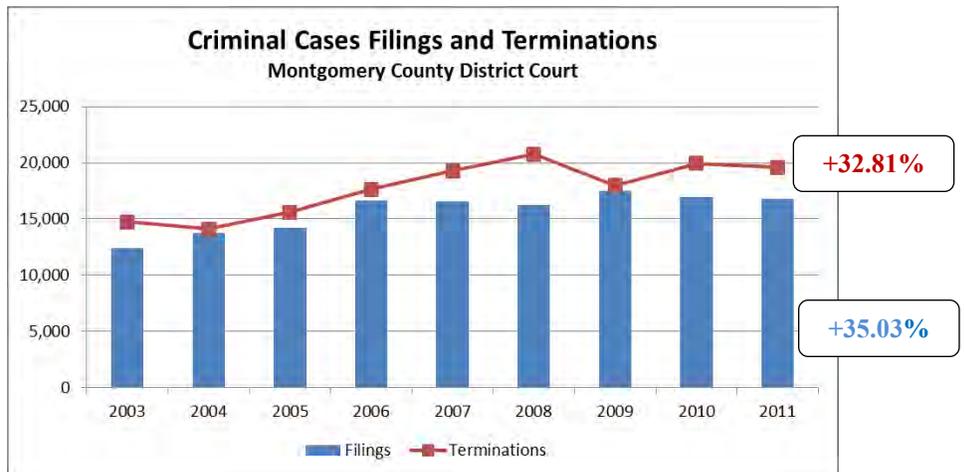
community, such as Oxford Houses, to help newly recovering participants master sobriety.

As part of the Drug Court program, it is often suggested that the Drug Court participant finds an Oxford House to live in. Each Oxford House is self-governed and monitored by the residents – all recovering addicts. New residents must be accepted by majority vote. Accepting court-ordered residents has created some approval/admittance problems in the past, and as such, some delays occur in trying to secure a housing placement for Drug Court participants. Although the Drug Court has established relationships with Wells Robertson House and other charitable, non-profit organizations, such as Catholic Charities and XYZ Services, Inc., to provide housing when an Oxford House is not available or not appropriate, limited sober housing availability is a challenge and should be expanded, according to Drug Court staff.

Criminal Courts Caseload and Processing Courts Caseload

Despite the inconsistent trends in arrests, criminal case filings in the District and Circuit Courts have shown overall steady increases during the past few years. Although the reasons are not presently known, the arrest data is clearly not a good indicator of criminal case filings in Montgomery County.

Between 2003 and 2011, the number of criminal cases added to the Montgomery County District Court grew by 35% from 12,446 to 16,807. During this same period, the number of terminated cases increased at a lower rate of 33 % from 14,760 to 19,604.

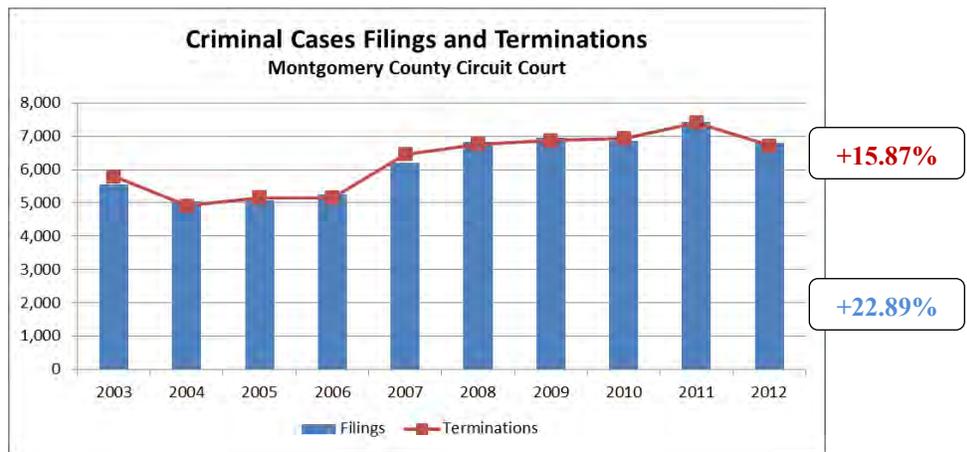


Data Source: District Court Headquarters

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Court efficiencies are considered to be capitalized on when the net change of terminations over cases filed each year is a positive number, as seen historically between 2003 and 2011.

The Circuit Court has also experienced considerable growth over the last ten years. Between 2003 and 2012, the number of criminal cases added to the Circuit Court increased by 23% from 5,540 to 6,808. During this same time, the increase in terminations grew at a slightly lower rate of about 16%, from 5,795 in FY03 to 6,715 in FY09. Between 2011 and 2012, both filings and terminations decreased substantially. Specifically, criminal filings declined by 8% from 7,417 to 6,808, while terminations declined by 9% from 6,715 to 7,405.



Data Source: Montgomery County Circuit Court FY2012 Case Time Processing Report

With the exception of some peaks and valleys, caseload data indicates that the work is getting done in a timely manner and that with continued opportunity for data collection and review as part of the normal cycle of business, the Circuit Court is expected to remain at a high level in moving criminal cases throughout the system in a timely fashion, according to Court officials.

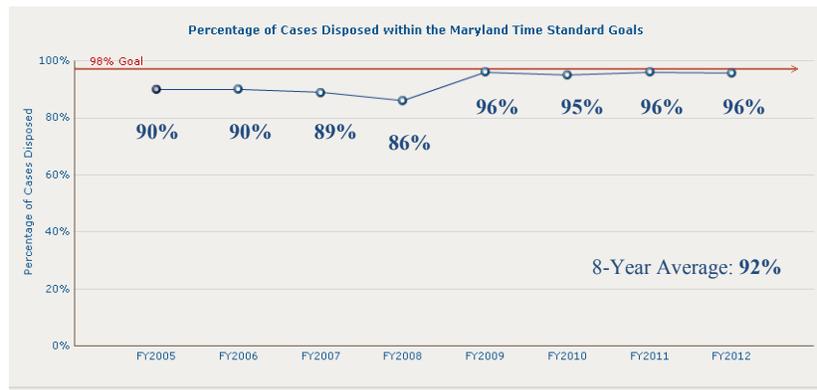
Time to Disposition

When a County's criminal courts conclude cases more slowly than "average" and generate a significant case backlog, more jail bedspace will likely be needed for pre-trial detainees awaiting trial.

The Montgomery County District Court's policy is to give priority to cases where a defendant is incarcerated and to dispose of these jail cases as quickly as possible.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

At the Circuit Court level, time to disposition allows the Court to determine how much time it takes to process cases through the court and compare this time to national guidelines for processing standards.¹⁰ The following chart demonstrates that, looking at the 8 year period of data available, the Circuit Court is on average disposing of 92% of its criminal cases within 180 days.



Data Source:
<http://www6.montgomerycountymd.gov/Content/CircuitCourt/Court/Publications/CourTools/CourTools.html>

Reported Areas of Consideration

1. Improved time to disposition

While the Circuit Court is shy off its goal of disposing 98% of cases within 180 days, it should be noted that since 2009 the Circuit Court has consistently attained a disposal rate of 96%. This improvement is described as the result of a systemic review of the Criminal Differentiated Case Management (DCM) Plan originally instituted in 1992 to expedite the processing of incarcerated offenders.

As per Circuit Court representatives, the Court continues to identify ways to address efficiency gaps in achieving timely resolution of cases, and through continued discussions with judicial and non-judicial staff about case processing efficiency, the Court is hopeful that further improvements will be achieved in the processing of its criminal caseload.

¹⁰ The Conference of State Court Administrators (COSCA) recommends 100% of cases processed within 180 days of filing on felony cases. The American Bar Association (ABA) recommends 90% within 120 days, 98% within 180 days, and 100% within one year on felony cases. In Maryland, the time standard associated with criminal cases is 180 days and the associated goal is 98%. When these guidelines are followed, the Courts are most likely to be moving jail cases in an efficient manner.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Given the Courts' relatively high disposition rate performance in recent years it does not appear that any meaningful reduction in the jail system's average length of stay for pre-trial detainees would be expected via changes in the Courts' criminal case process.

2. Differentiated Case Management (DCM)

Criminal justice system representatives and DOCR administration have pointed to the recent changes to trial scheduling practices and postponement policy as part of the revised criminal DCM plan in an effort to reduce the frequency of trial postponements. As a result of these scheduling changes, the percentage of terminated criminal cases with trial postponements dropped from 51% in FY10 to 23% in FY11. In FY12, the percentage of terminated criminal cases continued to drop to 18%. While the direct impact on incarcerated cases cannot be measured, there is general agreement that the DCM has shortened time to disposition for incarcerated cases, with some impact on bedspace demand.

At the District Court level, the Public Defender's Office policy of giving priority to cases where the individual is detained (20-25% of the District Court cases are in jail) has also helped to reduce the number of cases where continuance is needed.

Despite these initiatives, the PD's office has acknowledged that high caseloads coupled with mandatory furloughs inhibit their ability to consult with incarcerated clients within ideal time frames. The expanded use of video conferencing for attorneys at the MCCF facility is currently under consideration.¹¹

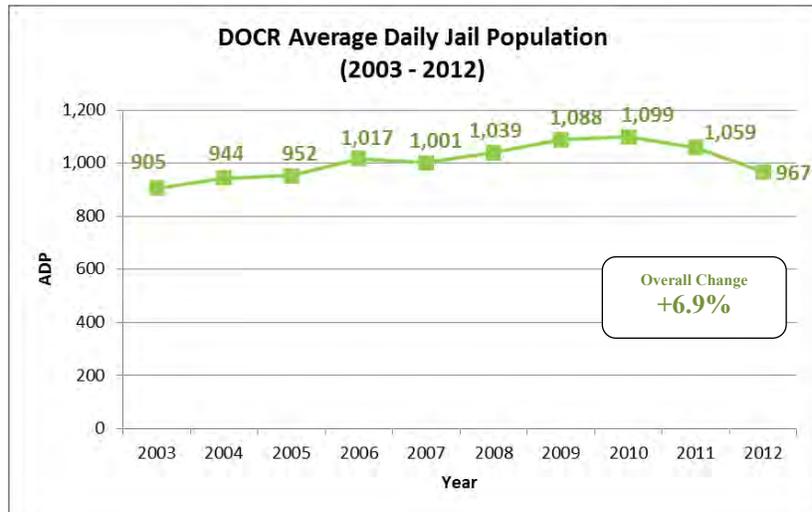
DOCR Policies and Practices

After several years of minimal stress on the system, DOCR average daily population (ADP) increased 8% in 2006 to over 1,000 inmates with no explanation based on any crime, arrest or jail booking growth. According to DOCR representatives, a plausible explanation for the spike in population was the appointment of four new judges by the Governor. It appeared that the new judges were not setting bond or utilizing Pre-Trial Services and consequently more individuals were being

¹¹ Additionally, as per Warden Robert Green, with the right system improvements, there is potential to legally conduct more court business via the closed circuit system, should the courts so desire. This is a decision which remains with the Judges. Motions hearings and other less complex hearings could be done in this manner. If technology were available, additional charges could also be served at MCCF. This would eliminate hundreds of transports a year. At present, MCCF inmates are transported to MCDC to have additional charges served. If the District Court Commissioners were to go to MCCF for these hearings, it would diminish transports and allow for the closed circuit system to be used for the bail review, limiting movement and transportation of inmates to the minimum and eliminating concomitant security issues. Email communication July, 17, 2013.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

incarcerated, resulting in daily counts at the detention facilities rising significantly.



Note: Excludes Federal inmates housed in Montgomery County jails (MCDC and MCCF).

An upward trend continued through 2010 to a high of 1,099 inmates. Since then, the jail ADP has decreased significantly by 12%, to an ADP of 967 inmates last year. The County jail system is currently operating with an overall surplus of beds. However, it should be noted that no significant cost savings can be realized from a lower bed count unless complete units can be closed.

Over the last few years, there have been some changes in policies and practices within DOCR, which are believed to have had an impact on the ADP (resulting from both changes in admissions and average length of stay). These efficiencies/changes, as reported by DOCR representatives, include:

- An agreement in November 2010 with the District Court to no longer use weekend jail sentences, enabling staff to better focus on the core inmate population while minimizing bed space utilization that can be now handled in a more effective manner. The use of the Pre-Trial Services' Weekender Work Crew was noted as an option.¹²
- Instituted changes in the programmatic "good time" practices at the MCCF in late 2010, allowing inmates to reduce days served for

¹² As of June, 2013, DOCR noted that, as of recent months, individual cases have been sent to MCDC on weekend sentences.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

participation in additional education/programmatic participation to help counter the loss in programs due to budget cuts.

- Re-establishment of parole hearings at the local level, resulting in a reduction of the time that, on average, these individuals would otherwise have spent in jail.

Despite the overall decline in inmate population, it should be noted that, like many jails across the country, Montgomery County officials have reported an increase in the number of inmates with special risk/need requirements, particularly those with mental health conditions. This poses a variety of operational challenges, discussed within this section.

Reported Areas of Consideration:

Montgomery County Detention Facilities (MCDC and MCCF)

1. Inmate separation requirements

While MCDC and MCCF both have unused capacity, the availability of beds particularly at the MCCF is challenged by operational considerations, such as the need to keep certain inmate populations separated. These populations include gang members and other high-risk individuals, as well as co-defendants, whose separation is mandated, and those who have made or received threats or whose separation is requested by the Defense Attorney, State's Attorneys or the Police Department. Additionally, separate units house women, young offenders, medical cases or inmates placed in isolation, and these populations cannot be mixed when additional bedspace is needed.

It was noted by DOCR representatives that, while the existing 64-bed housing units provide some measure of staffing efficiency, they do not effectively serve separation and programming needs for inmates outside of general population classification. For future planning purposes, smaller units would provide the needed separation for therapeutic, high risk, juvenile, and other populations, albeit at higher inmate:staff ratios than larger units.

2. Sentenced inmates kept local

Montgomery County Judges utilize the local jail system as an alternative to prison for some offenders, resulting in the lowest per capita State prison utilization in Maryland. Currently, certain offenders who in the past would have been sent to state prison are now receiving *suspended state sentences* and are sent to DOCR instead, ostensibly for its better programming services. While keeping inmates local has advantages in terms of maintaining important community and family ties and re-

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

entry/release readiness, it does present some challenges. DOCR officials have indicated that the judicial decision is often made without formal input by MCCF staff regarding the appropriateness or adequacy of local placement, which would better inform the disposition. Further, officials noted that these individuals have relatively more serious offenses than the traditional County jail sentenced offender, and they are not often amenable to the MCCF setting or DOCR's rehabilitative efforts.

3. Reduction in inmate programs and services

Like all departments throughout the County, DOCR has experienced budget cuts that have impacted day to day operations. In particular, the following MCCF programs were abolished in 2011, which DOCR officials believe has had an ancillary effect on length of stay:

- *Job Shop/Workforce*: work assignments completed for public and non-profit agencies including a variety of production and light assembly projects;
- *Digital Imaging*: partnership with Department of Permitting services in which documents and blue prints were scanned, indexed, and imported into their system by inmate labor;
- *Bakery*: part of MCCF's life skills training, a program providing training and education in bakery work, with a number of successful graduates finding employment in bakeries or catering companies;
- *Remedial reading*: provided by the Model Learning Center, this educational program allowed inmates to earn time off their sentence (Industrial time);
- *Dialectical Behavioral Therapy (DBT)*: a successful component of MCCF's behavioral health programming, with impacts such as reduced violence within the jail and increased re-entry success among participants.

Additionally, while approximately 50% of the MCCF population is sentenced, officials report that only 20% meet the eligibility criteria for Pre-release and Re-entry Services (PRRS), pointing to the need for additional re-entry and rehabilitation support and services within the jail facility (or a review of the current PRC's eligibility criteria).

4. Mentally ill inmates

One of the most problematic areas at MCCF is addressing the needs of the high end mental health population. Although the number of inmates entering into the criminal justice system has been declining over the past few years, the severity and number of mentally and physically ill inmates within DOCR facilities is growing, as

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

demonstrated by available data on the number and percentage of inmates referred and admitted to the Crisis Intervention Unit (CIU), with monthly census averaging about 45 inmates.¹³

Table 2.14. CIU Statistical Summary

		FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Inmates referred to the CIU	#	219	289	301	312	333	377	388	486	574	676
	%	13%	16%	16%	16%	18%	20%	20%	22%	26%	31%
Inmates admitted to the CIU	#	na	na	na	na	na	na	489	556	575	554
Average monthly census of inmates housed in the CIU		29	36	na	na	na	na	41	43	48	46

A lack of community resources coupled with overall decreases in State and local mental health related budgets, has resulted in the jail becoming the “de facto” placement for individuals requiring mental health residential placement and treatment services. Officials have noted that inmates with severe mental health conditions have been held in the jail for as long as 2 to 3 months awaiting transfer to a State hospital for a court ordered evaluation.

DOCR therapist’s caseloads continue to increase and service needs are increasingly complex and challenging in the jail setting where therapeutic resources are limited. For many years, MCCF boasted of the first jail-based Dialectical Behavior Therapy (DBT) program in the nation. Since implementation of the program, MCCF saw a reduction in suicide attempts, self-injury/self-threatening behavior, and visits to the emergency room. Due to funding concerns, this program had to be cut for the Crisis Intervention population at the facility, becoming a serious identified gap in current rehabilitative services targeted to the mental health population. It has been suggested that without these essential services mental health inmates get worse rather than better, which can result in longer periods of incarceration due to behavioral sanctions.

Additionally, MCCF does not currently have an appropriate step-down unit for individuals released from the Crisis Intervention Unit (CIU), which would allow for a better stabilization and a more successful return to the general population. Furthermore, both MCCF and PRRS representatives have noted the need for mental health stabilization beds

¹³ The number of inmates admitted to the CIU may not actually reflect the number of inmates requiring special housing. Admissions to the CIU at the MCCF are driven by beds available (40 male beds and 15 female beds), and some inmates’ conditions are so severe that they are housed in the CIU throughout their incarceration.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

outside of the jail to support successful re-entry and potentially lower the high recidivism rates among the mental health population.

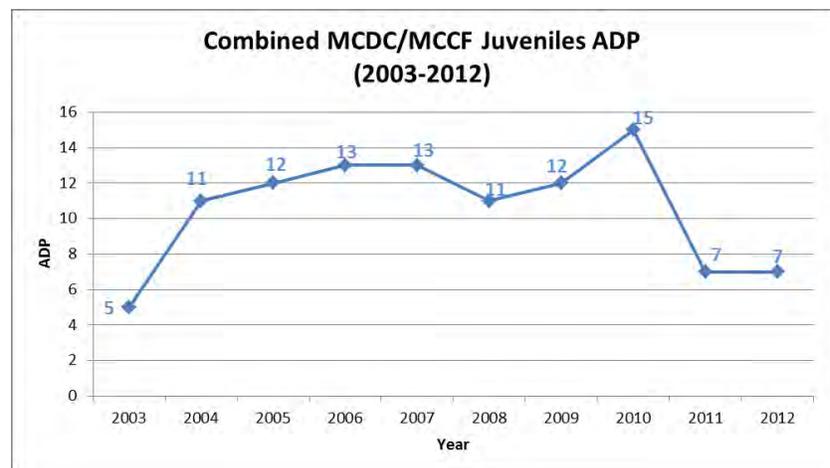
5. Direct release from Court policy

Currently, inmates released directly from Courts are not transported back to the jail to retrieve personal property, including any prescribed medication. This is an issue of concern related to the flow back of the mentally ill into the community because inmates without medication or proper referrals often wind up back in custody.

While the value of returning inmates released from court back to the jail for discharge processing is noted in this regard, others have argued that once an inmate is released from court, Sheriff staff have no jurisdiction to transport him/her back to the jail. This issue is still unresolved (to be discussed in more detail in Task 6 forthcoming).

6. Juveniles in DOCR's custody

DOCR is responsible for the safe and secure confinement of juveniles who have been charged as adults. A look at available data reveals that the number of youth that are charged as adults and therefore are remanded to DOCR custody has remained relatively stable at an annual average of 11-13 youth in custody over the last several years. A recent spike to 15 juveniles in 2010 was followed by a step decline in ADP figures in subsequent years (7 juveniles in 2011 and 2012).

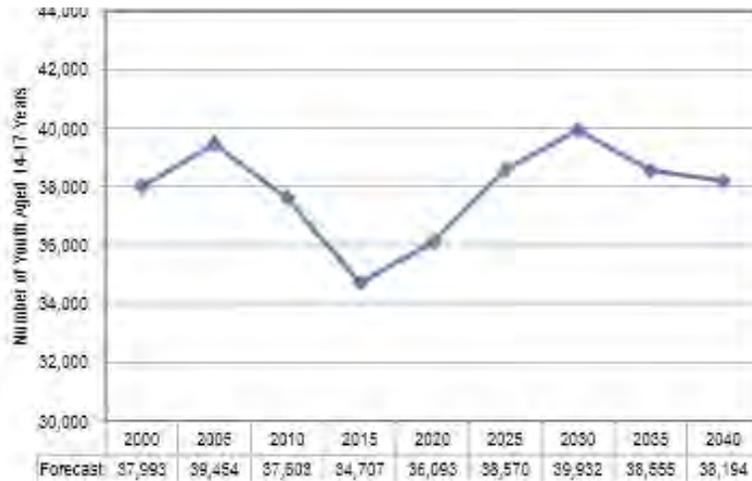


As a yearly average, the ADP figures do not take into account the peaking and population variations that occur throughout a year. In this regard, the ADP experienced a low of 3 juveniles in December of 2003 and a high of 30 juveniles in July 2010.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

In terms of criminal justice system indicators (juvenile population trends, crime and arrest rates, dispositions and admissions), juvenile population projections by the Maryland Department of Planning indicate no growth overall by year 2040, despite fluctuations in the intervening years.

2000 – 2040 Forecasted Youth Population, 14-17 Years



Similarly, the most recent data available by the Department of Juvenile Services¹⁴ on Maryland juvenile's arrest data shows that in 2012 total arrests declined for the sixth consecutive year, falling to slightly more than 35,000 arrests in calendar year 2011. Violent crime arrests fell by nearly 250% between calendar 2010 and 2011, the most significant reduction experienced in recent years. Mirroring the trends in juvenile arrests, the total number of complaints received by DJS in recent years and the dispositions of those cases has decreased significantly (the nearly 33,000 complaints in FY12 reflect a 9.6% reduction compared with FY11, and a 38.6% reduction from the most recent peak of approximately 53,500 complaints in FY06). Finally, the overall population of pre-adjudication and pending placement youth has fallen in recent years, particularly since FY09.¹⁵ In FY12, 1,031 youth were either in an alternative to detention program or in a detention facility, a 6.0% reduction from fiscal 2011.

¹⁴ Source: Analysis of the FY 2014 Maryland Executive Budget, 2013. Available on-line at: <http://mgaleg.maryland.gov/pubs/budgetfiscal/2014fy-budget-docs-operating-V10A-Department-of-Juvenile-Services.pdf>

¹⁵ This population includes youth who are provided services as an alternative to detention, awaiting adjudication in secure detention, and those who are pending placement in a secure detention facility (youth who have been adjudicated delinquent and are held in secure detention pending a permanent committed placement).

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

These abovementioned reductions overall, seem to be a result of the Department of Juveniles Services and its partnering agencies placing a greater focus on diversion services to youth involved with the DJS, and crime prevention programs, positive youth development initiatives, and interventions for students who are involved in gangs, such as the ones available in Montgomery County: recreation, "Beyond the Bells", prevention, high school wellness center, and youth empowerment programs.

From an operational perspective, the concern is less about future growth but more about the need to provide sight and sound separation of juvenile and adult inmates in the jail facility in accordance with OJJDP mandates and more recent PREA standards.

Pre-Release and Re-entry Services Division

1. PRC's Eligibility criteria

In 2006 the DOCR Director submitted a request to the County Executive to amend Section I, Chapter 13, Pre-Release Program, Section 13-11 through 13-23 allowing the Department to increase PRC eligibility from 6 months to 12 months. This change initially increased the pool of eligible candidates for PRC and allowed PRRS more flexibility in structuring re-entry treatment plans. PRRS staff screen individuals in each of Montgomery County's detention facilities, and over 95 percent of those screened are approved for admission into PRRS programs. However, the reduction in the number of inmates coming through the correctional system, the termination of the agreement to house State inmates at PRC and the noted decrease in the number of viable County candidates for placement have all resulted in PRC operating below capacity.

In terms of serving the local population, the PRC count has been down for a while and the number of individuals eligible for the program is proportionally less. Available capacity at the PRC has led to the PRRS division expanding the eligibility criteria at both ends – up to a year from 6 months in January 2008, and from 30 days to now down to only 5 days (remaining sentence length). Similarly, this availability of beds has increased collaboration between PRRS and the Drug Court where by the Court now has the option of utilizing the Pre-Release Center's for clients just coming out of jail, or in lieu of going to jail, for three purposes:

- 1) As a treatment sanction, participants can be mandated to live at the PRC for varying lengths of time (a minimum of 30 days, and up to three months) in order to stabilize their drug addiction, while still

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

having the ability to continue working and attending outpatient treatment.

- 2) As a sanction for not obtaining employment, non-compliance with treatment, or otherwise breaking the rules of the Drug Court.
- 3) If there is no stable, drug-free housing available to a participant, or if a participant is homeless upon admission into the Drug Court.

While at the PRC, Drug Court clients are full participants of Drug Court with all related responsibilities and expectations. However, as residents at PRC, they are also expected to follow all rules and responsibilities of their re-entry plan and contract at the Center.

The inclusion of Drug Court participants in the PRC population has provided an expanded continuum for the Drug Court and has allowed for an efficient use of excess bedspace capacity that currently exists at the facility.

3. Underutilization of Home Confinement

Home confinement is currently underutilized, with 10-12 clients served through this program, while a maximum of 45 places are available. The director of the PRRS, Stefan LoBuglio, noted that a better definition of home confinement is needed. This could allow low-risk populations to be released to home-confinement faster, perhaps even as a direct sentencing option.

4. Need for more programming and services

PRRS staff noted that case managers and work release coordinators should be more engaged and familiar with the numerous community programs and contacts, instead of providing largely passive referrals. More expertise could translate to more effective management or coordination and increased success.

Currently, certain challenges exist with regard to accessing substance abuse services in the community, due to transportation issues, long waiting lists, and competing demands for program participants (e.g. work schedule). Beyond access issues of this kind, a major concern in this regard is a lack of a “defined funding stream to support community substance abuse and/or mental health treatment for convicted, sentenced offenders”, according to Chief LoBuglio. Limiting time-frames (typically 6 weeks from release) for Medicaid and other programs often pose difficulties in finding services and providing referrals for the PRRS population. Such problems are seen as compelling reasons to bring further programming and short-term interventions on site.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Providing substance-abuse education at the PRC would further eliminate the need for certain higher risk offenders to travel to treatment in the community. Alternatively, providing a day-reporting function is seen as a natural continuation of the current PRRS services upon release, and maybe an achievable goal to prioritize.

5. Eligibility criteria

Pre-trial population

While the PRC, by statute, can serve individuals in pre-trial or parole status, the center's services are currently not extended to these populations. Inviting these populations under the PRC umbrella could create a supervision option that would allow more individuals to be released or diverted from jail.

Mentally ill Offenders

In order to better respond to the increasing prevalence of physical ailments and mental health needs amongst its client population, in 2008 PRRS revamped medical and psychiatric care services and improved efforts to connect residents with community health providers. At the moment though, the PRC does not have specialty mental health services needed in order to serve more serious mental health cases and remove them from jail to serve in a less secure setting (e.g. day reporting, minimum security facility).¹⁶ While mental illness does not make inmates ineligible for the PRC – 16.3% of the residents have Axis I diagnoses for which they receive pharmacological treatment – the required mental and behavioral stability and level of functioning to meet other eligibility criteria often deem those in need of more intensive, therapeutic services ineligible. Currently, individuals with co-occurring disorders and certain serious mental health issues involved in the Criminal Justice System have very limited residential options within the County, and often stay at the correctional facility's CIU by default.

To include more seriously ill offenders in the PRC population, stabilization is needed as a precursor to employment. A particular problem in serving a pre-release population dealing with mental illness is the fact that much of the community-based mental health programs and services are inaccessible until 30-days from release. Related, it seems that although cooperation with the HHS is currently strong, further clarity on procedures and eligibility for HHS services could improve serving this unique correctional/PRC population.

¹⁶ A minimum security facility is not synonymous with the Pre-release Center, a residential facility with specific treatment mission and an expectation that all residents will be on work release. The criterion for being accepted in the minimum security facility is simply that the person will be released to the community within a short period of time.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Relative to stabilization housing, both MCCF and PRRS staff noted the need for mental health beds and services outside of the jail environment. A highly structured, supervised housing program for the mentally ill is needed to enhance the likelihood of success for individuals coping with these complex needs.

6. Re-entry barriers

Individuals being released from detention face many barriers when trying to obtain follow-up services and stable housing in the community. More transitional housing programs with liberal eligibility criteria are needed, specifically a 24 hour residential treatment facility for those with mental health and co-occurring disorders.

7. Re-entry modality from State to County initiative

DOCR is supportive of this good policy to improve re-entry practices by progressively transitioning State inmates to the corrections local level and back to the community.

At the time of this report, three counties had agreed to a pilot test of 5 cases focused on sending individuals from the State to local facilities. Montgomery County's agreement is for accommodating up to 5 inmates at any one time but as of yet DOCR has not received its first participant. The internal process on the State's end has not been finalized. If this new initiative were to move forward, it would impact the use of DOCR facilities bedspace to some extent.

Several years ago, PRRS had a contract with the Maryland Division of Correction to accommodate the transfer of Montgomery County residents serving State sentences and nearing their release to County jail facilities. As a frame of reference, when this program was in effect, the target number of state inmates to be housed at PRC was 10. However, the State had difficulty meeting this threshold and the actual number of state inmates at PRC ranged from 3 to 6. Additionally, an analysis conducted by Chief Stefan LoBuglio on individuals leaving State prison and returning to Montgomery County revealed that only 15% (35 out of 234) were transitioned through the PRC. This anecdotal information infers that the impact of a similar initiative on bedspace demand would not be significant.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

Community Supervision (formerly Parole and Probation)

In terms of case disposition, it is very common (particularly true on first-time offenders) for judges to find the defendant guilty but also grant him/her “probation before judgment”, by which the defendant is placed on supervised or unsupervised probation. For example, in 2010, out of the 19,945 Montgomery County District Court’s criminal cases, 1,549 of the defendants (or 7.76%) were granted “probation before judgment.”¹⁷

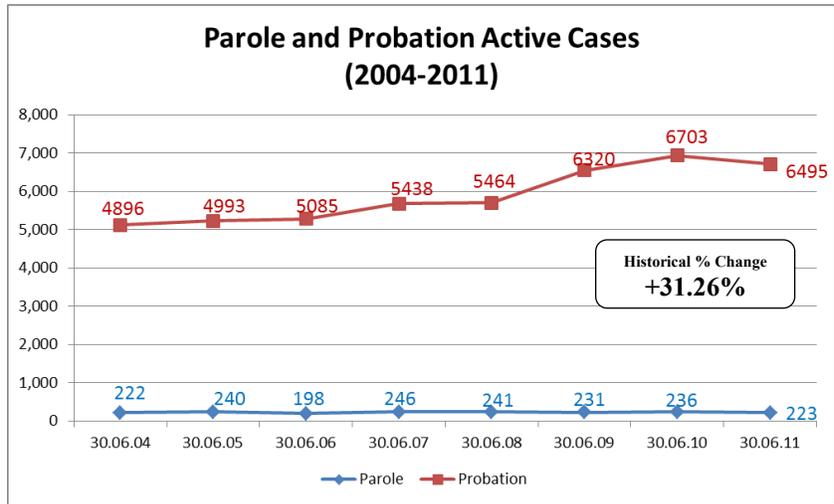
Probation as a form of disposition is an important sentencing alternative to jail. By placing an offender on probation (both without and under supervision), the courts can impact the need for jail space, at least in the short term. However, probation placements do have an indirect potential for incarceration later in the event an offender does not adhere to the conditions of his/her probation. In such instances, a motion to revoke probation is filed requesting that the offender be formally sentenced to a term of incarceration.

Nationally, a quick look at statistics on admissions to prison suggests that concern about the impact of revocations on prison and jail populations is not an idle one, although somewhat more difficult to document at the jail level. Like in many jurisdictions, it was not possible to obtain data on Montgomery County jail admissions for violation of probation/parole, primarily because the data information system does not clearly distinguish between a technical violation and a new offense (this gap in DOCR’s current data information system will be addressed in Task 5: Evaluation of Adequacy of DOCR Recordkeeping, Data Collection and Analysis). However, a review of jail population pressure with representatives from the Public Defender’s Office and DOCR suggested that offenders awaiting parole or probation violation hearings or transfer to state institutions after revocation hearings contribute significantly to jail demand, creating a source of friction between local and state functions.

To obtain an order of magnitude sense of the issue in Montgomery County, general probation and parole data were reviewed. As shown in the next chart, the total number of adult parolees and probationers supervised in Montgomery County has increased 31 percent over the last eight years, from about 5,118 parolees/probationers in 2004 to roughly 6,718 parolees/probationers in 2011.

¹⁷ Probation before judgment was the third most common form of disposition, after “nolle prosequi” (at 38.50%) and “stet docket placement” disposition at 8.15%.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND



Not all adult probationers in Montgomery County are supervised in the same manner, even within the same field office. Since probationers differ in their criminal history, risk to public safety, and need for treatment and services, in general, Community Supervision assigns probationers to three different caseload categories – general offenders, sexual offenders, and the most violent offenders. Community Supervision prioritizes its agent resources based on the need to supervise sexual offenders and the most violent offenders first. These two groups need the most intensive supervision and are assigned to specialized caseloads where each agent supervises no more than 30 or 40 offenders.

Using Fiscal Year 2012 as an example, the following findings were noted:

- *General Caseloads.* About 85 percent of all adult probationers are assigned to general caseloads. These tend to be offenders whose criminal history or risk to reoffend does not pose a serious threat. In FY12, the average caseload of an agent supervising general population cases (made up of mostly moderate to low-risk offenders) was about 132.
- *Sexual Offenders* are supervised through an enhanced supervision model utilizing law enforcement, judicial, treatment and victim advocacy experts. This very strict supervision includes computer monitoring, polygraph examinations and GPS monitoring of offenders. Sex offender Community Supervision agents are highly trained and specialized. Their caseloads averaged about 34 in FY12.
- *Violent Offenders* are placed under the strictest supervision model, through the Violence Prevention Initiative (VPI). These cases are

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

supervised by specialized VPI agents with caseloads that averaged about 32 across the Rockville office out of which the VPI population is supervised.

Additionally, since October 2011, Montgomery County has a specialized caseload for offenders convicted of domestic violence. Available data for FY12 showed that the domestic violence specialized caseload averaged about 127 probationers per officer.

According to data provided by Community Supervision, the percentage of probation revocations has remained pretty consistent over time, although a slight increase in revocations has occurred in most recent years.

Table 2.15. Community Supervision - Criminal Statistical Summary

	2008		2009		2010		2011		2012 (Jan-June)	
Cases Closed	2,555		2,644		2,974		2,837		1,437	
Satisfactory Cases (# / %)	2,166	85%	2,268	86%	2,559	86%	2,358	83%	1,150	80%
Revocation Cases (# / %)	389	15%	379	14%	405	14%	479	17%	288	20%
Technical	178	7%	163	6%	167	6%	184	7%	143	10%
New Offense	211	8%	216	8%	238	8%	295	10%	145	10%

On any given day, probationers represent 96% of the total community supervised population, which includes the Drinking Driver Monitor Program.¹⁸

Although jail officials can report anecdotally that a significant number of jail beds are occupied by probation and parole violators, the true impact on ADP cannot be empirically quantified without admission and length of stay data on these cases. The ability to collect and monitor

¹⁸ Similar to practices found in court rooms across the country, judges in Montgomery County place a large proportion of DWI offenders on probation. When a judge places the person on probation (either after a guilty plea or at a trial following judgment), a common condition of probation is alcohol addiction education, treatment and/or attendance at AA meetings. Since 1991, all DWI offenders placed on supervised probation are assigned to the Drinking Driver Monitor Program (DDMP). The Drinking Driver Monitor Program (DDMP) is a specialized intensive probation program operated by the Maryland Community Supervision Division. Offenders can also be assigned to participate in the DDMP by the Motor Vehicle Administration, as a condition for reinstating a driver's license after it has been suspended or revoked. The program requires that drivers arrested for DWI offenses participate in substance abuse education or treatment programs, and refrain from further driving while under the influence of alcohol. If an offender does not report for his/her regularly scheduled meeting with his/her monitor, violates the conditions of probation, or displays "unlawful conduct", then the monitor informs the sentencing court of the Motor Vehicle Administration of the violation. The monitor can also petition the sentencing court for a warrant and the court sets a hearing date. At the hearing, the judge decides whether to continue the offender on probation or revoke the probation and send the offender to jail. The judge may schedule a second hearing to see if the offender will follow through on promise to change his/her behavior and comply with the probation conditions. Additionally, individuals charged with alcohol-related offenses in Montgomery County frequently find themselves participating in the Alternative Community Service (ACS) diversion program, staffed and managed by DOCR, as referred by the Courts, the Division of Community Services (including the DMM program), the SAO, and the Police Department's Family Services Division. Participants in the ACS program serve their assigned hours as a member of a work crew.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

this information is important if DOCR is to have a clear picture of jail bedspace utilization.

That being said, responding to violations of probation and parole in a timely fashion becomes crucial in order to reduce new offenses and ultimately minimize the use of local resources (jail bed days). In Montgomery County the following practices and policies are in place to help the administration of violations occur efficiently:

- 1) The State's Attorney's Office can and will "fast-track" VOP hearings upon request from the agent by filing motions with the Judge.
- 2) Individual Judges have VOP court dockets. At the District Court level, both Silver Spring and Rockville have dedicated VOP dockets in the afternoon beginning at 1 pm every day, except Wednesdays. Typically, Rockville has 3 courtrooms and Silver Spring has 2 courtrooms for VOP hearings each of those days. Although the Courts do not track time to disposition for probation hearings, it is the belief of Community Supervision representatives that both District and Circuit seem to act on VOP reports within several weeks and schedule a hearing within the next month and both are under administrative guidelines to dispose of cases in a timely fashion.
- 3) Probation agents are often engaged in having serious matters brought to the "attention" of the Judge quickly by contacting the Judge's Chambers or "hand carrying" the violation petition to Chambers. But in routine matters, it was noted that the respective Clerk's offices seem to handle the volume of cases adequately.

Additionally, motivated by a primary concern for public safety and discouraged by the constant recycling of drug-related offenders through the system, the Community Supervision has partnered with PTSD and the Courts to implement alternatives sanctions used as either diversion from prosecution (ACS) or as a sentencing option for non-violent, substance-involved offenders (Drug Court).

Reported Areas of Consideration:

1. On-going collaboration with Pre-trial Services Division

Some offenders are placed on pre-trial conditions with supervision by PTSU pending VOP and both Community Supervision and PTSD coordinate supervision in those instances. The current duplication of defendant supervision provided simultaneously by pre-trial and community supervision is an area of concern. Both agencies are encouraged to explore alternatives as to avoid this duplication.

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

2. Limited availability of community resources

Many violations of parole and probation involve homeless people, inability to pay the fees associated with some of the programs, relapses into drug abuse, difficulties finding or keeping a job, and the like. It is the opinion of some that strengthening these resources as well as developing a continuum of sanctions and services to address these situations, would result in fewer related violations.

Although a continuum of supervision intensity levels and sanctions is available to probation officers to respond to non-compliance with conditions, a day reporting sanction (not presently available) where service providers, Community Supervision, and case managers are located under one roof to provide services and referrals within a continuum of sanctions, could reduce the use of jail as a sanction for technical violators. However, it is noted that the probation - including sanctions imposed and violations served, is under the authority of the State Court system, not the County Department of Correction and Rehabilitation. While the jail may be the recipient of probation violations, it cannot dictate use of an alternate sanction, and any change in practice, including the expansion of non-incarcerative alternatives for violations, would require buy-in and utilization from the courts and its agents.

2.4 Conclusions

In sum, the analysis of available data about Montgomery County's criminal justice system, compounded with qualitative data, yielded a number of observations about trends, policies, and practices relative to bedspace utilization. By and large, the analysis supports the notion that Montgomery County is doing an excellent job in proactively managing the judicious use of jail beds through a variety of programs, services and best practices supported by cross-agency collaboration and support.

Several factors were noted as having impacted current bedspace demand and other newer or proposed initiatives were identified as having the potential to impact bedspace utilization moving forward. Not all of these factors are measurable for a variety of reasons.

Some, like the new citation law, are reported opinions about its potential to generate increased failure to appear rates because a citation doesn't have the same gravitas as an arrest. However the counter opinion is that the law will reduce arrests, CPU bookings and therefore will reduce jail utilization. Lack of longevity and data (the law has only been in effect since January 2013) prevent an empirical test of either

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

theory and as such this variable should not be factored into any formal bedspace projection formula.

Also at the front end, the MCPD has announced its plan to add over 100 police officers over a three year period, some of whom will be deployed in special District Community Action Teams (D-CAT). While some believe that this will generate more arrests, this may be counter balanced by a presumption that increased police presence, as D-CAT teams, or on general patrol, serves as a deterrent and reduces crime. Either way, it is too soon to tell if the full complement of officers will in fact be hired and what the impact is on arrests and jail utilization.

Moving through the criminal justice flow, there are several mechanisms in place that serve to offset jail utilization, including 24/7 DCC hearings, pre-trial assessment and recommendations for release at the bail review hearing, and a variety of pre-trial diversion alternatives that are offered to eligible candidates who are not released at the bail review hearing. No major changes to these current policies and practices are anticipated that would significantly alter jail bedspace utilization or demand moving forward.

At the point of trial and sentencing, several initiatives and alternatives are utilized that help to offset jail bedspace demand. These include expedited disposition for incarcerated offenders and improved trial scheduling practices and changes made to postponement policy; sentencing alternatives (e.g. weekend work crew program and probation before judgment) and use of diversion programs post sentencing such as IPSA and ACS; and the specialty Drug Court Substance Abuse program. There is overall consensus that these programs and initiatives will remain a viable component of Montgomery County's criminal justice continuum.

The Department of Correction and Rehabilitation has also helped to control jail bedspace demand through a variety of initiatives and inmate population management strategies at the back end. These include abolition of the weekend sentencing program; modifications to the good time credit program; and enhancement of inmate re-entry and transition and discharge programs.

As noted, all of these initiatives are the product of long standing collaboration between state and local criminal justice and correctional agencies, and they are here to stay as an integral part of the County's criminal justice system practices. For jurisdictions as advanced (at all

2. FACTORS DRIVING CURRENT BEDSPACE DEMAND

points along the continuum) as Montgomery County is, any modifications to existing practices will yield a very small delta in terms of bedspace savings (as compared to jurisdictions with little or no real alternatives in place).

However, there are factors impacting current bedspace demand particularly for certain populations. Lack of alternatives for inmates with mental health conditions was identified as a challenge all through the criminal justice system flow. Community-based resources, particularly residential beds, are limited (or inaccessible), making the release to pre-trial supervision or alternative sentencing options less likely for inmates with mental health conditions. This results in an increased usage of jail beds, not to mention operational and management challenges for facility staff.

Another factor that impacts current jail bedspace demand is the lack of a non-incarcerative “step-up” alternative for probation violators in lieu of jail and a “step down” alternative for those who could transition to community supervision as part of the re-entry process. While not quantified, there was general consensus that current jail utilization could be impacted with an alternative option such as a day reporting center to serve these currently incarcerated populations.

There is general consensus these two items are current gaps in an otherwise strong criminal justice continuum. It is believed that focusing on these two initiatives will impact bedspace demand currently and in the long run. These initiatives will be further explored in workshops with all relevant stakeholders during the Needs Assessment (Task 4).

TASK 3. INMATE POPULATION PROJECTIONS

3. INMATE POPULATION PROJECTIONS

Introduction

This section provides the analysis and findings of the inmate population projections task. It includes: a) discussion of methodology, approach, and assumptions used to develop forecasts of average daily inmate populations; b) the result of average daily population (ADP) forecasts, and c) estimates of corresponding jail bedspace requirements for each DOCR facility.

Inmate population projections form the foundational need for establishing the number and type of beds required in Montgomery County's correctional facilities now and in the future. At this stage in the Master Facilities Confinement Study, three forecast methodologies were used to generate baseline projections because, as will be explained later on this Chapter, there is no one accepted single approach that has been determined to be best.

The baseline projections represent current system practices and key factors impacting bedspace demand, as described in the previous Chapters. It is noted that these projections may be modified as the project progresses, taking into account the Needs Assessment and the resulting specific criminal justice system recommendations, occurring in subsequent tasks of this Master Confinement Study.

3.1 Approach and Methodology

Approach

The overall forecasting process consisted of three sets of sequential tasks:

- 1) Collecting and analyzing comprehensive historical jail data and information;
- 2) Generating a baseline forecast of the jail Average Daily Population (ADP) for local inmates only, and
- 3) Converting projected ADP into the number of beds that may be needed.

To develop accurate forecasting models of jail average daily population, specific data elements that have potential influence on a jail's ADP are required. These data include: historical trends in the jail population (i.e., historical admissions, average lengths of stay and population data), general County population growth, historical crime, arrest data, and court case processing data. These elements were analyzed for the decade between the years 2003 and 2012 to help identify the most important influences of future crime and justice patterns.

3. INMATE POPULATION PROJECTIONS

Projection Methodologies

Estimating the future size of any correctional system is part science and part judgment. Criminal justice policy is a dynamic phenomenon and is difficult to predict with a high degree of certainty. In the end, there is no single statistical method of forecasting jail populations that is considered to be correct or preferred, and forecasters often use multiple methodological approaches to determine which forecast is most appropriate in a given instance. This is also the consultants' chosen approach.

The review of factors that have potential influence on jail's ADP (as presented in Chapter 2 of this report), guided the exploration of several projection models for use in this study to generate up to three alternative baseline ADP forecasts to assess future bed space demands. The projection models were developed using well-established statistical models as well as trend-based methods. These models provided a baseline projection ADP of the likely minimum and maximum parameters of future demand. Projections are presented in five-year planning increments through year 2035. It should be noted that the farther out the projection goes the less confidence there is in the numbers. Anticipating future demand is a difficult endeavor when attempting to plan several years in advance, let alone several decades, as unanticipated changes in society and its various components may occur.

The most influential factor in forecasting any correctional population is typically the impact of recently enacted laws, judicial decisions and criminal justice policy choices, as these largely determine the use of correctional beds – particularly at the local level. At this point in time, the jail forecasting exercise assumes that correctional and criminal justice system policies in Montgomery County will generally remain the same throughout the forecast period. As such, these are a starting point for establishing future jail bedspace demand (*baseline projections*).¹

The baseline ADP projections were then converted into actual bed space requirements by incorporating a utilization factor to the estimates in order to account for operational considerations, such as downtime for cell maintenance, classification variation and population fluctuations and “peaking” during high volume periods, giving DOCR a bedspace margin over and above the average inmate count. This is within the range of jail capacity planning norms.

¹ The potential impact of specifically identified initiatives (for example Mental Health diversion and Day Reporting) will be considered in subsequent phases of the study, once consensus is reached on content, point of intervention, implementation timeframe, and the like. Chapter 7 of this report will detail the recommended Alternatives to Incarceration and modified bedspace projections will be generated.

3. INMATE POPULATION PROJECTIONS

3.2 Current Trends and ADP Forecasts

This section describes the forecast methods, assumptions, and findings. These forecast findings are based on the status quo, that is, they assume that current policies and trends will hold into the future. A discussion of each forecast and their comparative strength follows.

Exploring Statistical Reliability

The first task in order to select the best predictor variable was to perform a regression analysis. A regression model indicates how much the outcome (e.g. changes in the jail population) depends upon changes in the considered predictor/independent variable, such as crime, arrests, court processing, lengths of stay, and the demographic characteristics of a County.

Using regression, statistical correlation coefficients were calculated to determine which factors best explain past changes in the average daily jail population (e.g. do increases in arrests accompany increases in jail ADP during the same time period, does one increase while the other decreases, or are the results random and not highly correlated). Using data from 2003 to 2012, projections of these factors were then used in forecasting the jail population.

The relationship between ADP and some of the key factors that explain the current number of inmates in DOCR custody are explored in the following pages.

Dependent Variable: Average Daily Population

The annual trend in Average Daily Population (ADP) includes the average number of inmates at County operated facilities in Montgomery County. At present, that includes the MCDC, MCCF and PRC (individuals on home confinement excluded). The populations at the individual facilities will be analyzed later in this section.

It should be noted that as a yearly average, the ADP does not depict the peaking and population variations that occur throughout a given year, but rather can be utilized to understand population trends across years. The ADP value is established through DOCR records of daily population counts and is considered an industry standard.

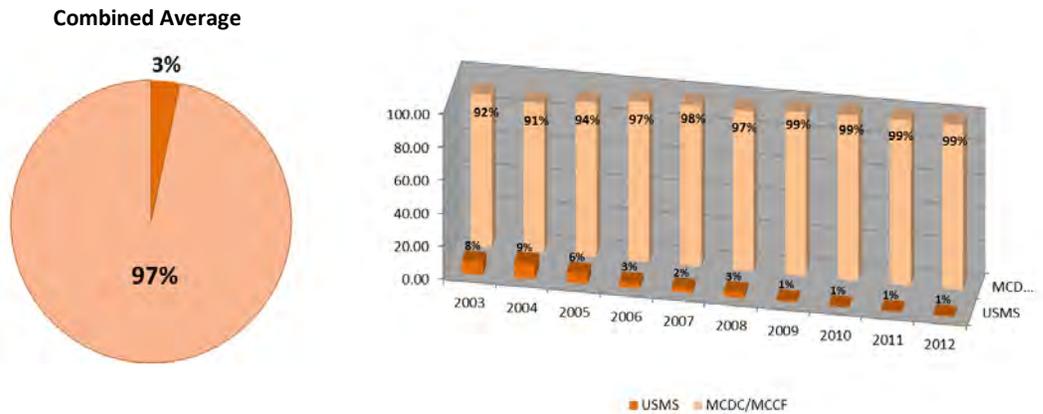
Montgomery County also houses inmates for other jurisdictions (e.g. U.S. Marshal, Bureau of Prisons, probationers, etc.) under contractual agreement. For planning purposes, the consultant was directed to exclude Federal inmates from the MCDC and MCCF data bases (e.g. admissions, ADP, and

3. INMATE POPULATION PROJECTIONS

ALOS trends). This decision was based on the recognition that it is at DOCR discretion to hold Federal inmates and that the resultant bedspace projections should reflect Montgomery County needs only.

Previously, DOCR had a contractual arrangement with US Marshals to take Federal inmates who were awaiting trial in Federal courts in the area, as well as those who were awaiting transfer to a permanent facility after sentencing. At present, as a courtesy, DOCR continues to take Federal inmates for brief stays - generally these are inmates who are in-transit.² As illustrated below, the analysis of ADP revealed that on average, Federal inmates have historically comprised 3% of the daily census.

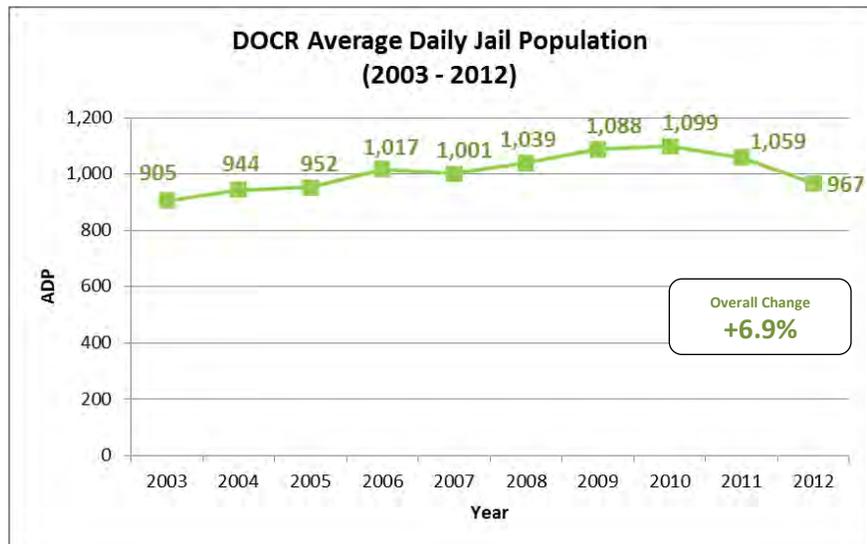
Federal Inmates as a Percentage of ADP Totals



The next graph presents the historic average daily population (ADP) for the County over the period of 2003 to 2012, when Federal inmates are excluded. Overall, the ADP increased by almost 7% between these years, from 905 in 2003 to 967 in 2012. Historically, ADP did not exceed functional capacity at any DOCR facility during the ten-year study period.

² The County has a long-standing agreement and contract with the U.S. Marshal's service to hold Federal detainees who are awaiting trial in one of the Federal courthouses in this region. The County reserves the right to continue this excellent relationship which provides revenue to local taxpayers in support of the County budget and to hold those prisoners in Rockville or in Clarksburg depending on bed space availability and ease of movement. Relative to the Pre-release Center, the County has always had a contract with the Bureau of Prisons for Federal prisoners in the work release program. The Pre-Release program accepts Federal prisoners returning to this area in their last 4-5 months. This has been an ongoing program, and the number of Federal prisoners accepted into it has increased over time, never to exceed the bed capacity at the Pre-Release Center. A decision was made then to report the Federal population as part of the ADP count, since this is a very stable and long standing component of the PRC population (email communication with DOCR's Director Art Wallenstein, March, 29, 2013).

3. INMATE POPULATION PROJECTIONS



Note: Excludes Federal inmates housed in Montgomery County jails (MCDC and MCCF).

The graph also reveals that in 2006, the DOCR average daily population experienced an unprecedented growth, reaching over 1,000 inmates on average - seen here as the beginning of a later continued upward trend. This relative spike in demand for beds prompted DOCR to convene the Jail Population Work Group, a sub-group of the Criminal Justice Coordinating Commission, to explore the reasons for such growth and recommend ways to address it.³ As a result, a new matrix for providing assessments for pre-trial release was implemented in both the District and Circuit Courts, which increased the capacity for defendants to be placed under supervision in lieu of jail, with no increase in the failure to appear (FTA) or re-arrest rates (currently at less than 3%). The consequent short-term decline in ADP was also driven by a drop in District Court criminal case filings and an improvement in criminal case clearance rates at both the District and Circuit Courts.

The 2007 ADP decrease was followed by three consequent years of consistent ADP growth. After peaking in 2010, the jail's ADP fell from 1,099 to 967 in 2012 - a 12% decrease, which, according to DOCR representatives can be attributable to the November 2010 abolition of the weekend incarceration

³ As reported on the 10/11/11 DOCR Performance Plan, the Jail Population Work Group, consisting of DOCR, District and Circuit Courts, the SAO, the Office of the Public Defender, MCPD, State Parole and Probation, and community members, "recognized that space was being impacted by process and operational considerations (especially pre-trial) as much as by actual criminal behavior and arrests in the community. The development of the new matrix was done with assistance from community partners - George Washington University Criminal Justice Program and the US Justice Department - National Institute of Justice. It also required the support of District Court Administrative Judge Eugene Wolfe, Circuit Court Administrative Judge John Debelius and State's Attorney John McCarthy. As stated by DOCR, their trust in the new methodology has been more than vindicated in terms of FTA data and perhaps this factor amongst all others explains the current availability of bed space within DOCR facilities.

3. INMATE POPULATION PROJECTIONS

program at MCDC, the instituted changes in the programmatic “good time” practices at MCCF, and the re-establishment of parole hearings at the local level.

As of the date of this report, females comprised 8% of the daily Montgomery County DOCR inmate population. The population was evenly divided in terms of legal status, at 49% pre-trial vs. 51% sentenced, with misdemeanor offenders representing 66% and felony offenders 34% of the total population.

Independent Variables

The analysis of the factors (independent variables) that can have both a direct and indirect impact on inmate population growth took into account a wide array of data. In addition to historical admissions (DOCR jail intakes) and average length of stay (ALOS) trends, which were analyzed as main factors impacting ADP projections, the following factors and forces that might explain the size and growth of the inmate population were considered: changes in County demographics, changes in the crime rates and arrest trends, and the consequences of the criminal courts’ caseloads in particular.

County Population

Analysis

County population is the most predictable driver of change in the patterns and nature of crime. As such, demographic trends are especially important variables to consider in relation to jail figures. Tracking population growth rates and patterns helps anticipate future demands on the jail: as a County’s population grows, the number of admissions is also likely to increase.

The consultants did not develop independent County population forecasting. Rather, the State Demography Office was utilized as the primary data source for County population trends and projections in order to gain an understanding of the likely future County demographics.

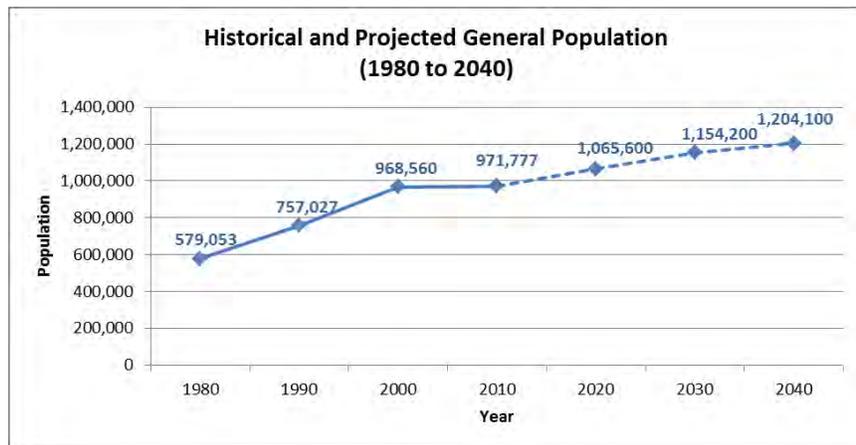
Actual and Forecasted General Population

According to data from the U.S. Census Bureau, the growth of the Montgomery County general population peaked in the 1980’s, then surged again in the late 1990’s. Between 2000 and 2010, Montgomery County’s population increased by more than 98,000, an 11.3% increase in just ten years (from 873,346 to 971,777).⁴ A combination of record birth levels and an influx of new residents drove the most recent population boom.

⁴ U.S. Census Bureau <http://www.census.gov/popest/data/counties/totals/2009/tables/CO-EST2009-01-24.xls>

3. INMATE POPULATION PROJECTIONS

While the population is no longer increasing at a rate as fast as during 1980 and 1990 when it peaked at 2.7% per year, the most recent Census data (2010) indicates that Montgomery County will continue to experience a steady growth, although at a much slower pace, typical of larger, more developed counties. As depicted on the chart below, the Maryland State Planning Department projects that Montgomery County population will reach 1,015,800 people by 2015, and 1,185,700 by 2035.



Source: Maryland State Data Center, Department of Planning

“At-risk” Population

Equally important as acquiring information on past trends in the general County population is obtaining historical data on the demographic composition of the county’s young population. Criminologists have long noted that a certain segment of the population has a higher chance of becoming involved in crime, being arrested, and being incarcerated. Such particular segment of the population is known as the “at-risk” population, which generally consists of younger males. The ages correlated with the highest crime rate are 15-25, while the highest adult incarceration rate is associated with offenders between the ages of 18 and 34.⁵ When the at-risk population is expected to increase in a jurisdiction, one can also expect additional pressure on criminal justice resources, all things being equal.

As an indicator of crime, it is then important to know whether the young male population in Montgomery County is expected to increase or decrease in the near future. Although, as indicated by DOCR representatives, the age profile of inmates has been very stable over time, the Montgomery County population itself has been changing, with a significant percentage of young

⁵ The target population for a forecast of youth processed in the adult system is youth under 18, with a particular focus on youth 14–17 years old (nearly all youth charged as adults fall within this range).

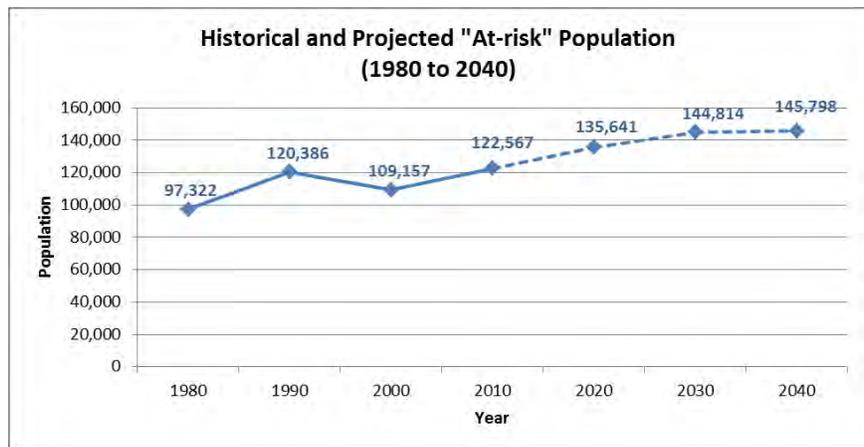
3. INMATE POPULATION PROJECTIONS

men cohorts moving through the age groups most likely to commit offenses, as shown in the Table below.

Table 3.1. Montgomery County Historical "At-risk" Population

Year	County Population	Males 15-19	Males 20-24	Males 25-29	Males 30-34	Percent
2003	910,498	29,879	23,935	27,215	32,225	12.44%
2004	914,991	30,482	24,823	27,516	31,025	12.44%
2005	921,531	31,086	26,052	28,297	30,034	12.53%
2006	926,492	31,512	26,652	28,836	29,440	12.57%
2007	931,694	31,756	27,036	29,515	29,305	12.62%
2008	942,748	31,726	27,003	30,870	29,700	12.65%
2009	959,013	31,294	27,209	32,067	30,691	12.64%
2010	971,777	31,127	27,294	32,506	31,640	12.61%

Looking ahead, projections indicate a considerable growth in the at-risk age cohort category, the majority of who are expected to be members of racial and ethnic minority groups, considering present trends of increasing ethnic/racial diversity groups within Montgomery County.



This is a pattern that could have significant implications for the criminal justice system, as projected growth in the General Population at large and this cohort specifically could impact jail bedspace demand, *if* a significant relationship between these factors is discovered.

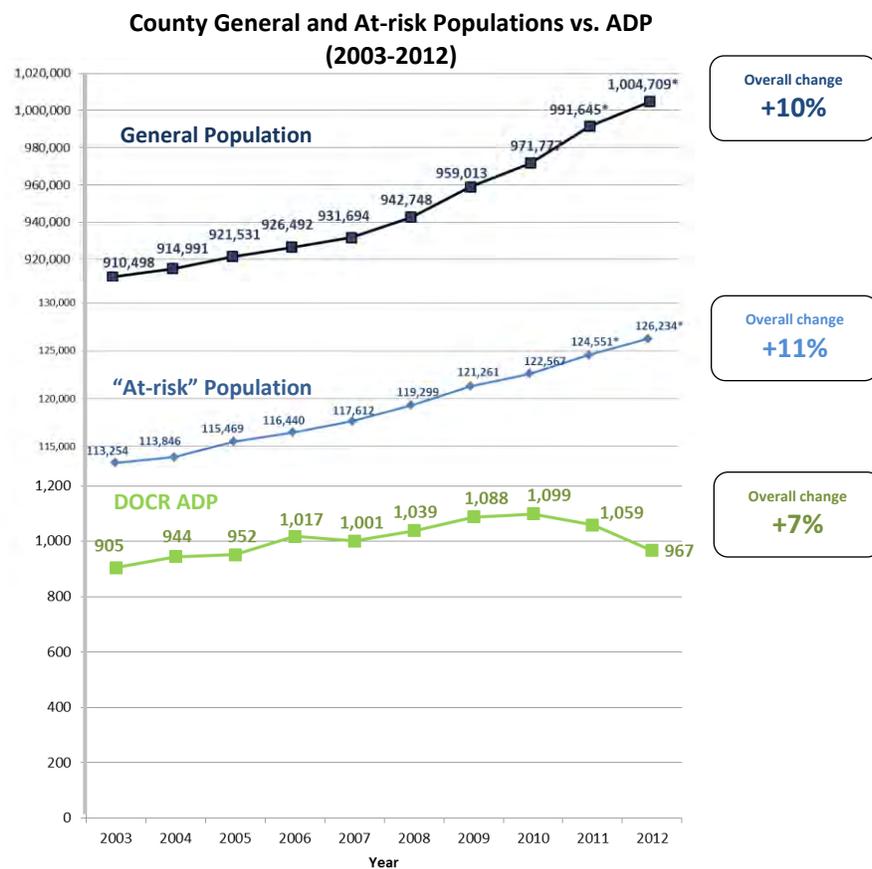
Correlation Findings

The chart below compares County General and At-risk populations to the average daily inmate population.

3. INMATE POPULATION PROJECTIONS

From 2003 to 2012, the *County General population* increased at a relatively slow, steady pace. While jail ADP mirrored General population trends in the earlier part of the studied decade, it experienced a significant drop since 2010, not evident in the County's population at large.

A comparison of jail ADP against the At-Risk Population during the same time frame shows a similar pattern: while the jail population has been significantly decreasing in recent years, the At-Risk cohort of the general population continued to show a steady pattern of growth.



If jail population was correlated to the examined County population trends, the ADP would have increased significantly in recent years. Yet the average number of inmates in DOCR facilities has decreased more than 12% over the last two years. Thus, a significant correlation between County population trends and jail use could not be established. Accordingly, the numbers suggest that in the future, no extraordinary impact on the justice system can be expected due to the County's overall population growth.

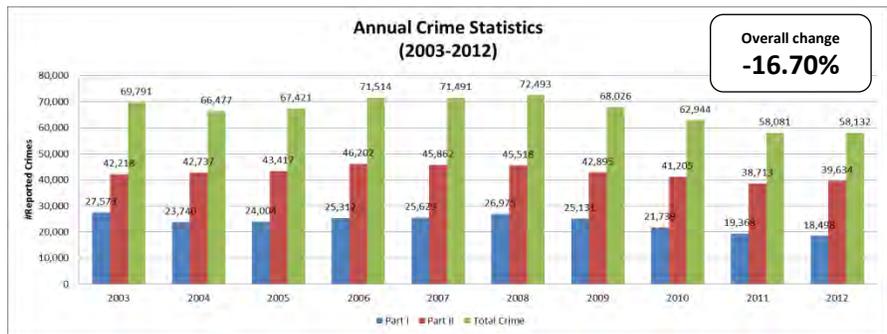
3. INMATE POPULATION PROJECTIONS

Law Enforcement Trends

Reported Crime

Analysis

It is noted that jail size is not a direct function of the crime rate in a community, but crime data cannot be ignored and should be considered for growth trends. As such, ten (10) years of annually reported crime statistics were reviewed, which demonstrated that Montgomery County has enjoyed a marked downward trend in both violent and non-violent crime rates for the last several years.

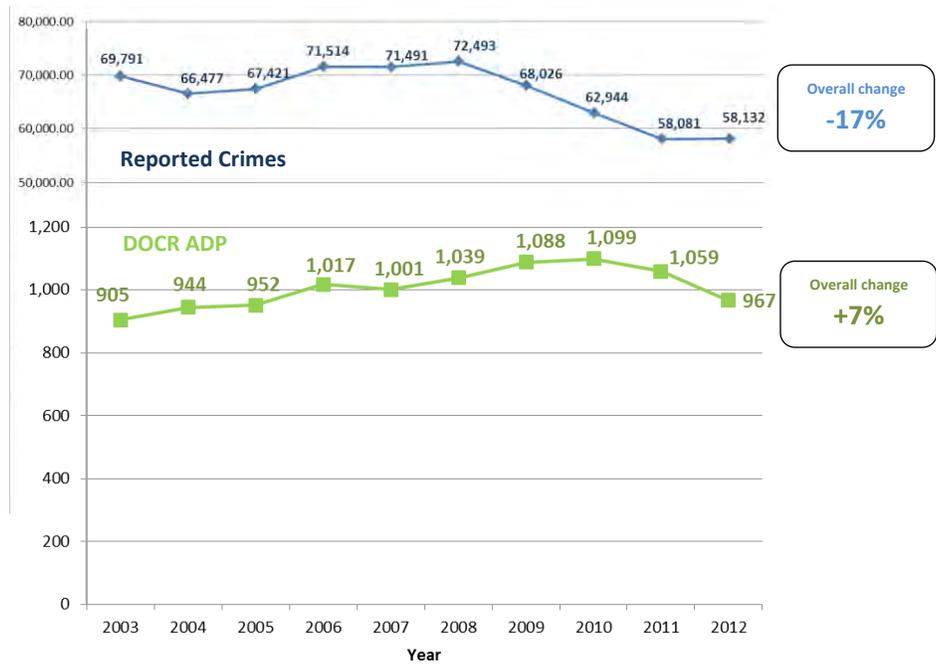


Correlation Findings

The next chart compares historical crime trends to jail population for the same ten-year period, illustrating a lack of significant historical correlation between reported crime trends and jail ADP. In fact, the calculated correlation coefficient denotes a negative, weak, correlation between these two factors. Specifically, while several factors might have been fueling the increase in the average daily jail population between 2008 and 2010, the fluctuation in reported crime was, at best, a weak contributor.

3. INMATE POPULATION PROJECTIONS

**Reported Crimes vs. ADP
(2003-2012)**

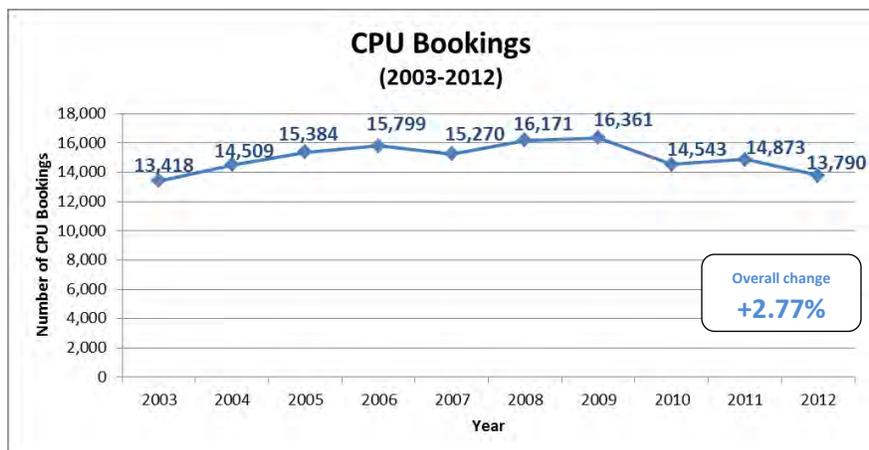


Arrest Trends (CPU Bookings)

Analysis

Generally speaking, the number of arrests is one of the main factors that lie behind the rising and falling numbers of inmates in jails, since a high portion of arrests result in a jail intake.

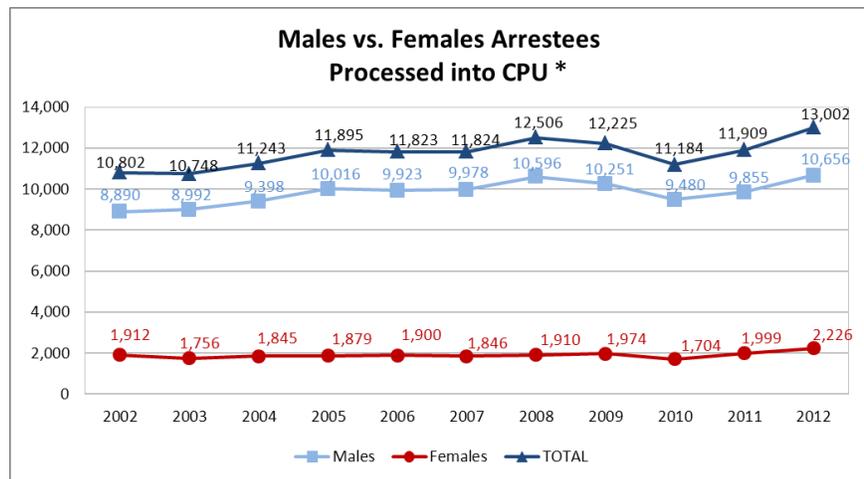
Ten (10) years of annual CPU processing data were reviewed. As illustrated in the following chart, annual bookings into CPU have increased slightly less than 3% overall during the study data period, from 13,418 bookings reported in 2003 to 13,790 bookings by the end of 2012.



3. INMATE POPULATION PROJECTIONS

No consistent trends have been noted annually, with both upward and downward fluctuations during the study period. The number of bookings into CPU dropped from its highs in the 16,000 range to 13,790 in 2012, representing a 15.71% decrease from the 3 previous years. The latest number also represents the lowest arrest rate since 2003.

When the CPU bookings are disaggregated by gender, the analysis shows that adult female bookings have increased by an average of 3% annually over the past ten years, slightly faster than adult male bookings with a 2% average annual growth.

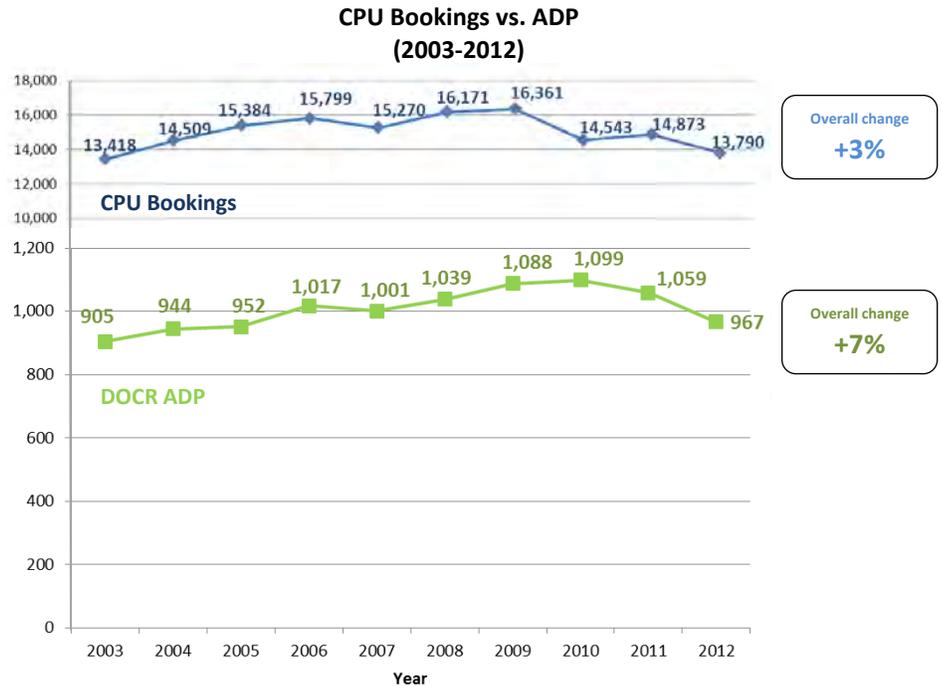


* Total numbers reflects only those arrestees who went through the full booking process in CPU. It does not include many of the traffic offenses, any civil cases, and some arrestees brought in by outside, non-reporting law enforcement agencies. Traffic and civil cases are not fingerprinted, not is the information entered into the arrest booking system

Correlation Findings

The chart below displays the number of bookings into CPU and the jail ADP for the 10-year study period. Available data supported a strong correlation between the number of arrests (CPU bookings) and the average number of jail inmates (ADP). In fact, trends in bookings into CPU were found to be the best predictor of historical changes in the jail ADP.

3. INMATE POPULATION PROJECTIONS



However, arrest data provide little insight into the slightly upward demand for jail capacity that occurred in 2010 despite an 11% drop in arrests the same year, or the reverse phenomenon in year 2011. In conversations with DOCR officials, it seems that the work in pre-trial release decision making, community supervision and the use of broad based community service programs has moderated jail population growth. Specially amongst these factors, is worth mentioning the work of Pre-trial Services in continued effective implementation of the screening matrix (fully supported by the District Court, Circuit Court and State’s Attorney’s Office) as the main dynamic factor in keeping bed space available while still meeting the priority of public safety. Additionally, the DOCR’s automated case assignment system seems to be helping reduce processing times, with the prompt assignment of cases from the jail to PTSU.

Criminal Courts Caseload and Processing Time

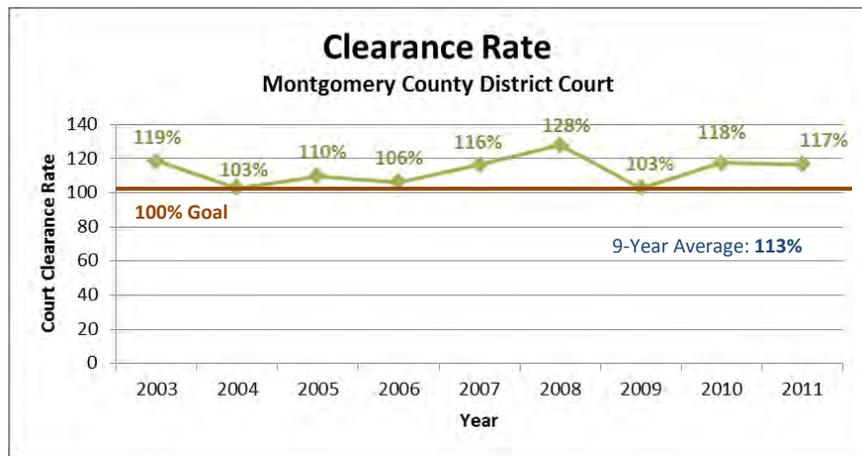
Analysis

Another influential factor on jail population trends is court policies and practices. Growth in both District and Circuit criminal court filings and in their annual rates of criminal case dispositions are indicators of the Courts’ operating efficiency and of a potentially growing backlog of cases that might contribute to an increased ADP by increasing the average length of stay.

3. INMATE POPULATION PROJECTIONS

Clearance rate is one of the workload measures used by the Courts to assess how efficiently the judicial system is processing its cases. This measure indicates whether the court is keeping up with its incoming caseload or is unable to process all upcoming caseload efficiently, thus creating or increasing a backlog. At a minimum, Courts should strive to dispose of as many cases as have been filed and reopened in a given period as to maintain a clearance rate of 100%.

An analysis of ten years of data demonstrates that the rate of criminal case filings to dispositions (clearance rate) in District Court averaged at a highly efficient rate of about 113%⁶.

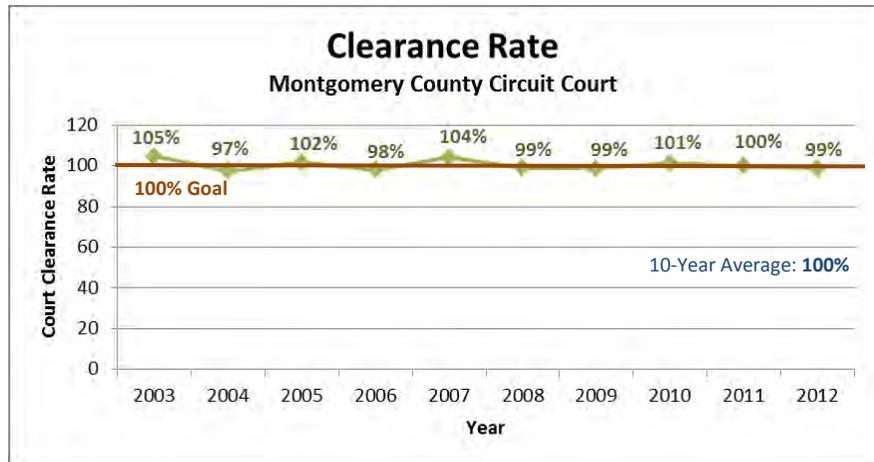


Data Source: District Court Headquarters

The Montgomery County Circuit Court’s criminal clearance rate during the ten-year study period ranged from 105% in FY03 to 99% in FY12, with the lowest clearance rate occurring in 2006 at 98%. In 2010 the clearance rate improved to 101% but started to decrease since then to under 100 in FY12 (99%). However, looking at the 10 year period it shows an average clearance rate of 100.31%, which slightly exceeds the 100% clearance rate goal.

⁶ The methodology for calculating clearance is to divide the number of case terminations by the number of case filings for a given time period (both original and re-opened filings and terminations included).

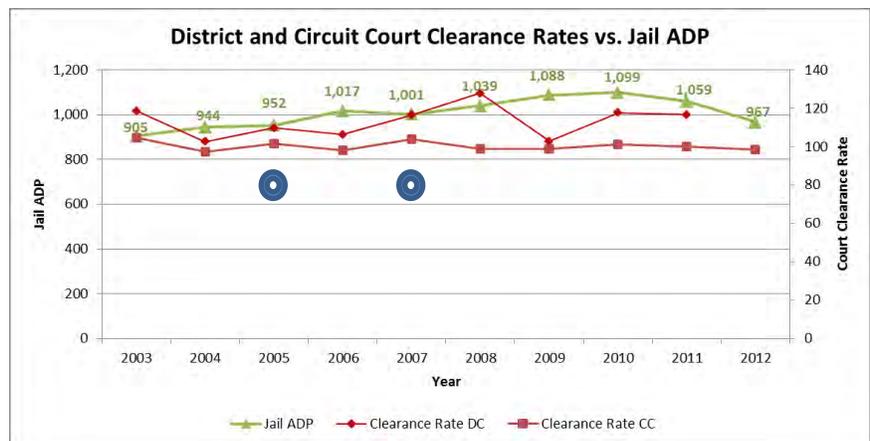
3. INMATE POPULATION PROJECTIONS



Data Source:
<http://www6.montgomerycountymd.gov/Content/CircuitCourt/Court/Publications/CourTools/CourTools.html>

Correlation Findings

The following chart demonstrates the jail ADP, along with the annual clearance rate for both District and Circuit Courts. Circled are the years in which efficient court operations, demonstrated by an increase in the rate of terminations, had a positive impact on the jail population (reductions or sustained stability).



When analyzing the impact of court efficiencies on average daily jail population, one can expect that if a correlation exists between the two variables, an increase in court clearance rates (near or greater than 100%) should result in a decrease in the jail ADP. Similarly, when the clearance rates decrease, the ADP tends to increase.

3. INMATE POPULATION PROJECTIONS

In 2006, when the jail reached the first highest ADP year on record, both the District and Circuit Court had lower clearance rates, with the Circuit Court's clearance rate being less than 100% (98%). Since then, except for 2009, both courts improved their clearance rates to near or above 100% between 2007 and 2010, while the jail ADP increased by an average of 16 inmates daily during the same period. Moreover, in 2010, when the ADP was at its peak of 1,074, both the District and the Circuit Court had a clearance rate of more than 100% (119% and 101% respectively). It appears that no correlation can be made historically between case filing activity in the criminal courts and jail ADP.

Based on the results of this analysis, it seems then that maintaining high clearance rates at both the District and Circuit courts has not always helped decrease and stabilize the jail population. There is no significant relationship between the courts and the jail population.

DOCR Trends

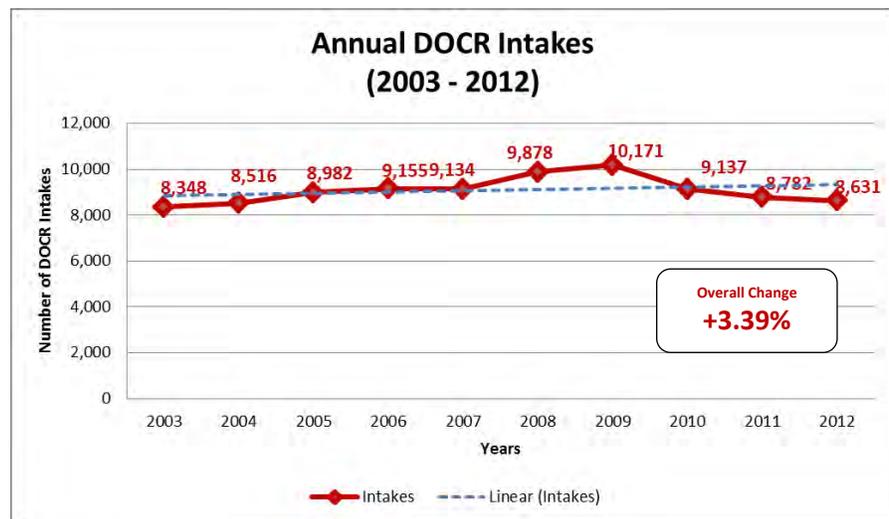
Jail Intakes (Admissions)

Analysis

For statistical purposes, an "intake" is a person remanded to DOCR custody and admitted to jail. DOCR intakes include defendants admitted at any of the department's local facilities (MCDC, MCCF, and Pre-Release Center, including the non-residential pre-release Home Detention program). Although the status of some defendants may change from *pre-trial* to *sentenced* during their stay with DOCR, only their initial entry is counted as an admission. In Montgomery County, the majority of jail admissions stem from immediate arrests, as opposed to direct court commitments and transfers.

As illustrated in the next chart, over the historical period of 2003 to 2012, the number of intakes increased by 3%, from 8,348 in 2003 to 8,631 in 2012. Between 2003 and 2006, the number of intakes remained consistently flat almost each year. After a small decrease in the number of jail intakes between 2006 and 2007, intakes into DOCR saw a significant upward trend since, at a fairly rapid rate from an annual low of 9,134 in 2007 to a high of 10,171 in 2009.

3. INMATE POPULATION PROJECTIONS

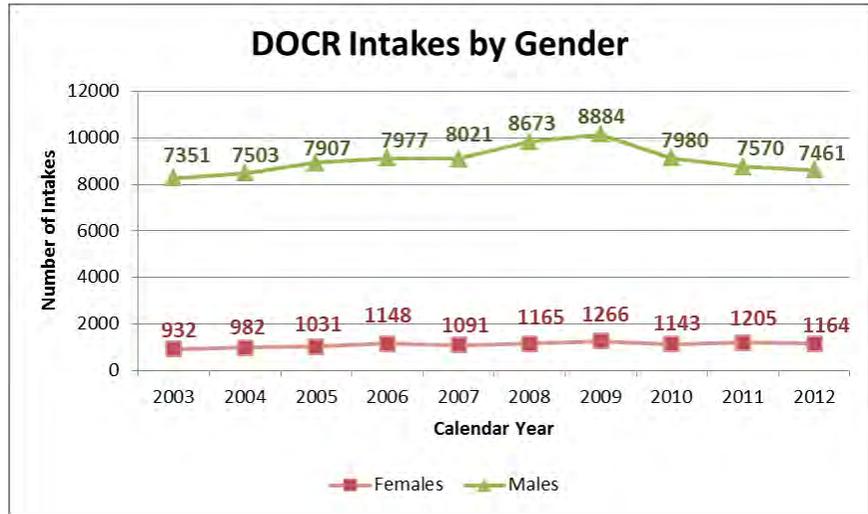


Since peaking at 10,171 in 2009, the number of intakes has experienced a rather quick downward trend in recent years. In 2012, there were 8,631 intakes to DOCR, an average of 24 per day (1 per hour). A reduction of the law enforcement agencies' workforce with jurisdiction in Montgomery County may partially explain the decline in jail intakes since 2009-2010. According to data from the FBI, between 2008 and 2010, the Montgomery County Police Department (MCPD) lost 108 officers, which certainly had an impact on the number of officers per capita.

While there has been a decline in police officers since 2008, the increase in arrests during the same period does not reflect the same rate of decline. The decline in arrests and admissions only began in 2010, two years after the decline in workforce, pointing to a conclusion that the 2010-2012 declines may be related to a change in law enforcement policies, where local arrests might have been de-emphasized by the MCPD.

When admissions are disaggregated by gender, the analysis shows that overall the female population has increased at a comparatively faster pace than the male population.

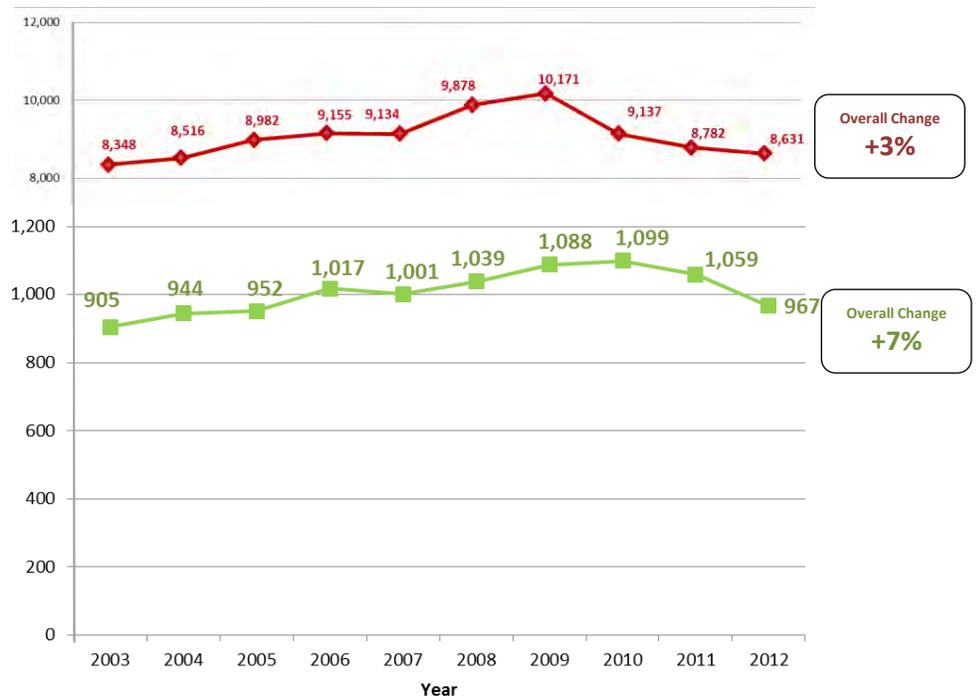
3. INMATE POPULATION PROJECTIONS



Correlation Findings

Jail intakes are considered a major indicator of ADP since changes in the ADP can correlate with changes in the number of admissions. As the chart below demonstrates, a historical correlation between ADP and intake changes can be seen. However, it is worth noting that the two trend lines did not track each other consistently, with ADP slightly increasing by 0.4% between 2009 and 2010, while the number of intakes experienced a dramatic decrease by 11% (coincident with a significant drop in arrest numbers).

**DOCR Intakes vs. ADP
(2003-2012)**



3. INMATE POPULATION PROJECTIONS

Average Length of Stay (ALOS)

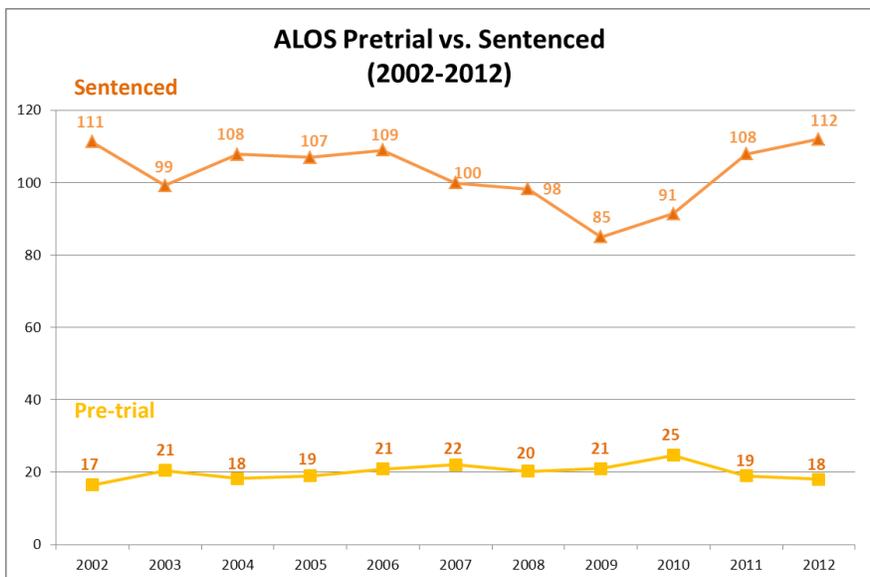
Analysis

The most important indicator of a jail system’s potential for growth is the average length of stay (ALOS) of its inmates. Given an equal number of intakes, a variation in the ALOS can have a significant impact on the size of the jail system’s population.

Unlike Intakes and ADP numbers, ALOS is a calculated figure, representing the amount of time between intake and release, typically expressed in days. For the purposes of this analysis, the ALOS is the mean for all inmates under DOCR custody and is calculated for each population group by their legal status (pre-trial vs. sentenced).

An analysis of the ALOS for pretrial defendants showed that overall the average has remained relatively stable over time. ALOS increased by about 4 days in 2010 for a 10-year high ALOS of 25 days. A significant drop by about 7 days occurred between 2010 and 2012.

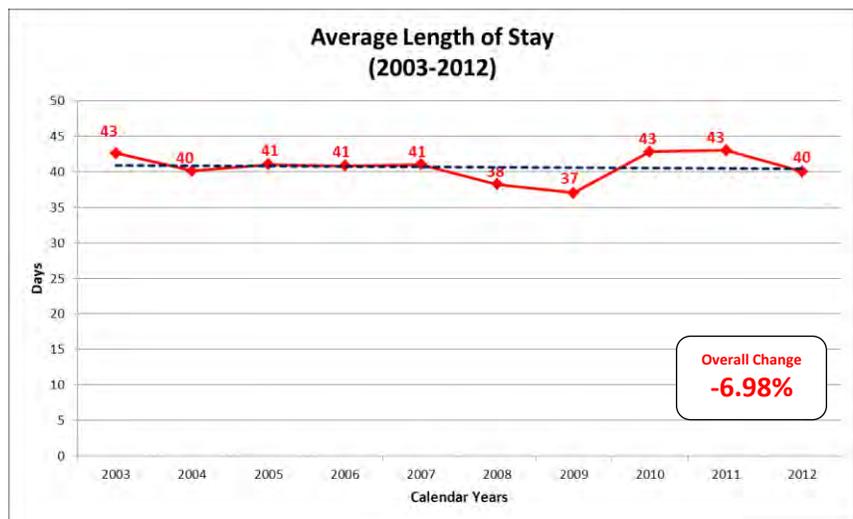
The ALOS for sentenced inmates in Montgomery County has experienced fluctuations. After a significant drop in 2006 from 109 days to 85 days in 2009, the ALOS increased again for the last three years reaching a historical peak in 2012 at 112 days. This represents a 31.76% jump over the last three years, although resulting in only a 1% increase from the 2002 number.



3. INMATE POPULATION PROJECTIONS

Generally speaking, one of the roles of inmate programming is helping to reduce length of stay at any correctional facility, thus reducing prisoner days in custody. The increase in ALOS experienced by DOCR population within the last three years coincides with the abolition of 5 programs at the MCCF in 2005 which, according to DOCR reports, increased the number of inmate days in the facility by a total of 3,960 days – roughly the equivalent of 10 beds (DOCR Inmate Programming Cost/Benefit Analysis, September 17, 2010. Actual FY11 Savings from Eliminating Programs).

The next graphic shows the combined ALOS for pre-trial and sentenced populations. The ALOS in 2003 was 43 days and in 2012 it was 40 days, making for an about 7% decrease over the period.



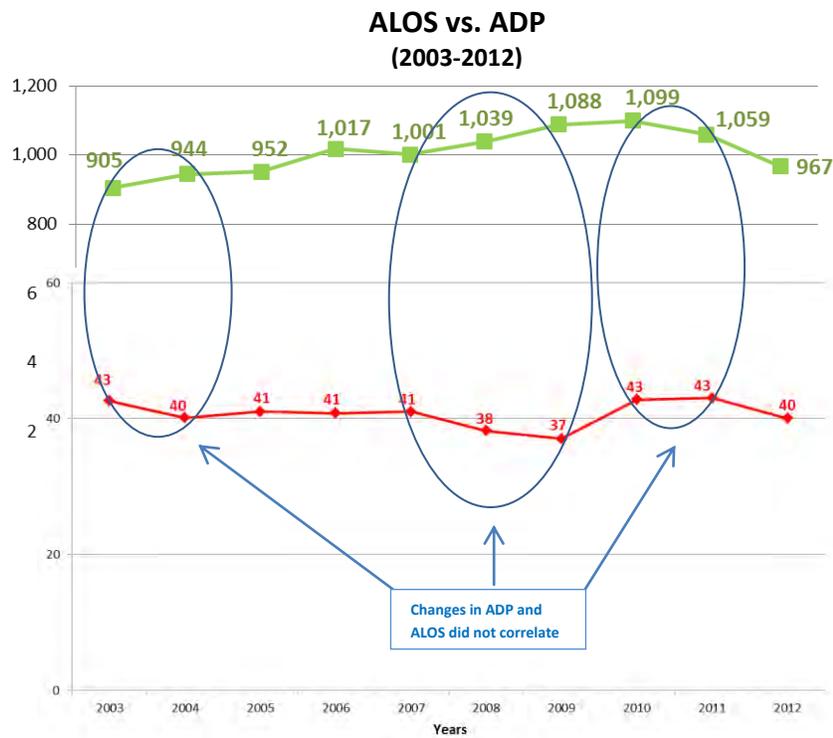
Although the combined ALOS has varied overtime, with inmates experiencing a minimum of 37 days and a maximum of 43, the combined average length of stay data shows that for the 120 months, overall it has remained at the 40-day level.

Compared to similar jail systems known to the consultants, which have lengths of stay that are below the 30-day range, this number appears to be high. But it may be that the LOS has not declined to the levels reported in other jurisdictions because as the Montgomery County jail population has declined, the residual jail population has become increasingly composed of individuals charged with or sentenced for felony level crimes, as well as the practice by Montgomery County Judges of utilizing the local jail system, rather than the state correctional system, as an alternative sentence for some offenders.

3. INMATE POPULATION PROJECTIONS

Correlation Findings

The chart below compares ALOS to ADP. Overall, the chart identifies a lack of correlation between ALOS and ADP. The lack of correlation between 2007 and 2009 is the most extreme for the 10 year period, with ADP increasing by 4% while ALOS decreased by nearly 10%.



3.3. Baseline ADP Projections

Projection Assumptions

The remainder of this section presents the results of the 20-year forecast. Like any other forecast, there are a number of assumptions that form its basis. The key assumptions for this study’s forecast are as follows:

- While the County population will continue to increase, as described in Chapter 1 of this report, it seems that Montgomery County’s population will become an older population and have a smaller proportion of the at-risk population. Moreover, it is unclear whether the projected population at risk, many of whom are not yet born, will actually materialize and whether they will become involved in criminal activities at the rate early cohorts have. As such, County demographics are not likely to drive a significant rise or drop in justice trends.

3. INMATE POPULATION PROJECTIONS

- Since 2008, there has been a dramatic decline in the County's crime rate, and it is presumed that crime rates will not increase significantly moving forward. Due to a lack of correlation with ADP, crime was not used as a predictor of future jail bedspace needs. Collectively, the County's demographics and crime trends suggest no significant increase in the number of DOCR intakes.
- The number of adults arrested for both misdemeanor and felony level crimes has declined since 2009, and significant increases are not certain, despite MCPD's reported plans to increase patrol officers over the next three years (see Chapter 2 for discussion).
- The number of jail admissions has been declining consistently since 2009.
- Average length of stay, at about 40 days, is at levels similar to those of 2004.
- The current DOCR population has been hovering consistently at around 1,000 inmates for the last 7 years.
- As long as funding remains intact, so will existing pre-trial release, diversion and alternatives to incarceration programs, with no major changes in policy or reduction in services that would affect current performance and outcomes.
- All of the baseline projections are based upon 10-year trend data and the assumption that historic trends predict future outcomes.

Projected Baseline ADP

Forecasting future jail bed requirements required projecting the most relevant indicators of jail activity into the future. No significant correlations could be established between jail use and County population, crime, or court caseload. The lack of correlation between ADP and any of these external factors made them unsuitable as the basis for projecting future jail bedspace needs.

The statistical correlation coefficient tests demonstrated that the strongest positive correlations were found between ADP and two different sets of variables as follows:

- CPU Bookings (arrests) and ADP tended to move in the same direction.
- DOCR Intakes (admissions) and ADP tended to move in the same direction.

Additionally, historical average daily population (ADP) trends provide a reference point. The resulting baseline projections are described below, providing County officials with several possible scenarios suggesting what the County might expect for the next 20 years for facility planning purposes. The 2012 ADP served as the base year. These baseline forecasts assume no

3. INMATE POPULATION PROJECTIONS

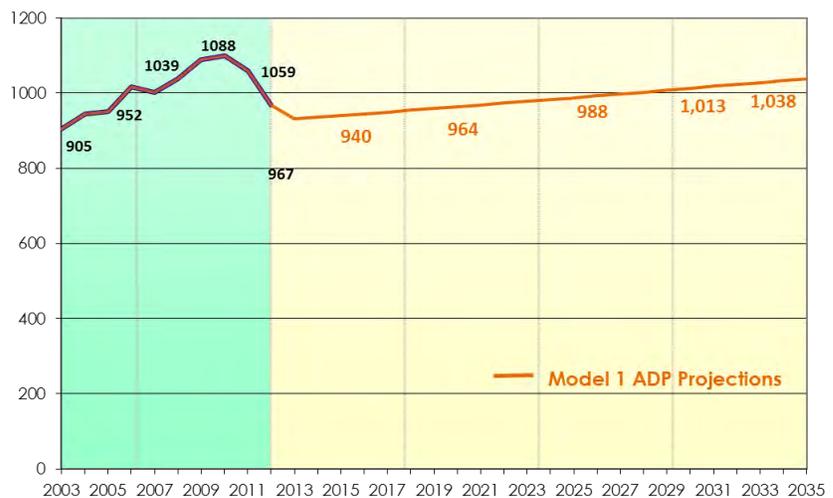
future changes in policies or procedures, that is to say, that criminal justice indicators will remain at levels observed during the ten-year data period (2003-2012).

- Model 1. Arrest Trend - ties the ADP projection to the arrest's historical trend.
- Model 2. Admissions Trend – is an application of the basic capacity formula: Admissions x ALOS / 365 = ADP
- Model 3. Average Daily Population (ADP) Trend – uses a linear regression method to calculate the total percentage change from the beginning point (2003) to the end point of the historical data series (2012).

Model 1: Arrest Trend

The exploratory analysis demonstrated an historical relationship between arrest and ADP. To estimate future ADP, the first step was to project future arrest (independent variable). Arrests were projected by calculating the annual rate of change in arrest over a 10-year period and averaging it. This average rate of change was applied to future years.

The second step was the calculation of the ratio of ADP to arrest for the same 10-year period. An average ADP to arrest rate was calculated and applied to the arrest projections for the 5-year forecast horizons.

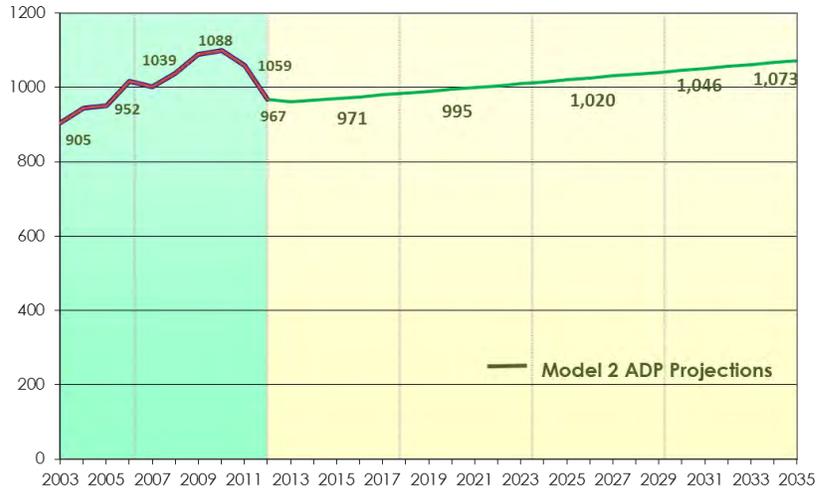


As the graph illustrates, ADP projections based on this model ranged from 940 inmates in 2015 to a forecast of 1,038 inmates by year 2035. This model yielded the lowest forecast.

3. INMATE POPULATION PROJECTIONS

Model 2: Admissions Trend

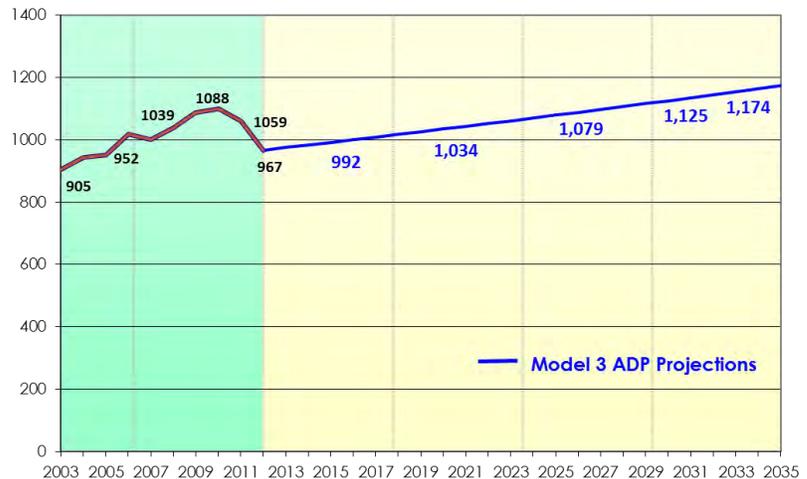
This methodology first required projecting future admissions based on the historical average growth rate, as described for projecting arrests above. Projected admissions were multiplied by a constant length of stay of 40 days. This yielded projected bed days for the projected years, which was then divided by 365 to obtain annual ADP.



Based on this model, ADP projections ranged from a low of 971 in 2015 to a high of 1,073 inmates by year 2035. The result is higher than the previous model, but is still fairly close.

Model 3: ADP Trend

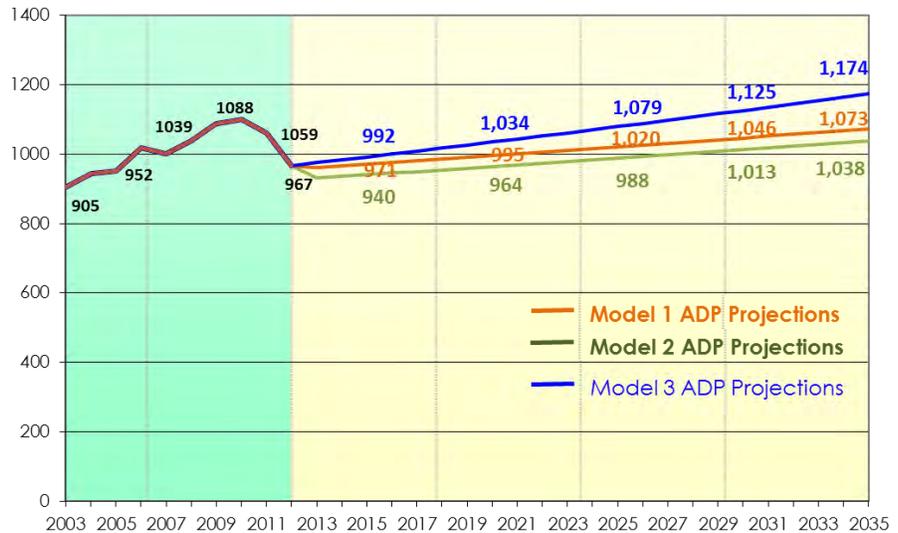
This forecast uses a linear projection methodology based exclusively upon the historical ADP of the jail from 2003 to 2012 (see graph below). This model assumes that historical trends will predict future needs, and that the ADP will trend at the same rate in the future as it did historically.



3. INMATE POPULATION PROJECTIONS

Using this methodology, ADP projections ranged from a low of 975 inmates in 2015 to a high of 1,174 inmates by year 2035. This model resulted in the highest ADP projections of the three.

The chart below shows the County's actual inmate population (year 2012) and the inmate population projections for the next 20 years (2015-2035), indicating the results of the three forecasting models.



As a point of comparison, in the short term (2015), the ADP projections could range from a low of 940 to a high of 992, a 5.5% differential between the low and high models. Looking at the 20-year projection (2035) the ADP forecast ranges from a low of 1,038 to a high of 1,174, a 13% differential.

Summary Table 3.2. ADP Projections

Forecast Models	Actual		Projected ADP				
	2012	2013	2015	2020	2025	2030	2035
Model 1 – Arrests	967	931	940	964	988	1,013	1,038
Model 2 - Admissions	967	961	971	995	1,020	1,046	1,073
Model 3 - ADP	967	975	992	1,034	1,079	1,125	1,174

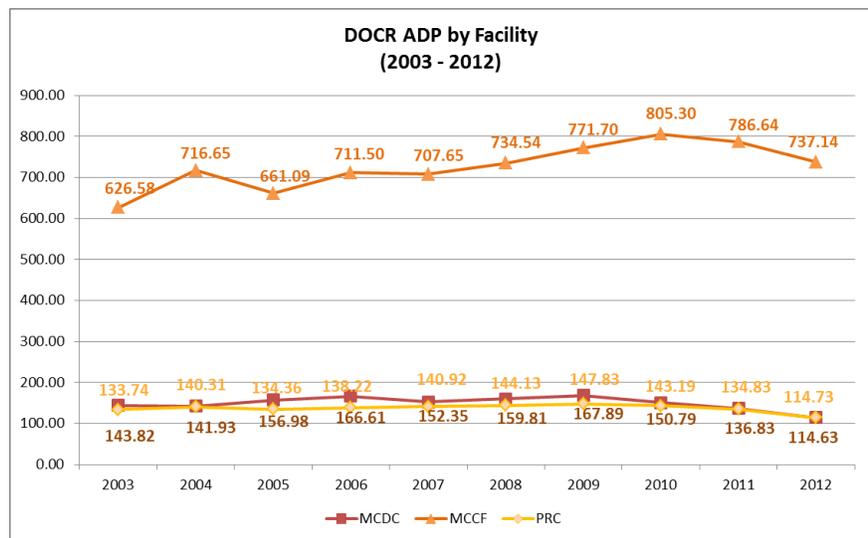
The ADP is expected to grow from the current 967 inmates (2012) to somewhere in between 1,038 and 1,174 by year 2035. This represents a 7% - 21% increase over the 20 year forecast horizon. It should be noted that at this stage of the process, ADP represents inmate population projections, not future bedspace requirements.

3. INMATE POPULATION PROJECTIONS

Baseline ADP by Facility

DOCR has the flexibility of a three facilities system and can manage the movement of inmates between them. However, for planning purposes it is important to determine ADP trends for each facility, as each has a specific function across the corrections continuum.

Historical ADP data was reviewed for each facility across the 10-year study period (see graph below), and then compared to the total system annual ADP to calculate a facility ADP percentage of the whole (e.g. what percent of the entire inmate ADP was housed in MCDC, MCCF, and PRC each year).



The historical percentage by facility type is provided in Table 3.3.

Table 3.3. Historical Percentage by Facility

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	Average
MCDC	16%	14%	16%	16%	15%	15%	15%	14%	13%	12%	15%
MCCF	69%	72%	69%	70%	71%	71%	71%	73%	74%	76%	72%
PRC	15%	14%	14%	13%	14%	14%	14%	13%	13%	12%	13%
Total ADP	904	999	952	1016	1001	1038	1087	1099	1058	967	

These facility-specific annual percentages were averaged and then applied to the ADP projections range to derive facility-specific ADP forecasts, as shown below.

3. INMATE POPULATION PROJECTIONS

Summary Table 3.4. ADP Projections Range by Facility

DOCR Facility	Average %	Projected Bedspace Needs				
		2015	2020	2025	2030	2035
MDCD	15%	141-149	145-155	148-162	152-169	156-176
MCCF	72%	677-714	694-744	711-777	729-810	747-845
PRC	13%	122-129	125-134	128-140	132-146	135-153
Total ADP Projections Range		940-992	964-1,034	988-1,079	1,013-1,125	1,038-1,174

3.4 Jail Capacity Forecasts

Baseline ADP projections represent the number of *people* anticipated, but it does not reflect the actual number of jail *beds* required to accommodate them. Converting ADP to bedspace capacity requires applying a utilization factor over and above the ADP projections, typically between 10 and 20%. This is accepted nationally accepted good jail planning practice.

For facilities to operate safely and efficiently, a *utilization factor* is applied to the ADP population projections. By its very definition, ADP represents an *average*.

The application of the utilization factor assures that there is adequate operational margin for the jail to function in a safe and efficient manner. As such, the utilization factor accounts for peaks in the daily population census, as well as some operating flexibility for inmate classification flow requirements, and down time of cells/living areas for maintenance and the like.

The following table summarizes the initial projected bedspace need to 2035, once an appropriate utilization factor is incorporated taking into account the role of each facility and the corresponding classification variations.

Summary Table 3.5. Bedspace Projections Range by Facility

DOCR Facility	Utilization Factor	Projected Bedspace Needs				
		2015	2020	2025	2030	2035
MDCD: 200 beds	10%	155-171	159-171	163-178	167-186	171-194
MCCF: 1,028 beds	20%	812-857	833-893	854-932	875-972	897-1,014
PRC: 173 beds	10%	138-142	138-148	141-154	145-161	148-168
Total Bedspace Needs Range		1,105-1,170	1,130-1,212	1,158-1,265	1,187-1,319	1,217-1,376

3. INMATE POPULATION PROJECTIONS

The long-term projections indicate that by year 2035 both MCDC and PRC facilities could be approaching their full capacity⁷. Relative to MCCF, while there is adequate capacity, it should be noted that the original configuration of the housing units at 64-beds/each might not align with current risk/need and separation requirements.

A major objective of this Master Facilities Confinement Study, Task 4 Needs Assessment, will be to examine future bedspace needs in light of current beds available (system-wide capacity), in order to identify the number and type of new beds required across facilities and by classification requirements, as well as when the additional capacity will be needed.

3.5 Conclusions

As noted previously, these figures represent *baseline requirements*, taking into account current practices and broadly reflecting areas of consideration as described in Chapter 2 of this report. If and when there is consensus on any major system changes that are within the purview and power of DOCR to initiate, the bedspace requirements will be modified to reflect any projected impact to the baseline (Task 7: Alternatives to Incarceration Programs and Impact on Population Projections). Two key considerations that have been identified in this regard are Mental Health and Day Reporting initiatives.

It is important to note that jail population projections (generally and specific to this report) rely on a series of assumptions about system policies, practices, and trends. However, any future changes that are drastically divergent from current and short range assumptions (especially those that are outside of the control of DOCR), could affect jail usage in the long term. (National examples include the “war on drugs” and “3 strikes” laws that dramatically impacted jail and prison populations). The assumptions in this report represent the best thinking of the consultant and the many criminal justice stakeholders who provided information and input, with an eye toward the future. In this regard, this report presents an empirical and informed bedspace projection for the Montgomery County correctional system over the forecast horizon, to be modified moving forward to reflect consensus on initiatives evolving from the forthcoming Needs Assessment.

⁷ The current CJC design project provides for 172-beds.

TASK 4. NEEDS ASSESSMENT

4. NEEDS ASSESSMENT

Introduction

The first several tasks of this study, – namely, Factors Driving Bedspace Demand (Task 2) and Population Projections (Task 3), identified a range of future bedspace requirements based on current and anticipated policies and practices impacting jail usage. The purpose of this next task was to further analyze historical changes in criminal justice indicators and inmate population characteristics and trends, and their impact on DOCR facilities’ daily operations, programmatic requirements and bedspace needs. This section also included a classification analysis, to evaluate the alignment of projected bedspace needs with current DOCR facilities’ bedspace capacity.

In the last part of this section, opportunities were identified suggesting areas and initiatives where Montgomery County should focus in order to maximize the use of pre-trial and diversion programs to continuously manage its inmate population.

4.1 Changes in Jail Population Profile and Patterns

Approach

This section of the report examines the long-term impact of changes in the types of offenders and patterns of offending in Montgomery County on jail decisions affecting operational (e.g. security, classification, inmate movement), programmatic (e.g. inmate programs and services) and bedspace needs.

In considering changes in the inmate population profiles, this section builds upon Task 3: Population Projections. However, while the profile of inmates in Task 3 focused solely on who is coming into the DOCR facilities, this task, by contrast, highlights important changes that have occurred over time in the offender population, addressing questions about their dangerousness, their substance abuse and mental health problems and/or other criminogenic needs. In so doing, the assessment moves beyond the baseline projections of Task 3, and narrows in on specific characteristics and factors that are relevant to the classification analysis contained within this chapter.

Methodology and Limitations

The inmate population profile was based primarily on the analysis of data extracted by DOCR staff and personnel from the Department of Technology Services.

4. NEEDS ASSESSMENT

Three randomly-selected snapshot samples of the inmate population were analyzed for the years 2006, 2009 and 2012 (with sample sizes ranging between 914 and 1,003 cases in each) including inmate-level records on basic demographic characteristics, legal status, length of sentence, and special risks and needs. Where available, additional datasets were obtained through MCDC's mental health and MCCF's medical staff to supplement information on health issues and needs between 2009 and 2012. A comprehensive understanding of past criminal offenses, individual charges, and length of stay was not possible due to the limitations of the available data sources, as discussed later in Task 5 of this report.

The review of the quantitative profile data was complemented with a series of e-mails and follow-up conversations with several key criminal justice officials in Montgomery County.

Population Composition: Analysis and Findings

The purpose of conducting an analysis of the inmate population profile was to provide officials with an overall understanding of *who* is in jail, describing the inmate population beyond overall volume.

Inmate populations are comprised of many different sub-populations, each with its own unique classification and programming needs. As the size of various sub-populations fluctuates, demands for inmate housing, programs and services will shift accordingly. For planning purposes, knowing who is in the jail at various points in time enables officials to better plan for the types of jail beds needed, custody supervision response, programs, treatment and services provided, as well as to assess the viability of community supervision options in handling some segments of the jail population by identifying potential candidates for alternatives to incarceration.

Population Snapshot Analysis

A "typical" inmate population profile was developed based on an analysis of a one-day snapshot of the in-custody population on December, 30 of 2012. The snapshot analysis provided basic demographic information about the gender, age, race and ethnicity of DOCR inmates.

Based on the sample snapshot of 914 cases, the "typical" Montgomery County inmate on any given day can be characterized as follows, with "typical" representing the majority value for each variable category:

4. NEEDS ASSESSMENT

Detention Facilities

MCDC (n=90)

- A male offender (94%)
- African American (59%)
- 33 years old on average (57% of the sample is 30 or older)
- Unclassified
- Sentenced status (51%)¹

MCCF (n=633)

- A male offender (93%)
- African American (60%)
- 31 years old on average (56% of the sample is younger than 30 years)
- Classified as “maximum” security (55%)²
- Sentenced status (61%)¹

Pre-release Center

The PRC residential population is composed of County-sentenced inmates, so by definition it is composed of less serious offenders than the typical state prison population. With specific offenses or past violence not impacting eligibility, half of them have been convicted of felonies, half of them of misdemeanors. However, as a result of the rules governing program participation, such as the need to safely function in a community corrections setting and participating in community programming, the PRC omits the most serious and violent offenders, but is otherwise representative of the overall DOCR incarcerated population.

Pre Release Center (n=133)

- Male offender (93%)
- African American (59%)
- 34 years old on average (56% was 30 years or older)
- Classified as “maximum” security (41%) or medium (33%)³

Common to the three facilities, the majority of the jail population is male (approximately 93%) and mid-thirties. More than one third (34%) is between the ages of 18 and 24, and thirty percent is between the ages of 25 and 34 (another 14 inmates are under 18 years of age). Nearly sixty percent of the overall correctional population is African American.

¹ This is a finding that does not coincide with the discussions held with both Warden Green and PRRS Director LoBuglio, who anecdotally reported that the percentage of pre-trial inmates within the jail seems to be more than, or approximately 60%. While there is at this point no apparent reason for such a discrepancy, through continued correspondence with key data staff, a few potential reasons were noted: 1) possible recent increases in the use of 18-month jail sentences and 2) possible recent increases in the length of jail sentences imposed.

² Percentage calculated based on inmates housed in general population (male or female) housing pods.

³ Percentages calculated based on a total of 97 cases with available information on classification level.

4. NEEDS ASSESSMENT

The majority of the inmate population is incarcerated on a sentenced status and released from one of the detention centers to the community (92%), while only 8% are transferred to a State facility. Within the general population, the majority of the inmates are classified as maximum-security, followed by a medium-security classification.⁴ An approximate 15% of the inmate population participates in the pre-release program.

Despite budgetary reductions over the years in self-growth and development programs, program participation among inmates in the Montgomery County facilities has remained relatively high, above 60% at the MCCF.

In terms of previous Montgomery County jail incarcerations, it appears that the jail population is known to the Department, with many inmates having had previous contacts with the criminal justice system and prior admissions to DOCR.

Changing Profiles Findings

Changes in the inmate population profile over time were measured based on an analysis of three daily snapshots of the in-custody population for selected dates over the past seven years. These findings were supplemented by input from criminal justice representatives.

Overall, the analysis of offender characteristics in Montgomery County indicated some significant areas of change that should be taken into consideration in the development of long-term solutions to jail population management, programming and planning (type of beds).

1. Growing Diversity of the Inmate Population

Montgomery County's demographic profile has undergone a slight shift over the last decade, becoming more diverse on a variety of levels. From 2000 to 2010⁵, the percentage of Caucasians living in the County decreased by nearly 8%. In comparison, there have been increases in African Americans (18.8%), Asians (15.6%) and people of Hispanic or Latino origin of any race (17%); and according to latest US Census data, non-Hispanic/Latino Whites now comprise approximately 48% of the population.

Over 31% of the County's population is foreign-born, showing an increasing trend. Additionally, as neighbors around the Washington

⁴ MCCF's percentage was calculated based on inmates housed in general population (male or female) housing pods.

⁵ Source: <http://www.census.gov/>

4. NEEDS ASSESSMENT

region crack down on illegal immigrants, Montgomery County is experiencing an influx of immigrants. In fact, Montgomery County is the most popular locality for immigrants in Maryland, with nearly 50 percent of the State's immigrants living in the County. For instance, between 2000 and 2006, immigration accounted for 108 percent of Montgomery County's population growth, which means that without immigration, the County would actually have lost population during the period.⁶ According to County representatives, this trend will continue even if the federal government enacts comprehensive immigration reform.

In order to improve relationships with immigrant communities, meetings between MCPD and members of the African-American, Latino, and Asian communities are held every month. Additionally, each of the six police districts in Montgomery County has a community advisory board on immigration and bilingual officers are employed by MCPD.

These significant demographic shifts can also be seen in the correctional population. As reported by DOCR staff, the inmate population is increasingly diverse ethnically and culturally. DOCR has seen an increase in the number of inmates who do not speak English as their first language and, in particular, there has been a significant growth in the County's Hispanic or Latino inmate population.⁷ This does not mean that there has been major growth in crimes conducted by Hispanics and/or Latinos, but this segment of the population certainly is the fastest growing ethnic population cohort in Montgomery County (up more than 30% between 2000-2010), and jail practices and services must reflect this increasing population's specific needs.

Less than 1% of the correctional population is Asian American, as compared to the countywide base of 17%. Although the African American population living in Montgomery County stands at nearly 19%, African Americans represented 52% of all 2012 intakes and 60% of the incarcerated population in Montgomery County, making this group the most over-represented in the county's correctional facilities by far.⁸

In order to meet these changing demographics, DOCR has had to increase its capacity to provide programs and services to limited English proficiency clients and those with specialized cultural and language needs, by increasing the number of Hispanic/Latino Correctional

⁶ Source: "International Immigration. The Impact on Maryland Communities." Department of Legislative Services, Office of Policy Analysis. Annapolis, Maryland January 2008.

⁷ Source: http://www6.montgomerycountymd.gov/content/exec/stat/pdfs/docr_fy11.pdf

⁸ Source: http://www6.montgomerycountymd.gov/content/council/mem/leventhal_g/pdf/unfinished_business_report.pdf

4. NEEDS ASSESSMENT

Officers and social service staff with bilingual capability (e.g. pre-trial assessment and supervision caseworkers). For example, starting May 15th, 2008, PRRS began holding two Spanish Speaking AA meetings, held on Thursday and Saturday nights.

Even with the increases in bilingual Hispanic/Latino staff, DOCR notes that the current staffing is “inadequate to meet [the] changing demographic current in the correctional population.”⁹ Significant bilingual staffing presence continues to be a departmental goal.

Regarding racial diversity, over 50% of the staff is African American covering every rank and position from entry level through Deputy Warden.

The DOCR endorses the guiding principles for culturally competent services and the management of a vibrant, diverse workforce. In the past, the Department has won the County Diversity Award for its efforts and continues to be proactive in the areas of workforce diversity, actively seeking out and successfully recruiting culturally diverse qualified staff and providing on-going training. DOCR’s recruiting practices draw a very diverse applicant pool. Within the confines of resource availability, community outreach, expanded networking and community advertising, a language proficiency differential and assistance of groups such as Montgomery College, are utilized in parallel with the County Executive’s diversity recruitment focus currently being led by the County Office of Human Resources.

2. Lower education levels and increased school drop-outs

It is DOCR staff’s perception that there has been a decrease in the academic skill level of program participants and a corresponding increase in the number of people who have not graduated from high school and are in need of educational services. This perception was corroborated by available data on PRC clients demonstrating that compared to 2005 in 2012 a smaller percentage (36% vs. 56%) of participants had at least high school or GED diplomas.

2005	2012
- 36% HDS	- 29% HDS
- 20% GED	- 7% GED
- 15% Some College	- 18% Some College
- NA	- 7% College Degree

⁹ See: http://www6.montgomerycountymd.gov/content/exec/stat/pdfs/docr_fy11.pdf

4. NEEDS ASSESSMENT

Reflecting the same trend, 29% of clients reported dropping out from school in 2005, as opposed to a total of 39% drop outs reported in 2012.

To address changes in the educational needs of the inmate population, the DOCR has over the years increased the number of remedial education programs offered to its population. Indeed, MCCF has a dedicated a full 64-bed unit to house inmates attending school so as to support their educational programming needs. Similarly, the PRC provides GED classes on sight, with continued course options offered at a local community college, with which PRRS has partnered for educational services.

3. Growing Criminal Severity

According to Police records, gang membership and gang-related crime in the County increased at a steady rate between 2004 and 2008. Most of these crime increases were in burglaries, robberies and vandalism. From 2005 to 2008, MCPD witnessed a 75% increase in active gangs (from 20 to 35), a 77% increase in documented gang members (from 680 to 1,206), and a corresponding increase in criminal activity attributed to gang members. While Latinos comprised 53% of the total number of gang members in 2006, this percentage dropped to 37% in 2008.

Over the years, Montgomery County has made gang activity a priority issue, with gang-focused criminal behavior being aggressively engaged by the Police and the State's Attorney. Supported by the State Attorney's Office and the justice system at large, DOCR maintains a principle that gang activity and crime is no more acceptable within the correctional facilities than it is on Montgomery County's streets.

In 2004, the Montgomery County Police Department (MCPD) created a Joint County Gang Task Force to aggressively deal with this issue, seeking out new initiatives to not only suppress gang criminal activity, but to intervene and prevent young people from becoming gang members. These types of responses are consistent with the MCPD's community policing philosophy, wherein problems are first identified and then worked on with multiple shareholders to provide solutions. Collaboration and information sharing amongst County level partners has been a key factor. These partners include: Health and Human Services; the States Attorney's Office; Montgomery County Public Schools; the Montgomery County Department of Correction and Rehabilitation; Educational Facilities Officers; and community based organizations such as Identity, Crossroads Youth Opportunity Center, and Choices.

4. NEEDS ASSESSMENT

Most recent data shows that, following a trend that began two years ago, the number of reported gang incidents in Montgomery County has been declining. Overall, gang-related crime is down nearly 50 percent, dropping from 507 incidents in 2007 to 250 in 2012. The County has not had a gang-related homicide in more than two years. These statistics are curious, as the steadily dropping gang violence coincides with a continued rise in the total number of persons identified as gang members – a fact emphasizing the adult correctional system’s needs to continue its efforts in managing this population in a safe, secure, and humane manner.

The on-going suppression of gang-related crime has increased the presence of gang affiliated inmates within DOCR facilities. The growth of the gang-involved inmate population has, in turn, increased demands in separation requirements. To address this need, housing adjustments and other security actions are continuously made to maintain balance and safety. Additional separation demands of gang members, often following requests by the Police and State’s Attorney, limit flexibility in making classification and housing decisions. At the time of this report, the Department had in custody 140 validated gang members. These gang members represent about 38 nationally recognized gangs, as well as regionally and locally known street crews, all of whom are involved in illegal activities.

Within DOCR facilities, the special management of this population is thus continuous. As noted in County reports, in a large facility such as MCCF with high numbers of gang-involved inmates, the availability of programming helps maintain peace and provides inmates with positive outlets. Increased programming, such as the re-introduction of behavioral programs like Choices for Change is likely to positively impact security. In contrast, “the loss of meaningful programmatic activity for inmates keeps them tied to living unit downtime that is not conducive to stabilizing inmate behavior,” and every effort should be made to provide sufficient services and activities for the in-jail population. Reductions or complete abolition of successful programs, often with marked positive outcomes and well received by the inmates, create further security concerns within housing units and facility-wide and, as noted by Warden Green, it should be of primary concern for the County to provide supportive re-entry services and programming to the majority of its in-custody population, which resides at MCCF.

4. NEEDS ASSESSMENT

4. New Flow of Youthful Offenders

Youth as young as age 14 who are being tried as adults, primarily for violent offenses, are held in DOCR facilities, rather than in juvenile facilities. By law, however, these inmates are separated from the adult population.

Although juveniles under the age of 18 represent a very small percentage of the total jail population (1.5%), the Department has seen a significant increase in the number of youthful offenders over the last fifteen years. In response to this growth, DOCR opened a dedicated “Youthful Offenders Moral Reconciliation Therapy (MRT) Unit” (now Choices for Change, CFC¹⁰) for men ages 21 and under, increased the number of programs offered to youthful offenders and added additional English as a Second Language (ESL) classes to better respond to their specific needs.

Compared to five years ago, the youthful population has become more unstable in terms of flow. In prior years, young men were charged with more serious offenses and sent to jail for longer periods of stay. For the last five years, DOCR has experienced a different flow, namely more youthful offenders housed at MCCF on any given day charged with lesser offenses, leading to higher turn-around rates. With the majority of the young population being released within 30 days, the turn-over of this population is quite significant, posing challenges in terms of both programming and service provision in general. Particular difficulties also result from the current size of the jail’s housing units (64 beds), which make separation of this inmate segment less practical.

5. Adapting to the Unique Needs of the Female Population

Similar to national data, the majority of the local jail population is male (at over 90%), and while historically women have made up an increasing share of the inmate population, in recent years this segment of the population has seen a decreasing trend (6.89% in 2012, down from 8.10% in 2006; snapshot data).

¹⁰ The Youthful Offender Unit is a highly structured program that uses CFC as its therapeutic component. CFC is a cognitive-behavioral treatment program that, based upon the Carey Guides, takes off from the assumption that every day “each person is faced with making choices which potentially impact the quality of one’s life as well as affecting the lives of those around.” From this point of view, CFC programming helps participating inmates identify their criminogenic needs and, as a result “understand both personal and environmental factors [that] have contributed to their criminal and anti-social behavior.” Inmates actively participate in group discussions and complete various exercises, designed to teach skills that can facilitate positive life changes. At the unit, Inmates who have not acquired their high school diploma or their GED are required to attend GED classes. Occasionally, an inmate may meet the criteria to continue to pursue his high school diploma while incarcerated. A full-time CFC trained counselor is assigned solely to this unit. This counselor conducts additional groups such as Cage Your Rage (an anger management program geared towards inmates), Building Bridges (a conflict resolution curriculum which encourages respect for other cultures), and Victim Impact Classes. Community Meetings are conducted weekly or as needed.

4. NEEDS ASSESSMENT

Within MCCF, North Housing Unit Level Two is designated for female inmates and consists of two housing pods: N2.1 and N2.2. Pod N2.1 is divided into four quadrants, two of which house the female general population, while one quadrant is designated as the female “CIU & Special Management” unit and the last quadrant houses pre-placement and disciplinary segregation.

Directly across the hall from N2.1, pod N2.2 has been designated as the female programs pod, providing focused attention on addressing the specific needs of both young and adult female offenders. The specialized female intervention and therapeutic housing units within pod N2.2 house the 32-bed Jail Addiction Services (JAS) and the Choices for Change (CFC) programs, which include both youthful offenders ages 21 and under as well as adult inmates who voluntarily enter the program. Both programs offer women offenders unique services built around their developmental and relational needs while including specific parenting components for incarcerated mothers.

In January 2007, similarly recognizing common experiences and reentry needs among the in-custody female population within PRRS, the Pre-Release Center opened Unit I to female offenders, dedicated to providing gender-specific services to women. A Women’s Weekly Group was created to address a number of topics that provide more gender-specific and trauma-informed services to female offenders. Serving as a women-only housing unit, the environment fosters the time and space for women to focus on their relevant re-entry needs using program opportunities and community connections. Staff works to address re-entry needs around family, employment, substance abuse, housing, family and children, emotions, self-esteem, relationships, health, finances, and independence. Each week, the women participate in a discussion group that creates a platform to address feelings and experiences from their personal lives as well as those related to the incarceration and re-entry process. The group functions to effectively provide support and feedback to each member as it relates to their personal lives and experiences as women. Community representatives serve as guest speakers in the discussion group and several volunteers are regularly involved with the women to provide further support and guidance.

While serving time at the PRC, women are encouraged to take advantage of numerous community programs and resources connected with PRC. The Silver Spring Interfaith Housing Coalition provides affordable housing and case management services to women with children. The

4. NEEDS ASSESSMENT

Life Skills Workshop series is a popular program that focuses on job readiness and reentering the workforce. Participants are connected with mentors, provided professional attire and exposed to special topic presentations. Some of the past topics include a presentation on Food and Mood, Women's Empowerment Workshop, Christian Outreach Group, the Silver Spring Interfaith Housing Coalition Services, Legal Aid, Health and Wellness, Commission on Women's Personal Development Workshops, spiritual/religious services at the Rose of Sharon and There's Hope Christian Churches, image and wardrobe mentoring, and employment and skills training. Finally, Montgomery County's Health and Human Services Department also offers a wide array of programs that women can connect to while in the program and benefit from after their release from PRC.

6. Growing Complexity (prevalence and seriousness of disorders)

According to DOCR representatives, the number of individuals who, as a result of the intake screening, are identified as having substance abuse and/or mental health issues or are referred to further assessment for such concerns has increased over the years. At this time, upwards of twenty (20) percent of the local jail population is characterized by serious and repetitive mental illness, with over thirty-five (35) percent in some type of behavioral health services and/or programming. In terms of substance abuse, approximately forty-nine (49) percent of MCCF inmates for whom assessment data was available were classified as having particular alcohol or drug-related issues/needs.¹¹

Telling of the substantial proportion made up by these often correlated populations – those suffering of mental health issues and inmates impacted by substance abuse – is also the high demand for diversion alternatives targeting both substance abuse and behavioral health issues.

That the jail was going to become such a central point in the County's response to growing numbers of criminally involved mentally ill, unstable and substance abusing individuals was unanticipated 25 years ago. In response to the increasing prevalence and seriousness of mental health disorders in its client population, DOCR has since improved psychiatric services for program participants, adding staff for crisis intervention, assessment and screening of all new admissions into the local correctional system and psychiatric nurses to handle medication maintenance and monitoring.

¹¹ Data on inmates' classification in terms of psychological problems, substance abuse issues, and specific behavioral concerns in general was limited to only a portion of the MCCF population in the provided snapshots. Missing data in this regard accounted for more than 80% of cases in the 2006 and 2009 samples, and as such only the 2012 snapshot data was considered. Missing classification information accounted for upwards of 50% of the cases. As such, findings should merely be regarded as suggestive.

4. NEEDS ASSESSMENT

Mental health services for crisis intervention, assessment and treatment and a Crisis Intervention Unit (CIU) are available to provide a safe and humane environment for offenders exhibiting acute and/or chronic symptoms that preclude them from general population housing. Regardless, MCCF was not originally built to serve the current high volume of inmates in need of varying levels of behavioral health, psychiatric, and substance abuse/co-occurring disorder treatment and supportive services, much like it is not meant to function as a hospital setting for inmates suffering from serious and chronic medical concerns. While continued efforts are put into accommodating the in-custody population's special needs, the jail is not an appropriate, sustainable treatment environment for those requiring significant psychiatric and/or substance abuse intervention, albeit with criminal charges.

Since 2008, PRRS has increased the number of onsite psychiatric hours and hired a community-trained psychiatrist to assist PRRS in improving the transition of clients with mental health needs from the PRC program to the community. In terms of substance abuse, as per PRRS representatives, offenders at the PRC have been clearly impacted by the growing presence of new problematic synthetic drugs, such as K-2, warranting increased attention, supervision and testing practices, as well as posing a much greater challenge to the PRRS' accountability and monitoring procedures. Security searches and shakedowns warrant expansions and new drug testing options, all of which bears increased costs.

With a resident population marked by similarly increasing levels of behavioral health and substance abuse needs, the PRRS continues to seek ways to provide timely and more comprehensive on-site medical and psychiatric care – most recent initiatives include the creation of a Nurse Practitioner position and the consideration of converting a unit to serve as mental health/ stabilization housing.

Beyond the DOCR facilities, the Department has also added staff with its HHS partners for pre-trial supervision and re-entry planning, seeking to engage the community mental health system to take more of its people upon release from DOCR custody. Since the addition of a psychiatrist at the Ardennes Public Safety Pre-trial Services building, available on-site 8 hours a week, pre-trial supervision staff has provided increasing linkages to community services to those it serves.

Additionally, the Core Service Agencies (located under the Montgomery County Department of Health and Human Services) is a partner in a

4. NEEDS ASSESSMENT

public/private collaborative effort for the primary purpose of reducing the incarceration period for individuals with behavioral disorders who can be treated in the community. CSA is involved in numerous criminal justice behavioral programs including: (1) Clinical Assessment and Triage Services (CATS); (2) Transitional Services; (3) Pre-Trial Services Team; (4) Community Re-entry Services (CRES); (5) Project Assisting Transition from Homelessness (PATH); (6) Jail Addiction Services (JAS); and (7) Provision of Court Ordered Evaluations/8-507 Court Commitments for Treatment. A new initiative in Montgomery County was the development of a small pilot program using existing resources, including placing Court cases on a “stet docket” as an incentive for offenders who are mentally ill to comply with and gain behavioral health treatment.

7. Pre-Release and Re-entry Services Division (PRRS) Clients

Generally speaking, the PRRS population is remarkably changeable. A new indictment in the County or elsewhere, judicial assignments (e.g. new judges, and judges that rotate on and off the bench between civil, family and criminal matters), a reversal of a previous sentence, or some types of medical or other conditions could deem someone ineligible even after undergoing screening and being accepted into the program.

That being said, a comparison of PRC residents between 2005 and 2012 (data provided below) showed that, overall, the offenders in the 2012 sample appeared to be less educated, and more frequently employed in construction and food services than offenders in the 2005 sample. While the female population was significantly younger in 2012, male residents were slightly older (from 32 to 33 years).

In terms of offense distribution, the majority of the PRC residents were violators of probation in 2012, while in 2005 drug offenses and/or DUIs were more frequent, with VOPs coming in second. These changes in primary offenses are of particular importance, and could indicate potential room for new supervision strategies, such as the incorporation of a Day Reporting Center (DRC).

4. NEEDS ASSESSMENT

Table 4.1 PRC Clients Population Snapshot (2005 vs. 2012)

Gender

2005:	2012:
- 87% Male	- 92% Male
- 13% Female	- 8% Female

Age

2005:	2012:
- 32 years male	- 33 years male
- 38 years female	- 33 years female

Race/Ethnicity

2005	2012
- 54.4% African American	- 56% African American
- 35.3% Caucasian	- 31% Caucasian
- 8.8% Hispanic	- 8% Hispanic
	- 3% Asian/Islander
	- 1% Other

Offense

2005	2012
- 13% Person	- 16% Person
- 23% Property	- 13% Property
- 9% Sexual Offense	- 4% Sexual Offense
- 29% Drug/DUI	- 20% Drug (14%)/DUI (7%)
- 1% Traffic/Other	- 9% Traffic / Other
- 25% Violation of Probation	- 35% Violation of Probation

Employment Placement

2005	2012
- 8% Retail	- 16% Retail
- 6% Landscaping	- 4% Landscaping
- 21% Construction	- 22% Construction/Labor/Maint
- 19% Food Services	- 29% Food Services
- 12% Light Assembly	
- 7% Automotive/Driving	- 14% Automotive/Driving
- 6% Professional	- 13% Professional
- 3% Other	- 2% Other (e.g. barber, telemarketing)

PRRS staff reported that the offenders in Montgomery County are getting tougher and present more problems. This qualitative information was corroborated with the statistical data on LSIR risk of recidivism variable, according to which, only 3% of the residents scored as being at “minimum risk” of recidivating by the risk-assessment tool in 2012, as opposed to a 6% in 2005, with more residents being assessed at the High-Medium (up 4%) and Low-Medium (up 2%) levels. It is worth noting, however, that the percentage of offenders classified as Maximum risk has dropped from 10% in 2005 to 7% in 2012.

4. NEEDS ASSESSMENT

Table 4.2 Assessed LSIR Risk

2005	2012
- 10% Maximum	- 7% Maximum
- 50% High-Medium	- 54% High-Medium
- 34% Low-Medium	- 36% Low-Medium
- 6% Minimum	- 3% Minimum

While similar numbers of individuals were served in 2011 and 2007, the 2011 population was less likely to be out on home confinement and suffered a higher incompleteness rate, as the following program performance data illustrates:

Table 4.3 PRRS Program Performance (2007 vs. 2011)

2007	2011
- 591 Residents Served	- 607 Residents Served
- 29% Managed in community	- 6% Managed in community
- 84% Program completion rate	- 81% Program completion rate
- 87% Released with employment	- 87% Released with employment
- 98% Released with housing	- 95% Released with housing

The PRRS director notes that many of the changes in the County in-custody population can be attributable to the introduction of the highly successful Pre-Trial Services Unit in the 1990s. As a result of these changes, particularly the higher “risk to recidivate” measure and increased levels of more difficult to manage and prone to violence inmates, coupled with a general decrease in the number of people coming into the system, the PRRS’s local population has been down in most recent years, and there seems to be proportionately fewer eligible candidates to qualify for PRC services and home confinement.

Available beds at the PRC led the PRRS to widen the net of participation in a number of ways. The PRC now works with clients with as much as a year or as little as five (5) days remaining on their sentences. Similarly, the PRC has been opened up as an option for the Drug Court as a residential treatment setting for stabilization purposes, as a sanction for non-compliance with Drug Court participation rules, or to provide a stable residential setting for clients lacking one. While at the PRC, Drug Court clients are expected to fully follow and fulfill all Drug Court rules and requirements, but they must also comply with their developed re-entry plans and PRRS contracts.

4. NEEDS ASSESSMENT

4.2 Classification Analysis

Approach

The population projections developed as a whole on Task 3 of this report provided the number of beds required in each DOCR facility over the twenty year planning horizon. The next step in the needs assessment analysis was to establish the type of beds needed in order to respond to gender, classification custody requirements, and the risk and needs presented by the population to be served at both the detention facilities (MCDC and MCCF) and the PRC.

Proper classification is essential to jail safety and security, and it is the foundation for establishing staffing and service resource requirements. Objective-based systems classify inmates according to measurable risk and need factors and observable behavior, and assign them to housing units accordingly, thereby facilitating the orderly management of the correctional facility. Success is predicated on identifying those who cannot be housed safely within the general population because they pose a threat to other inmates or staff, are targets of victimization, or have special requirements, such as medical, mental health, substance abuse or other needs. Correctional facilities must have the proper number and type of housing units to support different classification categories.

In moving beyond the number of beds required, this task considered the needs and risks of inmate sub-populations to determine the right type of bed for each inmate in the system. By doing a thorough classification analysis, the consultants sought to provide the County with information regarding true classification housing requirements for all sub-populations, irrespective of current custody level housing resources.

Methodology

As a foundation for physical facility management and planning, the 2035 projection population was disaggregated according to the specific number and type of beds needed for the two detention centers and the PRC population categories.

Using DOCR provided data on various demographic characteristics of the offender population and custody levels, their risk and needs categories were analyzed and housing and service needs determined. The classification analysis process was participatory and informed by DOCR data and input, providing a backdrop for exploring the number and type of housing unit types currently available and required in the future.

4. NEEDS ASSESSMENT

Establishing future classification needs required 1) disaggregating the local jail population according to gender, general classification custody levels, and risk/need categories and, 2) generating a frequency distribution (number and percentage) for each identified sub-group. This was accomplished using a snapshot analysis of the in-custody population, and was further refined through discussion with jail staff of current experience and historical classification patterns in the jail system.

Data was collected by Ratna Battula from the jail's existing computerized management information system and provided in spreadsheet format. In order to account for seasonal fluctuations and year-to-year variations, snapshot samples were collected on the following dates:

- Snapshot 1: January 1, 2006
- Snapshot 2: June 15, 2009
- Snapshot 3: December 30, 2012

Sample snapshots were analyzed separately, and combined percentages were established for each category and applied to the 2035 projections.

Analysis and Findings

Montgomery County DOCR is required to house a wide variety of inmates with different charges, backgrounds and needs, as noted in DOCR's policy and procedure manual regarding the classification process. To accommodate these many variables, the DOCR utilizes an objective-based, on-going classification and case management system to determine risk and custody level and to assess each inmate's needs. This process begins when an inmate is received at the MCDC, and continues if and when the inmate is transferred to the MCCF and PRC facilities.

Initial classification is the determination of the first Housing Unit assignment of a newly admitted inmate at MCDC. The initial classification follows processing at the CPU and begins upon admission of the inmate into the Receiving & Discharge Unit (R&D). After initial classification, inmates' actual behavior is the standard by which their progress is judged and therefore re-classification is made.¹²

¹² The classification system used to determine inmate Housing Unit assignments, custody level, emergency needs, treatment programming and services and work assignments is completed in four phases: Phase I: Initial Placement Screening Summary Chart, Initial Classification Form, and Suicide Screening Form (SSF); Phase II: Classification Interview and Custody Assessment Form; Phase III: Case Management and Classification and Custody Assessment Form and Phase IV: Reclassification, 90-day review.

Following the admissions process, R&D staff determine the need for any immediate special housing requirements, based upon information received from the delivering arresting officer, the DOCR booking officer, the initial risk assessment, direct observation, and any other sources of pertinent information. Any matter needing immediate attention is referred to the Intake & Classification (I&C) Unit Supervisor

4. NEEDS ASSESSMENT

Currently, as the following table shows, the Montgomery County Detention Center has a total of ten (10) units, one of which is currently vacant.¹³ These units are mainly for general intake purposes. At this point in the process, inmates in “intake” status are not classified by security risk and needs yet, but potential needs such as medical or evident mental health behavioral issues are identified for any special housing, referral or services. In addition, aggressive or violent behaviors are assessed and accommodations for housing special needs and higher risk populations are made, as indicated below, with the possibility of an immediate transfer to MCCF if an inmate is deemed in need of special housing.

Table 4.4 MCDC Housing Units

E1	Male General Population Intake (7 beds designated for higher risk observation needs and/or disciplinary purposes)
E2	Male General Population Intake
E3	Male General Population Intake
E4	Male General Population Intake
E5	Male Vulnerable Populations Intake (e.g. due to age, medical and mental health concerns)
F1	Female Intake
F2	Vacant
F3	Inmate Workers (Minimum/Medium)
F4	Inmate Workers (Minimum/Medium)
F5*	Holding Cells (to accommodate short-term needs)
*The F5 cells were previously utilized for segregation purposes and for clients returned from Pre-Release and Re-entry Services, but are no longer used in this capacity.	

As noted above, at this point in the process, the intent of the classification assessment is to evaluate booked inmates for initial housing assignment in one of the Intake units absent of immediate need for special management (special risk/needs housing units). Because inmates in the intake units are being assessed by classification for appropriate housing, the population is diverse, and it is DOCR’s goal, to limit the stay in this unit is up to three days. As such, at MCDC, only the Inmate Workers have specified custody levels assigned to them.

or, in his/her absence, the Shift Supervisor. Otherwise, an R&D officer completes an Initial Placement Screening Summary Chart, which documents the initial housing placement, and forwards this form to the Intake Control officer. The I&C Case Manager picks up the Initial Placement Screening forms from the Shift Supervisor’s office and uses this information to conduct further screening in addition to acquiring the inmate’s criminal history and warrant check. Additionally, all inmates are interviewed by a manager within three days of the inmate’s booking into the facility. Following the interview, the I&C Case Manager initiates the inmate’s classification file, answers any questions the inmate may have, and completes a Classification and Custody Assessment form. Based upon additional data received from several sources (i.e. Initial Placement Screening Summary Chart, Pre-trial Services Unit screens, FBI Rap Sheets), warrant checks, and the inmate interview, the I&C case manager makes a recommendation for housing as part of the primary classification process.

¹³ This 28-beds unit (F2) used to accommodate inmate workers in the past.

4. NEEDS ASSESSMENT

Beyond evaluation and assessment services provided by MCDC staff with the assistance of the Clinical Assessment and Triage Services (CATS) Unit, inmates' housing and programmatic assignment relies on MCCF's classification and case management system.¹⁴ Unless need for special housing has been established upon arrival to MCCF or previously at MCDC, an inmate is first housed in the Pre-Placement Pod of the jail. Orientation and the initiation of case management and assessment for classification/custody needs take place face-to-face on a daily basis at this initial housing stage, and "as soon as possible". According to DOCR, custody assessment and housing assignments rely on "a combination of observation [behavior, drug and alcohol status, mental health and medical well-being], prior institutional history, information from the Classification and Custody Assessment Form, the Pre-Trial Services Unit (PTSU), Case Manager interviews, and the criminal history (rap sheet)." Based on these factors, an initial classification recommendation is made. If needed, a classification officer can override the recommended classification category. For example, an inmate convicted of a felony charge, with two or more prior felony convictions, prior institutional disciplinary records and no work would be classified as maximum-security by the objective point system. However, if that inmate is known to the system, his/her current charge is for an old case, and this person behaved appropriately as a medium-security inmate when previously in custody, he/she may be classified as medium-security instead.

After initial Case Management, Classification, and Custody Assessment has been completed (within 3-5 days of initial placement at MCCF), the on-going Objective Jail Classification process is supported through continued interaction between Case Managers, Correctional Officers, and the inmate. As per DOCR policy, "any Correctional Specialist can be considered a Classification Counselor," further emphasizing the continued and shared responsibility for successful classification. A classification review or re-assessment for reclassification purposes takes place as needed or by request; however, scheduled reviews occur at minimum every 90 days. Additionally, the Special Classification Review Board meets weekly, or more often as needed, to review a list of inmates recognized as having special classification needs ("Special Inmate Custody and Security Concerns" list) and update classification statuses as needed. As during initial classification, the classification officer can override the decision, with the override necessitating the approval of the Supervising Classification Officer.

¹⁴ Upon entry into the facility, each inmate is assigned a case manager, responsible not only for general guidance and help with re-entry planning, but also tasked with providing appropriate referrals to programming, services, and continued re-evaluations as needed.

4. NEEDS ASSESSMENT

MCCF's commitment to providing appropriate and comprehensive correctional services and housing for the inmate population is further supported by a variety of housing options, outlined below. Jail staff have noted, however, that the complete implementation of the objective classification system is limited by the current housing configuration, with mostly large, 64-bed pods, which poses some difficulties in terms of meeting all recognized needs and providing support for programmatic objectives and inmate separation.

Table 4.5 MCCF Housing Units

North Housing Unit	
Level One, Pod 1	
N11A	Male Disciplinary
N11B	Male Disciplinary
N11C	Male Protective Custody
N11D	Male Special Management ¹⁵
Level One, Pod 2	
N12A-D	Male Crisis Intervention Unit (CIU)
Level Two, Pod 1	
N21A	Female General Population (Med/Max)
N21B	Female General Population (Med/Min)
N21C	Female Pre-placement/Disciplinary
N21D	Female CIU/Special Management
Level Two, Pod 2	
N2201L- N2208U	Female Jail Addiction Services (JAS)
N2209L- N2216U	Female Choices for Change (CFC)
N2217L- N2224U	Female Jail Addiction Services (JAS)
N2225L- N2232U	Female Workers

¹⁵ According to DOCR's Policy and Procedure Manual, special management is "a status of confinement to be used for inmates who are having serious adjustment problems to general population living, are overly aggressive, emotional, or antisocial, are in need of protective custody or are a danger to themselves or others. Special management is not a punitive measure".

4. NEEDS ASSESSMENT

West Housing Unit	
Level One	
W11	Male General Population (Med/Min)
W12	School (Male)
W13	Male Workers
W14	Male General Population (Med/Max)
W15	Male General Population (Med/Max)
W16	Male General Population (Med/Max)
Level Two	
W21	Youthful Offenders' Unit; CFC/JAS
W22	Male Workforce (Re-entry Development)/CFC
W23	Male JAS
W24	Male Pre-placement
W25	Male General Population (Med/Min)
W26	Male GP/Vacant?
Medical Unit	
C1252, 54, 56, 58	Male Medical Cells
C1259, 61, 67, 69	Male Medical Isolation
C1273	Female Medical Isolation
C1274	Female Medical Ward

In preparing for re-entry, inmates can be placed at the Pre-Release Center (PRC) for varying lengths of time before their release date. Inmates are screened for eligibility into the PRC by Pre-Release and Re-entry staff at the MCCF, and placement in the Center must be voluntary. While a higher classification level does not deem a person ineligible for PRC housing, consideration of inmates' fit for the Center's programmatic and treatment objectives does impact the typical PRC client's characteristics. At present, the demands of community-centered programming and services, as well as the limited special housing opportunities available at the PRC are limiting participation at the PRC to individuals who are more stable in terms of medical and/or mental health needs. Adequate mental and medical stability is a pre-requisite for program participation.

While inmates undergo in-depth assessment both prior to being transferred to the PRC and during the orientation period upon arrival, PRC's current housing assignments are not based on classification

4. NEEDS ASSESSMENT

differences. All residents are expected to function in a community corrections setting, both in terms of behavioral issues and mental/physical health and stability. The Center has four (4) housing units:

Table 4.6 PRC Housing Units

Unit 1	Female Housing
Unit 2	Male Housing
Unit 3	Male Housing (currently, federal inmates are often placed in this unit, but this practice is not exclusive)
Unit 4	Male Housing

Additionally, the PRRS serves clients on home confinement, who can either be directly placed in this community-based program or who have earned their way to home confinement through PRC's point/honor system. Approximately 88% of the home confinement population consists of men.

Overall, as recognized earlier in this report (see Task 3), while each of the three facilities has *sufficient bedspace capacity* to serve both the current and projected jail population in the coming decades, the *type of beds* required to adequately meet the needs and address the risks of a constantly changing inmate population might be lacking.

The Classification Analyses, presented in the following pages, allowed the consultants to determine the specific bedspace requirements throughout DOCR facilities, assess the alignment of the existing housing units at MCDC, MCCF, and the PRC with projected needs, and identify gaps that should be addressed moving forward.

Gender Analysis

A first level of classification analyses based on gender, revealed that the DOCR's female population has decreased in recent years, with population snapshots reflecting a combined average distribution of approximately 93% males and 7% females across the Department's three facilities. At the time of the snapshots (3-year combined average), the PRC had the highest percentage of females (9.95%), while MCDC had the lowest (3.64%) and MCCF fell in between, with an average of 7.55% females.

4. NEEDS ASSESSMENT

Table 4.7 Population Distribution Analysis by Gender

MCDC	2006		2009		2012		3-year Average
	x	%	x	%	x	%	%
Male	141	95.92	154	98.72	85	94.44	96.36
Female	6	4.08	2	1.28	5	5.56	3.64
Total Population	147		156		90		
MCCF	2006		2009		2012		3-year Average
	x	%	x	%	x	%	%
Male	615	91.79	641	92.36	590	93.21	92.45
Female	55	8.21	53	7.64	43	6.79	7.55
Total Population							
PRC	2006		2009		2012		3-year Average
	x	%	x	%	x	%	%
Male	115	89.15	122	87.77	124	93.23	90.05
Female	14	10.85	17	12.23	9	6.77	9.95
Total Population*	132		139		133		
*Includes cases with missing gender data, not accounted for in percentage calculations.							
Home Confinement	2006		2009		2012		3-year Average
	x	%	x	%	x	%	%
Male	28	87.5	12	85.71	90	87.74	87.74
Female	4	12.5	2	14.29	10	12.26	12.26
Total Population	32		14		10		

As such, for planning purposes it was determined that, of the total beds at each of the facilities, approximately 4% at the MCDC, 8% at the MCCF and 10% at the PRC should be designated for women.

General Population Custody-level Classification Analysis

As part of the classification analysis, the consultants reviewed the following security levels comprised within the general population category, as defined by Montgomery County Classification policies:

- Minimum custody:** Inmates in this security category typically have a low risk assessment score, are not considered an escape risk, do not have a history of violence and have a good institutional adjustment record. Minimum custody inmates can be sentenced or unsentenced, are program eligible and can be assigned as inmate workers.
- Medium custody:** Generally, inmates in this security category display satisfactory institutional adjustment and are not considered dangerous or an escape risk. However, they have been identified by the risk factor assessment instrument as requiring a medium custody level and may, for example, resist jail rules and/or be uncooperative. Medium custody inmates are program eligible and can be inmate workers.
- Maximum custody:** A maximum security inmate may require restricted housing based on behavioral or criminal background factors that are deemed to pose a safety or security risk. Inmates may be classified in this security level because of displaying repetitive assaultive behavior, multiple felony convictions, prior

4. NEEDS ASSESSMENT

escape attempts, unsatisfactory institutional adjustment or self-threatening behavior.

Data on inmate classification levels was limited, with only the 2012 snapshot specifying levels A, B, and C (Maximum, Medium, and Minimum, respectively) for MCCF inmates. Additional information on security level distributions within the general population (particularly at the time of the two earlier snapshots) was gleaned through an analysis of the Housing Unit assignment variable (Medium/Maximum vs. Medium/Minimum).¹⁶

The 2012 custody-level classification analysis revealed that, on average, 57.75% of MCCF general population inmates required maximum custody, 29.20% were deemed medium custody, and 15.04% were classified as minimum custody. The classification level distributions varied significantly across the assessed female and male samples, with 70% of females classified as minimum custody (20% were medium and only 10% were identified as maximum) as compared to only 12.50% of males in the same classification category (29.63% were deemed medium custody, with a 57.87% majority classified as maximum security).

In terms of inmate classification assignment across the Medium/Maximum and Medium/Minimum General Population housing units, three-year combined averages followed similar trends, with the majority of females being housed in Medium/Minimum units (55.56%), whereas most male inmates required Medium/Maximum environments (69.94%). The differences between the two classification categories throughout the years were not as big as portrayed in the more detailed 2012 classification data, which is to be expected with medium security inmates spanning across all general population units.

Table 4.8 General Population Analysis

MCCF Custody Level	2006		2009		2012		Avg. %	
	M	F	M	F	M	F	M	F
Maximum (A)	-	-	-	-	125	1	57.9	10.0
Medium (B)	-	-	-	-	64	2	29.6	20.0
Minimum (C)	-	-	-	-	27	7	12.5	70.0
Medium/Maximum	173	8	170	7	156	3	69.9	44.4
Medium/Minimum	68	7	87	7	61	7	30.1	55.6

¹⁶ With housing being defined along these lines, discovering the distinctions between minimum, medium, and maximum becomes less important, and understanding the distribution of inmates across medium/minimum and medium/maximum units is crucial.

4. NEEDS ASSESSMENT

Beyond custody classification levels, DOCR staff recognizes that certain inmates within the general population have special security needs, and due to behavioral or security reasons must be kept separate from the rest of the general population. The following categories are noted as fitting this segment of the inmate population:

- **Disciplinary:** Disciplinary segregation serves as a punitive measure for inmates who have violated a jail rule, as this housing provides a more restrictive environment.
- **Protective Custody:** An inmate can be placed in Protective Custody to ensure his or her safety at the face of likely victimization if housed in general population. Protective Custody can be deemed necessary by evident circumstances or requested by the inmate. A similar measure can be achieved by placing an individual in Administrative Segregation.
- **Special Management Pod:** Inmates in Special Management have serious adjustment problems to general population living, and may present overly aggressive, antisocial, or emotional behavior, require protective custody or pose a danger to themselves or those around. Special Management is not a punitive measure.

The classification analysis was further refined to allow for the identification of these noted inmates within the general population. It should be noted that the snapshot data did not provide enough detail to identify all categories within the female inmate population, where many special risk/needs populations are collapsed within single pods and could thus not be distinguished.

The table below presents the final numbers with regard to these special security needs inmates:

Table 4.9 Special Management Population Analysis

MCCF Custody Level	2006		2009		2012		Avg. %*	
	M	F	M	F	M	F	M	F
Disciplinary**	15	7	21	11	18	8	2.92	17.4
Protective Custody	1	-	4	-	3	-	0.43	-
Special Mgmt.***	1	7	6	5	3	8	0.54	13.6

*Special Mgmt. combined average calculated as a percentage of total MCCF population, by gender.
 **For females, one unit houses pre-placement and disciplinary inmates. This number includes both populations, as no distinction could be made based on available data.
 ***For females, one unit houses the CIU and Special Management inmates. This number includes both populations, as no distinction could be made based on available data.

4. NEEDS ASSESSMENT

Special Needs Population Analysis

National experience has increasingly demonstrated that inmates no longer comprise a large “general population”; rather, several sub-groups of special needs populations make up a diverse whole.

For planning purposes, the following categories were included in the “Special Needs Population” category, as specified in DOCR housing data:

- Medical: Inmates requiring medical housing can be housed either in the general medical area (medical cells/ward) or in medical isolation, and require special observation and assistance and/or continued care for chronic and/or active medical conditions (e.g. seizures, physical disability, HIV).
- Mental Health (CIU): Inmates can be classified as special needs due to acute mental health problems (e.g. suicidality, impaired mental status) or a chronic mental health condition, which require special treatment and services and prevent them from functioning in the general population. CIU housing can also be used for inmates newly on medication, who require heightened observation. The length of stay in the unit depends on the inmate’s mental health status and stabilization.
- Therapeutic Communities: Two distinct therapeutic programs, Jail Addiction Services and Choices for Change, provide a therapeutic environment for inmates housed in the specific program units (available for both male and female offenders). Placement in the designated units and program participation is voluntary.
 - *The Jail Addiction Services (JAS)* program is run by the Department of Human Services (DHHS) and is tailored to address the needs of inmates with relatively minor crimes and serious histories of substance abuse and other problems (e.g. co-occurring mental health, homelessness, unemployment).
 - *Choices For Change (CFC)*, a program to recently replace the earlier offered Moral Reconciliation Therapy (MRT), is a cognitive behavioral therapeutic program. Targeting inmates’ criminogenic needs, the program helps participants to identify personal and environmental risk-factors that have played a part in their criminal lifestyles and to make better choices to support positive life-change.

4. NEEDS ASSESSMENT

- Youthful Offenders' Unit (YOU): At MCCF, a unit-specific Choices for Change (CFC) behavioral program within the YOU provides a therapeutic community environment for this inmate population, allowing not only for separate housing, but for legally required programmatic separation as well.

Medical and mental health populations, whether in the Medical Unit, CIU, general population or within one of the therapeutic communities (JAS), present unique and typically more complex service needs and supervision challenges than the general jail population. Often, these populations require heightened observation, specific treatment and assistance, and various levels of supportive living. For this reason, establishing the specific bedspace needs with regard to these special populations in each of DOCR's facilities is a central consideration for the development of appropriate responses, programming for the Department's population as a whole, and for properly directing future facility expansion.

Placement in one of the above noted special housing units was not considered an appropriate measure of the extent of each facility's special housing needs, because – as noted elsewhere in this report – placement is to an extent driven by the limited availability of beds (e.g. at the CIU), rather than the true need for non-general population housing. Furthermore, special housing assignment data did not include information on the sub-population receiving psychotropic medication for persisting conditions or those in need of a “lower level” stabilizing unit as a step-down from the CIU or the Medical Unit, nor did it provide information on those housed in hospital settings outside the local jails.

Available data on inmates' medical, behavioral health, and substance abuse classification details was limited, with information only on a portion of the MCCF's inmate population, and no data on these variables collected for the MCDC or PRC populations. The table below summarizes this MCCF data for the 2012 snapshot only, as data from 2006 and 2009 was deemed invalid due to extremely large numbers of missing information:¹⁷

¹⁷ In 2006, missing data accounted for 77-81% of the sample with regard to these variables. In 2009, data was missing on more than 70% of inmates as well. The 2012 sample had significantly more information on the reported variables, with missing data still accounting for approximately 30% of all cases.

4. NEEDS ASSESSMENT

Table 4.10 MCCF Special Needs Classification (2012)

	PSY ¹⁸	MED	DRUG/ALC
Level 0	412	429	223
Level 1	20	3	152
Level 2	5	6	63
Missing Info	196	195	195
	BEHAVIORAL		
Disciplinary	12		
Gen Pop	205		
Medical	9		
Prot. Cust.	2		
Programs	189		
Psych'l	16		
Spec'l Mgmt.	3		
Work Status	38		
Missing Info	159		

As quantitative data was limited, qualitative data and input from key treatment and jail personnel supplemented the consultants' analyses.

While the available MCCF data point to a relatively small number of inmates with identified psychiatric special needs, jail correctional and treatment staff report a much larger mental health population. Similar numbers were reported across DOCR. With approximately 26%¹⁹ of inmates receiving psychotropic medication for a diagnosed condition and many pharmacologically treated for medical conditions, the staff emphasized, there is a pressing need for a designated step-down unit allowing for stabilization and supportive services beyond those offered for acute cases at the CIU and/or the Medical Unit. While pharmacological treatment is not a direct correlate of special housing need (not all inmates requiring medication need to be housed outside of the general population), it does point to the extent of the issue within DOCR, and reinforces the recognized need for more treatment alternatives.

¹⁸ Additionally, 27 inmates were categorized as "TS" (Transfer to Springfield). Springfield State hospital offers assessment and treatment for individuals with mental health concerns.

¹⁹ Based on a snapshot of MCDC and MCCF inmates on August 2nd, 2013. Staff described the sample as a fair representation of "typical" population/trends.

4. NEEDS ASSESSMENT

In contrast to those inmates housed in either the Medical Unit or the CIU, inmates in one of the Therapeutic Community units, participating in either JAS or CFC programming, may not be unable or too unstable to function in general housing. Regardless, the programmatic environment is recognized - both by staff and the volunteering inmate - as appropriate to address evident needs or risk factors (e.g. substance abuse, aggression) present in the participating population.

Bedspace Distribution

The following summary tables illustrate the different present inmate risk and need classification categories by facility, distributing the number of projected beds at each facility (see projections under Task 3) by specific category and gender. The reported distributions (%) reflect the 3-year combined averages calculated from the snapshot data.

Table 4.11 Projected Bedspace Distributions by Facility

MCDC Bedspace Distribution by Gender (171-194 beds)				
Classification	Male (96.36%)		Female (3.64%)	
	%	Beds*	%	Beds*
GP Intake (E2, E3, E4)	54.86	94-106	-	-
Intake Higher Risk (E1)	11.02	19-21	-	-
Vulnerable/Special Needs (E5)	1.70	3	-	-
Female Intake (F1; prior use: weekenders)			3.43**	7-8
Inmate Workers (F2, F3, F4)	24.59	42-48	-	-
*Bedspace calculation based on 2035 projections (range) for MCDC: 171-194 beds. **Number based on current and prior use, and may not reliably reflect current needs for female intake. Data from 2012 shows 5.56% need for female intake. In 2006 and 2009, female housing (in other units) accounted for 4.08% and 1.28%, respectively. ***Holding cells are not intended for housing assignments.				

4. NEEDS ASSESSMENT

MCCF Bedspace Distribution by Gender (897-1,014 beds)				
General Population				
Classification	Male (92.45%)		Female (7.55%)	
	%	Beds*	%	Beds*
Medium/Maximum	27.03	224-253	11.58	8-9
Medium/Minimum	11.66	97-109	14.07	10-11
Pre-Placement	6.46	54-62	17.36	12-13
Disciplinary	2.92	24-27		
Protective Custody	0.43	4	-	-
Special Mgmt.	0.54	4-5	See CIU,below	See CIU,below
Inmate Workers	7.54	63-71	11.29	8-9
Special Needs Population – Therapeutic Communities				
Medical Unit (general, ward, isolation)	1.69	14-16	2.01	1-2
CIU	5.15	42-48	13.59	9-10
YOU	9.27	77-87	-	-
JAS	9.87	82-92	16.83	11-13
CFC**	9.21	76-86	13.27	9-10
School	8.19	68-77	-	-
*Bedspace calculation based on 2035 projections (range) for MCCF: 897-1,014 beds. **For males, includes Re-entry Workforce ²⁰ .				

PRC Bedspace Distribution by Gender (148-168 beds)				
Classification*	Male (%)		Female (%)	
	%	Beds**	%	Beds**
General Population	90.05	133-151	9.95	15-17
*Housing allocation at the PRC is currently not dependent on classification. **Bedspace calculation based on 2035 projections (range) for the PRC: 148-168 beds.				

These bedspace requirements, specified by *type of bed* needed, can serve as the foundation for the consideration of options for (re)aligning existing housing resources to meet future facility needs and for providing new units and options for the future within and beyond the jail facilities. Beyond projected population needs, these options must be informed by continued input from key staff and stakeholders and

²⁰ Workforce inmates are part of the MCCF Re-entry Employment Development Program and work at the Job Shop, “providing labor services to County Agencies and local non-profit organizations.” They are housed in therapeutic community units, with an environment supportive of re-entry development efforts.

4. NEEDS ASSESSMENT

considered in the light of projected changes in practices and policies with an impact on bedspace utilization.

A comparative analysis of projected classification-specific needs and current facility capacities is provided below. Instances in which the projected bedspace needs surpass current capacity are denoted by a red circle in the tables.

As previously described, bedspace requirements by classification category were based on the average percentage of three years of classification data, and then applied to the overall projections range. Particular to MCDC, bedspace requirements have been reconciled with the number and type of beds planned in the new CJC. As such, capacity for each unit at MCDC has been collapsed into the major classification categories that align with the new facility (e.g., intake, workers, and special populations).

Table 4.12 Current Capacity vs. Projected Bedspace Needs by Facility

CJC Bedspace	Current Capacity	Projected Need Range (2035)	
		Low	High
Total Beds	200	171	194
Male General Intake	112	94	107
Male Special Needs Intake	4	3	3
Male Special Lockup Intake	20	19	21
Female General Intake	16	9 (includes special needs)	10 (includes special needs)
Female Spec'l Needs/Lockup	12	-	-
Inmate Workers	36	42	48

4. NEEDS ASSESSMENT

MCCF Bedspace	Current Capacity	Projected Need Range (2035)	
		Low	High
Total Beds	1,028*	897	1,014
N1.1A/B: Male Disciplinary	32	24	27
N1.1C: Male Prot. Custody	8	4	4
N1.1D: Male Special Mgmt.	8	4	5
N1.2A-D: Male CIU	40	43	48
N2.1A: Female GP Med/Max	16	8	9
N2.1B: Female GP Med/Min	16	10	11
N2.1C: Female Pre-Plcmt./ Disciplinary	16	12	13
N2.1D: Female CIU/ Spec'l Mgmt.	12	9	10
N2201-08/17-24: Fm JAS	32	11	13
N2209-16: Female CFC	16	9	10
N2225-32: Female Workers/CFC	16	8	9
W1.1: Male GP Med/Min	64	60	68
W1.2: Male School	64	68	77
W1.3: Male Workers	64	63	71
W1.4-6: Male GP Med/Max	192	224	253
W2.1: Y.O.U.	64	77	87
W2.2: Male Workforce/ CFC	64	76	86
W2.3: Male JAS	64	82	93
W2.4: Male Pre-Placement	64	54	61
W2.5: Male GP Med/Min/ Pre-Plcmt.	64	36	41
W2.6: Male GP Med/Min / Pre-Plcmt.	64	Vacant	Vacant
C1252,54,56,58: Medical Cell, Male	4	1	1
C1259,61,67,69: Medical Isolation, Male	4	4	4
C1262,64,66,68: Medical Ward, Male	16	10	11
C1273: Med'l Isolation, Fm	1	1**	1**
C1274: Medical Ward, Fm	4	1	1

*Listed bedspace by unit totals 1,009 beds. 1,028 represents the official MCCF bedspace capacity, as provided by the County.
**Projected need (0.41-0.46) rounded up to reflect need for capacity to serve this population.

4. NEEDS ASSESSMENT

PRC Bedspace	Current Capacity	Projected Need Range (2035)	
		Low	High
Total Beds	173	149	168
Female	31	15	17
Male	142	133	151

The presented comparisons illustrates that by and large, the three DOCR facilities have the sufficient number of beds to serve their respective projected populations for the next 20 years and beyond, as described below by facility.

MCDC (New CJC)

The County is planning to replace MCDC (now operating exclusively for booking, intake and 72-hour housing) with a new facility (Criminal Justice Center) designed to serve these functions. The capacity for the new CJC is planned to be 200 beds – enough to accommodate future population growth up to the high end of the 25-year projection range (194 beds). While the table shows a discrepancy with regard to the size of the inmate worker unit and the projections for worker bed needs, it is expected that no more than 36 workers will be housed at the facility at any time, as this is sufficient to serve the allotted functions even with population at full capacity.

It is further anticipated that the new design will result in efficiencies that will allow for a swifter processing of defendants through this facility, thereby reducing the length of stay and concomitant bed days; and that the implementation of recommended diversion options (discussed later in this report) could reduce the overall number of individuals entering the new CJC. There is consensus among the consultant team that the CJC population can be thus managed within the proposed new facility design capacity in the short term and over time (20+ year horizon).

MCCF

The current capacity at MCCF is sufficient for housing the projected inmate population in terms of the number of available beds overall. The projections do not indicate a need for building the provided additional capacity within the timeframe of the projections. For example, while there is an apparent shortfall in certain general population units, there is available capacity in others, including a 64-bed unit that is currently

4. NEEDS ASSESSMENT

vacant. This suggests that future growth can be accommodated through a redistribution of like classifications across like units.

Still, as noted during discussions with staff and in the previous chapter of this Report (Task 3. Population Projections), current unit sizes and bed distributions are likely to pose some difficulties in terms of facilitating proper classification for program-specific units and some categories of inmates requiring special services or separation.

- The Male CIU is projected to be above capacity, even at the lower projection range, albeit a 20 year projection horizon. Several mental health initiatives are sought to address this population's needs and the recognized need for stabilization and residential services outside of the correctional facility. While there is currently some attempt to use a general population unit as a "step down" from, CIU, DOCR officials have indicated that designating a housing unit for this specific purpose would better serve this population, and could transition patients out of CIU more quickly, reducing CUI unit bedspace demand.
- Based on projections, Programmatic Units may be over capacity in the future, even at the lower end of the range. The facility/DOCR can approach this issue in two potential ways, by either capping program participation at the maximum capacity of the currently provided units, or by repurposing the currently vacant unit to serve growing programmatic/therapeutic needs.
- It is projected that the Youthful Offenders' Unit will exceed capacity by 2035. Housing this population will continue to be a challenge for DOCR.
 - While the MCCF is not projected to face difficulties in housing the growth in the female population, a number of female units serve mixed classification purposes (e.g. pre-placement/disciplinary), and consideration could be given to sub-dividing an existing female unit to provide better separation between those not yet classified and inmates in need of disciplinary housing.

PRC

The projections indicate that the PRC will not exceed existing capacity over the 20 year projection horizon, assuming current utilization. PRC housing has over the years effectively realigned its beds to make maximum use of its resources, e.g. dedicating a unit for females, serving clients through the Drug Court program, and admitting Federal inmates.

Consideration of alternate use of PRC beds to better meet expressed gaps in the residential services system (e.g. special needs beds for certain

4. NEEDS ASSESSMENT

populations, such as mental health diversion/stabilization), may similarly require revisiting current practices, such as limiting the number of Federal inmates in the PRC program. Additionally, the inclusion of non-residential step-down sanctions such as day reporting along the back-end of the County's corrections continuum, provides DOCR the opportunity for transitioning residents out of PRC sooner, making beds available for such initiatives.

4.3 Factors Impacting Jail Populations and Operations

In this section of the Needs Assessment, policies and practices that impact DOCR populations and operations are identified and discussed.

Sentenced Population

Weekend Incarceration Program

In November 2010, with support of the District Court, the practice of imposing weekend jail sentences was discontinued, enabling staff to better focus on the core inmate population while minimizing introduction of contraband, idle time and bedspace utilization that can be now handled in a more effective manner.

In February 2011, in lieu of serving time (weekends) at the jail, DOCR implemented a 30-person *weekend work crew* assigned to the Silver Spring Urban District. This alternative to incarceration program gives County residents convicted of misdemeanors the option of doing weekend cleanup work in downtown Silver Spring.

Since the first group of weekender inmates was assigned to the weekend work crew, the number of applicants has consistently increased according to DOCR officials.²¹ This program has helped to reduce bedspace demand for the target population and has also provided a productive alternative to weekend sentences.

Local Jail Sentencing

Under current law, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a Division of Correction (DOC) facility.

²¹ As of June, 2013, DOCR noted that, as of recent months, individual cases have been sent to MCDC on weekend sentences.

4. NEEDS ASSESSMENT

Montgomery County DOCR is supportive of Senate Bill 118 that, if approved, would require state-sentenced inmates with terms over 12 months be sent to state correctional facilities.

Prior to FY 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person had served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. The State does not pay for pre-trial detention time in a local correctional facility.

While the status of this bill is in flux, with Committee members rendering the passage of this SB 118 passage very unlikely, the statute as it currently stands results in inmates being sentenced to DOCR who would have otherwise been sent to state prison. Data was not available regarding the number or profile characteristics of this sub-population; however DOCR officials have noted anecdotally that these inmates can be more difficult to program within the county jail setting; that they can pose additional management concerns; and that overall length of stay data for the jail population at large can be skewed by these longer sentences, and impact annual bed days.

DOCR Diminution Credit Policies

To help counter the loss in programs due to budget cuts, in late 2010 DOCR pursued legislative changes to allow correctional facilities to award the same total amount of time off for productive behaviors as state correctional facilities (see Table 4.13 below).

Table 4.13 State vs. County Credited Days

Facility Type	Maximum days per month credited by category				Total allowed days per month
	Good conduct	Work tasks	Education	Special projects	
State	5-10	5	5	10	20
County	5	5		5	15

Source: DOCR Inmate Programming Cost/Benefit Analysis

After re-evaluating its sentence diminution policies for good time credit, individuals serving sentences at either MCCF or the PRC could legally

4. NEEDS ASSESSMENT

reduce their sentence length by up to 15 days through credited days in three categories (good conduct, workforce tasks and education, and special project programs) as follows:

Table 4.14 DOCR Monthly Credited Days

Program	Current Credits		Proposed Additions		Proposed Total Credits
	IT	SPT	IT	SPT	
Therapeutic Programs					
Jail Addiction Services	5			5	10
Jail Addiction Services-Women	5			5	10
Moral Reconciliation Therapy-Adult					-
Moral Reconciliation Therapy-Youth			5		5
Moral Reconciliation Therapy-Female			5		5
CIU					-
Pod Representatives	5			5	10
School Programs					
GED	5				5
ESOL	5				5
High School	5				5
Workforce Programs					
Kitchen	5	5			10
Core Worker	5				5
Cluster/HAZ	5	5			10
Laundry/HAZ	5	5			10
Outside Recycling/HAZ	5	5			10
Library	5	5			10
Medical/HAZ	5	5			10
MLC	5			5	10
Outside Warehouse/HAZ	5	5			10
Night Floor	5				5

The ability of DOCR to manage length of stay for sentenced offenders is an additional mechanism for stabilizing bedspace demand. While program participation provides the optimal use of incarceration time, providing good time credits for good behavior, workforce/education and special project programs reduces idle time and serves as a general management tool in and of its self.

PRC eligibility considerations

In 2008, the authority of PRRS to work with individuals nearing their release was expanded to 12 months from release (previously 6 months) through an amendment to the County Code. More recently, the minimum time remaining on eligible inmates' sentences was similarly reduced, and the PRRS now works with individuals as close as five (5) days from their release date. These changes have come in part as a response to decreasing numbers of locally sentenced offenders at the

4. NEEDS ASSESSMENT

PRC – a factor attributed largely to the extensive efforts and successes of the County’s Pre-Trial Services Division (PTSD).

Besides the Pre-trial diversion and Alternatives to Incarceration services, the lower volume of County-sentenced individuals at the PRC is to some extent explained as resulting from changes in practices concerning the SAO and the judiciary. For example, following extensive discussions with the SAO, as well as some representatives of the judiciary, the PRRS now utilizes a “stopgap” process, through which it can hold up an intended transfer for up to two weeks in the event of an objection raised by the SAO, in order to consider additional case information. This practice is intended to address SAO concerns over individuals not serving sufficient detention time before being transferred to the PRC or home confinement, further arguing that “certain individuals should be denied transfer outright.” While PRRS has been accommodating to, in this sense, add transparency to its screening and selection process, representatives note that the utilization of this “stopgap” will be phased out as the SAO and the judiciary become more familiar with the Department’s practices and their part in influencing sentence management.

In total, the recent trends in PRRS practices are likely to on the one hand decrease bed days at MCCF (through expanding the PRRS eligibility pool at both ends) while, on the other, extending some transfers’ stay at MCCF through the two-week transfer hold-ups. Without data on the extent of “stopgap” utilization, and with the newness of the extension of PRRS eligibility to include inmates with as little as five sentence days left, it was not possible at this time to measure the relative effects of these practices in either direction.

While the PRRS continues to make efforts to ensure that its programs are fully utilized – in part through significantly increasing the number of Federal inmates served at the PRC – the PRC is not at this time open to parolees or pre-trial detainees, even with statutory authority to serve these additional inmate populations. Although a few probationers are currently served by the Division, expanding services to all eligible populations could not only impact bedspace needs at MCDC and the MCCF, but also lead to greater community re-entry successes among the aforementioned groups.

4. NEEDS ASSESSMENT

Pre-trial and Diversion Populations

Pre-trial Services

The mission of the PTSD is to provide comprehensive, community based correction options including pre-trial release programming, diversion, and intervention strategies designed to minimize an offenders' involvement with the criminal justice system while maximizing public safety. This goal is accomplished by providing the courts with an equitable array of structured, supervised programs for offenders that will maximize the timely release of detainees while ensuring their court appearance; divert selected offenders for community service sanctions and/or provide the offender with the positive intervention of community-based activities of substance abuse treatment and education.

PTSD is comprised of the Pre-trial Services Unit, Pre-trial Assessment Unit, the Alternative Community Service and the Intervention Program for Substance Abusers programs.

Pre-Trial Assessment Unit

1. Program description

The Pre-Trial Assessment Unit (PTAU) is responsible for assessing newly arrested defendants for the possibility of release into the community while awaiting trial. The PTAU's mission is to provide a pre-trial release recommendation utilizing the least restrictive means, while ensuring public safety and the Defendant's return to Court.

Defendants are screened by the PTAU within 24 hours of admission into the facility – at the latest on the next business day on weekdays, or up to 72 hours if admitted during a weekend. In addition to checking records and collecting and verifying personal information during assessment interviews, PTAU staff utilizes the *Montgomery County Pre-trial Release Risk Instrument*, a validated risk assessment tool. This tool was implemented after extensive research by James Austin of the JFA Institute, and has been in place for over five years. The tool examines the current offense, current legal status, severity of prior convictions, previous failures to appear or probation violations, aggravating and mitigating factors. An override component is built into the instrument to take into account other extenuating factors and concerns. This requires supervisory approval. Based upon this initial assessment, staff formulates recommendations to the Judge in making informed bond decisions.

4. NEEDS ASSESSMENT

The Pre-trial Assessment staff may also refer cases to the Clinical Assessment Triage (CATS) staff, when they believe a defendant has substance or mental health issues. For some defendants, this may result in in-patient treatment as an alternative to incarceration, or CATS evaluations may be used to support a recommendation to the Court.

A Pre-trial Expeditor position has been designed to follow-up with defendants that have not been able to meet their bond and/or bond conditions. Similarly, if other release options have arisen, a case can be scheduled for another bond hearing. Any cases that have a change in status will be reviewed again for possible release. The Expeditor may receive referrals from the Assessment staff, MCDC or MCCF staff for cases that should be reviewed, s/he also attends the Re-entry meetings and Homeless Team meetings to strategize possible exit plans.

The staff in the program is well trained and able to review cases in a timely manner for Court review hearings each day during the week. On days of high volume (60 or more defendants on the bond list) staff will be recruited from the Pre-trial Supervision Unit and the Pre-Trial Expeditor will be assigned to assist the Assessment office, ensuring that the maximum number of interviews can be completed. Furthermore, policies and procedures direct that staff stay late on days with a significant amount of unsecured personal bond cases, requiring only address verification to secure release, so as to ensure timely release of all such individuals.

1. Facts and stats:

The PTAU consists of six (6) Correctional Specialists, of whom five are Assessment caseworkers and one is the Expediter. The Assessment caseworkers are located at MCDC and the Expediter is located at MCCF.

On average, 31 interviews are performed daily in the Pre-Trial Assessment Unit – with referrals to Clinical Assessment and Triage Services (CATS) in instances where further mental health or substance abuse evaluation appears necessary. Each Assessment caseworker performs a daily average of eight (8) interviews, totaling over 7,000 conducted interviews annually.

Following the pre-trial assessment interview, defendants appear before the Court for a Bond Review, at which time a Judge makes a pre-trial release decision informed by PTAU assessment information. Approximately 80 percent of all releases at this stage include a condition of Pre-Trial Supervision (See Table 4.15 below).

4. NEEDS ASSESSMENT

Table 4.15 Number of Defendants Released at Bail Review Hearing

Number of Defendants Released Monthly after Appearing before the Judge on Bond Review		
Year	Total Releases	Total Released to Pre-Trial Supervision
FY13 (Projected)	182	146
FY 12	180	139
FY 11	203	163
FY 10	228	187

3. Strengths and benefits

The Pre-Trial Services Division feels they have an excellent working relationship with the Courts, which has allowed them to be effective and proficient. When the Pre-Trial Assessment Unit first began operations, about 11% of the cases were recommended for pre-trial release. Today, about 53% of the pre-trial population is recommended for release. While this number shows a slight decrease from 55% in FY2010, the County should be commended for its efforts and successes in this regard.

With regard to the effectiveness of the PTAU’s recommendations in Court, the following chart reveals that they are fairly well aligned with the Courts’ decisions:

Table 4.16 PTSU Release Recommendations and Court Decisions

Year	% of cases where PTSU was recommended but not granted	% of cases where release w/o PTSU was recommended, but not granted	% of cases not recommended for PTSU, but PTSU was ordered by Court
FY 12	14%	19%	8%
FY 11	13%	19%	6%
FY 10	11.6%	20%	7%

4. Gaps in referrals, services, program and processes

With proper staffing and time, it is possible that the PTAU could interview and screen defendants brought in on Circuit Court warrants – a population not currently served. It is also likely that additional offenders could be released, if screening occurred prior to the bail meeting in front of a Commissioner, thus providing the Commissioner with detailed information to support bail decision-making. This would necessitate a 24-hour PTAU function, however, which is a change requiring extensive staffing additions and stakeholder buy-in not seen as feasible at this time.

Although referrals may be made for mental health triage at this stage, Montgomery County does not have a solid specialized mental health

4. NEEDS ASSESSMENT

diversion program. Community services and residential options for mentally ill individuals in touch with the criminal justice system are also scarce, often deeming pre-trial release an unviable alternative for individuals in need of stabilization and care. Suitable housing and supportive case management on an on-going basis could help with addressing the needs of this population, thus making jail utilization as the “go-to” residential and/or treatment facility for mentally ill defendants less frequent and freeing up correctional beds for those requiring a more secure environment.

Pre-trial Assessment Instrument: In order to make a recommendation, pre-trial personnel assesses the likelihood of a defendant failing to appear at future court proceedings by weighing information gathered from numerous sources and developing release recommendations accordingly. As called for in standards set by the American Bar Association (ABA) and the National Association of Pre-trial Services Agencies (NAPSA), recommendations are based on a validated and objective pre-trial risk-assessment instrument.

Until five years ago, release recommendations made by the pre-trial services program were primarily based on the alleged offense rather than an assessment of the risks and strengths of the accused. As a result of population management reviews, a new matrix for providing assessments to both the District and Circuit Courts on pre-trial release decision making was implemented with the assistance of James Austin (Ph.D.) of George Washington University, brought in through the U.S. Department of Justice’s Office of Justice Programs to develop a validated pre-trial risk assessment for the County.

After the program implemented the new assessment procedures, the County saw significant changes, with the rate of recommendations for non-financial releases by the County’s pre-trial services program growing from 20 percent to 53 percent, as of June 2012. Historically, these increases have been accomplished with no changes in the rates of re-arrests on new offenses or in failure to appear in court rates.

However, over the last three years, the percentage of defendants recommended for release as a result of the assessment has dropped from 55% in FY10 to 53% in FY12. While the numbers remain relatively high, there may be room for additional releases as a result of an instrument update – a project outside the scope of this study. Current practices with regard to pre-trial release impact jail bedspace needs, and

4. NEEDS ASSESSMENT

it is important to base assessments and recommendations on evidence-based best practices and nationwide guidelines available.

The risk assessment instrument currently in use by the Montgomery County pretrial agency is short, with a background information section, a risk-related section consisting of six (6) questions and a section for staff to tally the risk score, record the recommendation, and any recommendation override justifications (which a supervisor must approve). Staff also employ their own judgment to recommend additional (substance abuse or mental health) assessments.

There is expressed concern among the interviewed Pre-trial Assessment staff that the current risk assessment tool may need to be updated. Staff noted that the instrument, in use for approximately five years, does not adequately consider substance abuse issues and that public safety concerns appear to lead to frequent score adjustments. Similarly, it appears that overrides occur in relatively high numbers (approximately 18% of cases) as a result of arising “mitigating/aggravating factors,” unaddressed by the instrument.

In order to analyze the adequacy of the instrument and explore what is missing from the tool that would give pre-trial agents confidence to use the scale recommendation in a more consistent manner, the consultants conducted a content analysis of written reasons given for pre-trial release overrides. As indicated above, in Montgomery County pre-trial assessment officers have a place on the evaluation form to indicate that they find some reason to deviate from the scale score recommendation. The override analysis was based on a sample of three (3) snapshots of the override cases for selected dates over the past three (3) months (December 5, 2012, January 11, 2013 and February 25, 2013). The snapshot analysis provided information about a total of 14 overrides (See Summary Table 4.17 below).

4. NEEDS ASSESSMENT

Table 4.17 Agreement Between Scored Detention Decision and Pre-trial Recommendation

Date of Sample		Do Scale Score and Pre-trial Recommendation agree?			Total
		Override Less	No Override	Override More	
Dec. 5, 2012	Count	3	14	3	20
	%	15%	70%	15%	100%
Jan. 11, 2013	Count	1	21	3	25
	%	4%	84%	12%	100%
Feb. 25, 2013	Count	0	31	4	35
	%	0%	89%	11%	100%
Total	Count	4	66	10	80
	%	5%	82%	13%	100%
Override Less = Total score would recommend Supervised Release but Pre-trial staff recommended Non-supervised release. Or score would recommend Detain while Pre-trial recommended Supervised Release.					
Override More = Total score would recommend Supervised Release but Pre-trial staff recommended Detain. Or score would recommend Non-Supervised Release while Pre-trial recommended Supervised Release.					

On average, pre-trial assessment officers agreed with the scale score in slightly more than 82% of the cases. In 5% of the eighty (80) cases analyzed, they recommend a less restrictive release option than the score decision suggested, and in 13% of the cases they recommended a more restrictive release decision than the scored one.

A content analysis of the reasons for the overrides suggested that pre-trial assessment staff find other indicators (than the ones captured on the pre-trial scale itself) to be the driving force behind the overrides. For example, they cite identified substance abuse issues, mental health issues, previous failure under supervision, or nature of the offense (more serious than scored), as reasons to request an override. In addition officers often ask for more restrictive release decisions when the defendant refuses to be interviewed. Finally, for defendants with multiple past failures to appear or probation violations, staff would ask for more restrictive overrides in half of the cases.

The snapshot analysis indicated that almost one in five assessments result in an over-ride. This relatively high rate suggests that the County may want to consider conducting an evaluation of the tool for possible updating. While the assessment tool is decidedly used as a guideline and not meant to be the only criteria for making a release decision, it appears to have shortfalls that staff feels often lead to overrides. Specifically, the tool does not look at the potential to re-offend, nor does it inquire about substance abuse related information in detail.

4. NEEDS ASSESSMENT

Additional, more detailed information on such variables could lead to better informed alternatives and diversion considerations. Although staff does currently consider drug and alcohol abuse related needs and risks informally, to supplement the structured instrument items, formally collecting information on arrestees' substance abuse, mental health and other co-occurring disorders and risk needs as a part of the initial assessment (albeit self-reported) could potentially increase the number of diverted/released individuals under proper supervision and treatment.

Pre-trial assessment tools provide varying levels of depth, with the Colorado Assessment Instrument asking for the most detail. However, a common component in most, if not all highly regarded assessment tools is an account of residential stability (i.e. living at a verifiable residence for a year or more). In addition to items reflecting substance abuse status and measuring risk to re-offend, the inclusion of a residential stability variable would better reflect characteristics of the population being interviewed, according to PTSD staff.

A more in-depth analysis of most recent innovations in Pre-Trial Risk Assessment falls outside of the scope of this study, and a decision regarding the currently utilized instrument and its adequacy will require further consideration and efforts by the DOCR. It is worth noting, however, that by national standards, Montgomery County could release more individuals and still stay within an acceptable level of reported failures to appear. However, considering the high standards that Montgomery County has historically upheld, a central point of consideration would be the level (%) of failures to appear that the Courts would be willing to accept.

5. Potential impact on the system

Increased community residential options and other services for the mental health and homeless population could lead to more referrals and release recommendations for those individuals. Proper stabilization and treatment within the community would help avoid detaining mentally ill pre-trial defendants in absence of other alternatives.

Pre-Trial Supervision Unit (PTSU)

1. Program description

Beyond assessment for the possibility of release into the community while awaiting trial, Pre-Trial Services is responsible for following through with supervising participants safely in the community. The Pre-Trial Services Division also supervises those defendants who are

4. NEEDS ASSESSMENT

offered diversion from trial in return for satisfactorily completing a community services or substance abuse program. These functions of the Division are the responsibility of the Pre-Trial Supervision Unit.

While awaiting trial or sentencing, an individual may be ordered pre-trial supervision as a condition of bond. An approved, verifiable address is always required – an issue thought to create barriers to serving the homeless population. The most common ways an offender is placed in the Pre-Trial Supervision Unit is through a District Court Commissioner referral as a condition of bond, through a judge's decision after a Court Bond Review (often informed by PTAU recommendations), or as a Direct Court Referral. Direct court referrals may not have had assessments completed, and Unit staff recognizes these cases as more labor-intensive.

The Case Management system is a fundamental component of the PTSU. Any individual who has been placed under the supervision of the Unit will be assigned a Case Manager and remain under such supervision until final disposition of the case. The Case Manager conducts the intake assessment, makes referrals to client-specific treatment and programming, provides counseling and crisis intervention, and recommends reclassification for participants. The intake process and assessment examines the level of risk/need and determines the supervision level.

Upon intake, a PTSU Case Manager completes the Montgomery County Pre-Trial Release Supervision Instrument that assesses a participant's level of risk and determines the amount of contact the defendant must have with the PTSU. As a result of the assessment, Pre-trial clients might also be referred to community-based services and treatment based on the needs identified through this initial assessment.

Participants in the PTSU move through a phased system of supervision levels depending on progress and performance. In addition to face-to-face office contacts and telephone communication, PTSU staff conducts home and employment visits to monitor clients within the community.

Defendants participating in PTSU are subject to random and/or scheduled urinalysis testing to monitor defendant's substance use. A minimum of one test is completed every three (3) weeks. Another component of the PTSU is overseeing the defendants that are court ordered on curfew or home detention and supervised through electronic monitoring.

4. NEEDS ASSESSMENT

Case Managers work closely with outside agencies for referrals and monitoring of progress and attendance. Specifically, the Unit's designated Domestic Violence Caseworkers team up with the Montgomery County Abused Persons Program to assure that offenders complete a required abuse class. Likewise, the Sex Offender Caseworker maintains a close working relationship with the local sex offender treatment providers to assure the defendant's compliance with sex offender treatment. In a cooperative spirit to connect clients to services, a Health and Human Services licensed therapist is present at the PTSU on a full-time basis for mental health and substance abuse evaluations, treatment referrals, and to provide crisis intervention.

Throughout a defendant's supervision period, the Pre-Trial Supervision Unit staff provides the Courts with updates on the Defendant's status and progress in the program. The Case Manager is responsible for filing a Petition to Revoke Bond, a Violation Petition, or a Violation Notification of PTSU when the defendant is in non-compliance, re-arrested, or deemed a threat to public safety.

2. Facts and stats:

The PTSU staff consists of ten positions²² (Correctional Specialist III), including:

- 3 Domestic Violence Caseworkers
- 1 Sex Offender Caseworker
- 6 Caseworkers (general)
- 1 Electronic Monitoring Specialist
- 1 Program Aide
- 1 Program Specialist II
- 1 Security Coordinator

The Unit Managers and Chief hold monthly meetings to review program performance and statistics.

All referrals are accepted into supervision, averaging nearly 200 monthly admissions in FY 2012 (see Table 4.18 below). There is no waiting period to enter the program, and participants are scheduled to report the next business day after release from custody.

²² One of the positions is part-time.

4. NEEDS ASSESSMENT

Table 4.18 Pre-trial Supervision Cases

Number of Pre-Trial Supervision Cases		
Year	Total Admissions	Average Admissions Per Month
FY13 (Projected)	2472	206
FY 12	2308	192
FY 11	2727	227
FY 10	2935	245

Table 4.19 summarizes annual client volume since 2010:

Table 4.19 Caseload Summary

Year	Annual Number of Participants*	Average Daily Caseload	Average Caseload per Caseworker
FY13 (Projected)	2932	517	55
FY 12	2904	511	54
FY 11	3305	582	62
FY 10	3616	635	68

*This includes new intakes and any carryover from previous year.

The current number of clients at the unit results in an average caseload of around 55 per Caseworker; however, the Sex Offender Caseworker's caseload averages 62. While not all sex offenders are considered high risk, they tend to stay in the program for an extended period of time. The National Association of Pre-Trial Services Agencies (NAPSA) recommends a maximum caseload of 80 clients per caseworker. Considering these numbers, the Unit is operating within National standards.

With only nine (9) percent of discharges unsuccessful²³ (see Table 4.20 below), the PTSU is not only serving all individuals that are referred under its supervision, but is also successful in meeting its service goals.

Table 4.20 Performance Measures

Year	Average Successful Discharges per Month	Average Unsuccessful Discharges per Month	Average Length of Stay (days)*
FY13 (Projected)	151	12	79
FY 12	158	15	82
FY 11	175	15	80
FY 10	191	15	79

*It should be noted that the average length of stay for clients charged with domestic violence assault is approximately 30 days. This client population represents 30% of the total Pre-Trial Supervision Unit population.

²³ A discharge is considered successful when the defendant has complied with terms of pre-trial release and has been sentenced or acquitted, or received probation before judgment. An Unsuccessful Discharge is the result of a failure to adhere to release conditions, resulting in bond revocation or change.

4. NEEDS ASSESSMENT

3. Strengths and benefits

Beyond the availability of internal provisions and interventions allowing PTSU clients to receive needed services, the very strong relationship between the PTSU and Health and Human Services benefits defendants and/or offenders in the Unit. A licensed therapist is on-site to conduct mental health assessments and provide referrals to community-based treatment. Additional benefits are realized through a County program ensuring access to medication for individuals that cannot afford to pay for their subscriptions. In a similarly cooperative manner, PTSU supervision caseworkers are able to assist Pre-Trial Assessment staff with interviews and assessments, helping during peak times (e.g. Mondays).

In seeking to better serve its clients and make its services easily accessible, PTSU has established satellite offices at existing State Community Supervision Office locations in order to maintain contact and supervise the pre-trial clients without requiring that they travel all the way to the PTSU facility in Rockville. PTSU staff also conducts home visits.

Other strengths of the PTSU program include:

- On site drug testing;
- Experienced staff;
- Opportunities for continued training;
- Electronic monitoring;
- Convenient location on a bus line;
- Clearly part of the Judicial process - viewed as a valuable entity;
- Collaboration with Montgomery County area Police.

Since 2004, the County's court appearance rate has averaged 97.3% – a very positive reflection on the Pre-Trial Services Division as a whole.

4. Gaps in referrals, services, program and processes

There is currently no designated mental health diversion program, and with limited County services and many of the existing diversion programs unable to serve unstable populations, a serious gap exists in terms of pre-trial and diversion alternatives for this population. A pilot program for mental health offenders was initiated as a cooperative effort between PTSD and the HHS CATS unit, with cases being put on a *stet docket*²⁴ and offender placed in a structured treatment program. Pre-trial, the State's Attorney's Office and HHS work together to help the

²⁴ Stet – a conditional stay of all further proceedings in a case. On motion of the State's Attorney, the court may indefinitely postpone trial of a charge by marking the charge "stet" on the docket.

4. NEEDS ASSESSMENT

offender get treatment outside the jail setting, but barriers to needed residential and treatment services within the community have made this pilot program difficult to implement on a consistent basis. At this time, the pilot program is not accepting new clients, and performance data and findings are being evaluated.

Mental health services at large are a continuing challenge for the Unit. There are limited residential options in the community, which prevents some offenders from getting into the PTSU program. Further, defendants with mental health issues could benefit from more intensive, on-going case management and support services.

Like mental health services, the lack of community substance abuse treatment for PTSU clients creates similar challenges. As an example, Avery Road, a 28-bed residential substance abuse treatment program, often has a waiting list, particularly for clients lacking private insurance. Added difficulties arise from common treatment eligibility criteria, requiring drug use within 72 hours for admission into a facility – often not the case with defendants coming to PTSU from the detention facility.

There are only two to three sex offender treatment providers in the area, resulting in highly expensive services. With limited public money for this service need, treatment access can become restrained. Finally, the Unit may also consider offering more services in the areas of education and supportive services.

Limitations in the current information management system also hinder the Unit's daily functions. Pre-population of data fields is not universal and not all information is in one place, with the required duplication of efforts between PTAU and PTSU leading to potentially duplicated information and inconsistencies. Difficulties in changing pre-set fields and inadequate fields make it difficult to report on all collected – and relevant – information. These data system issues require additional staff time to retype reoccurring information and pose challenges to consistent collection and management of client information.

PTSU staff would like to have the ability to monitor and respond to pre-trial supervision clients on the weekends. This would provide the opportunity to respond to violations in a timely fashion, provide crisis intervention and offer supportive services at all times, increasing not only service efficiency but also client accountability.

4. NEEDS ASSESSMENT

At this time, PTSU clients must regularly check-in face-to-face with their Case Managers. While home visits and the use of satellite offices improve client access, further efficiencies could be realized through the use of kiosk technology for check-in. As such, required Case Manager time could be limited, opening up time for serving more needy (or more) clients, and the access to check-in points in more locations could reduce the rate of technical violations for non-reporting.

5. Potential impact on the system

While the Pre-Trial Supervision Unit is currently successfully serving a significant number of defendants (and offenders) who may otherwise be unable to avoid detention without posing significant public safety concerns, the addition of needed services and housing options for mentally ill, substance abusing clients would enhance the Unit's success in serving these populations and keeping them outside the jail more consistently.

Additional services by the Unit (e.g. check-in kiosks, educational and supportive services, extended monitoring over the weekend) could improve client compliance and more comprehensively address their identified risk and need factors.

Alternative Community Services (ACS) Program

1. Program description

The Montgomery County ACS program aims to provide an alternative, meaningful and cost effective correctional program in which adult offenders perform community service as a means to dispose of their criminal cases while reducing financial impact to the court and the community. The program is operated in cooperation with the Montgomery County State's Attorney's Office, the Maryland Division of Community Supervision, and other community service agencies operating within the State of Maryland.

ACS provides the courts with a means to adjudicate first-time offenders charged with misdemeanors, by having them perform community service instead of being prosecuted. The program also offers a community service option for probationers, reporting to probation agents, judges, and defense and prosecution attorneys on these individuals' participation and service hour completion.

Participants pay a \$175 program fee; however, ACS does not refuse participation in the program based on inability to pay. Fee waivers or reductions are considered on a case-by-case basis.

4. NEEDS ASSESSMENT

Community service work is completed seven days a week in governmental, charitable, or non-profit organizations approved by the ACS program. ACS participants can also be assigned to three supervised community service work crews that perform a variety of work throughout the County. Work crews typically service “higher risk” participants from both ACS and IPSA, as they are supervised by correctional officers.

Program eligibility:

- minimum age of 18 years;
- misdemeanor or civil citation charges;
- no prior convictions for “Crimes of Violence” (Maryland Annotated Code, Title 8 – Correctional Services Article, Subtitle 7, Section 8-704);
- no additional pending charges, outstanding detainers or warrants for arrest/apprehension;
- no prior record of conviction that resulted in a period of incarceration;
- apparent psychological or emotional impairment that may prohibit safe placement in a community service work environment may require an evaluation from a certified medical and/or treatment professional prior to acceptance into the program;
- persons having one or more criminal convictions, Probation Before Judgment (PBJ) or stet dispositions considered for eligibility based on a State’s Attorney’s recommendation that it would be in the best interest of the person charged and the State of Maryland to enroll the person into the ACS Program. These individuals would not be eligible for an expungement of the criminal record in this instance.

Screening Process:

Diversion defendants can only be referred to ACS by the State’s Attorney’s Office, subject to screening by a DOCR Correctional Specialist. ACS staff is present for evaluations at the District Court in the mornings throughout the workweek, and program participation is voluntary.

Eligible defendants volunteering for ACS will sign a program contract, after which the State’s Attorney will enter a Conditional *Nolle Prosequi* (no prosecution) to the charge. Should a defendant fail to complete the program requirements, the case will be recharged.

4. NEEDS ASSESSMENT

An intake appointment is scheduled with eligible participants within seven (7) days. Upon no correspondence within a specified time period, cases are returned to the referring/supervising agency as non-responsive.

Defendants are expected to complete all program requirements within a specified period depending upon the number of hours assigned. Extensions must be approved by the assigned Caseworker.

Each caseworker is expected to meet with the offender client at least twice monthly, in person or by phone. The timetable for case completion is:²⁵

- For cases with 30 hours or less = 60 days
- For cases with 31-60 hours = 90 days
- For cases with 60 – 100 hours = 120 days
- For cased with 101 or more hours = 180 days

Current active client program’s average length of stay is 110 days. In FY 2012, ALOS for completed participation was 96 days.

2. Facts and stats:

The ACS staff consists of:

- 1 Principal Administrative Aide and
- 5 Correctional Specialist II positions
 - 2.5 Diversion Specialists
 - 2.5 Probation Specialists

The average caseload size for a Correctional Specialist is 192, and the total daily caseload for the program averages 961. During FY 2012 ACS served a total of 2,962 participants. There is no waiting list for this program, with minimal time from referral to admission. Table 4.21 below summarizes key ACS data since FY 2010:

Table 4.21 ACS Statistical Summary

Annual Number of Participants, Average Caseload, Community Service			
Year	Total Number of Participants	Average Monthly Caseload	Community Service Hours Total (average per month)
FY 12	2962	961	91,788 (7649)
FY 11	3229	1014	95,551 (7963)
FY 10	3748	1131	105,581 (8798)

²⁵ When Correctional Specialist caseloads exceed 200 active cases, a relaxation in client contact is allowed.

4. NEEDS ASSESSMENT

3. Strengths and benefits

The ACS success rate is high. During fiscal year 2012, 87.8% of the referrals met the conditions of the program, resulting in a successful completion. As a trusted and valued component of the correctional system, the program does not only maintain a strong relationship with the State's Attorney's Office, but it is also held in high regard in the community, resulting in a wide variety of worksite options.

As a jail alternative for first-time offenders, ACS benefits the County and the DOCR by reducing jail bedspace needs, while providing for maintained public safety. Its highly flexible community service hours and the variety of available sites allow participants to remain employed and support themselves and/or their dependents. Simultaneously, required face-to-face time and provisions for higher risk clients allow for an adequate level of supervision and accountability.

Beyond population control and needed services, the benefits of ACS are realized financially, as the program generates approximately \$500,000 in annual revenue.

4. Gaps in referrals, services, program and processes

A current shortage of staff has resulted in reported high caseloads (ideal caseloads range between 150 and 175 per caseworker) and a backlog of cases. ACS staff report continued difficulty in obtaining staff, due to extensive hiring process and low-level nature of positions (creating fast turn-around).

With high caseloads, caseworkers' time is limited, and the staff report lost time spent driving to and from the District Court as an inconvenience to service provision. The program is considering the placement of designated staff at the Court on a more permanent basis, instead of requiring multiple Correctional Specialists to drive there for Monday, Tuesday, Thursday, and Friday mornings.

While work options are plentiful and hours flexible, community service options for disabled and/or pregnant clients are delimited by a dearth of sit-down work sites, according to ACS officials, who also note that the program continuously maintains strong community ties and seeks out new work sites, particularly with such work in mind.

5. Potential impact on the system

The current impact of ACS on the justice system at large and on the Montgomery County correctional system in particular is realized through both bedspace savings at the correctional facilities and

4. NEEDS ASSESSMENT

increased public safety and offender responsibility as a result of supervision and community service. This impact could be possibly increased through addressing the identified gaps. Particularly, hiring new staff to adequately service referred participants is seen as key.

The consultant team does not see any great adjustment to this program. ACS accepts referrals from all diversion programs at this time, including the Drug Court. The program seems to be meeting the needs of the County.

Intervention Program for Substance Abusers (IPSA)

1. Program description

The mission of the IPSA is to direct all eligible first time offenders charged with misdemeanor drug crimes out of the court system and into programs that support behavioral changes and a drug-free life through offered drug testing, education, treatment, and community service, while providing a way to avoid a criminal record.

Participants are referred to the program by the State's Attorney's Office, with citation cases eligible for diversion in lieu of arrest (directly from the street). Offenders can also be placed in the program as a condition of probation.

Screening Process:

As with ACS, diversion clients are referred to IPSA by the State's Attorney's Office, with a consequent screening by a Correctional Specialist with the Department of Correction, usually on the day of their first court date. Citation clients are referred by the police at the time of arrest, and probationers are placed in the program through an inter-departmental agreement, following a judge's sentencing.

Eligible clients must volunteer to participate and sign a program contract. As a condition of participation, defendants must agree to waive their right to a speedy trial, and their case is placed on the stet docket for a period of six months. The Correctional Specialists provide participants' status reports to the State's Attorney's Office and/or Community Supervision.

Participants are subject to a program fee of \$150 for the Citation Track and \$350 for the two Misdemeanor Drug Tracks. Inability to pay does not deem participation impossible.

4. NEEDS ASSESSMENT

Upon acceptance, participants are assigned into one of the program's three tracks:

- Citation Track;
- Misdemeanor Drug Education Track, or;
- Misdemeanor Drug Treatment Track.

Program Requirements include maintaining a drug-free life throughout participation (random or regular drug/alcohol testing), caseworker meetings, participation in drug education classes and treatment programs, if applicable, community service, and refraining from criminal behavior. Program completion times vary, with the Citation Track requiring approximately two months and 20 hours of community service. The Treatment Track, requiring most extensive participation, is intended for clients with more serious substance abuse histories and persisting problems, lasting as long as 20 weeks.

Program Eligibility:

- minor drug offense and related act charges;
- no prior felony convictions within the past 10 years
 - Convictions older than 10 years will be reviewed on a case by case basis;
- no jail stay beyond 30 days within the past 10 years;
- no prior participation in the IPSA program
 - For Misdemeanor Tracks admission will be considered on a case by case basis if previously participated in Citation Track;
- no pending felony criminal charges (defendants may be eligible at a later date if pending charges are dropped).

Offenders referred to IPSA as a condition of probation should be those persons who have mild to moderate substance abuse histories and limited prior criminal records. Community Supervision referrals may not have a prior conviction for a violent offense as defined in Article 27, 643(b).

2. Facts and stats:

IPSA staff includes:

- 1 part-time Principal Administrative Aide
- 2 Laboratory Technicians (one female and one male)
- 5 Correctional Specialist II Caseworkers

During FY 2012, there was an average of 183 referrals per month. Of those referred to the IPSA program, 90 were so for misdemeanor drug

4. NEEDS ASSESSMENT

cases, and 93 were criminal drug citation cases. IPSA averaged 173 interviews per month and 153 placements per month, resulting in an average daily Unit caseload of 488. Each IPSA caseworker handled an average of 98 cases throughout the year. Statistical data is summarized in Table 4.22:

Table 4.22 IPSA Statistical Summary

Annual Number of Participants and Average Caseload:			
Year	Total Number of Participants	Average Monthly Caseload	Total Number of Drug Tests
FY 12	1,735	488	8,782
FY 11	1,480	428	8,418
FY 10	1,377	425	7,538

The pre-determined program length requirements largely drive average length of stay, which varies by Track. As a result of efficient case handling, IPSA turns over an average of 35 percent of its caseload monthly.

In FY 2012, IPSA averaged 145 monthly discharges, approximately 79 percent of them being successful. Failure to comply with one or more of the program requirements (e.g. through drug use, non-completion of community service, failure to report for testing) resulted in a fifth of the cases being unsuccessfully discharged.

3. Strengths and benefits

IPSA allows for early intervention for substance abusing offenders, offering onsite education and drug testing, as well as access to a mental health practitioner and Health and Human Services' personnel within the Unit. Additionally, the program provides referrals for needed outside community treatment services. Beyond services and treatment, participants benefit from participation in this program through the possibility to apply for expungement of their cases upon successful completion.

The completion rate for this program is very high – averaging 82% since FY 2009. As a result of implemented performance measures for successful fulfillment of program requirements, individuals are processed efficiently for discharge, turning over cases in a timely fashion and allowing more individuals the opportunity to participate.

The IPSA unit has generated approximately \$750,000 in revenue, which is applied to the general fund. Additionally, as a diversion program,

4. NEEDS ASSESSMENT

IPSA allows offenders to be diverted from the court system, reducing the court docket as well as bedspace needs at the correctional facilities.

4. Gaps in referrals, services, program and processes

Continuous staffing issues have resulted in a significant backlog of cases, according to IPSA representatives. The current wait time for an appointment can be up to five weeks, compared to a three to four week wait time when fully staffed. As such, staffing constraints currently reduce program admittance and the number of served clients. This problem has also resulted in the high average caseload of 98 cases per caseworker, which would ideally remain between 70 and 80 cases.

As previously noted, there is no designated mental health diversion program in the County, and programs like IPSA cannot serve higher need mental health populations. As such, while IPSA accepts cases with some level co-occurring disorders, it must, at this time, turn away individuals with more unstable and/or prominent mental health issues – even in instances where clear substance abuse problems are present.

5. Potential impact on the system

IPSA reduces the number of defendants/offenders placed in the correctional facilities. It also, in a similar manner to other available diversion programs, provides for added public safety short-term for those that are released to the community by increasing client supervision and accountability, and long-term, by seeking to address the underlying substance abuse problems of this segment of the population.

A potential expansion of the IPSA program, according to IPSA representatives, could be expanding program eligibility to include certain felony offenders. This, however, would add a level of intensity to the program and the County's diversion services as a whole, and would require significant policy changes and justice system buy-in.

Community Service Work Crew Program

1. Program description

Participants are assigned to the work crew as part of their participation in the Alternative Community Services Program, the Intervention program for Substance Abusers, the Pre-Release Center, or the Adult Drug Court. Defendants and offenders referred to the program have already been counted through DOCR diversion and re-entry programs, with the exception of 20-30 cases per year that are referred on an “as-needed” basis from the Drug Court substance abuse program.

4. NEEDS ASSESSMENT

Having been screened for the other programs, Work Crew participants have undergone a local, state, and national criminal background check. By statute, certain offenders convicted of a crime of violence are not allowed to participate in community service in Maryland and are ineligible for the program. Other candidates are not accepted due to negative behavior/attitude during the intake process or as a result of mental or physical health conditions that would impede program participation or completion.

Participants are placed on the work crew with consideration of their criminal charges, the location of the site, transportation, availability, and the timeframe for completion. Work crews are supervised by correctional officers, who oversee up to twelve (12) participants assigned to their crew, with a security officer provided for building security. The program operates during the day shift, seven days a week.

In February 2011, DOCR implemented a weekend work crew assigned to Silver Spring Urban District. Since the first group of weekender participants started operations in 2011, the number of applicants has consistently increased on a weekly basis. As an example, the weekend of January 19, 2013, the weekend work crew program was serving 24 participants.

2. Facts and stats:

During FY 2012, there were 616 defendants/offenders who participated in the work crew program. On one day per week, up to 30 persons are able to participate, with up to 20 participants joining the work crews on the remaining six (6) days. The average daily caseload is 15-16.

The wait to join a weekday work crew is approximately 4 to 7 days, with waits as long as three or four weeks to join a weekend work crew.

In FY 2012, 76 percent of placed defendants/offenders showed up for their assignments (fill-rate). This issue is addressed by allowing other participants to walk onto crews to fill “no-show” spots.

Unsuccessful terminations average only three (3) to five (5) annually, largely due to negative behaviors or attitude while on the work site.

Table 4.23 summarizes Community Service Work Crew volume for FY 2010-2012, illustrating the existing room for further utilization of this program:

4. NEEDS ASSESSMENT

Table 4.23 Community Service Work Crew Annual Statistics

Year	Annual Number of Participants		
	Seats Available	Seats Used	% Fill Rate
FY 12	7390	5586	76%
FY 11	7100	5501	77%
FY 10	5040	4316	86%

3. Strengths and benefits

The design and implementation of the work crews has been a major collaborative effort in the making for over eleven years. The amount of work produced is significant, benefitting the County.

The work crews allow defendants/offenders to work in the community to complete required community service hours as a way of serving their sentences outside of a jail setting. Additionally, the provided work experience serves to develop participants' employment skills.

4. Gaps in referrals, services, program and processes

There is currently no dedicated crew for convicted offenders (e.g. PRC residents). Such an addition could allow for further reductions in correctional bedspace needs through gained "good time," with the added benefit of meaningful programming and skills development for these additional participants.

5. Potential impact on the system

The Work Crew's impact on the system is largely realized through other programs, as participants are pulled from ACS, IPSA, and PRRS populations. Still, work crews open up community service as an option for individuals who require higher levels of supervision and could otherwise be deemed ineligible for diversion.

Mental Health Diversion Pilot Program

1. Program description

With the goal of diverting offenders suffering from mental health issues, Pre-trial Services Division and Clinical Assessment and Triage Services partnered in 2012 to implement a small pilot diversion program. Placing cases on a "stet" docket for the duration of the program, this pilot program strived for offenders who are mentally ill to comply with and obtain specialized treatment in the community as a better response than just incarcerating them. Upon successful completion of the program and treatment requirements, participants would have their cases expunged. This possibility for getting one's charges expunged was designed as an incentive for the required commitment to specialized

4. NEEDS ASSESSMENT

treatment, including more intensive and comprehensive forensic mental health case management.

To be eligible for program participation, offenders must be charged with minor offenses, with voluntary participation being a core aspect of the program. Additional eligibility criteria for the mental health diversion pilot program included:

- Primary mental health diagnosis;
- Montgomery County resident/homeless;
- Recidivist, with at least two arrests in the preceding twelve (12) months, and
- Non-violent misdemeanor charges

2. Facts and stats

To date, a total of 12 participants have participated in the program. Three (3) out of the twelve (12) participants have successfully completed the program.²⁶ Currently, data is being analyzed, and the program is not open to new candidates.

According to Athena Morrow, CATS's Unit Director, the three (3) successful participants had 43 arrests among themselves, for an average LOS of 2.5 months. They were minor offenders, chronically homeless (that was not a requirement, but rather a coincidence). Each was diverted within twenty (20) days to inpatient programs (one at a six month substance abuse program, one at a 9 month substance abuse program and another at a residential rehab). They were supervised by Pre-Trial staff and had wraparound services and case management/oversight. The six (6) that did not succeed either disappeared or were not approved by the SAO for the pilot (two cases).

3. Strengths and benefits

The pilot mental health diversion program has been designed to support a coordinated and collaborative approach for maximizing the impact of effective services for individuals with mental illness who are in conflict with the law.

²⁶ Diversion example case: chronically/severely mental ill consumer, stable, RRP resident; highly compliant with complicated prescription combination; quickly decompensate without meds; while on weekend pass at home assaults family member and gets charged with a felony assault; provider was aware of CATS services and contacted them and jail staff; communication was facilitated; meds were smoothly prescribed and administered; inmate was sent to CIU for safe housing over the weekend. On Monday morning: CATS and Pre-trial collaborated; provider was contacted to secure bed space and transport; arrangements were made for bed to bed transfer; the bench was presented with a diversion recommendation; the release order was signed in a way that facilitated his release directly to the provider. CATS coordinated all aspects of discharge within the institution.

Source: Collaborating with Correctional System on Discharge planning. Power-point presentation by Athena Morrow and Wendy Miller Cochran. Available at <http://www.slideshare.net/mecchinmd/criminal-justice-14348642>

4. NEEDS ASSESSMENT

In the absence of appropriate diversion services, a continued reliance on the criminal justice system is created—often referred to as a revolving door phenomenon. In this regard, it becomes crucial that this pilot project is formally integrated into the continuum of diversion options. Doing so will ensure the quality, efficiency, and accountability of an effective, community-based framework, while ensuring whenever possible that adults with mental illness receive appropriate care, support and treatment from mental health, social and support services.

4. Gaps in referrals, services, program and processes

As part of the evaluation process, a number of challenges have been identified by CATS staff, namely:

- Labor-intensiveness, particularly at the front end;
- General unwillingness of programs and service providers to work with the target population;
- Problems with shelter-access and referrals;
- Insufficient availability of forensic case management to provide more intensive support and coordination throughout participants' criminal justice system involvement²⁷, and;
- Difficulty in coordinating services.

5. Potential impact on the system

In order to improve the pilot's noted low success rate (25%) and to provide a significant impact on the County's jail bed needs through a mental health diversion alternative, these identified concerns must be addressed before moving forward. Furthermore, to empirically evaluate this program's effect on bed use at MCDC or MCCF, more detailed data on length of stay for both program participants and other defendants with mental health would be required.²⁸ As such, much remains to be done to move this program from a pilot stage to a permanent part of Montgomery County's diversion system.

Circuit Court Adult Drug Court Substance Abuse Program

1. Program description

Established in December of 2004 as a collaborative effort between criminal justice and treatment stakeholders, the Montgomery County Adult Drug Court Program is a post-plea/post-conviction voluntary

²⁷ As per communication with Ms. Morrow, the pilot strongly points to a need for Forensic Case Management, overseeing these cases from inside the jail through release and beyond, as they are complicated and involve continuously changing needs. She describes the need for "one person acutely familiar with the[se individuals] and the resources to orchestrate sophisticated interventions. This person should also have expertise in directly engaging the judiciary and initiating their response as needed."

²⁸ Currently available pilot data indicates that the three successful candidates averaged a 2.5 month LOS. No comparative data for those remaining within the jail(s) was available at this point.

4. NEEDS ASSESSMENT

program that offers an opportunity for treatment and recovery from substance dependency in lieu of prosecution.

Procedurally, offenders may be referred to the Drug Court program 1) as a condition of an initial sentence through a negotiated plea agreement between the State's Attorney and defense counsel, or 2) as a treatment strategy for offenders charged with a violation of the conditions of their probation.

The substance abuse Drug Court program is a model that provides intensive supervision and frequent monitoring of treatment compliance by a designated Drug Court Team, including the Circuit Court Judge, Drug Court Coordinator, the offender's attorney, representatives from the Office of the Public Defender and the State's Attorney's Office, Case Manager, Office Services Coordinator with the Department of Health and Human Services, a member from the Department of Correction and Rehabilitation, and a senior agent from the Maryland Division of Community Supervision.

To be eligible for program participation, a person must be:

- current resident of Montgomery County;
- charged with a Violation of Probation (VOP) from a Circuit Court sentence or be recommended to the Drug Court as part of a binding plea agreement;
- have at least 18 months of time remaining on probation;
- voluntarily commit to the time for participation in each phase of the Drug Court program;
- non-violent;
- dependent on alcohol and/or other drugs; and
- physically capable of participating in all Drug Court activities and treatment programs.

The length of participation in the program is two to three years, with the actual time in the program depending on the participant's progress. Defendants work through a 4-phase system, with advancement following positive accomplishment of program goals and requirements. In the beginning, the offender meets with the Drug Court Judge every week. A licensed professional delivers both individual and group substance abuse therapy, while a Case Manager coordinates and facilitates an individual case plan. Regular alcohol and drug testing occurs randomly.

4. NEEDS ASSESSMENT

Criteria for successful completion include:

- Successful completion of all probation and program requirements, including restitution and costs;
- Completion of community service and other program assignments;
- Nine (9) continuous months of negative urine/breath tests;
- A positive recommendation for graduation by the Drug Court Team;
- Approval of the Drug Court Judge, and;
- Completion/implantation of an aftercare plan with the Case Manager.

Sanctions for non-compliance with program requirements may include warnings from the Judge, assignment to a work detail, increased number of drug/breath tests, a delay in promotion to the next phase, incarceration, and/or termination from the Drug Court Program. Upon graduation (successful completion) of the Drug Court Program, participants graduate and are fully released from their probationary status.

2. *Facts and stats*

Up to date, the Drug Court has served 245 participants, of which 110 have successfully completed the program (45%), close to the national average of 50%.

Table 4.24 shows some Drug Court statistical data since 2005, demonstrating that the Adult Drug Court has continuously increased its active client load over the 8-year period. As of February 13th, 2013, 70 participants were in the Drug Court. With a daily average of 77 clients in 2012, the program experienced a 15% decline, compared to 2011 average number of daily participants.

Table 4.24 Drug Court Statistical Summary

	Active Clients	Daily Average	Court Admissions	Court Discharges	# Annual Graduates
2005	26	17.18	21	1	0
2006	47	26.08	22	21	17
2007	57	36.12	31	21	20
2008	63	43.53	27	13	6
2009	85	56.76	35	18	13
2010	113	75.34	46	27	12
2011	119	90.81	33	34	12
2012	115	77.03	30	47	30

3. *Strengths and benefits*

As an alternative to traditional interventions, such as incarceration or probation/community supervision, the Drug Court seeks to address the

4. NEEDS ASSESSMENT

“root problem” that often underlies the criminality of substance abusing and/or dependent individuals. By quickly identifying these offenders and their specific need and risk factors and placing them under more intensive monitoring and supervision, the Circuit Court is effectively responding to identified risk factors, such as failure to report to and/or continue treatment, that often play a part in heightened recidivism rates among the substance abusing offender population.

The outcomes for participants are quite positive. Its annual graduate numbers have seen a significant increase, as thirty (30) participants completed the program in 2012, up 150% from 2010 (12) and 2011 (12) figures.

Another strength of the program lies in its continued collaboration and partnership with Law Enforcement agencies and other service providers and/or facilities, such as the DOCR’s Pre-Trial Supervision Unit. Most recently, the Drug Court has partnered with DOCR’ Pre-release and Re-entry Services Division (PRRS) to allow program participants to reside at the PRC for stabilization, increased supervision, as a treatment sanction, or as a drug-free housing option. The inclusion of Drug Court substance abuse program participants in the PRC population has provided an expanded continuum for the Drug Court and has allowed for an efficient use of excess bedspace capacity that currently exists at the DOCR’s facility.

4. Gaps in referrals, services, program and processes

While the Drug Court numbers have been increasing, the Court continues to operate significantly under capacity. The program is currently budgeted to serve a higher number of individuals (100). However, staff noted that if operating at full capacity, with the current availability of staff, the program would face operational challenges and case management inefficiencies.

A challenge faced by a significant number of participants, particularly homeless individuals, is the limited availability of stable, sobering housing in the community upon admission into the Drug Court. As a result, some delays occur in trying to secure a housing placement for Drug Court participants, with the collateral consequence of participants having to spend more time at the Pre-release Center as an alternative drug-free housing option.

4. NEEDS ASSESSMENT

5. Potential impact on the system

Consideration of additional populations that could be served by the specialty dockets of the Drug Court (e.g. DWI offenders) could help reduce jail utilization and to offer beneficial services to meet present needs. As also stated by the Drug Court's Presiding Judge Rupp, in the "ideal" world, the Drug Court would be expanded to District Court.

4.4 Conclusions

The needs assessment of the Montgomery County's correctional system highlighted the County's widely recognized, successful approach to the overall management of a continually changing, diverse, and sometimes challenging inmate population. Strong collaboration system-wide and a wide array of offered diversion programs and alternatives to incarceration, serve to meet differing needs and address various levels of risk within the defendant/offender population. While in-custody, the facilities offer a wide array of programming tailored to the profile of the population served. However, as noted, the design of the existing housing units in some instances does not align with the growing special risk/need population, particularly for mentally ill inmates. By and large, there is adequate capacity in each of the three facilities to accommodate present inmate census, and projections indicate that facility expansion will not be required in the foreseeable future.

Perhaps the most significant program explaining the current availability of bed space within DOCR facilities is the Pre-trial Services Division. Looked at as a whole, the current practices of the PTSD are broad and highly effective, in part evinced by continuously low failure rates among the many released pre-trial detainees as well as the decreasing numbers of eligible local inmates for Pre-Release and Re-entry Services (PRRS) at the back-end of the custodial service continuum.

Beyond successful programs, however, the insight of leading staff, the diversity of current functions, and the attention to system-level concerns in every aspect of the operations of the PTSD is commendable. It is not common across the United States for one organization to be responsible for so many aspects of decision-making before, during, and after the judicial process. That being said, the continued enhancement of PTSD data to support program evaluation and long-term planning was noted, echoing a recent national monograph sponsored by The National Institute of Corrections Pretrial Executives Network (August

4. NEEDS ASSESSMENT

2011), where the importance of outcome and performance measures and mission-critical data for pre-trial service programs were recommended.²⁹

While the needs assessment supports the overall conclusion that Montgomery County is indeed a leader in correctional practices and ATIs, two areas of need were identified that if properly addressed, would expand and enhance the existing criminal justice and corrections continuum of alternatives and sentencing options:

- 1) Reduce the reliance on jail incarceration of the criminally involved mental health population by expending diversion and residential options for appropriate candidates.
- 2) Reduce the length of stay of appropriate DOCR populations by providing a community-based step-down option as part of the re-entry process.
- 3) Reduce the reliance on incarceration of probationers by expanding the community-supervision continuum with a more structured, step-up supervision environment for probationers at risk of violating.

These recommendations are discussed in detail in Task 7 of this report, with consideration given to their potential impact on the projected jail bedspace requirements.

²⁹ The recommended measures include: *Appearance Rate*: The percentage of supervised defendants who make all scheduled court appearances; *Safety Rate*: The percentage of supervised defendants who are not charged with a new offense during the pretrial stage; *Concurrence Rate*: The ratio of defendants whose supervision level or detention status corresponds with their assessed risk of pretrial misconduct; *Success Rate*: The percentage of released defendants who: 1) are not revoked for technical violations of the conditions of their release; 2) appear for all scheduled court appearances; and 3) are not charged with a new offense during pretrial supervision; *Pretrial Detainee Length of Stay*: The average length of stay in jail for pretrial detainees who are eligible by statute for pretrial release; *Universal Screening*: The percentage of defendants eligible for release by statute or local court rule that the program assesses for release eligibility; *Recommendation Rate*: The percentage of time the program follows its risk assessment criteria when recommending release or detention; *Response to Defendant Conduct*: The frequency of policy-approved responses to compliance and noncompliance with court-ordered release conditions; *Pretrial Intervention Rate*: The pretrial agency's effectiveness at resolving outstanding bench warrants, arrest warrants, and capiases; *Number of Defendants Released by Release Type and Condition*: The number of release types ordered during a specified time frame; *Caseload Ratio*: The number of supervised defendants divided by the number of case managers; *Time from Nonfinancial Release Order to Start of Pretrial Supervision*: Time between a court's order of release and the pretrial agency's assumption of supervision; *Time on Pretrial Supervision*: Time between the pretrial agency's assumption of supervision and the end of program supervision; *Pretrial Detention Rate*: Proportion of pretrial defendants who are detained throughout pretrial case processing.

TASK 5. DOCR RECORD KEEPING,
DATA COLLECTION & ANALYSIS

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

5.1 Approach and Methodology

Approach

The goal of this task was to assess the adequacy of record keeping, data collection, and analysis within the Montgomery County Department of Corrections and Rehabilitation (DOCR). The frame of reference for this assessment was established primarily on the basis of data requested for the current Master Facilities Confinement Study, the availability of said data, and the ability of DOCR to effectively deliver basic data on jail activity indicators as well as more descriptive data on system volume, flow, and processes. The Departments' current information management system for collecting, storing and tracking of individual case records, as well as the ability to aggregate data and produce reports necessary for policy planning were thus assessed from this point of view. This was not a personnel evaluation, but rather a review of data gathering and reporting capabilities. Additionally, the evaluation explored cross-agency information sharing capabilities that would allow a wide range of agencies to exchange real-time information quickly, securely and accurately.

The adequacy of recently implemented modern information management systems (IJIS/CRIMS) was evaluated, with an eye toward these systems' ability to support and enhance safe, efficient, quality daily operations and management, and to inform the DOCR and Montgomery County's criminal justice policies and processes at large.

Methodology

As part of the inmate population projections and classification analysis the consultants worked closely with DOCR staff in determining the nature and level of data that was required so that information could be analyzed and outcomes developed to meet the planning objectives of this study.

Through direct coordination with staff at DOCR and the Department of Technology Services – CJIS Records, the consultants sought to gain a first-hand sense of what basic data were and were not available, and what level of effort was needed to collect specific data elements. The consultants corresponded regularly with DOCR and DTS staff to obtain further clarification where data was missing or incomplete. Additionally, two on-site data meetings were held during the course of which the consultants had the opportunity to discuss current and new management information systems (See Appendix G for list of attendees).

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

Key features, observations, challenges, and improvement opportunities were identified across the board.

5.2 Cross-Agency Information Sharing

While the purpose of this task was an assessment of DOCR record keeping and data utilization, the consultants first explored DOCR management information system adequacy in the context of cross-agency information sharing, recognizing it as a vital aspect of system operations, analysis, and planning. Good record-keeping and information-sharing practices are essential for day-to-day decision making as well as long-term evaluation and planning. The jail, as the “hub” of the local criminal justice system, must have the capacity to easily interface (communicate/share information) with other agencies and criminal justice systems in order to support data-driven decision making.

Historically, Montgomery County criminal justice agencies have shared MCCJIS for basic arrest, case and corrections information and have also, by necessity, developed additional separate databases, with management information systems unique to each agency.

The CJ agencies must also access separate Federal and State IMS in order to maintain and inquire into an individual’s criminal and case histories. The following systems contain both criminal history and non-criminal history records/information, accessible to authorized employees from several criminal justice agencies:

- Montgomery County Criminal Justice Information System (CJIS);
- Maryland Criminal Justice Information System (MDCJIS) - State;
- Maryland Interagency Law Enforcement System (MILES) - State;
- National Crime Information Center (NCIC) - Federal;
- Interstate Identification Index (Triple I);
- National Law Enforcement Telecommunications System (NLETS) - Federal;
- Maryland Automated Traffic System (MATS) - State;
- Maryland District Court Criminal System (MDCCS) - State;
- Motor Vehicle Administration (MVA) - State;
- State and local Warrants (WARRS), and
- E-Justice, SAO Case Management System, and Montgomery County Circuit Court Case Information System (MCCCIS)

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

These systems all have different security requirements, query parameters, and query result screens, likely to lead to inconsistencies in data as a whole. Because the information is stored in many different formats and on technology platforms that are incompatible, it is difficult (or impossible) to easily share information with others in the system, which often results in information being lost, fragmented, or duplicated by each agency.

Criminal Justice Information System (CJIS)

Pertinent to DOCR, the consultants explored the shortfalls of the current all in one configuration data system (CJIS), in terms of interfacing with other agencies and in terms of data retrieval capabilities. The main findings from this review, as discussed with DOCR and DTS staff and data representatives are:

- Designed based on the 1970's mainframe technology and in operation since the mid-1980s, CJIS is a criminal justice system infrastructure that has reached the end of its useful life. The system has very limited support, and therefore limits functional and collaborative capabilities. However, it still remains vital to the daily operations of DOCR and MCPD until the new systems associated with IJIS are tested and completely and fully operational.
- As new systems come online, data must still be exchanged between all the criminal justice agencies (e.g. outstanding arrest warrants, warnings about former inmates if they are picked up in an arrest after their incarceration, domestic violence information, etc.). In this regard, various computers at DOCR facilities use the County's mainframe computer to provide access to the County CJIS and other federal, state and local systems (e.g. the WARRS System, NCIC, and State MILES and MATS systems). Although the current system links different data systems that are required to exchange data, the only way to interface with other agencies is through Central IT. Additionally, since the County's law enforcement, courts and other agencies operate on separate mainframe systems, which were not originally designed to communicate with each other, information cannot be easily retrieved and shared, which translates into significant data gaps and duplicate efforts at the front-end.
- Especially with respect to data sharing and functionality, the system is replete with missing data, must be accessed individually, and requires customized approaches to interpret and utilize the data.

While CJIS is a set of data tables that holds all criminal justice data together in one older, limited and failing system, a new Integrated

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

Justice Information System (IJIS), currently in the process of being implemented, will allow the individual agencies the flexibility to replace their current record keeping/data systems with IJIS core components that are specialized for their particular business processes rather than functioning within the confines of the CJIS framework.

Integrated Justice Information System (IJIS)

In 2002, Montgomery County began a process to build an integrated justice information system that would use modern Internet-based architecture, open standards, and security features that meet current technologies to facilitate the electronic access and exchange of law enforcement and criminal justice data across agencies through a single entrance point.

Including a number of agency-specific systems that function under the larger IJIS umbrella, this multi-agency project was directed by a Steering Committee of representatives from the Montgomery County Police Department, Sheriff's Department, Department of Correction and Rehabilitation, the State's Attorney's Office, the Circuit Court, the County's Health and Human Services Department and the County's Department of Technology Services. The purpose of the Integrated Justice Information System Steering committee and Workgroup is to govern the web-based IJIS program.¹

IJIS serves as a mission-critical information system that links together and provides access to a central query system about Wanted Person Checks and Person Background Checks against a wide variety of public safety and criminal justice information data sources - Montgomery County CJIS, Montgomery County E*Justice, IJIS Arrest History, CRIMS, SAO and JJIS - at various key decision points throughout the County's justice system processes.

The IJIS Core consists of:

- Inquiry – Allows end users to query other agency databases for needed criminal information.
- Arrest History – Allows users to query for Non-E*Justice (RMS) arrest information, i.e. Maryland State Police and Park Police.

¹ The IJIS system was one part of a strategic countywide IT plan that included a Public Safety System Modernization Plan, a Communication Interoperability Plan, a Computer Aided Dispatch Road Map and a Public Safety Enterprise Architecture that are documented with the first three official papers published on the Montgomery County portal under the Public Safety Enterprise Strategies link.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

- Transport – Performs an automated check of all inmates against both the Circuit and District Court Dockets and prepares a transport list based on the matches.

The goal of IJIS is to allow the agencies to continue to coordinate and share information, regardless of their distributed applications. Individual systems are now being designed around the needs of each organization, with the benefits of modern technology, system information interoperability, and access.

In the past, workers often filled out paper forms to request data. With the shift to electronic records from what has historically been a paper system, IJIS will be breaking new ground in policy areas such as data retention, data web-accessibility, and privacy. Additionally, the old process was time consuming, requiring users to make phone calls trying to obtain necessary follow-up information across over ten disparate systems. The users had to then decipher the data from these applications and determine if the resulting information was what they needed. The new system will solve that problem by providing an automated, role-based access mechanism. When the component solutions are fully implemented in 2014, IJIS will allow employees from each of these agencies access to data collected by other agencies in the group, therefore facilitating easier data transfers.

At the time of this report, the Montgomery County Police Department (MCPD)², the State's Attorney's Office (SAO)³, and the DOCR were connected to the IJIS effort in various stages of completion. While systems are in transition, the current County Criminal Justice Information System (CJIS) will interface with IJIS Inquiry. In the interim, DOCR is migrating data that still exists on the mainframe-based CJIS system to the Oracle CJCMS database. As indicated by Lisa Henderson, IJIS Program Manager⁴, as of Friday October 11, 2013, the County had already transferred over 54 million historical data records from the CJIS to the new CJCMS system. Effectively, those records were

² As per the DTS' Enterprise and Technology Strategic Plan 2009 – 2012

(<http://www.montgomerycountymd.gov/dts/resources/files/stratplan.pdf>), for the Police Department, IJIS brings the migration from CJIS to a full integration of criminal justice systems. The E*Justice System will initiate much of the data flow through IJIS and between the IJIS partners. The status of cases and individuals will be clearly available to all IJIS users. Current business processes will be streamlined, data will be available when needed, and coordination between agencies will be easily accomplished. This data will significantly improve the interaction with citizens and overall safety of citizens and officers.

³ One IJIS module that recently became operational is the State's Attorney's Office Case Management System, which meets new legislative mandates and dramatically increases productivity for that office. Instead of accessing multiple databases, employees in that office receive their full workloads in a single package after signing onto the module. As per the DTS' Enterprise and Technology Strategic Plan 2009 – 2012 (<http://www.montgomerycountymd.gov/dts/resources/files/stratplan.pdf>), for the SAO, IJIS will greatly improve the ability to share information systematically by improving the capabilities for receiving bond information from the DOCR; warrant and arrest information from the Sheriff's Office and the Police Department; and case information from the District and Circuit Courts.

⁴ Email communication, October 16, 2013.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

transferred from a non-relatable mainframe database (DB2) under an aged client-server application to a relatable open-system database (Oracle) under a web-based application, resulting in data associability being more feasible in the CJCMS solution.⁵

There is concern that this migration to the Oracle CJCMS will result in some lost functionality and additional data gaps that will not be remedied until all of the new, server-based, independent systems are fully operational and linked via IJIS.

Specifically for DOCR, a fully functioning IJIS will bring significant productivity gains through more efficient data sharing and retrieval capabilities. For example, with automated case data feeding directly from the District and Circuit Courts, the IJIS Inmate Transport utility will allow for faster and more accurate data sharing between the DOCR and the Sheriff's Office for the transport of inmates to and from Court. The IJIS Transport utility will also allow for automated scheduling of non-court inmate transports, such as medicals, as well as ad hoc transports that will facilitate the efficiency of all inmate transports. Additionally, the DOCR-specific CRIMS core component will address a number of intra-agency data collection and sharing needs.

5.3 DOCR Record-keeping, Data Collection and Analysis

Computerized records are an essential part of Montgomery DOCR facilities' operations as well as the County's Criminal Justice System at large. Currently, DOCR operates under the old CJIS, using an automated, case-based system of recordkeeping, information collection, storing, retrieval, reporting and review.

In order to integrate databases and maximize the operational effectiveness of all divisions within DOCR through system improvements, DOCR signed a contract in 2008 to replace this twenty-year-old mainframe jail management system with a new web-based/relational information management system called Correction and Rehabilitation Information Management System (CRIMS).⁶ The CRIMS

⁵ For example, as indicated by Lisa Henderson, IJIS Program Manager, in CJIS, arrest and incarcerations were not associated. Those records are now tightly associated, as well as other associations such as offenders and cases, through the marriage of CJCMS with the existing arrest/booking system, Correction and Rehabilitation Information Management System (CRIMS), adding another 30+ thousand arrest and initial appearance records to the existing 54 million records.

⁶ The Syscon Justice Systems, Inc. commercial off the shelf (COTS) *Elite System* was selected as the product that could meet the majority of the 1600+ requirements contained in the Department's requirements document. A Technical Proof of Concept was conducted with this product to verify that it could run as described by the vendor in the County's enterprise infrastructure and to identify any technical issues before committing to the product.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

emerged as a sub-component of the IJIS. So far, this effort has involved 64 DOCR staff members in screen development and process development. When fully-implemented, CRIMS will impact the work of 100% of DOCR staff members and many of DOCR's partner stakeholders, but its impacts and efficiencies are at this point still speculative.

The system, consisting of 40,320 cross-data reference points, is divided into three phases (see Table 5.1), and is currently being implemented throughout DOCR by the Department of Technology Services (DTS) - IJIS team. As such, while a number of shortfalls in the current system are identified and discussed on the following pages, the consultants recognize that the DOCR and the County at large are already in the process of moving toward the new and improved system(s) (IJIS/CRIMS), with an expectation to address many of the noted concerns and inadequacies currently prevailing.

Findings

Although DOCR staff currently collects and processes a wide range of basic inmate-oriented data generated through routine operations, the information is maintained in a database that is geared towards individual case management and data cannot be extracted easily.⁷ For example, data fields allow for entry of information on legal status, court appearances, housing class and location, transport, etcetera, and staff can pull up a case to review this information on a particular individual. However, while some tallying functions are available, the system is limited in providing aggregate data, and custom data requests require a query or report. This process is cumbersome, and does not afford DOCR an efficient avenue for continuous first-hand monitoring and analyses of jail system indicators and/or inmate profiles. Furthermore, such shortcomings inhibit the Department's ability to utilize data for long-term planning and system improvements.

1. Gaps in data sources

The process of obtaining the appropriate data for this project was complex and labor intensive, and often not fruitful. The current Montgomery County criminal justice data systems do not allow DOCR to use data productively or strategically, due to both gaps in the availability of basic data (e.g. current offense) as well as in the ability to

Source: <http://www6.montgomerycountymd.gov/doctmpl.asp?url=/content/docr/DO/TechnologyProjects.asp>

⁷ It is worth noting that PRRS staff from the Screening and Assessment unit develop regular monthly statistical reports of performance measures. These reports provide the Department with information on the number and type of individuals entering PRRS programs, while offering performance summaries on those released from the program two or three months out (e.g. housing and employment status).

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

generate reports that are meaningful and essential for strategic planning (e.g. trend analyses to show changes in the inmate population over time).

Although the system can generate periodic or specific Crystal reports to aid in decision-making, budget preparation, systems analysis, performance evaluations, and other internal management information purposes, the existing jail information system has difficulty providing more sophisticated information without it becoming a labor intensive effort, if at all. A few examples, relative to conducting the present Master Facilities Confinement Study, are used below to highlight these shortcomings.

- The system was unable to provide the consultants with reliable historical legal status (pre-trial versus sentenced) or charge type (misdemeanor vs. felony offenders) data.
- There is no way under the current system to record a change in legal status from a pre-trial to sentenced status. This is why the population analysis (as presented in Task 3) utilized a one day snapshot. This basic data is essential for on-going operational and programmatic development.
- It was not possible to examine the “top charge” for which individuals were held in custody or the distribution of their offenses, as the individual CJIS facility ID number is not solely associated with the governing charge(s). In fact, the system records many past and future criminal events, and it becomes almost impossible to identify current charges unless other data sources from the DOCR Diminution Records, Commitment Files, and MD Judiciary Case Search are utilized to identify cases related to the governing offense.⁸ As such, obtaining basic charge information/history for one individual is a layered, time-consuming effort. Obtaining such information in the aggregate, for planning purposes, is even more challenging, if not impossible.
- The profile and classification analyses (Task 4. Needs Assessment) were constrained by the jail information system’s inability to produce a complete electronic file of basic data elements, such as the address of the inmate at booking, race/ethnicity, level of education achieved, measures of family status (married, number of children, sole provider, etc.) and socio-economic data. It is also worth noting that the consultants could not determine an accurate

⁸ The Diminution Report, generated by DOCR staff upon the release of an offender, records the governing offense case number, the sentence (if multiple charges, whether it was to be served consecutively or concurrently), and the sentence begin and release date. However, not all subjects have a Diminution Record, most likely because they are released directly from Court they do not return to the facility and therefore reports are not generated.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

count of offenders who were Hispanic, despite anecdotal reports that the Hispanic population has increased, as the indicators of ethnicity were inconsistently filled out in the databases provided. While not a system-issue, an input problem such as this can be addressed through continued training and shared data collection and entry practices. The inclusion of additional demographic variables in the commitment files is important for research purposes and could provide DOCR with insight into the patterns of inmate population characteristics and criminal behavior changes. If these data elements were included, they may also provide additional information necessary to effectively evaluate the needs of the offenders for funding new programs (internally or through grants) that can enhance re-entry and/or diversion efforts in Montgomery County.

- Another distinct weakness is the system's current inability to collect and analyze tailored data, for example specific data on the mental health population or data on violations of probation (VOP) by type (technical vs. new arrest) and nature of the offense. On the one hand, having quality data regarding the mentally ill population would be very helpful to gain a better understanding of the nature and extent of the problem, as well as to appropriately identify target populations. With this data in place, any DOCR's policy decision and practice improvement would be data driven, supported by strong empirical evidence and a sound rationale. On the other hand, collecting information on VOPs would be particularly useful in assessing the number and nature of technical violations as a baseline for discussing jail alternatives for this population. Trying to retrieve this kind of data was described as a monumental task, one that would have required DOCR staff to consult and rely on multiple resources, pull spreadsheets from supplemental databases, such as the DOCR Diminution Records and Commitment files, Maryland Judiciary Case Search and FBI/NCIC RAP, and/or request special Crystal reports requiring custom "data runs." As such, only the PRRS was able to provide the consultants with data on VOPs, through a manual data collection effort, reflecting a snapshot of a day's population.⁹

These are examples of significant weaknesses in the current system, many of which are hoped to be remedied through the implementation of CRIMS, as DOCR and the County recognize the many benefits of a

⁹ Absent this data, information from the Community Supervision Division (former Parole and Probation) would have been helpful to determine whether a VOP was for a new arrest or technical violation. This information was requested through the Director of Research and Statistics, Office of Grants, Policy, and Statistics (Department of Public Safety and Correctional Services), but never provided to the consultants.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

strong management information system. An inmate management information system that integrates all data in a format that allows DOCR officials to easily access, retrieve, and analyze it will certainly pay enormous dividends in both short and long term inmate population management to monitor, analyze, and plan for future changes in the County's jail population.

2. Duplication of record systems

At present, there is a lot of intra- and inter-agency redundancy in both data collection and data entry, as well as the used databases. Within DOCR, each of the four divisions maintains its own data within CJIS and has discrete knowledge about its own operations, often resulting in duplicate efforts and records even within the single Department.

DOCR recognizes the need for improved system efficiencies and information entry and sharing policies in terms of populating data, so as to eliminate redundancies. Emphasis should be placed on developing more complete and reliable administrative data for use in day to day operations as well as future studies and analyses.

At present, the Pre-trial Services Divisions (PTSD) benefits from having the most automated system amongst all DOCR divisions. However, PTSD staff have noted that the data system is antiquated and generally speaking, the ability to get reports is very limited and it is difficult to pull necessary information to support special requests. Additionally, while both the assessment and supervision units' data systems are connected, there was expressed concern regarding the entering of information and data redundancy (at times the same individual might have several ID numbers in the system and system clean-up must be done by staff). Screens are not pre-populated, so that when a case moves from one point to another, it may require manual re-entry of some basic data. For example, data entered at assessment is not provided electronically to diversion (ACS and IPSA), requiring diversion staff to re-enter basic information on the same individual. It is expected that CRIMS will reduce redundancies by generating pre-populated forms.

3. Inadequacy of DOCR to produce aggregate analytical reports

The current system is well suited for identifying basic trends in jail usage (e.g. admissions, ADP, releases) and for delivering basic profile information on a case by case basis. However, it is difficult to aggregate information to obtain an overall profile of currently incarcerated inmates, or of changes in the population over time. Despite – or perhaps due to - the proactive and collaborative culture that prevails in

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

Montgomery County and among its criminal justice agencies, DOCR has not experienced the kind of external demand for aggregate, tailored data that would have consistently highlighted the inadequacies of the current system. However, while the pressures to update the system in this regard have been largely absent, the value in such updates and expanded abilities is acknowledged as a priority for DOCR.

Many of the systems currently used by DOCR were designed in the 1970s to handle custodial and administrative duties, and are not easily adapted for long-term policy and program planning purposes. As evidence of this problem, Chief Stefan LoBuglio mentioned a recidivism study, published in 2009, that the DOCR conducted in collaboration with Justice & Security Strategies, a consulting firm, with funding from the Maryland Governor's Office of Crime Control and Prevention. One of the main findings of the research project was just how difficult it was to conduct a comprehensive study:

“Even with four doctorate-level researchers and experts in interpreting criminal records from the local, state, and federal record systems, researchers had to access nine databases, contact half-a-dozen agencies, establish data sharing arrangements, print and review tens of thousands of pages of Maryland State Record of Arrest and Prosecution (RAP) records sheets, develop algorithms to translate data from paper and from electronic sources consistently into newly created databases, and to double check repeatedly for inconsistencies and missing data.”

According to Chief LoBuglio, “with Federal support, DOCR could develop information systems that would help the Department use recidivism rates to better understand offender flow within criminal justice and social services systems for policy analysis, rather than as a crude measurement of program success. Without access to effective reentry information systems, the reasonable expectations that evaluation will determine which programs are working for whom and to what extent is folly.”

Additionally, the 2009 recidivism study recommended that DOCR consider linking criminal justice system data to non-criminal justice data, since data from health and human services, the labor department, and unemployment insurance information might be useful to corrections administrators in terms of assessing the status of releases in

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

the workforce and in the community. This continues to speak for the value in cross-agency data sharing and collaboration.

Despite the obvious value of the study to the County, and the possible influence of its findings on other agencies as well, the sheer effort it took and the accompanying time until results are known mean that without the appropriate data system to support data gathering and analytical efforts, this type of careful research will be done sporadically, not routinely.

4. Continued improvements to IJIS/CRIMS

While DOCR is already in the process of implementing its tailored-specific management information system (IJIS/CRIMS), continued efforts are required before CRIMS is fully implemented and the improvements through both IJIS at large and CRIMS in particular truly factor into DOCR functions.

At the time of this report, of the three phases in which CRIMS is being introduced (see Table 5.1 below), Phase I: Intake and Release modules, was fully operational. Major new modules, covering all DOCR operational areas, will be implemented in Phases II and III, targeted for completion by February 2014 and June 2015 respectively.

Table 5.1 CRIMS Implementation Phases

Phase	Project	Division
Phase I	Booking Implementation	Montgomery County Detention Center (MCDC)
Phase II	Jail Management Information	Montgomery County Detention Center (MCDC), Montgomery County Correctional Facility (MCCF), Pre-Trial Services (PTS), Pre-Release and Reentry Services (PRRS)
Phase III	Medical, Inmate Trust Fund Accounting, Food Services	Department of Correction and Rehabilitation (DOCR)

Since implementation of Phase I at the end of Fiscal Year 2011, an Electronic Processing Board has been implemented in the CPU to display real-time booking process of arrestees. Additionally, a Network Live Scan (NLS) automated fingerprinting system has been implemented with the State of Maryland that has helped DOCR cut data redundancy as well as to improve the old wrist band system (in the past the bracelet was first created at MCDC and then redone at MCCF).

Up to date, the new and robust inmate information system has processed hundreds of IT transactions, with the significant volume

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

occurring during evening and weekend hours when bookings and releases are dominant.

In order to facilitate the booking and release processes as regulated by the State of Maryland Codes, CRIMS must be operational 24/7, 365 days per year. Previously, to support round-the-clock operations, the Department of Technology Services (DTS) provided IT support. A couple of years ago, DTS eliminated evening, weekend, and holiday IT Help Desk coverage for DOCR. A Public Safety Data Systems Support Help Desk is currently in operation that provides support to Police, Sheriff, and Fire and Rescue Service operations. The recommended budget assumes DOCR will join this support team to provide evening, weekend, and holiday CRIMS IT support, as well as technical cross training. Executive staff has advised that a MOU will be required to join the Public Safety Data Systems Help Desk.

While many improvements are expected to follow the full implementation of the new system(s), two particular issues were recognized as possibly being insufficiently addressed by IJIS/CRIMS. As such, these points of concern remain unresolved, and are likely to require extended effort by DOCR and co-functioning agencies.

- **Prisoner release calculations and awarding of diminution**

In accordance with Maryland law, inmates are entitled to diminution credits to reduce the length of their confinement. At present, the calculation of sentencing time (sentencing diminution) is something that neither the current nor the new system covers. This is an option that can only be solved by a customized program, such as the one in place in Baltimore. As this is an aspect that the CRIMS is not going to cover and, apparently, Baltimore will not share the program used there, DOCR will have to pay for its own program development, unless this need is incorporated and addressed as part of a later phase (Phase 2.2).

DOCR releases average about 9,000 prisoner/detainees each year, and, as per DOCR representatives, release decision making is very complex and staff intensive. Past DOCR practices have highlighted the errors that can be made in sentence calculations and reviews of diminution-good time credits, particularly in multiple case situations. Moving forward, DOCR's zero tolerance focus should be on abolishing any inappropriate releases due to sentence and case

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

calculations¹⁰, regardless of whether a program component targeting this need is incorporated into the CRIMS implementation.

- o **Lack of synchronization**

While the new system is expected to allow successful interfacing with and across systems, keeping all systems synchronized was reported as a challenge. Refreshers are expected to update data coming from other systems to the CRIMS every ten minutes. However, a data entry delay with respect to warrants information was mentioned as a particular point of concern. Although the new CRIMS allows manipulating parameters to refresh information and perform database updates more often, this can only be done departmentally, and the system cannot address the entry timing by any of the other users (e.g. police, the courts).

5. Lack of dedicated data/planning staff

While a number of system inefficiencies currently inhibit data analyses and utilization, as was recognized at several instances during the current Master Facilities Confinement Study, DOCR has taken steps toward needed improvements, and many of the noted weaknesses of the currently used CJIS are expected to remain in the past once IJIS/CRIMS becomes fully operational. Regardless of system efficiencies, however, data processing and the ability to produce comprehensive reports and information rely heavily on human power.

At this time, DOCR has no skilled and trained in-house planning and/or analytical capability, dedicated to overseeing record keeping, data collection and analysis, and producing high-level statistical information and aggregate reports. This lack of data analysis, planning capacity, and competence at DOCR places the Department at an on-going deficiency compared to those organizations which analyze DOCR's work (Council Public Safety Committee, CountyStat, OMB, and other organizations).

System deficiencies aside, the kind of data that would typically be required for a study of this caliber would be more readily available if DOCR were to acquire a dedicated planning unit or, at a minimum, someone dedicated to the consistent collection, monitoring and interpreting of data for long- and short-term policy, planning, and program development purposes. Through serious internal analytical capability, DOCR would be able to produce reliable analyses and findings within the department, supporting informed, empirically based

¹⁰ Source: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2013/130425/20130425_PS1.pdf

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

policy and procedure considerations and meeting the informational needs of a twenty-first century corrections and justice system.

In the words of the IJIS Program Manager, once data records are fully transferred from the current system (CJIS) to the new one (CJCMS) and available to the Department, “it would be an irresponsible act to now be in possession of this amount of reliable data and not to provide the right analyst(s) to perform responsible and useful work to positively impact budgets, workforce and the criminal justice process as a whole.”¹¹

5.3 Conclusions and Recommendations

Conclusions

The depth of interest in understanding criminal justice data issues among members of the DOCR’s and the County’s Department of Technology Services was notable. Members identified issues related to data shortfalls and the accordance of current DOCR data collection and retrieval practices with County cross-agency objectives. Moving forward, these highly trained IT professionals are essential in leading DOCR’s transformation to newer technology and in maintaining data integrity through quality control.

There is additional valuable expertise within DOCR regarding criminal justice processes and operations and the role of data analysis in assessing them. This asset will help ensure that DOCR-wide objectives and concerns are incorporated into the goals, routines, and operations of its individual divisions and the system as a whole.

The IJIS/CRIMS project will provide DOCR with modern information methodologies, supporting safe, efficient, quality management functions and critical daily operations. CRIMS will, through improved information technology, augment the inherent skills of staff, moving the Department from “pencil and paper” to IT applications that will improve the overall efficiency of the correctional system.

As explained by DOCR and DTS representatives, CRIMS will solve a significant portion of the data shortfalls and inefficiencies that currently exist. Specific technology improvements will be provided for all jail management functions (i.e., Booking, Housing and Records, Pretrial Services, Prerelease and Re-Entry Services, Food Services, Medical, Mental Health, Accounting, Training, Staff Scheduling, Biometrics and Photo ID). This will increase productivity by eliminating manual data entry

¹¹ Email communication with Lisa Henderson, IJIS Program Manager, October 16, 2013.

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

records and paper-based processes and procedures, as well as increase efficiency by replacing a large number of secondary, shadow and redundant systems.

As per DOCR and DTS representatives, the potential benefits of the one-time data entry CRIMS solution to the Department are:

- Faster access to real-time information and retrieval of case information, which in turn will enhance inter-agency collaboration and help address citizen safety issues by improving the availability of justice information to the user community;
- Reduced operational redundancies and booking processing time;
- Improved levels of accuracy and completeness of information, and
- Reduced opportunity for data entry errors and increased integrity of the data.

Additionally, although still in development, CRIMS has the potential to aggregate data and generate reports that are crucial to comprehensive system understanding and long-term planning and policy development.

However, the power of data as information for decision making is dependent on consistent, focused attention and utilization for policy analysis and program development. It is notable that, with Montgomery County DOCR's reputation as a leader in corrections innovation and programming, the Department lacks a dedicated research and data and/or planning position, such as a Director of Research, under the responsibilities of which all departmental data analysis and report production efforts would fall.

Recommendations

To embrace the complete automation of the data system, maximize the operational effectiveness of all divisions within DOCR, and ensure the capability to generate inquiries and reports, the following initiatives are recommended:

1. Transition and Training

To ensure integrity and maximize the reliability of and confidence in the system amongst users, DOCR needs to be a "central repository" for all system data. In this regard, DOCR will benefit from continued and enhanced training on data entry, maintenance, and retrieval, as the new system will bring along changes in how information is collected, saved, and shared amongst several agencies and at various stages in the criminal justice process. Furthermore, the correct and maximized

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

utilization of the new information management system and all its capabilities will be key in truly trusting in and realizing the benefits of the state-of-the-art statistical software.

Training should be required for all staff involved in the gathering, maintaining, sharing, and use of inmate information and correctional or criminal justice data at large. Currently, supervisors do not have the knowledge to run daily reports, recognize data errors and amend them accordingly – all concerns that can be addressed through appropriate training. As such, reliability of data collection across DOCR and the justice system can be greatly improved, beyond the system-improvements brought on by IJIS/CRIMS. Across the board, familiarization with the new system and its functions and use will reduce errors and maximize the value of the new system.

2. Creation of a Senior Analyst/Planner Position¹²

At present DOCR does not have a single trained analyst, which is quite surprising given that a significant analytical enhancement is now part of the County program. As a result of this lack of in-house analytical skills, DOCR's Director notes how the Department "uses a cottage industry approach to virtually any and all analytical efforts." The agency has no trained individual (position) at a level to engage, explain, or properly understand social science research efforts that now impact many county agencies and all the data driven and outcome based work that is expected. Numerous analytical positions are now a routine element in County Stats, OLO, OMB, and most other agencies at the State and Federal level with whom DOCR interacts. DOCR should be provided with the same level of senior analytical capability that is reviewing their work and that exists in other county agencies. As per DOCR and DTS representatives, DOCR currently has the necessary IT support but not the appropriate analytical staff. There is no one assigned to quality control, and while current staff do an adequate job with data entry, they lack the necessary skills to interpret the data beyond basic correctional inmate management purposes. As the National Institute of Corrections notes, "The talents and skills of planning [and analytical] staff are typically outside of the purview of existing criminal justice or other local government personnel who specialize in programs or operations. Planning staff convert data into information that the principal decision makers use to make coordinated policy decisions."⁶

¹² While not specific to correctional departments, DOCR may wish to consult the NIC guidelines for CJCC staffing regarding general information on some of the benefits of an analyst/planner position, as well as the specific skills and knowledge such an in-house expert could provide: <http://static.nicic.gov/Library/026308.pdf>

5. DOCR RECORD KEEPING, DATA COLLECTION & ANALYSIS

To better analyze data and generate empirical findings on issues within and related to Montgomery County's correctional facilities and populations, the Department needs the analytical skills necessary to support informed policy making. With this in mind, it is recommended, that a dedicated, high-level position is created within DOCR for analytical and statistical research purposes. The benefits of a departmental, "in-house," researcher position can mainly be realized through the gained understanding of overall functions of DOCR, the various relationships and trends that occur within and among its divisions, populations, and their unique functions, and the ability to relay such heightened knowledge departmentally or on a smaller or larger scale, as deemed necessary, so as to allow for informed policies and practices, without having to rely on outside analytical sources and skills.

During the course of the overall Master Facilities Confinement Study, the consultants conducted research on model programs similar to those under consideration in Montgomery County (Mental Health and Day Reporting; see Chapter 4 of this Report). Ten jurisdictions across the Country were queried via phone and email surveys. It is noted that every one of these Correctional Departments had a dedicated Director of Research or a comparable position.

Across the Country, Correctional Departments employ dedicated research specialists responsible for on-going data analyses that inform policy makers (internal and external) about system functions, strengths and needs, as well as recommendations for short and long-term planning and program development. The creation of a similar position within Montgomery County DOCR will enhance and maximize the proactive evidence-based planning and program development that already exists. In sum, investing in an in-house analyst may provide significant savings through more effective allocation of existing, often limited, funds and resources.¹³

¹³ See NIC footnote above and NIC featured article at: http://www.leadertelegram.com/features/lifestyles/article_a831a64d-85e1-5195-afeb-c2eb41995b16.html

TASK 6. UNRESOLVED ISSUES

6. UNRESOLVED ISSUES

6.1 Approach and Methodology

Approach

The analysis conducted to date identified a variety of system issues that currently impact jail bedspace demand in Montgomery County, or may in the future. Many factors, including the collaborative culture among system stakeholders and the proactive approach to managing jail population growth with best practice programs for pre-trial and pre-release inmates, have helped to keep demand in check.

The consultants' exploration of system resources, policies, and practices – including numerous discussions with all departmental representatives throughout the County's criminal justice system, revealed a few areas that warrant further consideration by the County. They are documented in this chapter as "unresolved issues" because they require further stakeholder engagement, analysis, and decision making that fall beyond the scope of this study before they can - or should - be implemented. The following discussion is for the edification of the County, and the consultants do not intend for them to serve as recommendations on these matters.

Methodology

Issues discussed herein as part of this task were identified during research and communications throughout the current study at large. This chapter presents these issues from a relatively objective standpoint, considering national findings, broad benefits and concerns, pros and cons of each presented issue, with some initial discussion on where Montgomery County currently stands in this regard and where further discussion and County stakeholder engagement is required relative to each initiative or factor. For this task, the consultants were mainly informed by research on national best, evidence based practices, alongside qualitative input from Montgomery County personnel and key stakeholders with regard to County practices, current barriers and considerations, relative to their potential for positively impacting service delivery and/or jail utilization.

6.2 Unresolved Issues

Mental Health Court

Background

As a response to the increasing number of defendants with serious mental health conditions ("mental illnesses") caught up in the criminal justice system, mental health courts have been created in numerous jurisdictions across the United States. In 1997, the U.S. had two mental

6. UNRESOLVED ISSUES

health courts. Today, there are at least 175 mental health courts in the nation, including three such courts in Maryland: Baltimore City, Harford County and Prince George's County.¹

The overarching goals of a mental health court are:

- To reduce the number of defendants with mental illnesses in the criminal justice system, and
- To reduce the number of mentally ill offenders in jail by facilitating diversion and assure treatment for persons with serious mental illnesses.

The qualified support for mental health courts is predicated upon research², which shows that a well-designed mental health court program may:

- Reduce recidivism among participants;
- Improve mental health outcomes, and
- Reduce the length of incarceration for participants.

As part of a larger effort to divert persons with mental illnesses from the criminal justice system at the earliest possible stage, to reduce unnecessary confinement in correctional settings, and to improve outcomes for mentally ill defendants, Montgomery County policymakers have become increasingly interested in the mental health court concept. Having exemplified the benefits of cooperation and cross-agency partnerships in its criminal justice system at large, the County boasts longstanding support for a similar cross-system, collaborative approach to address the specific needs of people with mental illnesses involved with law enforcement, the courts, and corrections.

Research and Findings

Is a Mental health Court a viable option in Montgomery County?

Since 2010, through the Mental Health Advisory Committee (MHAC), Montgomery County has been exploring the possibility of implementing a mental health court at the District Court level to better address the needs of individuals with mental illnesses in the criminal justice system. This is the logical Court for a Mental Health docket that is serving people who have been arrested for minor, non-violent offenses.

¹ Evaluations of the Mental Health Courts in Maryland can be found at: <http://www.courts.state.md.us/opsc/mhc/evaluations.html>

² Research on Mental Health Court can be found in Appendix D.

6. UNRESOLVED ISSUES

With Council support, the County has already made considerable progress on a number of key fronts, as reported in the *Policy Memo on Mental Health Courts*:

- **Criminal Justice Behavioral Health Initiative (CJBHI):** In place since 2000, the CJBHI seeks to identify and address the mental health community's needs. An effective cross-system collaborative process, "[t]he CJBHI brings together county agencies (the Police, Corrections and Rehabilitation, and Health and Human Services Department, HHS); the legal system (Courts, Probation and Parole, State's Attorney, and Public Defender); private providers; and other stakeholders to build a quality service delivery system for offenders with behavioral health problems." The CJBHI's "Steering Committee now represents a broad coalition that supports the development of a Mental Health Court and other needed services. Additional partners also interested in serving this population include housing and shelter providers, adult protective services and various mental health advocates."
- **Community-based services:** The County has many of the clinical services that are necessary to support a Mental Health Court. Through the behavioral health system, the County offers its residents a plethora of services that could be designed to fit into a Mental Health Court model and offer support for the court's operations, if this initiative was undertaken. In addition to community services, a strong partnership between HHS and DOCR has resulted in the collocation of substance abuse and mental health services in the County's correctional facilities. Examples of such cooperative services are the Clinical Assessment and Triage Service (CATS), operating at MCDC, and the MCCF Crisis Intervention Unit (CIU). In addition, DOCR facilities offer effective case management services, can address co-occurring disorders, and provide supportive community re-entry programs that could serve potential Mental Health Court participants.

How would a Mental Health Court help the system in the long term?

Above all, mental health courts must avoid becoming a preferred point of entry into needed services for persons who have otherwise been unable to obtain community-based treatment, and no treatment preference should be given to persons accused of crimes over others who have not committed a crime. In other words, mental health courts should not deplete already lacking community treatment options, thus leading to a situation where individuals suffering from mental illness in the community must get criminally involved to access services. Rather, such a court should serve to allow otherwise incarcerable offenders a less

6. UNRESOLVED ISSUES

restrictive alternative, offering a route to supportive treatment and mental stability.

The filing of actual criminal charges against persons with mental illnesses, which would result in their assignment to a mental health court, should be the last resort after all reasonable efforts at diversion have been exhausted. In this regard, the mental health court program should be seen as only one part of a coordinated community effort to reduce the number of persons with mental illnesses in the criminal justice system.

In its *Policy Memo on Mental Health Courts*, the County recognized that for a mental health court to be effective, the number of participants must be limited. With consideration to comparatives from the existing drug court and the noted need for more community-based services and treatment for this varied population the 2010 memorandum states that: “it would be fair to assume that a mental health court would serve no more than thirty -out of several hundred -MCCF and MCDC inmates with mental illnesses.”

What are the barriers to moving forward on this?

According to criminal justice representatives, the County faces two main challenges to the creation of a Mental Health Court:

- **Insufficient judicial system support:** As noted in the *Policy Memo on Mental Health Courts*, “no effort to create a mental health court can succeed without the active participation of District Court Judges, the State’s Attorney, and the Public Defender’s Office.” In the past, these groups have offered scarce support for this initiative, with reasons ranging from “already crowded dockets, questions about effectiveness, concerns about costs, [to] opposition in principle to “specialty” courts.” Conversations with District Court representatives seem to indicate that the Montgomery County District Court Administrative Judge’s inability to commit to a necessary mental health court specialty docket, noted in the 2010 Memo, has not changed. However, County representatives see a memorandum sent to State Public Defenders by Public Defender Paul DeWolf as an important development. This memorandum encouraged more liberty in public defenders’ specialty court involvement – including mental health courts – and “may represent an opportunity to build legal system support for a mental health court.”
- **Insufficient resources:** The most dismaying obstacle in today’s economic and fiscal environment is often cost, with regard to both

6. UNRESOLVED ISSUES

court operations and the arising service needs. In order to run a successful Mental Health Court, the District Court would need additional funds to acquire new judicial, prosecutorial, and defense resources to serve mental health court participants, while simultaneously clearing the already crowded docket. Similarly, the county behavioral health system would require additional support and resources to continue serving others in need and provide new services to the mental health court population. As has become clear throughout this Report, there are particular insufficiencies in terms of residential services for the mentally ill.

Direct Releases from Court

In Montgomery County, by the Court's direction, individuals who are found not guilty or whose cases are dismissed in court must be released directly into the community instead of being returned to the jail by the Sheriff's Department for out processing.³ As court released inmates are by law no longer under DOCR custody, the provision of any later transportation would make these individuals a liability to the Sheriff's Department – a burden that the Department, currently providing all inmate transportation, will not take on.

As a result of this practice, individuals are routinely released from court wearing jail-issued jumpsuits, and they must walk the 3.5 miles from the court in Rockville to retrieve their belongings at MCDC. While there is at this time nothing that DOCR can do about an inmate that has been released from Court and decides to walk back to the detention center through the City of Rockville – transportation of inmates does not at this time fall under DOCR services – DOCR has consistently disagreed with the current policy.⁴

Besides the practical benefit of processing all released inmates back through the jail to retrieve their property and their clothing, the issue is also a primary area of concern regarding the flow back of the mentally ill into the community. Jail staff has repeatedly emphasized the vital importance of ensuring successful community referrals and providing medications for mental health clients to support continuity in treatment and service provision.

³ Once an inmate is released from Court, the individual is no longer an inmate, and is free to go wherever he/she wants. While the Public Defender's Office has been handing out Taxi Vouchers to encourage more released individuals to use a cab to return to the Detention Center (MCDC) from the Court to collect their possessions, the reality is that the majority of these individuals end up walking through the streets of Rockville wearing jail uniforms, therefore increasing both public and individual safety concerns. (http://www.reentrypolicy.org/program_examples/mccf-reentry-for-all/CCM_Barriers_Report.pdf).

⁴ By policy, Baltimore City, Baltimore County and Montgomery County do not have centralized release, but do it in practice. In every other County, individuals are brought back to jail for release processing purposes, according to the Montgomery County DOCR Director.

6. UNRESOLVED ISSUES

As the Sheriff's Office neither transports inmates' possessions to Court nor returns released persons to pick up their possessions from the jail in which they were housed, including medications and appointments for community-based services, court-released individuals often fail to connect to continued care and do not have the medications needed to sustain them until any later appointments. This sets the stage for re-entry failure for many transitioning offenders with behavioral-related issues, according to the Mental Health Court memorandum.

As it currently stands, resolving this issue may require a change in the law, allowing the Sheriff or DOCR to provide post-release transportation between the court and the facility, maintaining custody over releasees for a short period of time (e.g. 2 hours) so they can be processed and receive their belongings and medications. This would also provide a vital opportunity to activate the linkages established in the re-entry plan and coordinated with the community service partners.

Discharge of MCCF inmates through MCDC

At present, all inmates discharged from MCCF are released from the MCDC facility in Rockville, which operates as the central discharge hub for all inmates committed to the DOCR's correctional facilities.

This practice requires a two-stop release process, creating a significant additional burden on the Sheriff's Office, the agency in charge of providing transportation for DOCR. As such, in addition to jail officials who advocate for a change in current discharge practices, Sheriff's representatives also support the idea of having inmates released directly from MCCF.

The decision to decentralize discharge (e.g. discharge inmates from both MCCF and MCDC) should be evaluated in terms of impact on transportation, logistics such as location of inmate property, release paperwork and approvals, and any perceived impact or reaction by the MCCF community.

6. UNRESOLVED ISSUES

Money Bail Practices

In Maryland's unique two-stage bail procedure, defendants initially appear before a District (lower) Court Commissioner within twenty-four hours of arrest. Commissioners, like judges, are judicial officers empowered to order release on recognizance or designate a bail amount.

The District Court Commissioner has four options:

- release the person without charge if the State's Attorney's office decides not to prosecute;
- release the person on their own recognizance, meaning that the person is still being charged with the offense but will await trial in the community without a bail requirement;
- set a bail amount for pre-trial release, or
- not offer bail, resulting in the person being held in the jail at the pre-trial stage.

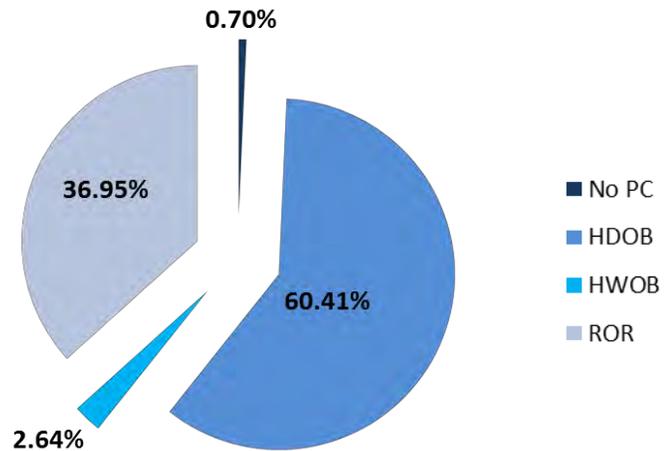
Court commissioners base their bail decisions on a number of different factors as required by legislation, including the nature/circumstance of the offense, person's prior record, community ties, a recommendation from the State Attorney's Office, if provided, and more. Since a bail schedule is not used at a person's initial appearance, individuals charged in Maryland for the same offense will likely have different money bail amounts, depending on the assessment of the Court Commissioners who processed their individual cases.

As a general rule, Maryland Rule 4-216 provides that a defendant should be released on personal recognizance unless a determination is made that personal recognizance will not assure the individual's presence at the time of trial. Following Maryland's "least onerous rule," Maryland judicial officers release about half of the arrestees on personal recognizance. For instance, in 2011, commissioners released a total of 77,704 arrestees on personal recognizance statewide — without assigning them any bail — while approximately 87,137 were assigned bail of some kind, according to David W. Weissert, coordinator of commissioner activity in the District Court of Maryland.

Particular to Montgomery County, and using FY12 as an example, approximately 37% of the defendants charged with a crime are released from the CPU on their own recognizance.

6. UNRESOLVED ISSUES

Figure 6.1 Pre-trial Release Decisions in Montgomery County, FY 2012



While this indicates a good use of ROR, it also suggests a relatively wide reliance upon financial bail, which can result in indigent arrestees and those with limited financial and family support systems to remain incarcerated while awaiting trial.

Concerns remain over the extended use of money bail at the initial appearance and the lack of uniformity in the recommendation process. In the a 2012 Justice Policy Institute paper on the practice of bail bonding,⁵ Mr. Weissert notes that Maryland still seems to hold on “to this archaic industry, [...although it may not serve] a real purpose today”.

In 2000, Maryland Court of Appeals Chief Judge Robert Bell created the Pretrial Release Project Advisory Committee that, in a report dated Oct. 11, 2001, made a number of recommendations on how Maryland could improve its pre-trial release system. One recommendation stated: “Maryland Rules shall make clear that the use of monetary bail should be sparing, limited to situations when no [other] condition of release will reasonably assure the appearance as required.” Along these lines, it is Mr. Weissert’s opinion that the bail system could be effective if the following could be accomplished:

- make the defendant come to their trial, and
- protect the public and the individual from safety concerns.

⁵ Justice Policy Institute (September 2012). For Better or For Profit: How the bail bonding industry stands in the way of fair and effective pretrial justice. Retrieved from: http://www.justicepolicy.org/uploads/justicepolicy/documents/_for_better_or_for_profit_.pdf

6. UNRESOLVED ISSUES

Through greater confidence in supervision and monitoring conditions, instead of monetary bail, he believes, more people who do not present a significant public safety or flight risk could be released, while maintaining high court appearance rates and ensuring the safety of communities.

Another recommendation by the Pretrial Release Project Advisory Committee called for the creation of a statewide pre-trial release agency, similar to the Pre-trial Services Agency in D.C., which would provide judicial officers with necessary information to make a pretrial release determination. Since a bachelor's degree is the only requirement for bail commissioners, many commissioners do not have any legal background or training. One of the Committee's recommendations stated: "judicial officers shall receive training and education with regard to pre-trial release determinations prior to assuming judicial duties and at annual judicial seminars."

However, recommendations made by the Pretrial Release Project Advisory Committee and the Justice Policy Institute have not been implemented.

As money bail discriminates against people with fewer resources and contributes to less people being released despite being low-risk to public safety, examining alternatives to money bail could result in more effective practices that could reduce both failure to appear (FTA) rates and the number of people held in the jail on low bail amounts.

Within Montgomery County, the DOCR's Pre-trial Release Services Division (PTSD) is an example of the benefits of replacing antiquated bail schedules and other subjective pre-trial release practices with evidence-based approaches. Much like the current bail schedule approach, in the past, release recommendations made by the pre-trial services program were primarily based on the alleged offense rather than the risks and strengths of the accused. Based on research knowledge and analyses of the County's own data, PTSD moved away from the subjective approach to pre-trial release (dependent on staff performance and attitude), to an objective-based system. Since the implementation of the new objective risk-assessment instrument, the rate of recommendations for non-financial releases by the County's pre-trial services program rose from 20% to 52%. These increases were accomplished without associated changes in the rates of re-arrests on new offenses or rates of FTAs in Court. Through the use of validated pre-trial risk assessment instruments, PTSD continues to provide bail

6. UNRESOLVED ISSUES

review hearing judges with empirically measured risk-of-flight and re-arrest information for each defendant.

Within Maryland, the successful expansion of release options beyond setting financial release conditions through the use of evidence-based risk assessment is perhaps best exemplified by the widely known practices of the District of Columbia's Pretrial Services Agency (PSA).⁶ DC Code provides that a judge may not impose a financial condition as a means of preventative detention. Indeed, in Washington D.C., 80% of all defendants are released without a money bond (in 1965, only 11% of defendants were released non-financially). As to the remainder, 15% are held by the Court without bail. In the rare cases where judges set financial bond (5%), it is nearly always a cash bond (none are out on commercial surety bail). Over the past five years, on average 88% of released defendants have made all scheduled court appearances and 88% remained arrest free while in the community pending trial. Ninety-nine percent (99%) of released defendants were not re-arrested on a violent crime while in the community.

6.3 Conclusion

Montgomery County is a commendable example of successfully managing jail bedspace demand through collaborative, pro-active, and best practice approaches. The few unresolved issues identified in this chapter were raised by corrections and/or justice system representatives in the spirit of continued self-monitoring and system improvement.

Any move towards resolving the issues presented herein should be with the same inclusive, transparent and collaborative approach that has allowed the County to successfully develop, implement, and maintain policies, programs, and practices that promote an effective and efficient criminal justice/correctional system for its residents.

⁶ <http://pretrial.org/Success/Case%20Study%2020%20-%20DC%20Pretrial%20Services.pdf>
http://www.colorado.gov/ccjdir/Resources/Resources/Ref/EBPre-TrialRelease_2012.pdf

TASK 7. ATI'S IMPACT ON POPULATION PROJECTIONS

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Introduction

The Needs Assessment (Task 4 of this report) provided an assessment of current criminal justice and correctional initiatives, and identified gaps in the current correctional system continuum. Overall, the analysis re-enforced Montgomery County's reputation as a strong provider of pre-trial and pre-release options, developed in concert with, and supported by consensus among the County's criminal justice system stakeholders at large.

The County employs a variety of policies, practices, and programs across the criminal justice continuum – a testament of the collaborative approach – that help DOCR manage future bedspace demand by offering least restrictive options without compromising public safety. However, the Needs Assessment identified, through general consensus among the consultants and Montgomery County's criminal justice stakeholders, two particular gaps that currently exist and should be addressed as priority needs:

1. Lack of stabilization beds, comprehensive diversion alternatives and transitional services for individuals suffering from mental illness.
2. Lack of a non-incarcerative "step-up" alternative for probation violators and a "step down" alternative for those who could transition to community supervision as part of the re-entry process.

In this chapter, these two proposed initiatives are explored in greater detail, including their potential impact on the baseline bedspace projections that were generated earlier in this study.

7.1 Approach and Methodology

Approach

A focus group approach was employed for exploring potential mental health and day reporting initiatives. The focus groups were informed by targeted available data analysis as well as research conducted by the consultants on national best practices and programs.

Representatives from the mental health practitioner and provider communities, criminal justice system, DOCR representatives and others, were convened to discuss current practices, share perspectives and challenges, and explore potential solutions for improving the present response to those involved in the justice/correctional system who suffer from mental illness.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Day reporting, envisioned as an enhancement to the existing step-down model, as well as a new intermediate option between jail and other probation sanctions and services, was similarly explored, including extensive communication with DOCR staff and other identified interest groups. This allowed for a better understanding of how and where an additional level of correctional supervision would fit in the robust system of alternatives the County currently has in place.

Methodology and Limitations

On-site meetings on the topic of Mental Health were held in April 4 and June 18, 2013 (see Appendix C for a list of attendees). In preparation for the workshops, the consultants conducted a review of current services and national practice models through available documents on this issue (See Appendix A for reviewed documents and Appendix D for specific research on mental health practices).

Relative to Day Reporting, an on-site workshop and a Go-To meeting were conducted on April 5th and July 15th, 2013, respectively (see Appendix E for a list of attendees and Appendix F for research on day reporting national practice models).

To assess the potential impact of the recommended initiatives on the population projections presented previously in this Master Facilities Confinement Study (please refer to Task 3), several steps were taken:

- Identification of target population(s);
- Development of broad implementation plans and program sizes, based on national best practices, and
- Review of facility baseline bedspace projections, taking into account the potential impact of the recommended initiatives.

Identification of these two initiatives was based on interviews, focus groups and workshops with DOCR and representatives from the mental health practitioner and provider communities, the Maryland Division of Community Services, Office of the Public Defender and County Council, supported by an analysis of data, where available. It should be noted that while the data was sufficient to validate the need for mental health and day reporting initiatives, the current system does not have the capacity to support a detailed analysis of the target populations to be served. As such, the consultants recognize that a more data-driven needs assessment of the nature and extent of the targeted populations to be served is warranted before any final decision can be made as to ensure the practicality and value of implementing these alternatives.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

7.2 Mental Health Initiative

Summary Overview

The extensive research, analysis, and discussions with DOCR personnel, representatives of the County's criminal justice system, and Mental Health Services providers, revealed several factors. First, Montgomery County is aware of, and has in place, an array of interventions for individuals involved in the criminal justice system who present mental health challenges. The collaborative efforts that define the County's thoughtful, cooperation, and forward thinking approach to criminal justice initiatives in general, is evident in this area as well. However, across the board, representatives agreed that there are gaps along the criminal justice continuum for this population, and that this often results in inappropriate admissions to the jail, longer lengths of stay, and less opportunity for re-entry initiatives.

In light of inadequate residential resources available for the mentally ill, the primary recommendation resulting from the analyses, and endorsed by the participatory focus groups, is the creation of mental health alternative beds at the DOCR's Pre-release Center (PRC). This recommendation is not meant to keep individuals with mental health problems in jail longer. It is meant to provide this population with a better residential alternative to traditional jail at the front-end (i.e. step-down residential treatment initially) supported by community-based follow-up at release into the community. In this regard, the beds would fall under the purview of DOCR, but the provision of services would be a joint effort of DOCR and Health and Human Services. This initiative is further described later in this section under Findings, Conclusions and Recommendations.

While DOCR should by no means be viewed as the primary solution or resource for mental health services (the jail is often the default service provider absent other alternatives), the focus group also recognized that there will always be a category of mental health inmates who, by virtue of their presenting charge or other factors, will require secure incarceration. The present Crisis Intervention Unit (CIU) at MCCF does not provide adequate capacity for incarcerated inmates with high risk/need mental health issues. Nor is there a designated "step-down" unit within the jail to transition inmates from the CIU to general population. Strengthening in-house environments and mental health services for inmates with mental illness is also recommended, and a stated goal of DOCR.

The analyses and multi-disciplinary discussions revealed numerous challenges and opportunities across the criminal justice, mental health,

7. ATI'S IMPACT ON POPULATION PROJECTIONS

and human services continuums. While it was not within the confines of this study to develop recommendations or actions plans for mental health initiatives at large, the strength of mental health systems and resources generally, and the response to these individuals when mental health and criminal justice intersect, has direct bearing on jail population. For this reason, included in this chapter is a comprehensive, holistic discussion of system functioning, issues and challenges, as well as suggested system-wide initiatives and recommendations. The consultants recognize that implementation of the recommended initiatives will require the coordination, cooperation, collaboration, and shared participation of many departments and agencies beyond the DOCR.

The Extent of the Mental Health Problem

Research indicates that the closing of public mental health institutions and clinics, together with a lack of community mental health services, has resulted in an increase in the number of people with mental illness involved in criminal justice systems nationwide. This has also resulted in an influx of dual-diagnosed clients – those suffering from substance abuse and mental health problems – who come in touch with the justice system and correctional facilities. In fact, research shows that over seventy (70) percent of people in jails with serious mental illness also have a co-occurring substance abuse disorder. As an example, Sullivan County New Hampshire – as a Second Chance Act grant recipient, completed a full assessment on all sentenced inmates over the last three years and found that seventy percent of assessed inmates had a co-occurring disorder and over seventy-five percent had been seen in the past by their local behavioral health provider in the County. Particular to Maryland, as per criminal justice system representatives, eighty-six percent of the State mental health population also has a co-occurring substance abuse problem.

In light of the scale and complexities of mental health in corrections, the inadequacy of mental health services for offenders nationwide is increasingly being recognized as a problem. In growing numbers, states are realizing the potential in non-custodial options for improving the health of individuals and the well-being of communities. However, many people with serious mental illness still find themselves caught in a revolving door of repeat arrests and incarceration for relatively minor offenses.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Facts about Mentally Ill Persons in the USA

- State budgets for mental health care have been cut significantly in the last four years, with \$4.5 billion in cuts nationally. As a result, police, most of whom are not trained in this regard, have become the firsthand mental health crisis providers throughout the country.
- The traditional police response to people with mental illness has often been ineffective, and sometimes tragic. A 2012 study found that half, if not more, of the estimated 375 to 500 people shot and killed annually by police in the United States suffered from mental health problems.
- Persistent mental health issues have long impacted jail administrators — effective and legal mental health segregation, suicide prevention and re-entry — and new challenges are now emerging related to dementia care, synthetic drugs and co-occurring disorders.
- Persons with mental illness are arrested at a disproportionately higher rate than persons without such disorders. Concomitantly, individuals with mental illnesses are significantly overrepresented in corrections settings. One study of over 20,000 adults in U.S. jails found that 14.5% of men and 31% of women in jail settings met the criteria for serious mental illness.¹ This disproportionate number of inmates with serious mental illness in jails stands in stark contrast to the rate of 5.4% at which the same issues are found in the general population. Jails have become a surrogate mental health system for lack of sufficient alternative options in communities throughout the country.
- The reasons for the high prevalence of psychological problems within correctional settings nationwide seem not to lay in the unique circumstances and characteristics that mental illness often brings with it, but rather in a widespread lack of appropriate responses and support services necessary to address them. Although these offenders often have other crimenogenic risk needs, the lack of mental health support treatment and support services have led to a large number of these offenders being held in jails. A September 27, 2012 report released by the Council of State Governments Justice Center dispels the myth that there is a direct correlation between mental illness and violence. Research has also found that a change in a person's psychiatric symptoms does not relate to re-arrests or revocation. Clearly, targeted interventions and programs are important and must be in place for the offender population affected by mental illness. Furthermore, mental health treatment

¹ Steadman, Henry J., Fred C. Osher, Pamela Clark Robbins, Brian Case, and Steven Samuels, "Prevalence of Serious Mental Illness Among Jail Inmates," *Psychiatric Services* 60, no. 6 (June 2009): 761–765.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

can have a huge impact on a jail facility's budget²; discovering the best practices that can be used to address these special needs and the risks that this population poses to a correctional facility and a criminal justice system at large is also of fiscal importance.

Problems Associated with Having Mentally Ill Persons in Jails

There are many problems associated with the placement of seriously mentally ill individuals in jails. Among these problems are the following:³

- Mentally ill offenders are often “frequent flyers”: since the County and State corrections systems are separate from and usually not coordinated with the mental health system, most mentally ill persons leaving jails and prisons receive little, if any, psychiatric aftercare. Consequently the recidivism rate is thought to be higher than it is for other released inmates.
- Mentally ill inmates incur greater operational costs: the mentally ill inmate population costs more to house in jail than non-mentally ill inmates for a variety of reasons, including increased staffing and service needs and the need to house some of the chronic care inmates in specialty housing units. For example, a study conducted in Pennsylvania estimated that an average person incarcerated in prison costs the state \$80 per day, while a person with mental illness costs \$140 per day.⁴
- Mentally ill inmates end up staying longer in jail: many of the inmates suffering from mental illness find it difficult to understand and follow jail rules and are therefore more likely than non-mentally ill inmates to be charged with facility rule violations.
- Because of their impaired thinking, many inmates with serious mental illnesses are major management problems.
- Mentally ill inmates are more likely to commit suicide: multiple studies have shown that people with mental illness often deteriorate while incarcerated, and tragedies involving victimization and suicide are too common. Approximately half of all inmate suicides are committed by inmates who are seriously mentally ill.
- Mentally ill inmates also coincides with homelessness: mentally ill prisoners are more likely to have been homeless before going to jail than other inmates. Once inside correctional institutions, they are more likely to “max out” their sentences and leave jail

² A Connecticut study found that the average annual cost per inmate for health care was \$4,780 compared to \$12,000 for an inmate with serious mental illness (See: <http://www.theday.com/article/20110323/NWS01/303239954/-1/NWS>)

³ E. Fuller Torrey, Sheriff Aaron D. Kennard, Sheriff Don Eslinger, Richard Lamb and James Pavle. “More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States”. May, 2010.

http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf

⁴ Source: Treatment Alternatives to Incarceration for People with Mental Health Needs in the Criminal Justice System: The Cost-Savings Implications. Vera Institute of Justice. Research Summary, February 2013.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

unsupervised. Although there is no research to confirm it, they probably become homeless on their way out in higher numbers than their counterparts without some form of mental illness. Once living in the community, research shows they return to jail more frequently and sooner.⁵

Facts about Mentally Ill Offenders in Montgomery County

- In 1995, there were 3,494 beds in Maryland for the state's mental health patients at acute-care hospitals, private psychiatric facilities and state hospitals, with 303 of them in Montgomery County, according to Pam Barclay, director of the Center for Hospital Services at the Maryland Health Care Commission. In 2008, the statewide number had dropped to 2,404 beds, with Montgomery County's total decreasing to 186.⁶
- Throughout the country, behavioral health treatment typically focuses on one disorder and does not integrate substance abuse and mental health care. In Montgomery County, although integrated care exists to an extent in some community based treatment, there is not a comprehensive system-wide plan to address these issues. In an effort to begin to integrate services, the County has started to include discussions on the mentally ill within the broader context of behavioral health, so as to recognize the need to address both mental health and substance abuse problems.
- At the present time, individuals can enter the County mental health/substance abuse system through a variety of access points. Discussions with mental health system representatives also suggest that after individuals enter the system, they may move between providers in search for the most appropriate agencies and treatments. For example, individuals routinely move from criminal justice agencies (police, jails and courts) and emergency rooms (hospitals) to several mental health providers.
- Individuals are coming into the system with long histories of mental illness and a variety of disorder types and often more acute presentations. About 89% of the total Pre-trial ACS and IPSA annual program participants (approximately 1,500 cases), are under the care of a psychologist or psychiatrist, with the caseworkers estimating that upwards of 17% of the participants are experiencing difficulty in program compliance due to their mental health issues. Similarly,

⁵ Source: From Locked Up to Locked Out: Creating and Implementing Post-release Housing for Ex-prisoners (2007 Update). AIDS Housing of Washington.

⁶ Source: http://ww2.gazette.net/stories/02042009/chevnew201934_32481.shtml

7. ATI'S IMPACT ON POPULATION PROJECTIONS

DOCR estimates that serious and repetitive mental illness impacts at least 20% of the jail population.⁷

Responding to the growing number of offenders suffering from mental health issues within Montgomery County's criminal justice and correctional system has emerged as an area of primary concern for the County, requiring increased attention on the part of security and case management staff. This was acknowledged throughout the consultant team's meetings with various program staff and other key stakeholders, such as the Community Supervision Department, and has been an area in which County stakeholders have placed much emphasis in recent years.

The primary focus of study was on addressing the needs of the strictly mentally ill correctional population, not those with co-occurring disorders. However, the research prompts some discussion on co-occurring disorders and the broader behavioral health population, as many of the offenders who may be targeted for the proposed interventions suffer from both substance use and mental health disorders.

Criminal Justice Behavioral Health Initiative

In an effort to seek out and implement needed changes and mental health services within the justice setting, a Criminal Justice Behavioral Initiative was founded by the Montgomery County Council in FY 2001. The Criminal Justice Behavioral Health Initiative seeks to realize

"a Montgomery County in which appropriate mental health services are made readily available through collaboration among private and public providers and community advocates to improve the quality of life, create safer communities, and reduce the cost of future care."

This initiative, a joint effort of the Montgomery County Police Department (MCPD), the Department of Correction and Rehabilitation (DOCR), and the Department of Health and Human Services (HHS), addresses the specific needs of the Mental Health population and the additional risks they may pose both outside and within correctional settings through services provided by:

⁷ The consultants recognize that in absence of quantitative data to empirically corroborate this numbers, this information should be regarded only as suggestive.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

- A Police Crisis Intervention Team (CIT) and a Health and Human Services Mobile Crisis Team (MCT);
- Clinical Assessment and Triage Services (CATS);
- A Crisis Intervention Unit (CIU) within MCCF; and
- Community re-entry case management and discharge planning.

These widespread efforts intend to offer targeted assessment, diversion, treatment, support, and rehabilitation services that are designed to be both effective and accessible, strengthened by an across-the-board collaborative approach to the reduction of mental illness and/or substance use related criminal activity. The initiative recognizes that for these services to be effective, they “must meet the individual needs of people at risk of these behavior disorders.” For this requirement to be met, the initiative has taken several steps toward ensuring that involved officials and service providers work together and have the necessary knowledge in dealing with the mental health population. These steps include:

- CIT officers receiving advanced training in issues concerning the identification and encountering of individuals with mental health problems;
- CIT - and the police force in general - working together with the HHSD Mobile Crisis Team (MCT) when dealing with individuals with potential mental health problems;
- Using emergency psychiatric evaluation petitions (EEPs) in cases where involuntary hospitalization may be needed;
- Implementing mental health and suicide risk screens and needs assessments at several stages throughout an individual’s criminal justice process to ensure appropriate treatment and service provision;
- Providing the needed level and type of treatment (including pharmacological needs), supervision, and housing;
- Diverting inmates to community-based services when appropriate and as soon as possible; and
- Ensuring follow-up services and a strong continuum of care for inmates transitioning back into the community; strong HHS involvement.

It is the intent of this initiative to not only increase the number of diverted offenders with mental illness sometimes under supervision, but to improve the well-being and diminish the suicide risk of the mental health population inside Montgomery County’s jails and beyond, by

7. ATI'S IMPACT ON POPULATION PROJECTIONS

being able to locate the most suitable services for these offenders in need of both residential and non-residential settings

Review of Mental Health Services in the Montgomery County Criminal Justice System

The Substance Abuse and Mental Health Services Administration (SAMHSA) has dedicated a component of its GAINS Center to Behavioral Health and Justice Transformation. In their advocacy to address those individuals with mental illness in the criminal justice system, they have targeted three major responses for every community: **1. Diversion programs, 2. In-custody services, and 3. Re-entry programs and after-care services.** These are also the areas on which the consultants' review and analysis of Montgomery County's programs and services for mentally ill offenders focused.

In the pages that follow, each of the major components of the Montgomery County community mental health system are identified and their essential elements enumerated, organized around the major response types. The ensuing review was used as a tool to identify current local practices for each major component and key gaps to be prioritized throughout the criminal justice and sanctions continuum. Finally, a summary section highlights the results of research on best practices and emerging initiatives that fit the Montgomery County mental health model and could be *adaptable* to the County, rather than *imported*. Montgomery County can adapt the best parts of these practices and fit them to the goals and needs of the County going forward. It is worth noting that similar programs are working in jurisdictions of vastly different sizes, indicating that program models can be implemented in any jurisdiction, regardless of its size.

1. Diversion to the Community Programs

In Montgomery County, there are two basic types of diversion programs occurring at distinct stages in the criminal justice process:

- a) *Pre-booking diversion* occurs at the point of contact between the mentally ill and the police. This type of diversion relies heavily on effective interactions between police and community mental health services. What makes pre-booking jail diversion unique is that this service positions itself at the forefront of the criminal justice system as an immediate alternative to divert the individual from arrest and booking altogether. Typically, police officers with special training in handling the mentally ill will divert suitable individuals from the

7. ATI'S IMPACT ON POPULATION PROJECTIONS

criminal justice system by linking them to a community mental health service provider or referral center.

- b) *Post-Booking diversion* programs are jail or court-based, due to the point in the process at which they occur. The diversion occurs at a point after arrest, at bond hearing, at trial, or at sentencing, as program administrators screen individuals for the presence of mental illness. Once individuals have been identified as suffering from mental illness, program coordinators work to try and link them to mental health services as a condition of charge reduction or in lieu of prosecution (e.g. the charges are dropped). Post-booking diversion programs require agreement between different parties (i.e. prosecutor, diversion coordinator, defense counsel, and the judge) that a person should be diverted from jail.

One key practical difference with respect to the need for both pre-booking and early intervention post-booking diversion programs is the type of offense for which each diversion program is most appropriate. Pre-booking diversion is most appropriate for those who commit very minor, non-violent offenses as a result of a mental illness. Early intervention post-booking diversion alternatives on the other hand may be appropriate for higher level offenses, including felonies, when the mental illness has caused the criminal behavior. It should be noted, however, that at each instance the severity of the crime, public safety issues and the needs of the offenders are all taken into consideration when making a diversion decision.

When both are established, pre-booking and post-booking diversion programs serve different populations. Therefore, both programs should be bolstered so that there are fewer gaps in the system.

a) Pre-booking Diversion

As mentioned above, a diversion program that is pre-booking in nature seeks to divert individuals from booking and arrest altogether. The focus is on early diversion to treatment in order to address the root cause of the criminal behavior, eliminating virtually all subsequent contacts with the criminal system. Most pre-booking programs are characterized by specialized training for police officers and a 24-hour crisis drop-off center with a no-refusal policy for persons brought in by law enforcement.

In Montgomery County, the first type of pre-booking diversion available is the MCPD's Crisis Intervention Team (CIT), which originally started

7. ATI'S IMPACT ON POPULATION PROJECTIONS

in 2000 to serve as a resource to ensure the best possible outcome for the consumer, the public and the police. The CIT is a hybrid of the most recognized CIT program model developed in Memphis and the Mobile Crisis Team (MCT) approach, in which the police assist MCTs when responding to a call. This shared response is in accordance with best practices suggesting that the presence of a trained clinician at the scene of a mental health crisis can help divert more people away from the criminal justice and emergency medical systems in favor of informal handling and referral to non-emergency treatment providers.

The CIT is composed of a group of certified volunteer officers specially trained to recognize and handle mentally ill individuals and to divert them, as appropriate, to community health providers –in contrast to arrest, booking and jail. Approximately 30% of the MCPD is voluntarily CIT certified, which is significantly above the 15-20% best practices benchmark. CIT officers are de-centralized and deployed in every district on every shift to help identify non-violent, misdemeanor offenders who need mental health services and work with the DHHS to divert them to appropriate care.

Under this model, a CIT police officer is generally the first responder to a 911 call directed to him or her because of specialized training in handling crisis mental health situations. Once the determination has been made by law enforcement officers at the scene that mental illness is involved, to some extent, police officers have the discretion to determine the subsequent course of events – arrest, hospitalization or informal disposition – depending on their view of the severity of the disturbance, the behavior of the offender, and the resource options available to them.

If an individual meets the criteria for emergency evaluation, police officers will take the person into custody and transport him/her to available psychiatric emergency rooms to conduct the evaluation, based on availability of beds.⁸ If the person does not meet the criteria for an emergency evaluation, law enforcement officers can use a variety of strategies:

- Providing individuals with information about community mental health services (contact only);
- Advising families of available resources, and/or;

⁸ Completion of an Emergency Psychiatric Evaluation Petition (EEP) provides an officer the authority to take the subject into custody and transport the individual against his or her will to the nearest designated hospital emergency room for a mental health assessment. To qualify for an EEP, the officer must have probable cause to believe that a person has a mental health disorder and is a threat to his/her own life or safety or that of others and is unable to access help for his/her illness on his/her own. If the EEP is upheld by the Court and the individual is certified by two physicians in the emergency facility, the person is then involuntarily hospitalized in a psychiatric hospital.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

- Providing referrals and/or taking people voluntarily to shelters or available mental health facilities (the Crisis Center⁹, Springfield State Hospital, Washington Adventist Hospital¹⁰, etc.).

Identified gaps at the pre-booking stage

Early identification and diversion of individuals with mental health issues is mentioned as a key need or point of emphasis for the arresting agencies. Although more people with mental health problems are being identified upon entry into the criminal justice system and both the number of clients brought to the Crisis Center and served through pre-booking diversion has increased since implementation of the CIT, there are several gaps in services to diverting more people with mental illnesses, among them:

- Lack of resources and assertive community treatment¹¹;
 - Limited follow-up and a lack of appropriate levels of post-commitment care;
 - Limited availability of intermediate and long-term inpatient treatment in the State system for uninsured and insured mentally ill patients, and
 - Limited access to involuntary beds for insured patients with a history of violence or aggressive behavior.
1. Although police officers have the option of reducing the incidence of inappropriate incarceration by diverting non-violent mentally suspects from the criminal services, due to the limited availability and eligibility criteria of community-based mental health services,

⁹ Police officers can divert individuals who do not qualify for an emergency evaluation petition and are willing to access mental health services voluntarily to the DHHS's Crisis Center. The Crisis Center is open 24-hours/7 days a week, and has staff available to assist in emergency telephone calls and walk-in psychiatric crises by providing stabilization services to persons experiencing a situational, emotional, or mental health crisis. Crisis Center staff do not track the number of clients brought to the Center by MCPD officers, but they noted an increase in referrals since the advent of the CIT. When officers transport someone to the Crisis Center, staff stabilize the person, assess his/her mental health needs, and provide a referral to community mental health services. The Center also provides short-term residential services to help avoid hospitalization.

¹⁰ Within the general Washington Adventists Hospital there is a locked unit providing treatment for stabilization of acute crisis associated with psychiatric disorder. The average length of stay is about 5 days. Treatment is multidisciplinary, and is based on a medical model and comprehensive assessment. In response to HHS Committee Questions, representatives from the Washington Adventists hospital indicate that it is increasingly difficult to locate and access aftercare for patients, especially sub-acute beds and residential care. This has resulted in longer lengths of stay in the hospital.

Source: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2009/090226/20090226_hhs1.pdf

¹¹ Email communication with CIT's Coordinator Scott Davis on March, 4, 2013. Assertive Community Treatment (ACT) is a program which constitutes an evidenced based practice. ACT is delivered by a multidisciplinary team of professionals utilizing a holistic approach to healthcare with patient contacts occurring in community settings. The team consists of members knowledgeable in psychiatry, nursing, social work, case management, and vocational rehabilitation meeting regularly to assess patient status and provide a system of daily, 24 hour care on a long term basis. A number of ACT-like programs have grown up in communities around the country that focus on keeping people with severe mental illness out of jails and prisons. The name "forensic ACT" or FACT is the emerging designation for these hybrid teams. Little standardization of program practices and staffing exists for FACTs. Among the core elements that distinguish FACT from ACT are: (1) the goal of preventing arrest and incarceration; (2) requiring that all consumers admitted to the team have criminal justice histories; (3) accepting the majority of referrals from criminal justice agencies; and (4) the development and incorporation of a supervised residential treatment component for high-risk consumers, particularly those with co-occurring substance use disorders (Lamberti et al., 2004).

7. ATI'S IMPACT ON POPULATION PROJECTIONS

the Montgomery County CIT approach seems to rely to a great extent on transporting the person in crisis to the jail.

County-wide, there is a shared sentiment among criminal justice stakeholders and treatment providers that there is currently an overreliance on local correctional facilities to house and service the mentally ill who have come in contact with the criminal justice system. There is general consensus that this is due to the fact that, although in theory police officers can initiate emergency hospitalizations for people who pose a danger either to themselves or others, this discretionary power is in practice significantly restricted by: a) the stringent legal criteria surrounding involuntary commitment; b) the unavailability of community-based treatment slots; c) the unwillingness of mental health facilities or emergency rooms to accept patients who are perceived as intoxicated or recalcitrant – or known to be criminally involved – and; d) the time and bureaucratic procedures required for admission.

2. A common component in all researched CIT programs, including the Memphis CIT program, King County CIT program, and the Manatee CIT program, was the existence of established specific facilities where police can transport people in mental health crisis, as an alternative to the general hospital emergency room or jail. What sets these sites apart from the norm is their identification as a central drop-off point, the availability of both mental health and substance abuse services, a no-refusal policy for police (although this does not mean that inpatient stays are guaranteed), and their streamlined intake procedures (usually 30 minutes or less for officers). These later features, non-refusal policy and the quick turn-around, have proven to result in reduced police officer frustration and reduced reliance on arrest and jail to deal with people with mental illness. While the Montgomery County Crisis Center functions in much the same way, its limited capacity poses challenges to service access.

In terms of community-based treatment slots, the Montgomery County Crisis Center is a 24-hour crisis drop-off center, which provides psychiatric assessments for any and all uninsured patients that voluntarily walk-in. The center has a capacity of up to six triage and evaluation beds to accommodate individuals for 72-hours for crisis intervention and short-term counseling services. It is often the case that the beds are fully occupied due to the fact that, more and more, the center has to care for displaced and homeless families

7. ATI'S IMPACT ON POPULATION PROJECTIONS

– leading to police officers having to rely either on hospitalization or incarceration. In addition to the 6 crisis beds, the Center has fourteen detox beds, but restrictive criteria exist to delimit the use of these resources (often, CATS has more referrals than detox could take). Often times, even when available, detox beds do not meet the referred clients' psychiatric needs.

Similarly full, the Fenton-McAuliffe House is an 8-bed, voluntary, community-based alternative to inpatient hospitalization for people experiencing an acute psychiatric crisis. This program is the only alternative to in-patient psychiatric hospitalization in Montgomery County and, always at full capacity, cannot meet the current demands of the mentally ill population in need of residential treatment.

At the front-end, the limited preventive and referral options available for individuals suffering from mental health issues cause several problems at later stages within the criminal justice process. CATS' staff mentions facing many similar issues as law enforcement agencies with regard to limited community alternatives and residential placement for individuals in immediate need of a hospital/mental health bed upon admission to CPU. Additionally, the relatively small role that the CATS can play at this juncture – providing only rare, singular assessments – also impacts the efficiency of offering diversion for those identified as mentally ill and/or in need of varied behavioral health treatment in lieu of traditional jail time.

Research on pre-booking practices in other jurisdictions

Across the country, law enforcement agencies are striving to find more fitting and effective ways to manage people who suffer from severe mental illness, so that these individuals' "encounters with law enforcement result in getting them help, instead of jail or, in some cases, an even worse outcome."¹²

The problems that police face with regard to people with mental illness highlight the necessity for collaboration and partnerships across agencies and departments. Initiatives around the country show that there are many successful and innovative ways to divert individuals with mental illnesses from the criminal justice system, including the creation of law enforcement-mental health liaison programs and increased training of law enforcement personnel. A key characteristic of effective

¹² <http://www.kansascity.com/2013/07/01/4322892/police-are-changing-their-approach.html#storylink=cpy>

7. ATI'S IMPACT ON POPULATION PROJECTIONS

pre-booking diversion programs is an emphasis on coordination, cooperation and trust among partner agencies.

The consultant team studied best practices and emerging approaches at the pre-booking stage in other jurisdictions used to effectively serve people with mental illnesses and link them to treatment and services in the community without arrest (Appendix D).

System Integration

Discussions with police representatives seem to indicate that Montgomery County law enforcement is characteristically a fragmented system. This fragmentation becomes relevant when the issues of 911/dispatch and data collection methodology are reviewed against best practices.

o Dispatch/911 Training:

Several key procedural elements involved in call dispatch are required to ensure that the CIT model responses work efficiently. Although a complete systematic integration of services may be impossible, at a minimum “critical services” should be linked. According to the literature, a successful diversion program should assist 911 dispatchers in developing a coordinated effort with CIT trained officers: this includes tools to determine whether mental illness may be a factor in a call for service and the use of that information to dispatch the call to the appropriate responder. As a result of a call, a qualified mental health officer should arrive on the scene in a timely manner. A five to ten minute response time is a desirable and can be considered an emerging practice.

In Montgomery County, the Emergency Communications Center (ECC) answers all dialed 911 calls, as well as non-emergency police service calls. The current operation is a bifurcated model, with separate Police Department and Fire and Rescue Service call-takers and dispatchers. In most cases, when the call taker and dispatcher are sure the call involves a person with mental illness, they will dispatch directly to the CIT. However, according to CIT’s representatives, calls relating to mental illness are highly subjective in nature and classifying incidents as “true mental illness” is largely at the officer dispatchers’ discretion.¹³ At the time of this study, an Executive proposal to implement a universal call taking system in emergency communications was pending.

¹³ Some law enforcement agencies have developed protocols in collaboration with mental health crisis facilities to allow such calls to come into dispatch directly from the mental health provider through a hotline or through case workers. For example, in Baltimore County, Maryland, 30% of such calls come from the Baltimore County Crisis Response System, which operates a 24-hour hotline for people with mental illness who are in crisis.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Implementation of the new system will combine and cross-train all call-takers so that all calls can be processed without the need for a second transfer step.¹⁴

Dispatch is crucial to the success of a CIT program, and research suggests that coordinating efforts between dispatch and trained personnel is fundamental to the success of pre-booking diversion. The County could benefit from training 911 operators who receive, interpret, and dispatch emergency calls. In order to standardize procedures, organized meetings and effective communication between departments is essential, in addition to continued and comprehensive training.

- o Data Collection:

Compared to other CIT programs around the country, the Memphis Police Department is one of the few jail diversion programs that continually evaluates its program's impact. Encounters with the mentally ill, the number of diversions achieved and the incidence of related police injuries are all recorded. Data is then used to indicate changes in the mentally ill jail population, the frequency of successful diversion placements and work hours lost due to police injuries incurred when interacting with the mentally ill. Beyond gathering such information, best-practices recommended that data collection measures include the frequency of police interactions with the mentally ill, the number of clients screened by CIT, the number of individuals eligible for diversion, the number of clients placed in a mental health program and other relevant characteristics, such as previous interactions with the client (recidivism).

In Montgomery County, the Law Enforcement/CIT data collection methodology does not currently adequately provide an opportunity to reliably evaluate successful pre-booking program outcomes or gaps that may exist in the system. As per CIT coordinator for the National Alliance on Mental Illness' Montgomery County division, Scott Davis, Montgomery County does not capture pre-booking diversion data comprehensively, as in some cases reports are not required (e-mail communication, March, 5, 2013). Police agencies and CIT teams should be encouraged to collect data on issues such as CIT response time to incidents involving the mentally ill, the frequency of interactions between police and the mentally ill, and the number of jail diversions. Accurate and relevant data is crucial for future research in order to evaluate the effectiveness of the jail diversion program and identify gaps

¹⁴ Source: PS Committee #1, April 23, 2012. Available on-line at:
http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2012/120423/20120423_PS1.pdf

7. ATI'S IMPACT ON POPULATION PROJECTIONS

in the system – a fact that is true for data collection and analysis system-wide.

In terms of evaluating performance and monitoring post-crisis calls, Albuquerque, New Mexico has taken an additional step by designing a Special Investigation Unit to follow up with CIT cases. Within the unit, four full time detectives review CIT reports and identify people at high risk for contact with law enforcement. Special detectives may also be designated to investigate CIT calls and issues.

Quality training in accordance with best practices

Montgomery County police officers who volunteer to join the CIT are currently provided quality training in accordance with best practices and supplied with appropriate guidelines and resources for encounters with the mentally ill. However, the nature of police work in general results in police officers often interacting with mentally ill individuals – not because of a call for service (where dispatch might appropriately send a CIT officer) but on their own initiative, after witnessing the individual involved in some wrong doing or trouble.

In this regard, research suggests that beside CIT officers, all first response officers need to know the basics of identifying someone with mental illness, including recognizing instances in which to request the help of a CIT officer or another specifically trained professional. Any arresting agency will clearly benefit from information about related procedures and resources, such as clinics, shelters, and mental health services, available in the community. Armed with this type of information, arresting officers may be also able to identify and effectively refer more people with mental illness to agencies better suited to provide continued, targeted treatment and other services, and/or to provide such relevant information to family members or other potential guardians. In order to disseminate information and standardize procedures, communication between police departments is essential, in addition to critical cross-agency collaboration.

Receiving Centers

Despite the obvious benefits of a centralized booking facility (increased efficiency and coordination among criminal justice agencies; increased availability of services; procedures standardization), there is benefit in utilizing “receiving centers” for early diversion to keep people from ever being incarcerated and, thus, avoid using the jail as “the drop-off place” for all arrestees. Some jurisdictions like Salt Lake City, UT, Bexar County, TX, and Orange County, FL, currently utilize receiving centers

7. ATI'S IMPACT ON POPULATION PROJECTIONS

where individuals who are picked up for non-serious or misdemeanor offenses can be taken instead of jail, to assess their needs and check for any outstanding warrants.¹⁵ From this location, individuals can be released or diverted to appropriate programs (or sent to central booking, if appropriate) without ever having to be booked, saving officers' time and jail resources, while also providing services and resources for arrestees (much like triage-services).¹⁶

Assisted Outpatient Treatment

A promising approach, to which Montgomery County has recently started to give some thought, lies in initiating Assisted Outpatient Treatment (AOT). As a result of the deinstitutionalization movement in mental health services nationwide, many people with serious mental illness end up living in the community. For a variety of reasons, these people often fail to adhere to prescribed treatment, including medication. AOT emerged in the 1970's as an initiative to help individuals with a history of non-compliance and dangerous behavior to comply with treatment while they reside in the community, thus preventing deterioration and hospitalization.

In most states, if a person is under court jurisdiction, compliance with prescribed treatment can be set as a condition of community release. Studies in New York, North Carolina, Florida and elsewhere where this practice has been implemented demonstrate that adherence to long-term prescribed treatment combined with routine outpatient services is effective in reducing the incidents and duration of hospitalization, homelessness, arrests and incarcerations, victimization, and violent episodes. Furthermore, AOT increases treatment compliance and promotes long-term voluntary compliance through its supportive services. It is likely that reductions in jail admissions would also result from the implementation of assisted outpatient treatment and other similarly functioning services (e.g. housing first, day reporting). This has obvious benefits for corrections, law enforcement and the public.

¹⁵ In Orange County, FL, the Central Receiving Center (CRC) serves as a triage center where police officers bring offenders who have allegedly committed misdemeanors or minor infractions and are displaying signs consistent with mental illness and/or substance abuse. For this initial step toward diversion to be put into action, police officers must participate in diverting the mentally ill to the CRC. This requires that the police are knowledgeable not only about mental health and substance abuse but about the CRC and its eligibility criteria. Agreement on the importance of diverting individuals who meet the criteria is also critical. Upon transport to the CRC, staff evaluate the police-referred client and link him or her to mental health services. CRC clients have not been formally arrested, so the linkage to mental health services is often relatively easier than in cases of post-booking diversion where suspects have been formally arrested and are officially involved in the criminal justice system.

¹⁶ Source: <http://www.floridatac.org/files/document/crc2phase2.pdf>

7. ATI'S IMPACT ON POPULATION PROJECTIONS

b) Post-Booking Diversion

There are four key points in which post-booking diversion might be considered:

- 1) after an individual is taken into custody but before charges are filed;
- 2) after charges have been filed but before arraignment;
- 3) through a pre-guilty plea early intervention mental health court, and
- 4) through a post-guilty plea mental health court, that emphasizes obtaining the plea at the earliest stage possible.

Court-based diversion programs are the most prevalent type of post-booking diversion and, specific to the mental health population, are often known as mental health courts. Jail based diversion, the other type of post-booking diversion, is content-wise somewhat similar to court based diversion, but it avoids the use of a formal court altogether.

In Montgomery County, jail-based diversion occurs after booking into the CPU but while the individual is still at the 72-hour MCDC jail. A consultation with a clinician (CATS) occurs upon intake, from which many diversion decisions stem.

Defendants who are not released at the DCC initial hearing and those who could not afford the bond set by the Commissioner (approximately 60% of arrestees) are assessed by the Pre-Trial Assessment Unit (PTAU). As part of this assessment, defendants are asked about prior hospitalization, any prescribed psychotropic medications, as well as prior suicide attempts to further support identification of potential mental health issues and risk factors. According to pre-trial staff, in approximately 20 percent of the cases assessed for pre-trial release an indication of some kind of a mental health problem arises. In such instances – and when pre-trial services have a reason to believe that an individual may be incompetent to stand at the bond review as a result of mental illness – CATS is asked to perform an official evaluation.¹⁷ The results of this second assessment are presented to the judge at the bail review hearing, along with options for both inpatient and outpatient mental health treatment as part of pre-trial release or deferred prosecution, tailored to the defendant's needs.

¹⁷ CATS represents the screening and referral component of the Criminal Justice Behavioral Health Initiative. Within DOCR, CATS functions to both support the DOCR's goals of diverting individuals suffering from mental health from jail and to help avoid the jail becoming the default residential treatment environment for offenders with psychological problems. The unit serves clients in their legal proceedings at both the post-booking and pre-bond junctures.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Beyond the presence of evident mental health problems, to be considered divertible by CATS, an individual must be charged with a misdemeanor or a non-violent felony; s/he must have only a limited number of Failure to Appear (FTA) instances in the records; there must be no other legal barriers to diversion, and a match to appropriate treatment agencies within the community must be possible. The last requirement, availability of enough mental health treatment resources to meet the needs of the community and its members, often poses challenges to intended diversion practices. Additionally, even where adequate resources do exist, not all mental health programs are willing to accept referrals from the criminal justice system.

In 2012, CATS developed a small scale pilot program (12-person), together with the pre-trial assessment unit, to divert repeat offenders suffering from chronic mental illness. This pilot was implemented through the use of existing resources, and it placed participating cases on a “stet” docket, pending successful completion and consequent dropping of charges. To date, out of 12 selected participants, three have successfully completed the diversion program. For an assessment of this program please refer to *Task 4 Needs Assessment* of this report.

Pre-Trial Supervision Unit (PTSU) staff monitors all court-referred pre-trial defendants for compliance with conditions. PTSU begins the supervision process by completing an intake screening and assessment, which compiles information about the defendant’s criminal record, stability in the community, employment, and history of substance abuse and mental health. Gathered information is used to determine the needed level of contact with each individual and to provide appropriate services to meet clients’ needs. A Health and Human Services (HHS) licensed therapist works at the PTSU daily to complete mental health and substance abuse evaluations and, if bond conditions require mental health treatment, to help PTSU staff in working on treatment referrals and identifying appropriate providers and crisis interventions – a good indicator of the strong relationship that currently exists between PTSU and HHS department.

While the PTSU does not offer in-house programs specifically targeted to the mental health population, its Intervention Program for Substance Abusers (IPSA) offers a more intensive treatment track that seeks to address co-occurring mental health and substance abuse issues. Staff estimates that 45% of the IPSA program participants have co-occurring disorders. Those individuals participate in the 26-week treatment track (as opposed to the shorted educational track) and receive targeted

7. ATI'S IMPACT ON POPULATION PROJECTIONS

substance abuse/ mental health treatment and education sessions from private providers to address the co-occurring problems. This program is not, however, equipped to serve individuals suffering from serious mental illnesses requiring intensive stabilization and treatment services, and the PTSU does not currently offer targeted mental health services beyond this or diversion programs specifically serving individuals with mental illness.

Post-sentencing, pre-trial services staff can arrange for diversion by requesting a “modification of the sentence” from the trial judge. At this stage, IPSA can also serve as a diversion option for individuals referred by the specialized Drug Court that, in Montgomery County, functions under the Circuit Court. This population may include offenders suffering from co-occurring substance abuse and mental health problems, although the Court’s main function and expertise lies in serving substance abusing individuals.

Identified gaps at the post-booking stage

While taking pride in the robust “front-end” diversion system it currently offers its offender/correctional population, Montgomery County can realize further improvements through consideration of – and addressing – a number of identified gaps, discussed below.

1. Pursuant to Maryland law, each arrested individual in Montgomery County must appear before a District Court Commissioner for an initial appearance, at which point a pre-trial release decision is made and possible release conditions are determined. The mental health services afforded to different segments of the arrested population vary depending on the DCC’s decisions at this stage: individuals released by the District Court Commissioner on personal recognizance (35%) do not go through formal mental health screening, and opportunities to identify potential problems in and connect this population to mental health services/providers are predominantly the exception, not the rule. In certain instances, Clinical Assessment and Triage Services (CATS) staff can be called to CPU to assess an individual at this stage, but this has been used only in isolated cases. In contrast, those individuals that are released on a condition to participate in pre-trial supervision are screened for mental health issues by pre-trial supervision staff to refer identified cases to appropriate services in the course of supervision.
2. Specialty Mental Health Courts (MHCs) provide post-booking diversion and sentencing alternatives in many jurisdictions – an

7. ATI'S IMPACT ON POPULATION PROJECTIONS

option currently not available in Montgomery County. While the lack of a MHC is identified as a gap in the current system, the consultants and County stakeholders also recognize it as an issue requiring much more consideration and broad legislative buy-in. As such, the option of implementing such a specialty court in addition to or together with the currently operating Drug Court is discussed in more detail in the Unresolved Issues chapter (Task 6). While the implementation of this option is considered and researched further, in-court advocates from CJS and mental health services could make recommendations regarding options for individuals with mental health problems.

3. Many individuals with serious and persistent mental illness are psychiatrically unstable when they enter the MCDC, making diversion very difficult. While CATS staff may request a postponement of the bail review hearing and place the individual in MCDC for observation and stabilization, the dearth of referral options poses difficulties when staff decides to pursue diversion to community-based treatment at a later time. Limited availability of residential beds remains a major issue for those in need of stabilization and diversion in lieu of jail – this is a service gap affecting all agencies and departments working with the mentally ill population in the criminal justice setting. One of the many barriers faced by Pre-trial and CATS staff has been the decrease in community based detox and intermediate care beds for instances when someone has been found eligible for diversion. As a result, the jail currently serves as the default location for individuals in need of mental health treatment, for whom placement has not been found in community treatment and/or supportive housing. Although referrals may be made for mental health triage, Montgomery County does not have a designated mental health diversion program, and mental health services are often limited by availability to crisis intervention and medication at the jail. Suitable housing and supportive case management on an on-going basis could help with the stabilization of many mentally ill inmates/defendants.

Research on post-booking diversion programs in other jurisdictions

While all mental health diversion programs engage in some form of screening, identification and linkage services, research shows that there is no definitive model for organizing a jail diversion program. Different jail diversion strategies are needed, because local criminal justice systems vary so much in size, structural characteristics, levels of perceived need,

7. ATI'S IMPACT ON POPULATION PROJECTIONS

resources available within the communities' mental health and substance abuse services network, and local politics and economics. However, common best practice components of mental health post-booking diversion programs are identified as: initial screening, evaluation, negotiation, aftercare and case management, regular meetings, and coordinated activities between the criminal justice system and the mental health system. When each of these components is compared to the work Montgomery County does at the post-booking stage, the consultant's research supports the finding that the County has in place similar best practices in mental health pre-trial assessment and diversion such as the ones reviewed in other jurisdictions.

Mental Health Courts

In order to address the problem of over-relying on incarceration to house the mentally ill, several jurisdictions have implemented or expanded the use of Mental Health Courts, which essentially give offenders a choice between following a treatment plan (including the taking of medication) or going to jail. Studies have shown that mental health courts are effective in serving the divertible mental health population at both pre-trial and post-adjudication phases, lowering rates of recidivism, increasing access to community treatment and services in this population both during supervision and after program participation and successfully supporting treatment compliance through case management services (Appendix D). In these initiatives, the court becomes the "de-facto treating authority", a task originally assigned to psychiatric outpatient clinics and community mental health centers.

At present, Montgomery County has a specialty Drug Court that provides extensive services for offenders in need of substance abuse services. While certain defendants with co-occurring disorders may be diverted through the Drug Court, Montgomery County does not have a fully operational mental health court. The County is at a juncture to determine if additional support services through the drug court programs could achieve the goal of better addressing mentally ill offenders and their needs. It is not a part of the current study's recommendations for Montgomery County to implement a Mental Health Court. However, the implications, benefits, and challenges inherent to implementing and running a Mental Health Court, as well as considerations of Montgomery County's current status with regard to such an initiative are discussed in detail under *Task 6 Unresolved Issues*, and the consultants recommend that the County continue to explore this matter.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Promising Post-booking Diversion Programs

Some of the notable diversion programs providing much-needed services to the mentally ill defendants involved in the criminal justice systems across the United States are the Advanced Supervision and Intervention Support Team (ASIST), developed in Connecticut to make existing ATIs an accessible diversion option for individuals with significant psychiatric disorders, and the residential program at the SIERRA Pre-Trial Center in New Haven, Connecticut (see Appendix D). While also having a post-incarceration component, the SIERRA Center serves pre-trial defendants with mental health and co-occurring substance abuse disorders, providing counseling and stabilization services and case management supporting transition to the community. These are examples of programs that Montgomery County may want to explore in connection to its pilot diversion program for the mentally ill.

2. In-custody Services

Standards of institutional mental health care support a process in which services are facilitated through coordinated planning, monitoring, evaluation and service development involving mental health, medical and security discipline. This approach is supported by both the American Correctional Association (ACA) and the National Commission on Correctional Health Care. In compliance with this process, Montgomery County's DOCR detention facilities staff works towards a holistic approach to care. However, it has never been DOCR's goal to use the correctional system as a conduit (gateway) to mental health treatment for these individuals nor having to build a premier mental illness treatment system in the jail. As per DOCR's director Arthur Wallenstein, this should not be the chosen route. It should be a priority goal of the department to be part of a community mental health system, with DOCR simply one component - not a focal point – thus enabling those eligible to be served in the community, while those requiring institutional and more secure settings and treatment can be better served within the facilities.

Nonetheless, in order to respond to a growing problem that was not anticipated 25 years ago, DOCR has had to add mental health personnel as well as develop assessment and screening procedures, so that all new admissions into the local correctional system are screened for mental illnesses and go through assessments at various instances, beyond the initial assessment and classification of identified individuals by CATS.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Mental Health Screening

The early identification of detainees with mental health needs through screening at a very early point (within the first 8 hours of detention) is pointed to as a key to success in linking the criminal justice system and community treatment systems, and can be considered a best practice. In Montgomery County, comprehensive mental health screenings and evaluations begin during the admissions process into the CPU and continue at various points during the intake process and throughout the incarceration period for those inmates classified as high risk for self-injury or suicide.¹⁸ All inmates booked for detention are screened utilizing two different documents: a Suicide and Mental Health Screening Tool and a Risk Assessment questionnaire, filled out by varied staff at different phases, starting with CPU, then followed by R&D, and ending with the medical staff at the correctional facility.

Upon admission into the CPU, Correctional Officers complete a screening form with the goal of assessing suicide risk, history of mental illness or self-destructive behavior, and/or use of psychotropic medications. If the officers observe any indication of a mental illness, nursing staff is summoned to complete a basic mental health screening. Arrestees arriving to the CPU in a state of an evident psychological or medical crisis requiring immediate attention get transported to the Shady Grove Hospital. Similarly, those identified through screening as possibly suffering from severe mental illness, manifesting signs of suicidal behavior or posing any threat to themselves (indicated by a “yes” answer to any item on the screening form) have an immediate follow-up assessment conducted by a qualified mental health CATS practitioner.

In collaboration with DOCR, CATS personnel screen and assess all admissions to Montgomery County correctional facilities for mental health concerns and to prevent suicides. There have been no suicides since the inception of this program. Based on the mental health evaluation, CATS therapists will make recommendations for inmates' care and placement at MCDC and, if necessary, request emergency transportation to the MCCF's Crisis Intervention Unit (CIU).

¹⁸ The rationale for this repetitive screening is based on the premise that the first hours of incarceration are critical for individuals who might contemplate suicide, and that certain individuals may tend to self-disclose with some people but not with others. Having different staff members (including Correctional Officers and Nurses) screen at different phases during the critical booking process may increase the likelihood of finding a person with whom the inmate feels free to disclose.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Mental Health Assessment

Mental health assessments consist of a mental status evaluation, a review of psychiatric history, if available, the diagnostic impression and consequent diagnosis, as well as treatment and housing recommendations.¹⁹ The majority of referrals for assessments are identified and generated at the booking process.

Assessments are performed by MCCF therapists at the request of CATS staff. However, requests for mental health evaluations may be received from anyone at any time during an inmate's incarceration (e.g. department staff, correctional officers, inmates' families, Judges, attorneys and/or community health care providers or advocates). In keeping with community standards, therapists utilize the standard Diagnostic Statistical Manual (DSM) of Mental Disorders for diagnostic codes.

Mental Health Services

The DOCR provides basic mental health services to all persons in custody including individuals housed at MCDC, MCCF, and the PRC as well as individuals who are in home confinement but under DOCR custody.

MCDC:

Depending on the identified needs, upon admission into this 72-hour detention facility, inmates can be offered treatment while remaining in the general population (medication, counseling services) or be referred for appropriate placement at the specialized Crisis Intervention Unit (CIU) at MCCF if more intensive residential treatment needs are found.

MCCF:

The Mental Health Services section at MCCF is recognized for its excellent care and innovative programs that are offered to approximately 25% of the jail's population, which suffers from serious and debilitating mental conditions. Mental Health Services staff is also responsible for the coordination of emergency commitments to state hospitals²⁰ and for facilitating on-site space for competency screenings²¹,

¹⁹ These assessments may also include referrals for competency evaluations, medication assessments, and treatment plans as needed. Therapists may also note the need to add or remove inmates from special observation status or from the "History of Self Injurious Behavior" (HSIB) status which is a recognized jail-specific classification category created to ensure appropriate management and supervision of inmates at risk for self-injury.

²⁰ State law specifies that a person suffering from a mental illness and who poses a threat to self or others may be involuntarily committed to a state mental hospital for evaluation or treatment. Involuntary commitments require certification by two licensed physicians who are generally DOCR contract physicians; however, emergency room physicians may also be accessed in a crisis. Most inmates who are involuntarily committed to a state hospital are transported to either Springfield Hospital Center (SHC) or Clifton T. Perkins Hospital. The hospital site is determined by the inmates required level of security. The DOCR psychiatric nurse coordinating this admission must obtain pre-approval by the state's Central Admission and Referral Center (CARC) prior to admission to any of these hospitals.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

as ordered by the Court. Additionally, as part of the development of individual treatment plans, the Medical Unit is responsible for ensuring correct medication management both during incarceration and with an eye toward post-release referrals.

All mental health services and programs are delivered by four therapists, three psychiatric nurses and one contract psychiatrist. The psychiatrist performs initial evaluations and follow-up assessments to monitor progress and medication needs.²² Additionally, the Graduate Student Intern Program provides a valuable service to the mental health services staff. Interning graduate-level Psychology and Counseling students from local universities are recruited, oriented, trained, supervised, and evaluated by the Mental Health Services Manager, with a requirement for a minimum of one (1) hour of clinical supervision weekly. Most student interns remain at MCCF for an academic year and see an average of six to ten individuals weekly for therapy and counseling services. The Clinical Supervisor is responsible for the assignment of clients to the interns for either individual and/or group therapy. Inmates are responsible for maintaining their regular scheduled individual or group therapy sessions.

Individuals with less severe mental illnesses are placed in the general jail population. Specifically for this population, mental health services include mental health and psychiatric assessments, crisis intervention, brief counseling, pharmacotherapy and skills groups. Specified therapeutic housing units, such as the Jail Addiction Services (JAS) program unit²³, target certain areas of need with regard to both substance abuse and behavioral health. In collaboration with the County's Department of Health and Human Services, inmates with behavioral health issues are also offered community re-entry services, including the Community Re-entry Services (CRES) and Project Assisting Transition from Homelessness (PATH) programs, which address issues such as substance use and residential stability. These two programs are described later on this chapter, under transitional and re-entry services.

Source: http://www6.montgomerycountymd.gov/doctmpl.asp?url=/content/DOCR/MCCF/MCCF_EmergencyCommitment.asp

²¹ Competency to stand trial refers to a defendant's ability to understand the charges against him/her and his/her ability to cooperate with legal counsel in the preparation of his/her defense. If the court suspects that a defendant may lack competence to stand trial because of a mental illness or intellectual deficit, the court may order a competency screening evaluation by a court appointed provider. If the diagnostic screener finds that competency evaluation needs to be performed, the defendant is ordered to a State hospital for a full competency evaluation. Individuals hospitalized under competency statutes are usually transported to Springfield State Hospital, but hospitalization at Clifton T. Perkins may occur if the person has charges of a violent nature, which prohibit admission to Springfield. Source: http://www6.montgomerycountymd.gov/doctmpl.asp?url=/content/DOCR/MCCF/MCCF_CompetencyScreening.asp

²² Additionally, the psychiatrist also serves the Montgomery County Detention Center, Pre Release Center, and persons placed on home confinement through the PRRS.

²³ The DHHS JAS program is a voluntary program that provides substance abuse treatment services for MCCF inmates. Most of the JAS program participants have committed minor crimes and have multiple problems in addition to substance abuse, such as mental illness, homelessness, and unemployment. To participate in JAS, the individual's mental health must be relatively stable.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Acute or chronic individuals as well as inmates whose mental condition jeopardizes their safety in general population are referred to the Crisis Intervention Unit (CIU). Officers assigned to the CIU receive extensive mental health training. Therapists keep abreast of developments in the mental health field by completing continuing education as required by their credentialing bodies.

The CIU, with room for up to 40 males and 15 females, allows for continued observation and stabilization of mentally ill individuals who cannot function in the general population. The unit further serves placed inmates through medication management, counseling services, and both individual and group intensive therapy. The length of stay in the CIU depends on the inmate's mental health status. Some inmates stabilize and return to the general population in a few days or weeks. Others do not attain enough mental stability to return to the general population during their entire incarceration.

Inmates referred to but not admitted to the CIU are cleared for general population and re-evaluated by Mental Health staff when a new referral is submitted, unless the therapist suspects that a change in the inmates' mental status, treatment, or special classification may be imminent and warrants a follow-up evaluation. In this case, the therapist would schedule the follow-up or draw up a special handling plan as needed.

MCCF developed one of the first jail-based Dialectical Behavior Therapy Program (DBT) for mentally ill offenders in the nation. The DBT program was the CIU's primary treatment modality and proved very successful, reducing impulsive and high-risk behaviors such as self-injury, violence, and suicide gestures and attempts, and increasing consequent re-entry success. While the program was discontinued as a result of funding cuts, MCCF has recently re-introduced this component of its Behavioral Health services through the *Choices for Change (CFC)* programming.

PRC:

Mental illness is a growing concern and an increasingly typical characteristic of the offender population at the Pre-Release Center. Offenders with mental illness are reviewed like any other offender for pre-release, with consideration given to the requirements for greater supervision and more intensive services, both in the PRC and in the community (home confinement).

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Identified gaps in in-custody services

1. The number of inmates admitted to the CIU is limited by the number of available beds, not necessarily reflecting the total number of inmates that might need special housing due to a mental health problem.
2. Due to funding cuts to jail-based mental health resources, a previously successful Dialectical Behavioral Therapy (DBT) program is no longer operating out of the CIU. With effects such as reduced violence, self-threatening behavior and self-destructive behavior, as well as increased re-entry success, this program was an important part of DOCs jail-based behavioral health programming, and consideration should be given to the return of this cut program.
3. Within the MCCF, there is no officially a designated “step-down” discrete unit from CIU, which could meet the pressing stabilization needs of many inmates (e.g. newly medicated, inmates requiring a more stable, “trigger-free” environment for treatability).

Research on in-custody services in other jurisdictions

Generally speaking, mentally ill individuals need an array of in-custody treatment services, including CBT/DBT classes and counseling, educational services and job readiness services already provided at the MCCF and PRC. Additionally, individuals suffering from more serious/chronic mental illness and/or co-occurring disorders would benefit from regular classes and evidence based curricula targeting their specific issues.

There are some promising programs that are in place in jails in other jurisdictions that are effective in working with offenders suffering from mental illness and co-occurring problems. As an example, the Kent County, Michigan jail has a jail-based treatment/service model, which have attributes, such as the offering of targeted co-occurring problem classes and treatment groups that may be helpful for Montgomery County in planning the next steps toward a stronger mental health service model within its correctional facilities and the criminal justice system at large. The Kent County program is a step-down model, further offering community-based transitional services.

Additionally, Hampden County, Massachusetts has recently moved to address the need for in-jail step-down beds for inmates needing stabilization services, but not requiring acute care, an issue noted by Warden Green with regard to MCCF. In 2012, the Hampden County

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Correctional Center (HCCC) designated single cells in the proximity of their Behavioral Evaluation and Stabilization Unit (ESU; much like Montgomery County's CIU) for use as ESU Transitional Beds. Beyond providing inmates with a step-down function within the correctional center, this unit also coordinates services with the Hampden County Pre-release Center and Day Reporting Center, strengthening the inmates' transition back to the community. Post-release referrals to local community health centers are also provided by the Unit.

3. Re-entry Programs and After-care Services

As release approaches, correctional officials face the challenge of arranging for a smooth transition back into the community for mentally ill inmates. The success of reintegration depends, in large measure, on continuity of appropriate and effective psychiatric treatment. Arranging for treatment, and seeing to inmates' continued participation in the treatment, can be difficult. Also, these inmates may require extra support services to help offset the social, emotional and intellectual liabilities that can accompany mental illness.

If released without adequate resources, community connections, and the necessary skills and knowledge, inmates suffering from mental illness are more prone to recidivate. At present, several transitional and re-entry services are in place in Montgomery County to coordinate services for people with substance abuse and mental health treatment needs upon release.

Re-entry Collaborative Case Management Group (CCM): In February 2006, the MCCF Re-Entry Collaborative Case Management Group was established to hold bi-weekly meetings. The objective of these meetings is to provide coordination of direct services to offenders re-entering the community after a period of incarceration.²⁴ During the bi-weekly meetings, the service needs of soon-to-be-released offenders are identified and discussed. Identified needs may include: substance abuse treatment, mental health treatment, medical treatment, medications, housing and homeless services, family reintegration, legal reporting requirements, and pre-employment training. Available community

²⁴ The group is comprised of local corrections (MCCF Case Managers, treatment staff and a Social Worker), Mont. Co. Police, Parole & Probation, human service agencies, local non-profit, and faith-based organizations. The collaboration involves bridging potential "gaps" to provide an effective continuum of post-release services to the ex-offender and their families. The Re-Entry Unit Social Worker then coordinates linkage to these critical support services. A Re-Entry Unit Benefits Specialist is available to assist both the offender and their family in connecting or re-connecting with entitlements. The collaboration of the individuals in this group has provided a quantum leap forward in providing much needed coordination of direct service delivery. By setting the appointments up in advance, and allowing the opportunity for the offender to meet and connect with his or her service provider face-to-face before released into the community; the offender's chances of successful reentry into the community are greatly enhanced. The CCM meetings have been instrumental in providing a more efficient post-release service delivery system for this highly "at risk" population.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

resources to meet those needs are identified, and an initial contact plan is established. In many instances, a potential treatment provider is present as a CCM group member, and plans are initiated to begin services as soon as possible. This is an attempt to match the offender with the most appropriate services immediately; thereby, reducing redundancy of services, as well as social costs. The CCM meetings have been instrumental in providing a more efficient post-release service delivery system for this highly “at risk” population.

Community Re-Entry Services (CRES): CRES serves inmates who are on pre-trial status and adjudicated clients housed in the CIU and in the Jail Addiction Services (JAS) Unit at MCCF by advocating for diversion at the courts and, later, assisting these individuals in transitioning from the jail back to the community. Additional services include acting as a liaison for out-of state long-term residential programs for substance abusers and facilitating transition of inmates from the Maryland Department of Corrections and other prisons to local treatment and out-of state programs.

Non-Maryland residents, and individuals not housed in CIU are referred to the MCCF Re-entry Program to develop a discharge plan that will refer them to appropriate community-based mental health treatment programs. The CRES program also works with general population sentenced inmates who are receiving psychotropic medication and those who require transfer of their psychiatric services and a referral linkage to a psychiatric provider in the community to ensure a smooth transition. In this role, CRES staff act as a liaison to the Criminal Justice System, Parole Commission and community based treatment services. The program’s goal is to provide planning and coordination by assessing inmates’ behavioral health needs.

Transitional Services: Transitional Services is a branch of both the CATS and CRES programs, and it employs a psychiatrist, a full-time Community Services Aide (CSA) position (based at the Pre-Trial Services site), and a part-time CRES CSA. This unit serves inmates who are on psychotropic medications and are housed in general population.

Priority is given to inmates who are Montgomery County residents and have no detainers; these inmates are linked to available services in the community. Because of rapid movement of pre-trial populations there is a very tight window for assessing, planning, and finding services for these inmates. The CSA serves approximately fifty (50) inmates housed in general population at any given time. The psychiatrist is available to

7. ATI'S IMPACT ON POPULATION PROJECTIONS

provide medication and transitional psychiatric services upon release and the CSAs assist with linking these discharged offenders to more permanent services.

Projects for Assistance in Transition from Homelessness Services (PATH): In addition to CRES, community re-entry services and development of discharge plans are also provided by PATH counselors and therapists whose primary goal is to assist individuals diagnosed with chronic and persistent mental illness.

Since February 2005, PATH services have been provided by the Community Case Management Services (CCMS) to pre-trial status and adjudicated clients serving local jail time at the Crisis Intervention Unit who are homeless and severely and persistently mentally ill. The scope of services focuses on mental health medication and treatment engagement, linkages to entitlements, and access to vocational programs and housing.

Services at Pre-Release and Re-entry Services (PRRS): The PRRS is not currently able to offer in-depth, comprehensive mental health services. Although the PRRS does not exclude individuals with mental illness, many of its programs and services are not developed specifically for individuals with mental illness. Some limited services are offered through referrals to community service providers, but with the noted limitations in terms of community treatment services, residential beds, and transportation issues, the PRC is at present not an option for many mentally ill inmates.

Additionally, since mental stability and ability to function in a community corrections setting is a pre-requisite for eligibility for the PRC, many individuals are rejected participation due to a lack of emotional or cognitive capacity to be actively involved.

Housing programs for persons with mental illness

With regard to returning inmates, research shows that residential instability/homelessness and incarceration are compounding factors influencing both later residential instability and re-incarceration.

Housing for persons with mental illness who have had contact with the criminal justice system can be viewed along a continuum of options from full self-sufficiency to full dependent care. Supportive housing, special needs housing, and transitional facilities are the main options for

7. ATI'S IMPACT ON POPULATION PROJECTIONS

housing consumers in need of services to treat mental health conditions outside of the provision of institutional care.²⁵

Supportive housing is classified as a best-practice component of community mental health and substance abuse services. The literature on supportive housing is dominated by the issue of homelessness. Montgomery County has a number of supportive housing services available (targeted primarily at the homeless). In 2012, there was an increase of 115 permanent supportive housing beds from 1,592 in 2011 to 1,707 in 2012.

Additionally, during the course of our meetings, participants spoke about the County's ten-year plan to end homelessness, which was passed by the County Council in 2002. It was one of the first plans in the country to create this goal, and it has helped spur the development of thousands of units of affordable housing in the County. It is also worth mentioning that the County's award-winning "Housing First" initiative, which aims to rapidly re-house individuals and families, and address service needs once in permanent housing, placed 249 families and 480 individuals in permanent housing in 2012.

This year, Montgomery County Coalition for the Homeless (MCCH) and the Montgomery County Department of Health and Human Services (HHS) will jointly lead the implementation of a county-wide "100,000 Homes Campaign" through a public-private partnership. The "100,000 Homes Campaign" is a national movement of over 175 communities working to find permanent homes for 100,000 vulnerable and chronically homeless individuals and families by July of 2014.²⁶ Local communities can establish their own local preferences and determine criteria for priority housing. If mentally ill offenders could benefit from housing initiatives like this, DOCR could divert and accommodate approximately 20% of the most chronic recidivists.²⁷

²⁵ Supportive housing and special needs housing are permanent housing options coupled with support services. Permanent housing options have proven to have a one-year retention rate of 72% or higher at keeping formerly homeless individuals from returning to homelessness (Clark, John, 2004). Transitional housing is an umbrella term to capture any housing that is not permanent but is designed to provide at least some type of service that assists clients with establishing community reintegration or residential stability.

²⁶<http://silverspring.patch.com/groups/announcements/p/montgomery-county-prepares-for-herculean-effort-to-eliminate-chronic-homelessness>

²⁷ As indicated by Athena Morrow (e-mail communication, 8/2/2013), homeless who also are seriously and persistently mentally ill (most likely to be non-compliant with treatment recommendations), are the hardest population to work with because their crimes are related to their homelessness (i.e. non-violent misdemeanors such as trespassing, disorderly conduct, urinating in public, open containers, minor thefts, etc). These chronically homeless individuals would be ideal candidates for the 100K Homes campaign aiming to permanently house the most vulnerable homeless folks according to the successful "Housing First" model. As per this initiative, these individuals would be given permanent supportive housing and have wrap-around services. This is a model shown to reduce recidivism. DOCR has so far been unable to house these individuals due to their difficulty staying involved in treatment, but the housing first model would eliminate that barrier. 21 of those individuals were identified who have collectively come into our system 85 times in the past two fiscal years. One individual has 11 arrests in the past two years, one has 6 arrests, four have 5 arrests each. Their average length of stay is about 30-40 days.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Identified gaps in re-entry programs and after-care services

1. Directly related to the need to better serve individuals with mental illnesses and to further support their successful community re-entry are the effects of the longstanding decision and practice of releasing individuals directly from Court to the street without medication and proper referrals to community treatment, intensive case management, and other services (refer to *Task 6 Unresolved Issues* for further discussion).
2. There is no adequate pre-release housing for transitioning inmates suffering from unstabilizing, severe mental illness, due to a lack of clinical staff and the limited ability to access services while at the PRC (follow-up and outpatient services needed; particularly true for homeless inmates). Pre-release and re-entry services (PRRS) is currently able to offer very limited mental health services, and eligibility is limited to inmates who are deemed psychologically capable and stable enough to be managed in a community corrections setting. Transportation issues and dearth of community options tend to make the PRRS inaccessible to the mentally ill population.
3. There is a need for more community services to ensure support for people returning to the community from jail and transitional housing programs with liberal eligibility criteria, more specifically, a 24-hour residential treatment facility for those with co-occurring (mental health and substance abuse) disorders and long-term, stable housing for homeless individuals. A highly structured, supervised housing program for the mentally ill is also needed to enhance the likelihood of success for individuals coping with these complex needs.
4. Finally, there is a need for highly intensive, specialized case management services for offenders with co-occurring disorders, which may allow for structured, comprehensive support as they re-enter the community.

Research on re-entry programs and after-care services in other jurisdictions

The consultants conducted specific research on re-entry programs and after-care services for the targeted criminal justice mentally ill population. This is provided as a frame of reference for DOCR and related agencies in the adoption of comparable programs, where appropriate, for Montgomery County.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Transitional Re-entry programs

Sullivan County, New Hampshire, provides a Transitional Reentry and Inmate Life Skills (TRAILS) program at the County's Community Corrections Center (See Appendix D). This program offers two tracks, targeting different levels of risk and needs, and includes co-occurring treatment services. A family program is offered concurrently, to address family treatment needs for participating individuals and their family members. This program has been recognized for its comprehensive and collaborative approach to individuals' behavioral health needs, and is described as a model program for court-mandated, structured programs.

This program model allows for both residential treatment followed by transitional services including intensive case management services. The local community providers for co-occurring disorder services work with the offenders both in the jail and in the community.

After-care Services

Upon release, research demonstrates the importance of ensuring that all discharged individuals are provided with a list of available community agencies and services and connected to long-term services and supports. Several states and national entities have compiled "resource libraries" for re-entry planning and services that can be of great help to both staff and released individuals in providing information on available programs, services, and help. The *National Directory of Reentry Resource Guides*, created by the Prisoner Reentry Institute at John Jay College, lists such efforts of states nationwide.²⁸

Relative to post-release housing, research shows that a one-size-fits-all approach to housing for the mentally ill does not work. What works in housing for most persons with mental illness may be different from what works for those who are justice involved, particularly for those individuals released from jail to the community and placed under correctional supervision. Persons returning from jail often have high-level needs, given the requirements of supervision (e.g. remain drug free, obtain employment). Housing options should provide a balance between the often competing needs of criminal justice supervision and flexible social service provision.

Cook County, Illinois, together with CSH, a supportive housing solutions provider, is piloting a program to address the needs of the

²⁸ <http://www.jjay.cuny.edu/centersinstitutes/pri/pdfs/National%20Directory%20of%20Reentry%20Resource%20Guides.pdf>

7. ATI'S IMPACT ON POPULATION PROJECTIONS

County's frequent jail and mental health users.²⁹ In working with several community mental health agencies, this initiative aims to prepare incarcerated individuals for release and support them upon community re-entry through the goal of housing 120 releasees "with intensive wrap-around services." This Cook County initiative is a part of a National Institute of Justice Study, and it will be evaluated by the Urban Institute. Similar supportive housing services, targeting the varied needs of individuals being released from the correctional system, are provided through collaborations among other correctional facilities and health care and community service providers.³⁰

Findings, Conclusions and Recommendations

The following pages summarize the major findings on current practices and challenges, conclusions on shared perspectives, and recommended solutions for better serving the criminal justice mental health population.

Findings

Pre-booking trends summary findings:

- Over the years, Montgomery County has experienced a decrease in police repeat calls for service relating to mental illness (see Table below) as well as in officer consumer injuries. However, the number of law enforcement encounters with mental illness has become more prominent, due to the dramatically reduced services and funding State-wide.

Table 7.1 Police Calls for Mental Health-related Services*

	2009	2010	2011	2012	Change
Total Calls	4,449	4,323	-	4,250	-4.5%

*These numbers include suicides (both attempts and completed) and calls involving individuals with developmental and/or intellectual disabilities.

- Since the implementation of the MCPD Crisis Intervention Team, there has been an increase in the number of officers added to respond to complex mental health-related calls for service. For FY14, the County Executive recommended budget expansions for the CIT program by adding an additional police officer to assist the current coordinator.³¹
- There has also been an increase in the number of services at and the utilization of the Montgomery County Crisis Center.

²⁹ <http://www.csh.org/csh-solutions/serving-vulnerable-populations/re-entry-populations/local-criminal-justice-work/cook-county-frequent-users-of-jail-and-mental-health/>

³⁰ See, for example: <http://www.saferfoundation.org/services-programs/sheridanswice> and <http://100khomes.org/>, noted above.

³¹ Source: PS Committee #2. April, 11, 2013. Available on-line at: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2013/130411/20130411_PS2.pdf

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Table 7.2 Crisis Intervention Center Statistical Summary*

	FY2012	FY2013	Change
Calls for Service	42,327	43,250	2.2%
Walk Ins	3,821	4,097	7.2%
Mobile Crisis Responses	632	424	-32.9%
Crisis Bed Episodes	295	259	-12.2%

*Data provided by Teresa Bennett. All counts are duplicative and represent an "episode", not a unique client.

- In 50% of the cases where the DHHS's Mobile Crisis Team is called by CIT police officers for assistance, the outcome is a petition for an emergency psychiatric evaluation for the purposes of hospitalization (phone communication with Teresa Bennett, July 25, 2013).
- Police officers can divert individuals who do not qualify for an emergency evaluation petition and are willing to access mental health services voluntarily to the DHHS's Crisis Center. The number of individuals served through pre-booking diversion has increased over the years.

Post-booking trends summary findings:

- While overall CPU intake numbers have been declining, upon admission into the jail, referrals for mental health evaluation have been increasing over the years. DOCR staff estimates that between 50% and 80% of the individuals booked into the MCDC proceed to CATS for further assessment. Approximately, over 9,000 offenders entering the MCDC are screened by CATS staff annually.
- Beside mental health, individuals often suffer from substance abuse disorders (15%) or co-occurring substance abuse and mental health disorders (60-75% of individuals assessed annually by CATS). The presence of co-occurring disorders tends to increase the acuity of the symptoms.
- A large proportion of the individuals assessed for mental illness are also homeless and have committed minor, non-violent offenses – these are often directly related to their homelessness.³²
- The percentage of individuals recommended for diversion has nearly tripled in the past decade, while community resources are lagging behind. Between 2003 and 2011, CATS recommended diversion for approximately 25% of those individuals referred for evaluation, with 2012 statistics showing growth to 30%.

³² As per CATS Unit Director Athena Morrow: "This is the hardest population to work with [without addressing their residential stability needs] because their crimes are related to their homelessness (i.e. non-violent misdemeanors such as trespassing, disorderly conduct, urinating in public, open containers, minor thefts, etc.)."

7. ATI'S IMPACT ON POPULATION PROJECTIONS

- The number of competency evaluations has also increased over the years (5% of the assessed cases in 2012 were recommended for a competency evaluation).

In-custody trends summary findings:

- There has been a 100% success rate in screening, assessing and preventing suicides at the MCDC since the inception of the CATS program.
- Although the number of inmates entering into the criminal justice system has been declining over the past few years, the severity and number of mentally and physically ill inmates within DOCR facilities is growing, as demonstrated by available data on the number and percentage of inmates referred and admitted to the Crisis Intervention Unit (CIU), with monthly census averaging about 45 inmates.³³

Table 7.3 CIU Statistical Summary

		FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12
Inmates referred to the CIU	#	219	289	301	312	333	377	388	486	574	676
	%	13%	16%	16%	16%	18%	20%	20%	22%	26%	31%
Inmates admitted to the CIU	#	-	-	-	-	-	-	489	556	575	554
Average monthly census of inmates housed in the CIU		29	36	-	-	-	-	41	43	48	46

- 20% of the mental health population is using 80% of the correctional resources.
- Inmates with severe mental health conditions are often held in the jail for as long as 2 to 3 months awaiting transfer to a State hospital for a court ordered evaluation.
- A day snapshot of 708 inmates held in MCDC and MCCF indicates that, on any given day, there are 252 inmates (36%) receiving behavioral health services (housed in JAS, CIU, Springfield State Hospital for competence evaluation, or General population on meds). Of these 252 inmates, 185 (or 73%) are receiving psychotropic medications.³⁴
- Since fitness for work is a prerequisite for placement at the PRC, the program does not admit anyone with serious medical or mental health difficulties that could impair their ability to function in the community-setting and perform all pre-release duties.

³³ The number of inmates admitted to the CIU may not actually reflect the number of inmates requiring special housing. Admissions to the CIU at the MCCF are driven by beds available (40 male beds and 15 female beds), and some inmates' conditions are so severe that they are housed in the CIU throughout their incarceration.

³⁴ Snapshot analysis conducted by CATS's Director, Athena Morrow, and provided to the consultants on August 2, 2013.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Re-entry and after-care summary findings:

- Individuals released from the MCDC at times lack the resources to return home. Of particular concern is the release of inmates into the community directly from Court, with the release of mentally ill individuals without medication or proper referrals often bringing them back to jail.
- Mentally ill individuals released from detention face many barriers when trying to obtain follow-up services and stable housing in the community. Housing (especially for the homeless) and after-care access to shelter is an issue for those that have been in contact with the criminal justice system.

Conclusions

Generally speaking, there are six broad categories of services provided in the criminal justice system for people who suffer from mental illness:

- Diversion
- Screening, assessment and classification
- Crisis Intervention
- In-jail Treatment and Programming
- Case Management
- Discharge Planning

Along these lines, through various County agencies and vendors, Montgomery County provides to individuals with mental illness a range of services throughout the criminal justice system continuum.

It is the consultants' belief that Montgomery County has all the tools and systems in place that are necessary for the identification of mentally ill individuals who come in contact with the criminal justice system, demonstrating a high degree of compatibility with nationwide best practices. While the issue is less structural - the mental health platform model is there - it is a matter of gaps in responding to the specific needs of this particular population. Although systems are in place to offer mental health services, their effective provision is limited and constrained by the insufficiency and inadequacy of residential options, both for the purposes of community release and in terms of jail housing, as well as treatment agencies and services within the community to match eligible defendants for diversion, alternative sentencing, pre-release and release options. Particularly constraining factors in this regard are:

7. ATI'S IMPACT ON POPULATION PROJECTIONS

- Limited availability of mental health stabilization beds at the front-end to avoid further penetration into the jail system, and at the back-end to support successful re-entry.
- The limited in-custody housing capacity to accommodate and service the higher need mental health population at both the jail and the PRC, even while the County has a sufficient number of correctional beds for the foreseeable future;
- Limited diversion options due to a lack of capacity in residential community treatment programs for divertible offenders, and
- Unavailability or dearth of treatment agencies and services within the community to accept eligible defendants.

Through two successful work sessions and individual meetings with stakeholders, it was clearly identified that there is a need to support mental health clients along the criminal justice continuum. This would assist clients in improving their quality of life and, over time, may reduce the need for expensive jail beds for both pre-trial and sentenced offenders in the County.

Where possible, the mentally ill should be diverted from the criminal justice system at the initial point of contact with law enforcement officers. Pre-booking diversion should be assured for all mentally ill persons accused of crimes for whom a voluntary mental health treatment plan is a reasonable alternative to transportation to hospitals or the use of criminal sanctions (jail time). In this regard, it is very important that law enforcement agencies continue to emphasize early identification, screening and intervention at the time of arrest. There will always be a segment of the mental health population who is not appropriate for community release. For those, DOCR will have to continue to target resources towards this population – but for serious or repeat offenders, not as a primary service provider for all.

Recommendations

Based on the identification of existing gaps, and in consultation with focus group participants and system stakeholders, the consultant team developed the following two main recommendations to assist the County in the development of new mental health initiatives and the enhancement of current mental health resources and processes.

- 1) **Meaningful diversion:** when appropriate, individuals should be diverted to treatment from the criminal justice system at the earliest possible point in time. Once charges have been filed, criminal proceedings should be deferred for a set period, with guaranteed

7. ATI'S IMPACT ON POPULATION PROJECTIONS

dismissal of criminal charges after successful treatment participation, as was the objective of the County's mental health diversion pilot project.

- 2) **Re-alignment of DOCR beds for Mental Health populations:** mental health treatment and services for mentally ill offenders are offered both at MCCF and at the PRC. However, a need for more designated bedspace for inmates in need of stabilization exists at both facilities. DOCR should consider repurposing some of the available beds at the two facilities for this higher risk and need population.

2.1. On the one hand, the MCCF is lacking a clear step-down unit for inmates released from the CIU. Particularly, there is an identified difficulty at MCCF to provide therapeutic and stabilization services due to the large size and configuration of the existing units, and the possibility of creating sub-units could be considered. Research on good practices in other jurisdictions also supports the addition of a transitional, "step-down" unit or beds at MCCF to offer continued support for mentally ill inmates being released from CIU.

2.2. On the other hand, PRC cannot currently serve unstable individuals. Additionally, there are limited resources at the PRC to provide in-depth mental health and co-occurring services. Often there is a waiting list for such services in the community, and transportation issues hinder access to services. Considering the possibility of dedicating some beds at the PRC for inmates with mental health stabilization needs and/or co-occurring disorders, while providing in-depth mental health and co-occurring treatment on site is a central recommendation. This would not only address the major dearth of community services currently available for criminally involved individuals with mental health needs, but would allow for a stronger continuum of care and a supported transition process for this population across the criminal justice continuum.

There are presently beds in this facility that are underutilized and seen by PRC staff as having the potential of being utilized as mental health beds (between 15 and 25 beds) by dedicating a housing unit for the mentally ill. Montgomery County should explore the idea of a partnership with the DOCR and DHHS to provide such residential services and find community resources to provide on-site clinical services as part of a mental health/co-occurring disorder

7. ATI'S IMPACT ON POPULATION PROJECTIONS

program. This recommendation is not meant to keep the mentally ill offenders in jail longer, but rather to provide a better residential alternative to traditional jail.

Additionally, offenders with mental health issues could be supported through continued intensive case management services at a Day Reporting Center (DRC) program. Offenders could come to one location for these services and gain critical support needed during transition. Co-locating the DRC at the PRC, along with its current services and the discussed residential setting for mental health clients, would allow for added convenience, continuity and additional transitional services. Most importantly offering intensive case management services at one location would provide a better chance for success with this population which often struggles with navigating both the criminal justice system and the treatment system to access services. It should be noted that before any planning for this type of co-location can take place, legal issues must be explored and fully vetted as part of the planning process.³⁵

Co-locating mental health beds and day reporting with additional mental health services at the PRC has the following advantages:

1. The center is conveniently located near public transportation, which most of these offenders rely upon.
2. The staff is already trained in working with a high risk, high need population in a correctional setting.
3. Combining residential and transition services (day reporting) in one location would allow for clinical and case management staff to support clients at one location, integrating the multiplicity of community providers into a one-stop service delivery component. Shared resources could include the facility offerings, personnel and administration.

Supporting Initiatives: in the course of developing these recommendations, members of the focus groups recognized that the issue of serving people in the criminal justice system with mental illness expands beyond DOCR, the justice and mental health systems, thus requiring a holistic approach that involves many actors and agencies. In this regard, the following discussion on comprehensive mental health outreach programs provides food for thought in strengthening mental health services and resources.

³⁵ It is recommended that the necessary vetting by the County Attorney be done in the initial stages of discussion.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Community services are important at the beginning of the process to prevent the development of the crises that lead to law enforcement involvement, to provide alternatives to incarceration when problems arise, and to ensure support for people transitioning back from jail to the community. Access to these community resources by mentally ill offenders necessitates of strong collaboration and partnerships between DOCR and treatment providers, allowing for the creation of a multidisciplinary team going forward. Providing a full clinical assessment as early as possible, with stronger information sharing across the criminal justice continuum, could strengthen the County's continuation of care and is in line with researched best practices.

In order to remain abreast of current developments in the mental health field as to adequately deal with issues of mental illness, wherever and whenever they occur, it is crucial that the existing community coalition reaches out to all criminal justice system and mental health agencies to ensure that on-going training is provided at all levels. Additionally, partnering members need to work closely with mental health consumers, families and advocacy groups to promote and improve awareness of available mental health treatment and services throughout the County.

Finally, taking into consideration that long-term housing support for homeless mentally ill offenders is a critical need, the Criminal Justice Behavioral Health Initiative should consider developing a program of aggressive outreach to homeless mentally ill individuals in the community to assess needs, engage individuals in treatment and provide much-needed case management services. In this regard, the County could benefit from identifying a community-based organization to compile a housing resource list for DOCR discharge or transition planners to use to locate affordable and supportive housing.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

7.3 Day Reporting Initiative

Approach

As discussed in the introduction to Section 7, based on an identification of gaps in the current system, the local stakeholder group that met on March 19th concluded that the current corrections continuum lacks two important service components:

1. *A “step down” alternative, providing a structured and service-intensive reentry process for jail inmates nearing sentence completion.*

At present, there is a need to provide additional support post-release for selected offenders leaving the jail and the PRC. Mentally ill offenders in need of specialized case management and other services could also benefit from a one-stop center, such as a day reporting center.

2. *A non-incarcerative “step-up” alternative for sentenced offenders who may be at risk for violating conditions of probation or parole.* Currently, there is an identified gap in the range of options/responses that is available with regards to probationers that are recalcitrant offenders -mostly for property and nuisance crimes- and chronic substance abusers, often revolving through the violation of probation process due to technical violations. Some of these probationers get into the Drug Court program; others are disinterested in probation until they are detained. Although there is the ability to refer probationers or inmates being released to some available services, there is no one-stop option for multiple services and increased structure. Having a Day Reporting Center (DRC) program would provide more immediate and comprehensive services for these habitual criminal justice system actors.

The ability to step inmates down and up a correctional continuum of services and sanctions provides accountability incentives and offers expanded population management options, allowing for jail-utilization savings.

In line with nationally recognized best practice models of step-down custodial services, Montgomery County currently offers a wide range of correctional services across the criminal justice system, including the various discussed diversion alternatives and the PRC/Home Confinement programs. Building on these existing DOCR programs and the available services and treatment, with an increased emphasis on supported transitioning and gradual expansion of independence through continued case management and other support services, a DRC program would offer DOCR and its partner criminal justice agencies an

7. ATI'S IMPACT ON POPULATION PROJECTIONS

added step in its strong continuum of care. Nationwide, Day Reporting Center programs (also known as day treatment centers, community resource centers, or day incarceration centers), are considered an evidence-based and cost-effective alternative to incarceration (intermediate sanction) for offenders at both the front end – that is, at the point of pre-trial release or direct sentence – and the back end – the early release or halfway-back stage – of the corrections system.

The concept of a DRC is particularly effective with offenders requiring a high degree of daily structure, such as the mentally ill, substance abusers and offenders with co-occurring disorders. In this regard, such a program could also offer mentally ill offenders needed support and services at a one-stop location, thus expanding the diversion options for this often difficult to place population.

For the Maryland Division of Community Supervision, a DRC program would help span the current supervision and sanctioning continuum, providing intensive services for high risk offenders who are in danger of a violation of probation or parole, as well as to manage compliance with probation/parole conditions. In this regard, the day reporting center is not meant to be used as an alternative to traditional probation, but as an alternative to jail for technical violators.

Methodology

In shaping recommendations for an evidence-based Day Reporting Center (DRC) model program for Montgomery County, the consultant team reviewed a number of existing day reporting centers in the country, supplemented by the consultants' 30 years history of operating and developing day reporting centers nationwide.

The establishment of the DRC program assumptions began with a visioning session with the core group comprised of representatives from the following agencies (sign-in sheet appears in Appendix E):

- Maryland Division of Community Services
- Office of the Public Defender
- Department of Health and Human Services
- County Council
- DOCR – Detention Facilities Division
- DOCR – PRRS
- DOCR – Pre-trial Services Division

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Research findings were presented and discussed with the workgroup in a Go-To meeting hosted by the consultants on July 15, 2013, with added representatives from OMB, Criminal Justice Coordinating Commission and Public Safety staff from the Office of Councilmember Phil Andrews. The meeting participants' sign-in sheet appears in Appendix E.

Day Reporting Centers: History, Operation and Purpose

Brief History of DRCs

Day Reporting Centers (DRC) are a correctional option that originated in Great Britain in the early 1970's as an alternative to incarceration for older petty criminals who were chronic offenders, with the first American center being opened in 1986 by the Hampden County, Massachusetts, Sheriff's Department. By 1995, 114 centers were established in 22 states.

Historically, day reporting centers have satisfied several justifications of punishment, allowing for aspects of both the incapacitation and rehabilitation theories. In short, it offers the punishment of confinement combined with the rehabilitative effects of allowing the offender to continue employment (or to hold unemployed offenders accountable during the day) and receive treatment.

Today, day reporting centers are premised on the idea that there are currently offenders in jail who can be safely and effectively managed and treated in the community – with the appropriate supervision and services. By doing so, DRC programs address fundamental problems in offenders' lives that lead to criminal behavior and thus reduce the likelihood of future criminal behavior. Additionally, day reporting offers correctional services a successful community-based management option providing for population management, increased public safety, cost savings, and inmate accountability.

DRC's Operation and Purpose

Day Reporting is more a concept than a model. It is used for a number of purposes (e.g. as an initial sanction, an alternative sentence, a graduated sanction, or an early release mechanism) and to serve differing populations, and day reporting centers are operated by a variety of government and/or private agencies. Examining the similarities and differences in day reporting centers around the country illustrates the flexibility of the DRC model. DRCs can be developed into a continuum of correctional services to augment intensive supervision, residential programs (e.g., halfway houses, work release centers, etc.),

7. ATI'S IMPACT ON POPULATION PROJECTIONS

and regular supervision, are highly adaptable to local conditions and to a variety of populations.

In spite of their lack of uniformity, all day reporting centers (DRC) can be defined as “highly structured non-residential program[s] utilizing supervision sanctions, and services coordinated from a central focus” (Curtin, 1990, p. 8).

Unlike community corrections centers, the DRCs are non-residential, and offenders are required to report to at a specific location on a frequent and regularly scheduled basis, but they return to their homes to sleep at night. It would seem that the provision of housing to DRC clients would violate one of the key tenets of Day Reporting and could serve to further blur the line separating DRC clients from residential services clients, or such programs as work-release.

In broad terms, the goals of a DRC are:

- To support the success of offenders in identified stages in the criminal justice process through a structure that leverages both criminal justice and community-based resources in a coordinated community-based effort;
- To reduce the number of offenders returned to detention for technical violations (e.g., missed appointments, positive urinalysis, etc.), and;
- To reduce the likelihood of recidivism through evidence-based practice, i.e., directing resources toward dynamic risk factors identified via an actuarial risk/needs assessment.

And their associated benefits include:

- Offenders are able to maintain their homes, families and employment;
- Core issues that often result in criminal behavior are addressed;
- Recidivism is reduced;
- Public safety is maintained in the short-term and improved in the long-term; and
- Supervision costs are less than incarceration.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

An integral part of the model is the ability to closely manage participant behaviors through a system of incentives and sanctions which are delivered quickly, predictably and consistently. Additionally, other basic tenets of a DRC include:³⁶

- Clear eligibility criteria to determine which offenders are best suited for the program;
- A strong treatment component to include substance treatment and CBT groups;
- Clear program rules and guidelines that are known to the offender and all key stakeholders;
- Accountability so that offenders are held responsible for their actions with a clear system of sanctions and supports, and
- Job Development Education program to assist offenders in job readiness and education.

DRC Program Model

As mentioned before, there is extreme diversity in DRCs operating across the country in terms of type of offenders, types of services, number of clients served at the center, selection criteria, operating agencies services offered, length of time to be spent at the center, and violation policies. Even the goals of the centers differ.

The consultant team reviewed a number of existing day reporting centers in the country which have a history of demonstrated success. These centers are run in local, county systems that have attempted to develop comprehensive, system-wide models, as is the case in Montgomery County. The following table summarizes major identified operational variables of Day Reporting Centers.

Table 7.4 Summary Data on Reviewed Day Reporting Centers

Day Reporting Center	Year Opened	Target Population	Operating Agency	Services Offered
Hampden County, Massachusetts	1986	Pre-trial detention, direct sentences, probation, federal correctional facilities and county jail offenders	Hampden County Sheriff's Office	Substance abuse treatment, CBT education, and employment readiness, anger management, drug testing, case management
Washington DC, Maryland	2004	Adults on probation, parole, and supervised release in the District of Columbia	Court Services & Offender Supervision Agency (CSOSA) for the District of Columbia	CBT, education, employment readiness, substance abuse treatment, case management, family dynamics, victimization

³⁶ Warwick, Kevin (2002): Intermediate Sanctions Help to Alleviate Jail Crowding. American Jails Magazine, November/December edition.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Multnomah County, Oregon	1994	Non-compliant Probation and Parole clients	Multnomah Co. Dept of Community Justice	CBT, education, employment readiness, substance abuse treatment, case management, drug testing
Douglas County, Nebraska	1998	Pre-trial clients and sentenced inmates transitioning from jail, direct court commitments	Douglas Co. Dept. of Corrections	CBT, education, employment readiness, substance abuse treatment, anger management, case management, drug testing
Davison County, Tennessee	1995	Jail offenders at reentry, direct sentenced offenders	Davidson County Sheriff's Office	CBT, education, employment readiness, substance abuse treatment, case management
Chesterfield County, Virginia	1998	Direct sentenced, probation, also self-refer	Community Corrections Services - Center of Risk Reduction (CORR)	CBT, education, employment readiness, substance abuse treatment, <i>Seeking Safety</i> , case management, drug testing

Upon review, the following common themes were identified in the examined day reporting centers:

- They are in urban population areas, with access to public transportation;
- They all provide evidence-based services and incorporate the best practice of cognitive-behavioral programming into their programming;
- They operate as one-stop centers, where services are provided by multiagency staff and delivered in a single central location;
- They recruit and service participants at a number of discrete points in the criminal justice process (e.g., pre-trial, probation and parole violators, court referral, jail transitioning inmates).
- On average, they serve participants in the program for 3-6 months (although there may be some shorter or longer);
- They serve an average population of 75 to 100 participants per day.

Montgomery County's DRC Program Components

Following discussions with the workgroup members, a consensus was reached that the DRC program recommended for implementation in Montgomery County should reflect the following as its primary goals:

1. *Providing an intermediate option - either step-down for DOCR inmates or step-up for probation and parole clients with greater needs - in an effort to increase public safety and reduce unnecessary DOCR bedspace usage;*

7. ATI'S IMPACT ON POPULATION PROJECTIONS

2. *Stabilizing offenders' behavior, so they can make progress on their supervision plans and move to lower supervision levels as quickly as possible;*
3. *Effectively supervising and treating offenders by addressing their identified criminogenic risks and needs at one location, and*
4. *Reducing recidivism through sustained positive behavior change.*

Based on this agreed upon mission, offenders would come to the DRC only to attend programs, receive treatment and services, and case management. It is the consultants' experience that, focusing on high-risk/high needs populations and their targeted needs makes the model easier to manage, lending to improved outcomes and reductions in offender recidivism.

The DCR model for Montgomery County is based on a single program location, informed by research on best practices and organized according to the following programmatic elements:

- Target Population
- Eligibility Criteria
- Responsible and Participating Agencies
- Program Location
- Program Services
- Operational Requirements

Target Population

As mentioned on the previous pages, DRC can serve a wide variety of offenders at a number of discrete points in the criminal justice process. The day reporting workgroup representatives identified two initial "priority" offender groups that would be targeted for services at the DRC:

1) Individuals under DOCR custody, eligible for end-of-sentence diversion/re-entry services:

This group is comprised of offenders nearing completion of a County jail sentence who require re-entry support in the form of more intensive or specialized services. In this regard, the DRC will serve both offenders who have been successfully complying with the Pre-Release Center program and offenders transitioning back home who do not meet the criteria for participation in the currently available Pre-Release Center but are at high risk of re-offending if not provided with a more intensive level of services and treatment.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

2) **Offenders serving a probation order or parole sentence under the supervision of the Maryland Division of Community Services:**

This group is comprised of probationers who would benefit from additional structure and services as a condition of probation to successfully complete a probation sentence. As per Community Supervision representative William Sollod (e-mail communication, July, 30, 2013), the DRC could be a viable sanction, pre-hearing detention option or a sentencing alternative for high-risk classification offenders. Additionally, due to the limited sanctioning scheme available to Community Supervision agents, the DRC could provide an additional option for probation and parole technical violators, i.e., offenders who have committed a technical violation while serving a community supervision sentence, who may be at risk for revocation and therefore, of being returned to DOCR.

At present, probation officers cannot add probation conditions; only the Court must impose additional conditions, and this must be done at a hearing. Under an agreement with the Division of Community Supervision, the DRC program could consider admitting County offenders who are referred directly from intensive supervision caseloads. It is the opinion of the Division of Community Supervision representative's Bill Sollod (conference call, July 31, 2013), that the Division could work with the Courts so as to add the DRC option as a condition of probation in the form of a generic probation order at the time of sentencing. Similar practices exist in other counties and, according to Mr. Sollod, a change in court orders allowing for a standard DRC option for probationers in Montgomery County could happen quickly.³⁷

Exploratory discussions with Community Supervision representatives about the DRC initiative, suggest that there is consensus and support regarding the need and intent of this initiative.

It is not expected at this time that the DRC will receive direct referrals from the courts (i.e. offenders mandated by the courts to attend the

³⁷ A good example of this type of arrangement is Sullivan County, New Hampshire. In Sullivan County, the Court and the local jail (Department of Correction) have developed a relationship. At the judge discretion, a box is checked for potential participation in a day reporting center program, thus granting the DOC authority to move that person into non-residential programming. In Multnomah County, Oregon, considered an intermediate sanctioning program, the "front-end" day reporting program serves as an alternative to receiving jail as punishment for the parole/probation violation(s). A sanctioning grid offers judges (when appearing in court) and administrative hearing officers the various options for determining violation consequences.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

program which allows them to live in the community while serving their sentence or awaiting trial or sentencing). The group consensus during the work sessions was that, in doing so, there would be a risk of widening the net too much, something that the consultants concur with. However, research shows that well-designed DRC initiatives can provide the judiciary with an additional sanctioning option that, in the Montgomery County's system, could effectively span the current gap between placement in a DOCR facility and placement in conventional pre-trial or probation services. Offenders with stable, court-approved housing who require higher levels of supervision and services than currently available via conventional services and who are unemployed (possibly due to untreated mental health/substance abuse issues), make ideal DRC candidates.

Program administrators must ensure that the selected population exists in sufficient quantity to allow for program feasibility. If the desired population is too small or unavailable for placement, the administration would be faced with changing its eligibility criteria and selecting a different segment of offenders, thereby redefining the mission of the DRC. As such, depending on criminal justice stakeholder preferences, at a later stage, the DRC could also potentially consider serving the following target populations:

- Pre-trial defendants:
 - Defendants jailed because they are unable to make bail may be referred to the DRC if they meet eligibility requirements;
 - Defendants approved for pre-trial release who would benefit from additional structure and supervision, and
 - Defendants with identified mental illness, substance abuse or co-occurring disorders in need of specialized case management and additional support services to successfully complete a period of pre-trial supervision, especially in light of the proposed mental health unit at the PRC.
- State-sentenced parolees: offenders serving a parole sentence following release from a State institution who are assessed as "high risk" of reoffending.

The first step in determining the feasibility of implementing a DRC program was to identify a viable pool of DOCR and Community Supervision candidates (target population).

More specifically, in order to realize the greatest reductions in crime (measured by offender recidivism rates) and correctional bedspace

7. ATI'S IMPACT ON POPULATION PROJECTIONS

utilization, it is important to focus available resources on changing the behavior of those offenders who, without intervention, are most likely to continue their criminal pattern. These “high risk” offenders historically commit the majority of crimes although they may not make up the majority of the general criminal population. Research has demonstrated that providing extensive services and supervision to the “low risk” offenders may actually increase the likelihood of them continuing to commit crimes. It is worth noting that the assessment tool that predicts offender risk *measures not the dangerousness of the offender nor the severity of any future offenses, but rather their risk to reoffend.*

With this in mind, the following higher risk population cohorts were considered with the recommended DRC initiative in mind:

1. High-risk of reoffending adult offenders re-entering into the community after a period of incarceration: the first initial group of offenders would be inmates under DOCR custody transitioning back who are in need of additional programming and support services. It might also be used as an option to transition individuals with mental health issues stepping down from the PRC mental health specialized housing. Absent of statistical data, exploratory discussion with PRSS’s Chief indicated that about 15 to 20 DOCR inmates would be good candidates for placement at the DRC program. Moving forward, collecting quality quantitative data is warranted to empirically validate these figures.
2. High-risk adult felony probationers: the second group of offenders identified to be targeted for services at the DRC is composed of individuals placed under community supervision who would attend the day reporting program as a condition of probation.

In order to identify these “high-risk” probationer cases, the consultants were provided with a database report collected by the Maryland Division of Community Supervision representing all cases under supervision within the North Region on April 1st, 2013. This sample included a total of 2,082 individuals. Included in the sample were cases representing individuals with lengthy crime records and domestic violence offenses (HGH, N=1,348), violent offenders (VPI, N=177) and sexual offenders (LVL, N=557). These clients are supervised stringently and are always handled as a “priority matter”.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

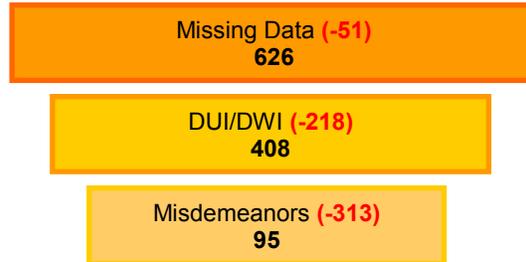
Each of the three abovementioned categories was further refined so as to include only the highest *active* cases within each category under Montgomery County field officers' supervision³⁸ (traffic offenses and other misdemeanor offenses were excluded, as well as lower levels of risk classification, duplicate cases and cases with missing information). The below figures represent the process of refining the sample pool based on noted eligibility and exclusionary criteria, resulting in final potential target pools:

HGH Cases

Eligibility Criteria

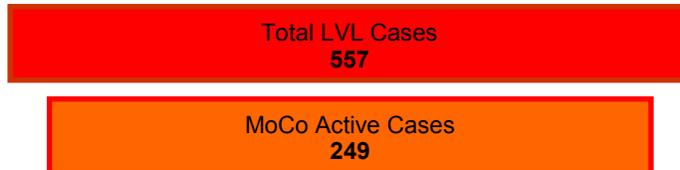


Exclusionary Criteria



LVL Cases

Eligibility Criteria



Exclusionary Criteria



³⁸ Montgomery County has three field offices located in Rockville, Gaithersburg and Silver Spring.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

VPI Cases

Eligibility Criteria

Total VPI Cases
177

MoCo Active Cases
52

Exclusionary Criteria

VPI2 (-10)
42

Upon review, there were approximately 235 males (97%) and 8 females (3%) who were in these high-risk category groups on the day of the snapshot, as determined by the Division of Community Supervision's assessment tool. The composition of this group is reflected in the following table:

Table 7.5 High-risk Category Individuals under Community Supervision*

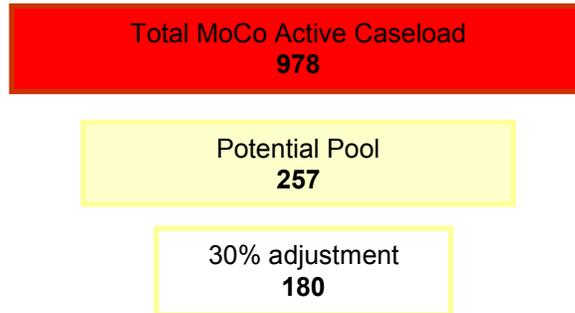
Supervision Level	Male	Female	Unknown	Totals
HGH	80	6	9	95
LVL	113	2	5	120
LVL1	84	1		
LVL2	29	1		
VPI1	42	0	0	42
TOTALS	235	8	14	257

* Montgomery County's offices include Gaithersburg, Rockville and Silver Spring.

This potential participant pool was adjusted downward by 30% (77 cases) to account for a variety of factors not accounted for in the feasibility study, such as the results of a more comprehensive evaluation of criminal history, an approved home plan, history of escape, and the like. The adjustment factor also took into account the reality that some program participants will be returned to jail for non-compliance or re-arrest. The 30% adjustment factor is in line with planning norms given the relatively detailed information evaluated at this stage of the process. This adjustment reduced the final pool of candidates to a total of **180** eligible participants,

7. ATI'S IMPACT ON POPULATION PROJECTIONS

representing approximately 18% of the total active community supervision caseload:



This number of potential candidates clearly demonstrates that there is an adequate sample size of candidates to institute a viable DRC program.

Research on existing DRC programs indicates that, on average, a day reporting center serves fewer than 100 offenders at any one time and employs one line-staff member for about every seven offenders. Based on the data available as well as the recommended client services (discussed further down this section), it is recommended that the County initially plans for the DRC to serve approximately *50 participants with the potential for grow to 100 offenders*. About a third of these offenders will be referred directly from the MCCF facility or move from PRC status to DRC status. The remainder will be referred to the DRC program each month from the Division of Community Supervision (enhanced probation), which appears to provide the largest pool of appropriate candidates at this point.

While much of the information needed to preliminarily identify a potential pool of DRC participants was contained within the established databases, it was also recognized that the assumptions and criteria are for planning and analysis purposes at this point. Should the County proceed with the development of a DRC program, evaluation instruments need to be developed to capture all of the nuances necessary to comprehensively assess the viability of actual candidates from both DOCR and the Maryland Division of Community Supervision.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Eligibility Criteria

In some respects, it is anticipated that DRC eligibility criteria will be similar to that used for eligibility into the PRC. In this regard, a typical DRC program candidate will be a *local adult offender*, who:

- Is sentenced to DOCR custody, falls into the high-risk/high-need categories and in need of strict supervision and structured reintegration services;
- Is a felony probationer under Community Supervision, falls into the high-risk/high-need categories and is in need of increased/more severe restrictions;
- Has been determined appropriate via an assessment/interview process for placement at the DRC.
- Has an acceptable/verifiable address in the community;
- Has access to transportation, and
- Is willing to participate in the program as per a Compliance Agreement

Specific exclusionary criteria will include:

- Having charges pending or outstanding warrants that would interfere with participation in the program (detainers and holds),
- Having been formally charged with a criminal act subsequent to commission of the present offense
- Being an illegal alien with a hold by the Immigration and Naturalization Service,
- Having a history of escape or any unauthorized absence from any correctional institution or release program in the past, and
- Not having stable living situation or not residing in Montgomery County following release from incarceration,.

A successful DRC initiative may, over time, expand its capacity and ability to serve more specialized populations. For example, a future population may also include mentally ill, but stable offenders placed by the Court on a “stet docket” as an incentive for treatment compliance (to tie in with the recent “stet docket” mental health pilot program). It may also serve as a non-incarcerative alternative sanction for technical violators. As such, methods of admission may change as the target population expands.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Responsible and Participating Agencies

Responsible agency:

The Montgomery County DRC will create a programmatic relationship between DOCR and the Maryland Division of Community Supervision. The DOCR will be the appropriate lead agency, working in partnership with Community Supervision. A long-standing precedent for this structure is the Prince George's County Day Reporting Program, successfully operated by the County Corrections Program Services Division in conjunction with the Maryland Division of Community Supervision, serving both state and county inmates.

Participating agencies:

Building upon the good track record of collaboration amongst criminal justice agencies and community providers, the DRC will be a multi-agency collaboration initiative, creating a coordination of services amongst criminal justice, community agencies and non-profit organizations that are already working together on other fronts. Integrating a multiplicity of community-based providers "under one roof/one-stop" service delivery facility combined with the mixture of criminogenic and clinical skill sets, makes a program of this nature much stronger.

Ideally, the Montgomery County Core Services Agency (CSA), represented by the County Department of Health and Human Services in Rockville, will be an important partner. The DRC initiative could leverage the core service agency's current role as provider of: (1) Clinical Assessment and Triage Services (CATS); (2) Transitional Services; (3) Pre-Trial Services Team; (4) Community Re-entry Services (CRES); (5) Project Assisting Transition from Homelessness (PATH); (6) Jail Addiction Services (JAS); (7) Court Ordered Evaluations/8-507 Court Commitments for Treatment, and (8) on-site behavioral health services (co-occurring groups).

Program Location

It is common practice for DRCs to be frequently operated on the site of a residential corrections facility such as a halfway house or work-release facility. The advantage to this arrangement is that facility staff can use their normal downtime to perform Day Reporting duties. This sharing of staff between programs allows for a more cost-effective use of experienced, trained personnel and a more coordinated case management effort.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Stakeholders have concluded that the proposed DRC would ideally be operated out of the existing Pre-Release Center in Rockville. With relatively minor building reconfiguration, including creating separate DRC access, and some additional space for group programs, the current PRC facility provides the optimal location, accessibility by public transportation, physical space and potential for shared resources for an effective DRC program.

With some programmatic additions, PRC has already in place the resources necessary to competently implement a DRC program. In addition the staff is trained to work with this high-risk/high-need population as they transition to the community. This ability to co-locate services were providers can service this population under one roof minimizes the effects of fragmentation/duplication of services and increases the chances for these offender to have a successful transition, since it is often the case that these high needs offenders have trouble navigating systems and getting to multiple locations for services. A one-stop location such as the DRC in Rockville would certainly reduce those barriers. However, before any final planning decision is made, legal issues must be reviewed thoroughly and resolved relative to the co-location of mental health beds and day reporting services under one roof.

Program Services

DRCs emphasize both strict surveillance and high levels of treatment. Typically, while at the center, clients participate in a highly structured program of on-site targeted behavioral interventions which may include substance abuse treatment, domestic violence counseling, basic mental health support services, anger management strategies, gender-specific programming, cognitive behavior therapy, psychological counseling, social skills training, education assistance and/or employment preparation/maintenance skills; and participate in activities (urine test for drug use and/or alcohol consumption, meetings with supervising officers, etc..) provided by the center or other community agencies. DRC services and activities are accompanied by intense supervision and collaboration by supervising authorities and service providers. Close monitoring, via a rigorous program of urinalysis, curfews, highly structured scheduling, monitoring of restitution, fines and other mandatory payments, and swift, predictable sanctions for non-compliance, create a safety net within which offenders are supported in achieving success.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

A critical goal for each participant is to become an effective actor and decision-maker in his/her own case plan. Services are individually targeted and based on assessed need. Program duration is generally 3-6 months and is based on specific goals and objectives that are based on individual client's needs. Although programs vary in length and those in non-compliance may fail, the parameter of 3-6 months is the general guideline.

The Montgomery County DRC program model and curricula should be evidence-based and proven to be successful with the targeted offender populations.³⁹ A wide range of excellent curricula is available in the public domain, which represents a major cost saving over proprietary materials. Examples of such curricula are the Thinking for a Change curriculum recently implemented at the PRC, and the SAMHSA Anger management curricula for substance abuse and mental health clients. Other available programs involve a onetime fee for the materials.

More specifically, services and treatment provided should be cognitive behavioral, present-focused, and incorporate group opportunities for skills practice. Consideration should also be given to the curricular structure: curriculum designed for "open entry" (vs. closed cohorts) allows for rolling admissions into groups, eliminating waiting lists for participants entering the program. Modified open entry, in which new participants are admitted into each new phase, is also practical.

- The DRC Principles of Effective Intervention are identified by Spencer (2012) as follows: Target high risk offenders
- Assess offender needs
- Design responsivity into programming
- Develop behavior management plans
- Deliver treatment using cognitive-behavioral therapy based strategies
- Motivate and shape offender behavior
- Engender the community as a protective factor against recidivism and use the community to support offender reentry reintegration
- Identify outcomes and measure progress

³⁹ A recent study on Day Reporting Centers in New Jersey (available at the following link: <https://ncjrs.gov/pdffiles1/nij/243274.pdf>) was brought to the attention of the consultants. Upon review of the study, the consultants found several flaws, summarized as follows: the study does not measure the risk level of those in the program nor does it measure low term success rates of these offenders. The other item to note is that the providers (many of which are BI sites) are very different and implement different models of programming. In Connecticut, for example, providers are all required to use the same interventions and there is a quality assurance component to them. That being said, the outcome evaluation of Day Reporting Centers in New Jersey highlights the importance of having clear ideas going forward about what type of programs and services are provided, as well as of evaluating/measuring the right things if Montgomery County decides to move forward with a day reporting initiative. The other issue is you have the benefit and ability to provide an array of services by staff who have lots of experience delivering these types of programs. That being said it would be important to have clear ideas moving forward about what would be measured in this model if Montgomery County moves forward with a day reporting initiative.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Based on the core elements needed for a successful program, the DRC should include:

- Cognitive behavioral groups using evidence-based programs.
- Mental health/substance abuse assessments tools using evidence-based practices, such as the ASAM level of care criteria.
- Mental health/ substance abuse treatment groups using evidence-based practices and certified addiction counselors and peer mentors.
- GED, high school diploma and literacy services.
- Job readiness training and employability skills.
- Drug testing.
- Eligibility benefits and other social services - both online self-service and in-person benefit assistance.
- Transportation and housing assistance.

The vast majority of these core elements are already in operation at the PRC, which will ease the development and expansion of services for the DRC population. Currently provided programs and services would be enhanced by the provision of increased substance and mental health services on site.

An important consideration is to ensure that the DRC program model aligns with local publicly-funded services and fits into existing systems of community support. Montgomery County has instituted a number of key initiatives over the years that provide a strong foundation for the success of a DRC. These include the Community Re-Entry ID Card as a form of State ID acceptable to Medicaid and other entitlement benefits, and the establishment of a partnership with Montgomery County Department of Health and Human Services (DHHS), through which a DHHS employee serves as a benefits eligibility specialist inside the MCCF.

Operational Requirements

The implementation of a Day Reporting Center program often takes 12 to 18 months, from the point of a locally approved model to a fully operated program. In terms of program implementation, key items for Montgomery County to consider are:

- *A program handbook/brochure and a policy and procedure manual:* it is critical to have the program guidelines clear to the offenders and the local stakeholders working together. This kind of a handbook provides a contract for services and for program operation and outlines guidelines and rules with regard to program services and requirements.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

- *Accreditation:* Presently the PRRS and DOCR are fully accredited by the American correctional Association, having achieved extraordinary scores on the recent audits. Montgomery County can build upon that and adjust policies to fit the specific needs of a day reporting center.
- *Curricula selection and purchase:* There may be a need to purchase some additional curricula in particular for targeted services for the co-occurring population expected to participate in the program. The PRC already utilizes Thinking for a Change, which is a highly recognized CBT curricula developed by the National Institute of Corrections (NIC). This type of a curriculum would be a needed component of DRC services, and is adaptable to a day reporting setting.
- *Staffing:* The addition of a day reporting center might result in additional staffing needs to support the program, including supervision staff for check-in, clinical staff to provide substance abuse and mental health services, and staff to run classes to address educational and employment needs. This will require coordination with DHHS and other partner agencies regarding potential new or reallocation of staff to the DRC location. As the responsible agency for probationers, the State (Community Supervision Division) could also play a role in staffing and partially covering the costs of this initiative.
- *Capital Cost implications:* The PRC is an existing physical plant resource that can accommodate the proposed DRC with some facility renovations. This significantly reduces capital and site acquisition costs when compared to construction of a new stand-alone DRC.

Summary Conclusions

Conclusions

Montgomery County has a nationally renowned system of services throughout the criminal justice continuum; however there are certain gaps in the system that have been described in the early parts of this Report. The day reporting concept would address the noted need for intervention, treatment, services and case management for post-adjudicated offenders and felony probationers who are at a high risk for re-offending. This model would provide some of the needed additional supports, and it fits the ideological framework of Montgomery County.

It is important to note that implementation of the DRC initiative requires interdepartmental cooperation and coordination among several

7. ATI'S IMPACT ON POPULATION PROJECTIONS

stakeholders. This model is a cost avoidance model, with savings being realized over time, allowing the County to manage jail bedspace demand with non-incarcerative alternatives. For example, it could delay or avoid jail expansion of additional housing unit(s) therefore avoiding both the initial capital costs of construction as well as the cost of staff needed to supervise and provide services in that unit.

The day reporting center provides critical services for offenders in need of continued support and services, in an effort to allow them to be productive working citizens in the community. This recommendation is also aligned with the mental health recommendation to target offenders who are both “frequent flyers” in the criminal justice continuum and local jails and those in need of targeted treatment services. In the long term, this could reduce recidivism and slow inmate population growth over time.

In concluding that a Day Reporting Center is a viable multi-agency option for Montgomery County, a programmatic relationship between DOCR and the Maryland Division of Community Supervision will be created. The DOCR will be the appropriate lead agency, working together with Community Supervision, and the Montgomery County Core Services Agency (CSA), represented by the County Department of Health and Human Services in Rockville, will be an important partner.

It is the consensus of the focus group that adding a Day Reporting Center to the array of diversion programs and early intervention initiatives that already exists for low-risk offenders could result in many benefits to Montgomery County, including:

- Added post-release support for high-risk/high-need offenders transitioning back to the community.
- Support for mental health offenders as a diversion option and throughout the criminal justice continuum.
- Early intervention option for high-risk/high-need probationers;
- Increased accountability and public safety.
- Continuity of programming and coordination of services across multiple agencies in one location.

The County should consider developing a planning committee to work through the many issues described above in the development and final design of the model.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

Summary Program Description

The following are the collective recommendations of the consultant team and the local Montgomery County core stakeholder group that participated in the Day Reporting Center work sessions, which delineate the model for the Montgomery County Day Reporting Center:

- The Day Reporting Center will be a non-residential, intensive, on-site, community supervision and intervention program for male and female adult offenders, 18 years of age or older, who have been assessed as having a high risk to re-offend and have been identified as having high needs.
- The DRC program will be operated by the DOCR in collaboration with the Maryland Division of Community Supervision and the involvement of HHS and community-based organizations to couple service intervention components and supervision.
- The target population for the program will consist of offenders nearing completion of a County jail sentence who require re-entry support in the form of more intensive or specialized services as well as offenders serving a probation order or parole sentence under the supervision of the Maryland Division of Community Services.
- The program will be centrally co-located at the PRC building, with full access to public transportation and a staff that is knowledgeable, skilled and well versed in working with this population.
- The center will function as a one-stop location for multiple types of services and very specific targeted interventions (e.g. drug testing, cognitive-behavioral treatment classes, referrals to community-based organizations, peer support, substance abuse treatment, healthcare, skill building programs, education, access to employment training and placement, and counseling). Depending on the offender's assessed needs, program participation may last between 3 to 6 months.
- The Day Reporting Center model will combine supervision accountability and a system of incentives and progressive sanctions with community-based public and private programming and evidence-based counseling services.

7. ATI'S IMPACT ON POPULATION PROJECTIONS

7.4 Impact of New Initiatives on Population Projections

Introduction

As part of *Task 3 Inmate Population Projections*, the consultants developed estimates of jail bedspace requirements for each DOCR facility. These forecasts were expressed as a range.

The baseline bedspace projections represented current system practices and key factors impacting bedspace demand. In this chapter, the recommended initiatives discussed above, coupled with the system enhancements identified in *Task 4 Needs Assessment*, will be considered in terms of their potential impact on the baseline bedspace projections.

Strong jail alternatives and diversion programs are key in managing future population growth, and with a commitment to the discussed improvements and the timely implementation of these programs and services, the County should have no problem managing the future correctional population within its facilities.

ATI's Impact on Bedspace Projections

The following table summarizes the initial projected bedspace need through 2035, including the incorporation of an appropriate utilization factor to take into account the functions and role of each facility and the corresponding classification variations.

Summary Table 7.6 Bedspace Projections Range by Facility

DOCR Facility (current capacity)	Utilization Factor	Projected Bedspace Needs				
		2015	2020	2025	2030	2035
MCDC: 200 beds	10%	155-171	159-171	163-178	167-186	171-194
MCCF: 1,028 beds	20%	812-857	833-893	854-932	875-972	897-1,014
PRC: 173 beds	10%	138-142	138-148	141-154	145-161	148-168
Total Bedspace Needs Range		1,105-1,170	1,130-1,212	1,158-1,265	1,187-1,319	1,217-1,376

Montgomery County DOCR and partnering criminal justice system stakeholders are committed to continuing the enhancement of existing programs and services and developing and implementing new ones that will help offenders successively transition back to the community.

There was general consensus that new mental health diversion initiatives (including residential resources for those deemed appropriate for jail release); and the establishment of a day reporting center

7. ATI'S IMPACT ON POPULATION PROJECTIONS

(providing a step-down option from jail/PRC, or a step-up alternative to jail for probation violators), could collectively impact the number of jail beds required moving forward, as the analysis demonstrated that there is a viable pool of offenders for each category.

The *precise* impact (e.g. exact bedspace reductions across a specified timeline), was less certain, absent available data and full program development. However, for planning purposes, the consultant recommends that DOCR uses the low end of the baseline projection ranges established earlier in this study as an indicator of future bedspace need.

Across all three facilities, this results in an adjusted bedspace requirement of 1,217 beds by year 2035. This projection assumes continuation of the broad range of pre-trial and post-sentencing alternatives, as well as the implementation of the recommended Mental Health and Day Reporting Center initiatives. Implementation of any of the two initiatives will require further collaboration and coordination with various stakeholder agencies. The County's continued commitment to intra- and inter-agency collaboration, strong partnerships across DOCR, the courts, and treatment/service providers across the community, is therefore a given.

The overall projection (1,217 beds) was first disaggregated to illustrate the number of beds required for each facility.

MCDC: 171 beds needed / 200 available (New CJC)

The County is planning to replace MCDC with a new Criminal Justice Center. The capacity for the new CJC is planned at 200 beds, providing enough capacity for the future inmate population at both the low and high ends of the projected growth. The County's decision to double bunk general population beds at the new CJC provides operational flexibility (e.g. initially operating these units as single occupancy cells until the inmate population approaches design capacity and double occupancy is required).

It should also be noted that the proposed layout of the new facility will result in efficiencies that will allow for a swifter processing of defendants, thereby reducing the length of stay and concomitant bed days.

The impact of the recommended improvements and initiatives reduces the baseline requirements for this facility by a total of 23 beds (12%).

7. ATI'S IMPACT ON POPULATION PROJECTIONS

MCCF: 897 beds needed / 1,028 available

The proposed step-down initiative will allow a portion of the MCCF to serve part of their sentence at the Day Reporting Center, reducing length of stay and therefore bedspace demand. The implementation of a Day Reporting Center will also reduce the number of probationers sent to jail, by providing a “step-up” intermediate sanction that is currently not available.

The Mental Health initiative (MH beds at the PRC), will provide a more viable alternative for appropriate inmates with mental illness than traditional secure jail beds at MCCF, with a resultant reduction in overall length of stay. Additionally, the MH beds may be used as a front-end diversion, reducing the number of admissions to MCCF. The ability to move mental health inmates to a more appropriate setting will have a collateral effect on the CUI. However, the consultants recognize that further examination of the target population is required for both to ensure that these recommendations are not widening the net or resulting in mentally ill offenders staying longer in jail.

The low range projection of 897 beds is well under the 1028 beds currently available at MCCF. In fact, it should be noted that MCCF has adequate capacity to accommodate the high end projection of 1,014. In terms of capacity, it does not appear that expansion at the MCCF site will be needed in the foreseeable future. However, as previously described in Task 4, the configuration of the current housing units at 64-beds each might not optimally align with classification needs and separation requirements. The delta between the number of beds available and the number of beds needed (131 beds) provides DOCR with the opportunity to realign beds to better respond to today's needs through reassignment, repurposing, renovations, etc.

PRC: 149 beds needed / 173 available

By year 2035, the PRC is projected to be 24 beds under capacity, which supports the ability of the center to provide a residential mental health stabilization unit (with capacity for approximately 15-20 individuals). In fact, short-range projections indicate that capacity is presently available to accommodate this initiative. The inclusion of the DRC on the premises can serve as an effective “step-down” from residential to community-based services for mental health clients residing in the new PRC Mental Health Unit.

Additionally, co-location of a day reporting function at the PRC will allow officials to more quickly transition eligible PRC candidates to the

7. ATI'S IMPACT ON POPULATION PROJECTIONS

community, reducing length of stay and bed days overall. More specifically, and as a frame of reference, an analysis of VOP data received from the PRC, indicates that 14 probationers currently residing at the PRC for technical violations from Community Supervision could be served at the DRC instead.⁴⁰

7.5 Conclusions

In sum, the impact of the new initiatives suggest the usage of the lower-range bedspace projections for Capital Planning purposes. Implementation of the recommendations will require continued attention and on-going planning collaboration between the stakeholder agencies who were involved in the identification of need of development of proposed solutions. Further development must include collecting quality quantitative data, refining target populations, getting consensus on eligibility criteria, as well as developing specific program and services content, delivery models and curricula, and staffing requirements.

Overall, there is sufficient capacity in the three DOCR facilities to meet the bedspace projections initially and in the long term.

There is no capacity pressure at the MCCF, currently or projected, and expansion at this facility is not envisioned in the foreseeable future. Excessive capacity at PRC provides opportunities for repurposing beds to meet mental health initiatives as described above.

⁴⁰ PRRS staff provided a snapshot of probation violators currently housed at the PRC. Through an analysis of the total sample of 56 PRC probationers, the pool of potential participants for a day reporting function was narrowed down to fourteen (14) individuals, based on presumed eligibility criteria. These offenders were at the PRC as a result of a technical violation (as opposed to a new arrest, charge, or conviction), and were not participants of the Drug Court program.

TASK 8. IMPLICATIONS OF DEWOLFE V. RICHMOND

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

8.1 Approach and Methodology

Approach

This task sought to review the Court of Appeals of Maryland issued opinion in the case of DeWolfe v. Richmond, as well as the several key pieces of legislation that have been promulgated afterwards in response to this case.

The goal of this task was to gain a full understanding of the decision and the subsequent passed legislation, so as to assess their potential impact on DOCR's CPU processing practices, operations and detention activity (bookings, admissions and ALOS).¹

Methodology

A review of the legal body of literature on the DeWolfe v. Richmond case was conducted and supplemented by qualitative discussions with key stakeholders, keeping in mind the newness of the legislation and the controversy that has followed the Appeals Court's decision.

The primary focus of this task was establishing the potential impact of this decision and its requirements on jail population indicators. However, the consultants were mindful of the fact that the legal matters in question in this case are still under review by a task force created by Governor O'Malley, and any described impact is at this point to be viewed as speculative.

8.2 DeWolfe v. Richmond Ruling

Background

In November, 2006, a class of indigent criminal defendants who were arrested, detained at the Baltimore City Booking and Intake Center and brought before a Commissioner for initial bail hearings, filed a class action complaint in the Circuit Court of Baltimore City, stating that they were denied representation by counsel at the initial hearing. In the

¹ This chapter represents the status of the Maryland Court of Appeals decision at the time of its writing (09/10/2013). However, subsequent to this date, the Maryland Court of Appeals has issued a decision (4-3) on September 25th, 2013 stating that indigent defendants have the right for representation at the Initial Appearance before the District Court Commissioners: "We shall hold that, under the Due Process component of Article 24 of the Maryland Declaration of Rights, an indigent defendant has a right to state-furnished counsel at an initial appearance before a District Court Commissioner. We shall not decide whether an indigent defendant, at an initial appearance before a District Court Commissioner, has a right to state-furnished counsel under the Sixth or Fourteenth Amendments to the Federal Constitution or under Article 21 of the Maryland Declaration of Rights." While the memorandum notes the Court affirmed that the right to counsel also covers initial appearances and raises questions regarding the decision's impact on Montgomery County, a mandate making the ruling effective is yet to be issued.

Source: http://www6.montgomerycountymd.gov/content/council/pdf/agenda/cm/2013/131107/20131107_PS1.pdf

Should the ruling stand, it is the opinion of both DOCR and the consultants that the impact of the ruling in Montgomery County's detention practices would be minimal, if at all, given the current pre-trial practices and successful processing initiatives already in place.

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

case, the facts were undisputed that the initial appearances of criminal defendants in Baltimore City are not conducted in a courtroom, open to the public, or recorded. After a hearing on the motions, the Circuit Court certified the class action and granted summary judgment in favor of the District Court defendants (namely, the District Court of Maryland; the Chief Judge of the District Court of Maryland; the State Coordinator of Commissioner Activity; the Administrative Judge of the District Court for Baltimore City; the Administrative Commissioner for Baltimore City; and the Commissioners of the District Court of Baltimore City).

The plaintiffs filed an appeal to the Court of Special Appeals. While the case was pending in the intermediate court, the Court of Appeals granted a writ of certiorari on its own initiative and vacated the Circuit Court's order, directing that the case be dismissed if the plaintiffs failed to assert claims against the Public Defender. On remand of the Circuit Court, the plaintiffs added the Public Defender as a defendant.

At a bail hearing, the Commissioner must inform a defendant of her or his charges, the possible penalties, and the rights afforded to her or him. Furthermore, the Commissioner's duties include determining probable cause and following the pre-trial release provision in Md. Rule 4-216 in determining a defendant's eligibility for release and/or bail. Such a hearing, conducted as part of a defendant's initial appearance before the Court, was argued by the plaintiffs to be a stage in the criminal proceedings, and as such was seen as granting them the right to representation both Constitutionally (Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights) and under the Maryland Public Defender Act.

In 2010, the Circuit Court for Baltimore City ultimately issued an Order and accompanying Memorandum and Opinion, ruling that presentment to a Commissioner is a critical stage of a criminal prosecution, and therefore indigent arrestees in Baltimore City have a Federal and State constitutional right, under the Sixth Amendment and Article 21, to be represented by appointed counsel.² The Court further noted that this right to representation is further extended by the Public Defender Act of Maryland. After the Court issued its order staying the decision pending Appellate review, both parties appealed to the Court of Special Appeals. For a second time, the Court of Appeals granted certiorari.

² Source: <http://mdcourts.gov/opinions/coa/2012/34a11.pdf>

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

Keeping with the decision of the Circuit Court of Baltimore City, in *DeWolfe v. Richmond*, No.34 (September Term 2011), the Maryland Court of Appeals held on January 4, 2012, that under the then effective version of the Maryland Public Defender Act, no bail determination may be made by a District Court Commissioner concerning an indigent defendant without the presence of counsel, unless representation by counsel is waived. The January 4, 2012 opinion was based on the wording of the Maryland Public Defender Act, including language that OPD must represent an indigent defendant “in all stages” of a criminal proceeding.

The Court further stated that the entitlement to representation by the public defender “quite naturally” extends to District Court bail review hearings that ensue. The Appeals Court did not, however, address the issue as related to Federal and State constitutional rights regarding indigent representation, leaning on the “principle that a court will not decide a constitutional issue when a case can properly be disposed of on a non-constitutional ground.”³ This debate prompted broader questions about and scrutiny of Maryland’s criminal justice system, including the District Court Commissioner and pre-trial release systems

Beyond the central issue of indigent defendants’ right to representation, the Appeals Court responded to the Public Defenders’ challenge of the Circuit Court’s decision to declare the plaintiffs’ rights without offering a practical remedy for the ruling’s implementation. The Appeals Court found that the Circuit Court did not err in offering declaratory judgment while failing to address the unavoidable issues the Office of the Public Defender would consequently face – a reality that Public Defender DeWolfe in a later testimony described as an “overwhelming strain” to the OPD, which had then lost significant parts of its workforce while caseloads continued to rise.⁴ It is worth noting that a minority opinion was issued on this matter in the Appeals Court, with judges Harrell and Adkins expressing that they would have granted a stay on the decision, allowing the OPD, the Governor, and the Legislature time to take the necessary steps for “effectuat[ing] the right declared here.”⁵ It is, in fact, this issue that subsequently gave rise to much of the controversy that followed, as well as to the introduction of legislation such as the bills described below.

³ Source: *McCarter v. State*, 363 Md. 705, 712, 770 A.2d 195, 199 (2001)

⁴ Source: Testimony of Paul B. DeWolfe, Public Defender for the Office of the Public Defender, February 24, 2012.

⁵ Source: <http://mdcourts.gov/opinions/coa/2012/34a11.pdf>

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

Ruling Effect and Anticipated Implications

The ruling was originally expected to take effect through a court mandate on February 4, 2012. However, OPD filed a motion requesting that the new requirements be stayed until August 1, 2012. The Court of Appeals considered OPD's motions on February 16, 2012, and requested that the parties submit answers to pending motions by March 5, 2012. While there was speculation that the Court of Appeals would issue its mandate on various dates in March and April, the Court has yet to issue one.

On August 22, 2012, the Court of Appeals issued an order stating its intention to rule on the issue of whether the plaintiffs in the DeWolfe case are entitled, under the recently amended Public Defender Act, to relief on the basis of the Federal and/or State constitutional right to counsel provisions. At the time of this report, the State had moved to intervene as a party, and the plaintiffs had responded to that motion. The court heard oral arguments on this issue in January 2013.

The adequacy, costs and implications of the ruling relative to representation of indigent criminal defendants has been examined by various criminal justice system agencies and interest groups as summarized below. At this point in time, any such opinion is merely speculative and cannot be quantified until a final rule is handed down.

- In terms of costs, the requirement for OPD legal representation at initial appearances before a District Court Commissioner was estimated by the Department of Legislative Services to result into a potential significant increase in general fund expenditures by \$2.5 million in fiscal year 2012. OPD would expend \$22,900 in FY 2014 only for computer programming changes to comply with the bill. By fiscal year 2016, the increase was expected to be \$27.2 million. This estimate reflects the cost for OPD of employing panel attorneys and temporary support staff to conduct additional intakes/eligibility evaluations to meet this portion of the requirement in DeWolfe.⁶
- In terms of judiciary practices, the addition of a public defender and a State's Attorney (should the State's Attorney wish to participate) could increase the average time spent on an initial appearance and may necessitate the hiring of additional State's Attorneys, which would result in significant increases in State expenditures. If the time for an initial appearance is extended to the point that commissioners are unable to meet the 24-hour requirement, the

⁶ Source: House Bill 261. Department of Legislative Services. Maryland General Assembly, 2012 Session. Fiscal and Policy Note Revise (Delegate Vallario et al.).

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

District Court has indicated that it may need to employ additional commissioners. Lengthier hearings in front of the commissioners could create a backlog of cases at the CPU due to delays in the initial appearance process, and also result in law enforcement agencies having to wait longer with detainees between arrest and initial appearance, resulting in reduced patrol time and potential overtime costs. And, to some extent, a backlog of cases could result in an increase in DOCR's expenditures due to an increase in the average daily population of the local jails and the potential need for additional space. However, this increase could be offset by more arrestees obtaining pre-trial release through legal representation at initial appearances as well as possible diversion to alternative programs to incarceration through early identification by and advocacy of a public defender. The extent to which legal representation at these stages by a PD would result in earlier releases than occurs under existing system is untested at this time.

- Since at present initial appearances are conducted in small and inadequate rooms at the MCDC's CPU area, additional security might be needed with the addition of a Public Defender and (possibly) a State's Attorney within this confined space. Additional costs may also be incurred if internal spaces within MCDC (CPU) need to be remodeled to accommodate the added participants in commissioner appearances and provide space for public defenders to meet with clients confidentially.

8.3 Senate Bill 422/ House Bill 261

Since the January 4th, 2012 Appeals Court decision, several changes to existing legislation have been enacted. Specifically, two identical bills have been passed – Senate Bill 422 and House Bill 261.

The House Bill was enacted as an emergency bill and will take effect when signed by the Governor. The last signing was scheduled to take place on May 22, 2012. The bill contains a number of provisions, the most relevant of which with respect to what is currently pending before the Court, are:

(1) amendments to Section 16-204(b)(2)(ii) of the Criminal Procedure Article providing that representation by the Public Defender "is not required to be provided to an indigent individual at an initial appearance before a District Court Commissioner," but that, commencing June 1, 2012, representation "shall be provided to an indigent individual" at a "bail hearing before a District Court or Circuit Court judge," and

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

(2) a new section 5-215 added to the Criminal Procedure Article requiring that a defendant who is denied pretrial release by a District Court commissioner or who, for any reason, remains in custody after a Commissioner has determined conditions of release under Rule 4-216 be presented to a District Court judge “immediately if the court is in session, or if the court is not in session, at the next session of the court”.

Amendments to Maryland Public Defender Act

A central component of Senate Bill 422, introduced by Senators Frosh and Colburn in early February, 2012, was added language to the very law that the Appeals Court’s decision in DeWolfe v. Richmond leaned. The Public Defender Act, as noted by both the Circuit and Appeals Courts, offered indigent defendants broader representation rights than are granted by the 6th Amendment or the Maryland Constitution. Of specific significance in the Courts’ decisions regarding counsel presence at bail hearings was subparagraph (iv) of Md. Rule 16-204 (b)(1), which describes the right to representation in “any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result.” The Public Defender Act’s language is described in the Appeals Court’s issued opinion as clearly supporting the plaintiffs’ case. However, a change in the law’s interpretation is necessitated by the addition of the following language and paragraph into the successive paragraph in the Act (emphasis added):

“(i) *Except as provided in subparagraph (ii) of this paragraph*, representation shall be provided to an indigent individual in [all stages of] a proceeding listed in paragraph (1) of this subsection, including, in criminal proceedings, custody, interrogation, *bail hearing before a District Court or Circuit Court judge*, preliminary hearing, arraignment, trial, and appeal.
(ii) ***Representation is not required to be provided to an indigent individual at an initial appearance before a District Court commissioner.***” Md. Rule 16-204 (b)(2)

Beyond amending the very core of the Public Defender Act’s language regarding right to representation, and thus altering the implications of the DeWolfe v. Richmond decision, SB 422/HB 261 included other additions to existing law specifically regarding initial appearances before a District Court Commissioner. These changes include new language describing the timeframe of presenting a defendant who is not released after the hearing before the District Court Commissioner to a District

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

Court judge (“immediately if the Court is in session, or [...] at the next session of the Court” Md. Rule 5-215). Introduced in connection to the clear distinction made between the rights afforded in terms of bail hearings before a judge and initial appearances before a District Court Commissioner, this amendment seeks to ensure that the Public Defender Act, as it now stands, cannot be used to violate defendants’ Due Process rights. These changes, alongside the new language in Md. Rule 16-204, came into effect upon the signing of the bill into law on May 22nd, 2012.

Citation Laws

Relevant among the legislative changes for the purposes of this Master Facilities Confinement Study is the introduction of the so called “citation laws,” allowing for a number of offenses to now be charged by citation, rather than resulting in an arrest and consequent detention. These important pieces of legislation, signed into law by Governor O’Malley on May 22nd, 2012, are discussed in detail below.

Aside from changing the Public Defender Act’s language, SB 422/HB 261 was introduced “for the purpose of [...] requiring a police officer to charge a person by citation for certain misdemeanors and local ordinance violations,” under certain circumstances.⁷ This change was sought, in part, to lessen the increased burden on the Public Defender’s Office after the DeWolfe v. Richmond decision by impacting the number of arrests and, consequently, of bail hearings.

The language that SB 422/HB 261 uses to describe the newly enacted requirements for replacing arrest and/or consequent pre-trial detention with a charge by citation specifies that:

- “(i) any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;
- (ii) any misdemeanor or local ordinance violation for which the maximum penalty of imprisonment is 90 days or less [with six specific exceptions];
- (iii) possession of marijuana under § 5–601 of the Criminal Law Article [no specified amount] (4-101(c))”

must be charged by a citation, unless the officer has reason to believe the charged individual is likely to violate the citation or some of the specified circumstances are not met. Specifically, the bill limits the use of these citations only to situations in which “the defendant’s evidence of identity” and compliance with the officer’s orders is satisfactory, and

⁷ Source: http://mgaleg.maryland.gov/2012RS/chapters_noln/Ch_504_sb0422e.pdf

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

the defendant is not subject to an arrest for another criminal charge from the same incident. Furthermore, the officer must “reasonably believe” that using a citation in lieu of an arrest or in lieu of continued custody following an arrest will not pose a threat to public safety. If a defendant cannot present satisfactory identification, an officer will arrest her or him for the purpose of identity confirmation, but a citation shall subsequently be issued in lieu of detention.

Unlike the immediately effective changes to the Public Defender Act, the citation laws only came into effect on January 1st, 2013. As previously discussed in Task 2 of this Study (Factors Driving Current Bedspace Demand), this change in current practices could have a direct impact on the number of arrests, the volume of individuals being processed through the CPU, and the number of commissioner hearings being held over time.

The effects of this new bill were discussed with Montgomery County Police Department, Sheriff’s Office and District Court Commissioners representatives. There is mixed speculation among affected parties as to the potential impact of the citation law on front end metrics. Some suggest that the law is expected to reduce the number of pre-trial detentions and initial appearances and the expenditures associated with these events and the arrest process. As a result, State expenditures for the Judiciary, the MCPD and DOCR could decrease that in turn could be shifted to other operations. However, the extent of these decreases can only be determined after actual experience under the bill.

On their end, MCPD representatives estimate that processing efficiencies could be gained if the issuance of citations requires less processing time than custodial arrests. In this regard, the reform would mean more time for police officers to focus on more serious crimes and crime prevention. However, this benefit can only be fully realized if all citable individuals can be positively identified at the time of the citing. At present, a police officer may issue a citation to a defendant if the officer is “satisfied with the defendant’s evidence of identity and reasonably believes that the defendant will comply with the citation”. If large numbers of individuals need identification verification, as law enforcement expects, efficiencies in police processing time will be diminished, even if the number of true arrests is reduced.

Additionally, some officials also believe that the citation law could result in an increase in the failure to appear (FTA) rates and still generate an increase in bench warrant arrests if the individuals do not appear for the

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

court date on the citation. While it was noted that the same could be said of those released on their own recognizance at initial appearance, law enforcement officials believe that the more formal process (arrest and Commissioner’s hearing) imparts a greater sense of “gravitas” on the defendant, making him/her more likely to appear in Court.

At this point in time, these scenarios are anecdotal and untested due to the newness of the bill. However, it was noted (but not substantiated by any data) that jurisdictions who recently implemented a similar citation law (e.g. Denver) did not experience an increase in subsequent arrests on bench warrants.

Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender⁸ In May, 2012, as part of Senate Bill 422 (HB 261), a task force was established and tasked with “studying the adequacy and cost of State laws and policies relating to representation of indigent criminal defendants by the Office of the Public Defender and the District Court commissioner and pretrial systems.”⁹ As part of its charge, the task force is to study the possible need for changes in the laws as they currently stand, including the newly enacted bills.

The task force submitted an interim report on November 1st, 2012, outlining its activities to that date; namely, a review of the DeWolfe v. Richmond case and the bills discussed above during the task force’s initial meeting. In addition to this review, the task force noted hearing presentations regarding the history and current state of the District Court Commissioners, the pre-trial release systems in the State, and the Office of the Public Defender, as well as the status of OPD’s and the Police Departments’ compliance with the bills’ requirements.

While no conclusive findings and recommendations were presented in the interim report, as is to be expected, the task force reports on the establishment of four subcommittees (namely, Criminal Citations, District Court Commissioner Study, Pre-trial Release, and Public

⁸ Subsequent to the writing of this chapter, the Court of Appeals established a Task Force on Pretrial Confinement and Release on October 24th, 2013 following its September decision on the DeWolfe v. Richmond case. This Task Force was established to “study pretrial confinement and release issues, from the perspective of the Judiciary, to ensure that the necessary rules, procedures, processes and funds are in place to facilitate the implementation of Richmond,” and to outline the impact of the Court ruling State wide. The Task Force was to submit an Interim Report on December 31st, 2013 and a Final Report on April 30th, 2014.

Source: <http://www.courts.state.md.us/adminorders/20131024taskforcepretrialconfinementandrelease.pdf>

⁹ Source: “Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender: Interim Report.” (November 2012). Department of Legislative Services, Office of Policy Analysis. Annapolis, Maryland. Retrieved from: <http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/015000/015637/unrestricted/20121473e.pdf>

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

Defender Access), that are each anticipated to continue the activities underway and contribute to the timely production of a final report in November, 2013.

8.4 Conclusion: Implications for Montgomery County

As of the date of this report, the direct implications of the DeWolfe v. Richmond decision to Montgomery County's detention practices as they relate to this study are minimal, if any. While the ruling and consequent bills consistently held that indigent defendants have the right to representation during initial appearances or bail reviews before the District or Circuit Court judge – a requirement described as an increased burden on the OPD State-wide – Montgomery County should not experience any significant change in practices in this regard, as counsel at bail hearings was already granted through an ordinance in the County prior to this case. As a matter of fact, the Court of Appeals notes that this Montgomery County ordinance was the basis for the Public Defender Act in Maryland. As described above, the Court's ruling regarding representation at the initial appearance and bail hearing before District Court Commissioners specifically, based on "the plain language" of the Public Defender Act, was changed as a result of an amendment in the Act through SB 422.

The Act now clearly states that representation by the Public Defender's Office is not required at the bail hearing portion of the initial appearance, thus demanding no additional action on behalf of the OPD in Montgomery County.

Beyond the direct implications, which would have resulted from the DeWolfe v. Richmond decision, the effects of the consequent legislative bills must be considered. Specifically, as presented above, the laws calling for charging by citation of several misdemeanor and local ordinance violations, such as possession of marijuana, are seen by some as carrying a potential impact on arrest and detention practices. Not only can these changes impact jail utilization through lowered arrests, bookings, and admissions rates but, on the other hand, it has been argued that more failure to appear (FTA) incidents may occur. Consequently, Montgomery County's average daily jail population may see some decreases, but potential lengthening of average jail-stays as a result of FTAs may as well negate these positive outcomes.

8. IMPLICATIONS OF DEWOLFE V. RICHMOND

As the new citation laws have only been in effect since January, 2013, no empirical data or long range study findings are available. As such, the potential impact on volume, processing and length of stay, as described above by various justice system practitioners, is speculative. Moving forward, DOCR and other affected agencies would be wise to collect quality historical information and current data that would allow for an empirical assessment (i.e. cause and effect scenarios) of the impact of the new law at each point in the criminal justice process. As discussed in Task 5 of this report, the County would greatly benefit from adding data analysis capabilities and competence at DOCR to perform responsible and useful work to more accurately predict the future.

TASK 9. CAPITAL IMPROVEMENT PLAN

9. CAPITAL IMPROVEMENT PLAN

9.1 Introduction and System Overview

Introduction

Montgomery County is seeking State funding under the State of Maryland **Local Jails Capital Improvement Program**. Under this statutory program, State funding is available for construction of local detention centers, not to exceed 50% of eligible construction costs.

In order to secure state funding for capital projects, the State of Maryland requires a Capital Improvement Plan. Montgomery County's Capital Improvement Plan is supported by a comprehensive Needs Assessment (Master Correctional Facilities Confinement Study), as required by Chapter 3 of the Local Jails Capital Improvement Program Policy and Procedures Manual (Maryland Department of Public Safety and Correctional Services; Division of Capital Construction and Facilities Maintenance).

Tasks 1 through 8 of the 12-month study assessed current system functioning; identified factors impacting correctional bedspace demand; evaluated existing alternatives to incarceration, including gaps; generated inmate population and bedspace projections; established recommendations for enhancing the current residential and community-based corrections continuum in Montgomery County; and evaluated the impact of those initiatives on the projected inmate population. This final task of the study summarizes the key findings for inclusion in the County's proposed Capital Improvement Plan.

Overview of Key Findings

Key conclusions of the Master Confinement Study are summarized below. A more detailed description of those elements required for inclusion in the Capital Improvement Plan appears later in this chapter.

- The Montgomery Department of Corrections and Rehabilitation (DOCR) operates three correctional facilities:
 - the **Detention Center (MCDC)** in Rockville, presently operating as the County's central booking, assessment, screening, and 72-hour holding facility;
 - the **Correctional Facility (MCCF)** in Boyds, for detainees awaiting court disposition and inmates serving county jail sentences; and
 - the **Pre-Release Center (PRC)** in Rockville, predominantly serving sentenced inmates transitioning back into the community.

The current capacity of the system is 1,391 beds.

9. CAPITAL IMPROVEMENT PLAN

- Montgomery County officials (DOCR and other key criminal justice agencies and stakeholders) work collaboratively to minimize secure jail bedspace demand through policies, practices, and alternatives to incarceration programs at all points in the system – ROR, diversion, pre-trial supervision, specialty courts, probation, work release, home confinement, and community supervision.
- The average daily correctional population has remained relatively stable at about 1,000 inmates over the last several years. This stability is viewed as a product of demographics and recent criminal justice trends, as well as the County’s proactive approach to employing the least restrictive setting for those in conflict with the law, without compromising public safety. Of the nearly 16,000 bookings to the central processing unit last year, more than 1/3 were released at the first appearance hearing, and an additional percentage was released at arraignment – many of whom were placed on pre-trial supervision at the recommendation of DOCR’s Pre-trial Services unit.
- The Needs Assessment identified two gaps in the County’s impressive continuum. There was consensus among key stakeholder groups to pursue the following initiatives:
 - Development of a **day reporting center** (DRC) for transitioning inmates out of the PRC into community supervision, as well as an alternative to jail incarceration for probation violators. For inmates nearing sentence completion, this initiative not only reduces the residential length of stay for offenders, but provides them with a structured and service-intensive reentry process for inmates transitioning from MCCF, or for other initiatives. For probationers and parolees, the DRC provides Community Supervision with an alternative to jail for technical violators and a more structured level of supervision for those at risk for violating conditions of probation or parole. The Pre-Release Center was identified as an ideal location for the planned Day Reporting Center. Bedspace capacity is currently available at the PRC that could be used to accommodate this function. The building is conveniently accessible to public transportation to downtown Rockville; there is potential to maximize treatment and service delivery with existing PRC staff; and it is a logical extension of the transition process from PRC work release to non-residential supervision in the community.
 - Creation of a **residential mental health stabilization unit**, which could be used for step-down purposes from secure confinement, or diversion at any point in the system. The Pre-Release Center was

9. CAPITAL IMPROVEMENT PLAN

identified as potential location to provide in-depth mental health and co-occurring services. There are presently beds that are underutilized and seen by PRC staff as having the potential for being designated as mental health beds (between 15 and 25 beds).¹ Additionally, it is noted that a portion of PRC beds are currently occupied by Federal inmates under an existing contract with the Bureau of Prisons. This contract could be terminated or modified, making additional beds available for a mental health residential component at PRC.²

Identification of these two initiatives was based on interviews, focus groups and workshops with DOCR and representatives from the mental health practitioner and provider communities, the Maryland Division of Community Services, Office of the Public Defender, and County Council, supported by an analysis of data, where available. It should be noted that while the data was sufficient to validate the need for DRC and mental health initiatives, the current system does not have the capacity to support a detailed analysis of the target populations to be served. DOCR is in the process of implementing a new management information system that will improve data reporting capabilities. However, the Department does not have a full-time criminal justice policy or data analyst to continuously review, evaluate and analyze data for long-term planning and program development purposes. As indicated in this Master Facilities Confinement Study, Data Collection and Analysis, the consultants have identified this gap in Task 5 DOCR Record Keeping and have recommended that DOCR builds in-house data analysis, reporting and planning capacity. This is in line with jurisdictions of similar size and stature.

- Systemwide correctional bedspace projections, which incorporate a 10-20% utilization factor for classification and peaking, indicate an overall need for between 1,217 – 1,376 beds by year 2035.
- There is consensus that the lower range of the bedspace projections can be achieved through continued use of proactive policies and practices, and implementation of the two recommended new initiatives. As such, the low range figures provide the frame of reference for capital improvement planning purposes.
- Twenty year projections for MCCF (897-1014 beds projected) are below the facility's capacity of 1,028 beds. While the facility was originally

¹ In the absence of quality data, this figure should be seen as an “order of magnitude” frame of reference that should be empirically validated.

² The residential mental health component at PRC (jurisdiction, funding support, staffing, configuration, etc) must be further developed in concert with appropriate authorities, departments, and partner agencies.

9. CAPITAL IMPROVEMENT PLAN

constructed to accommodate an additional 224 beds, the analysis and findings of the Needs Assessment indicate that there is no need to expand at MCCF over the short or long term horizon, and no capital commitment is anticipated for this facility.

- Additional capacity is not required at the Pre-Release Center (PRC). The existing 173 beds are adequate to accommodate the 20-year projected range of 148 – 168 beds, as well as the mental health initiative described above.
- A range of 171-194 beds is projected for accommodating the 72-hour housing requirements associated with the initial processing, hearings, and assessment of new admissions currently occurring at MCDC. The pressing issue for MCDC is not one of bedspace demand; it is the old, outmoded, and deteriorating conditions of the building, coupled with an inefficient allocation and layout of spaces to properly accommodate Central Processing functions and decision-making.

9.2 Capital Improvement Plan Elements

Montgomery County's Capital Improvement Plan has three elements. Their inclusion is supported by the Needs Assessment conducted as part of the Master Facilities Confinement Study, as well as analyses conducted previously by the DOCR and other County agencies.

The reduced pressure on bedspace demand provides Montgomery County with a window of opportunity to improve system functioning at the critical front-end of the system with a state-of-the art and mission-specific Criminal Justice Center. Additionally, DOCR is seeking to maximize existing physical plant resources through planned upgrades at existing facilities, e.g. a Staff Training Center at the MCCF and Dietary Facilities Improvements at the PRC. These two projects have been in-progress with DOCR and the County.

New Criminal Justice Center

Montgomery County is requesting funding support for a new Criminal Justice Center (CJC). The new CJC will be the locus for all activity occurring within the first 72 hours of arrest: central booking, District Commissioner's Court hearing, intake processing, pre-trial assessment, medical/mental health screening, arraignment, and 72-hour housing. As a mission-critical facility, the CJC will be specifically designed to support front-end operations and decision-making – with spaces allocated and arranged to accommodate the inter-related agencies involved in the process, and the safe and efficient workflow of detainees and staff. This facility will provide space for Maryland District Court Commissioners, Montgomery County Police Department

9. CAPITAL IMPROVEMENT PLAN

(MCPD) Warrants and Fugitives Unit, Public Defender's Office, Health and Human Services Clinical Assessment and Triage Services (CATS), and administrative and support functions of the Montgomery County Department of Correction and Rehabilitation (DOCR), including Executive Administration, Pre-Trial Services Assessment Unit, Receiving and Discharge, Medical, Custody and Security, Intake and Classification, Food Service, and Records.

The Central Processing Unit will be operated by the Montgomery County Department of Correction and Rehabilitation in conjunction with the Montgomery County Police Department and the Maryland District Court Commissioners, providing all the required program and support spaces to accommodate the processing and preliminary hearing requirements of the entire Montgomery County Criminal Justice System. The planned capacity of 200 beds (72-hour housing) is in line with the bedspace need projected in the Master Facilities Confinement Study.

Design of the proposed CJC is underway. Prior to commencing design, a detailed Program of Requirements (POR) for the proposed CJC was developed. The POR includes a functional narrative, architectural space program, room data sheets, adjacency diagrams, staffing and cost estimates. The POR, together with the Master Facilities Confinement Study findings, provide the County with the core elements necessary to apply for State Aid for FY15 for this project.

The new CJC will replace the old and outmoded MCDC. By way of background, MCDC was repurposed as the County's Central Processing facility after MCCF opened in 2003. Several previous assessments document the old, outmoded and deteriorating conditions of MCDC. As part of the 1995 decision to operate a two-jail system, the Department of General Services commissioned a Detention Center (MCDC) Reuse project (PDF#429755), providing for the planning, design and renovation of the MCDC facility for its continued use. A review of the renovations needed to keep MCDC operational showed that the cost of renovating MCDC would be in excess of \$55 million; \$17 million more than the initial FY09-14 CIP funding approved for the project (\$38M). Given the continued increasing cost estimates for the renovation of MCDC, the aging building systems, and life-cycle items not originally included in the Detention Center Reuse Project, the County Executive recommended first that the Detention Center (MCDC) Reuse project be placed on pending close-out. The project was later cancelled entirely. The County Executive determined, after considerable review, that it was not cost effective to seek to spend millions of dollars on trying to renovate an aging facility whose time had come for replacement. Accordingly, the County Executive proposed the construction of a new

9. CAPITAL IMPROVEMENT PLAN

Criminal Justice Complex that would serve the multi-agency criminal justice needs more effectively and would replace the existing MCDC in its entirety.

DOCR Staff Training Center

Because the MCDC Reuse project was cancelled, as part of the FY 11-16 CIP the County Executive recommended that DOCR training facilities be provided at MCCF in Boyds. The DOCR Staff Training Center will be approximately 12,000 gross square feet and will house classrooms, administrative offices, and materials for the DOCR training programs. In FY11-16, the project was approved for design only. At that time, design was expected to start in Spring of 2011 and last about 15 months (Fall 2012). The total cost of the project was expected to be \$5.3 million. The Approved FY11-16 PDF also indicates that the project is eligible for State funding, and that requests will be submitted to the extent allowed.

In 2012, DOCR capital projects were reviewed and the Executive recommended that the Staff Training Center project be deferred to FY13-18 due to fiscal affordability, although preliminary planning funds (\$65,000) are contained in the County's Facility: MCG CIP project (No. 508766).

Pre-Release Center Dietary Facilities Improvements

This project provides for the replacement of the kitchen equipment and the upgrade of the kitchen's electrical and ventilation systems at the Pre-Release Center. When the project was first recommended as part of the FY09-14 CIP, it included both a kitchen renovation and an addition, increasing the 4,630 square foot kitchen and cafeteria wing by approximately 2,311 square feet of net usable space. The approved FY09-14 PDF indicated that, originally designed to serve only 100 residents, "the storage and work space in the kitchen is inadequate for meal preparation, service, supervision, and control. The dining and kitchen area is also very small and does not support the current capacity of 167 residents and 68 employees."

The Pre-Release Center was built in 1978 and there has been no updating of the kitchen, storage and serving area or the dining room since that time, according to DOCR officials. The total project cost at that time was estimated to be \$4.8 million. The approved FY11-16 Project Description Form (PDF) maintained similar funding and project design. After review of DOCR's capital projects in 2012, the Executive recommended a significantly scaled-back project as part of the FY13-18 CIP, and included \$500,000 in FY15 to provide replacement equipment and electrical and ventilation upgrades.

9. CAPITAL IMPROVEMENT PLAN

9.3 Supporting Information

Pursuant to the requirements set forth in *Chapter 3: Formalized Planning Process* of the Local Jails Capital Improvement Program Policy and Procedures Manual, the CIP must include the following information:

1. projected total bed need;
2. planned use for existing correctional facilities and the impact on total bed need;
3. planned use of alternatives to incarceration programs and the estimated impact on the total bed need;
4. number of new beds needed, and when the additional capacity will be required;
5. conceptual approach to building the beds and required program and support space.

Detailed analysis, findings and recommendations pertaining to items #1-4 above are included in the full Master Facilities Confinement Study. Regarding item #5, a Program of Requirements (POR) was developed for the proposed new CJC, containing a detailed description of the housing units, program and service components – operational requirements, space requirements, and building adjacencies.

Each element is summarized below. Detail can be found in the documents referenced above.

1. Projected Total Bed Need

In context, DOCR bedspace projections were last generated in 1995, when the Department completed a Master Facilities Confinement Study to support state funding for construction of MCCF. Back at that time, the system had experienced tremendous growth trends in the inmate population, mainly due to the heavy influx of drug cases in the 1986-1989, and jail capacity forecasts were calling for upwards of 950 inmates and 1,100 beds by year 2010.

Since the completion of the 1995 Master Confinement Study, times have changed, County demographics have changed, criminal justice practices are significantly different and public policy in matters of enforcement, prosecution, judicial activity and correctional operations have all evolved. In Montgomery County, policy changes in programming and diversion efforts have influenced and helped to manage the growing number of pre-trial inmates. Cross-agency collaboration and changes in policies and practices within DOCR have also had a positive impact on the population of sentenced inmates over the last few years in a manner that produces favorable utilization rates (e.g. ADP and length of stay). As a result, the DOCR population has been hovering consistently at around 1,000 inmates

9. CAPITAL IMPROVEMENT PLAN

for the last seven years, below the 1995 forecasts. As noted, Montgomery County criminal justice system actors have been collaborative and proactive in initiating policies, practices, and programs that have helped to manage or mitigate secure jail bedspace demand.

Task 3 of the Master Facilities Confinement Study provided the County with bedspace projections for DOCR, short-term and for a 20-year horizon. Inmate population projections form the foundational need for establishing the number and type of beds required in Montgomery County's correctional facilities now and in the future. Based on a review of criminal justice factors, projections rely on the following key assumptions about system policies, practices, and trends:

- While the County population will continue to increase, it seems that Montgomery County's population will become an older population and have a smaller proportion of the "at-risk" population (generally younger males ages 15 to 34). Moreover, it is unclear whether the projected population at risk, many of whom are not yet born, will actually materialize and whether they will become involved in criminal activity at the rate early cohorts have. As such, County demographics are not likely to drive a significant rise or drop in justice trends.
- Since 2008, there has been a dramatic decline in the County's crime rate, and it is presumed that crime rates will not increase significantly moving forward. Collectively, the County's demographics and crime trends suggest no significant increase in jail ADP.
- The number of adults arrested for both misdemeanor and felony level crimes has declined since 2009, and significant increases are not certain, despite MCPD's reported plans to increase patrol officers over the next three years.
- The number of jail admissions has been declining consistently since 2009.
- Average length of stay, at about 40 days, is at levels similar to those of 2004.
- As long as funding remains intact, existing pre-trial release, diversion and alternatives to incarceration programs will also remain intact with no major changes in policy or reduction in services that would affect current performance and outcomes.

To develop forecasting models of jail average daily population, specific data elements that have potential influence on a jail's ADP were analyzed (i.e., historical admissions, average lengths of stay and population data, general County population growth, historical crime, arrest data, and court case processing data) for the decade between the years 2003 and 2012. The review of these factors guided the exploration of several well-established

9. CAPITAL IMPROVEMENT PLAN

statistical models for use in this study to generate up to three alternative bed need projections.

Projections were developed for each of the three facilities operated by DOCR, as each serves a specific function across the corrections continuum:

- MCDC: pre-trial detention housing for up to 72-hours
- MCCF: pre-trial and sentenced population detention up to 18 months
- Pre-Release Center: sentenced population transitioning from jail to community

The following table summarizes the *baseline* bedspace need to 2035 once an appropriate utilization factor is incorporated to take into account the functions and specific role of each facility and the corresponding classification variations. These baseline projections represent current system practices and key factors impacting bedspace demand. The impact to the baseline of alternative to incarceration programs is discussed later in this section.

Table 9.1 Bedspace Need Range by Facility

DOCR Facility Current Capacity	Utilization Factor	Projected Bedspace Needs				
		2015	2020	2025	2030	2035
MCDC: 200 beds	10%	155-171	159-171	163-178	167-186	171-194
MCCF: 1,028 beds	20%	812-857	833-893	854-932	875-972	897-1,014
PRC: 173 beds	10%	138-142	138-148	141-154	145-161	148-168
Total Bedspace Needs Range		1,105-1,170	1,130-1,212	1,158-1,265	1,187-1,319	1,217-1,376

As the table illustrates, the County is projected to have sufficient bedspace capacity system-wide, now and over the next twenty years. For example, baseline projections for year 2015 are estimated to be between 1,105-1,170 beds, as compared to current capacity of 1,401 beds, overall. While bedspace requirements are projected to increase slightly over the 20 year horizon (1,217-1,376 beds needed by year 2035), available capacity will continue to exceed demand; this pattern holds for each facility.

Montgomery County is not expected to experience the bedspace capacity pressures it did ten years ago, prior to the construction of MCCF. At the time of this study, with an ADP of 862 (including clients on home confinement) the County jail system was operating with an overall *surplus* of about 500 beds, clearly indicating that bedspace needs are not the driver of the Department's planning objectives.

The 2013 Master Facilities Confinement study also examined the number and type of beds required across facilities and by classification level. Based on a classification analysis conducted as part of *Task 4 Needs Assessment* of

9. CAPITAL IMPROVEMENT PLAN

this Master Confinement Study, the analysis considered the needs and risks of inmate sub-populations, deriving the following projected bedspace need by category.

Table 9.2 Projected Bedspace Need by Classification Category

DOCR Facility	Projected Bedspace Needs	
MCDC (171 - 194 beds)	Male	Female
General Population Intake	94-107	9-10
Special Lockup	19-21	
Special Needs	3	
Workers	42-48	
Total Bedspace Needs Range	164-186	7-8

MCCF (897 - 1,014 beds)	Male	Female
G.P. Max./Med.	224-253	8-9
G.P. Med./Min.	97-109	10-11
Pre-placement	54-62	12-13
Disciplinary	24-27	
Protective Custody	4	-
Special Management	4-5	-
Workers	63-71	8-9
Medical Unit	14-16	1-2
Crisis Intervention Unit	42-48	9-10
Youth Offenders Unit	77-87	-
JAS Program	82-92	11-13
CFC Program	76-86	9-10
School Program	68-77	-
Total Bedspace Needs Range	829-937	68-77

PRC (148 - 168 beds)	Male	Female
General Population	133-151	15-17
Total Bedspace Needs Range	133-151	15-17

2. Planned use of Existing Correctional Facilities

The bedspace projections presented above demonstrate that the three DOCR facilities have the sufficient number of beds to serve their respective projected populations for the next 20 years and beyond, with the future planned use of each correctional facility discussed below.

Montgomery County Detention Center (MCDC)

The long-range projections indicate that by year 2035 MCDC will be approaching its full capacity, 200 beds. While there is sufficient capacity at MCDC to respond to the bedspace needs over the next 20 years, the larger issue is around the significant operational and physical plant shortcomings. The facility is old and outmoded, and was not designed to operate as a Central Processing facility (its current, repurposed mission). The building

9. CAPITAL IMPROVEMENT PLAN

continues to require extensive upgrades, and although physical plant modifications and multiple additions have been made on five occasions between 1973 and 1990 in response to growing and changing needs, many portions of the building are in need of significant repairs. While some renovations are currently underway, they are only temporary, short-term solutions to an aging building, and according to DOCR officials, until a new facility can be constructed, there will undoubtedly continue to be deficiencies in the delivery of first appearance hearings, booking and processing services.

A new Criminal Justice Center is planned to adequately accommodate the operations of a central processing center for all of the County's criminal justice agencies and courts serving the front-end of the system, including 200 beds for 72-hour housing. This represents replacement capacity, not new beds, as MCDC will be decommissioned upon completion and occupancy of the new CJC.

Montgomery County Correctional Facility (MCCF)

When the MCCF was designed and constructed at the change of the millennium, the County planned ahead by providing the facility with a 224-bed expansion capacity above and beyond the facility's current capacity of 1,028 beds.

While this study's long-term projections show between 7% and 21% growth in the MCCF inmate population, the increase is so steady and slow, that the need for this additional beds expansion is not foreseen in the coming twenty years. As a matter of fact, the projected 2035 bedspace needs for MCCF – calculated from ADP with an added 20% utilization factor – indicates a bedspace need range of 897 – 1,014 beds, a long-term requirement below the facility's present built capacity (See Table 9.1).

Although long-term bedspace projections do not indicate a need for additional bedspace at the MCCF, a need to better respond to the several inmate classification risk and need categories (*bed type* considerations) exists. Such classification considerations, particularly regarding gang members and other high risk individuals, inmates with varying levels of mental health or medical needs (e.g. stabilization), and other detainees whose separation is recommended or mandated for various reasons, call for smaller units than the currently existing 64-bed housing configurations.

The noted need for increased separation of inmates from general population housing, based on classification risk and needs – including the potential for the creation of a “step-down” unit to serve inmates needing a stabilizing housing option after CIU housing – may result in an increase in the number

9. CAPITAL IMPROVEMENT PLAN

of beds needed. Still, an additional 224 beds does not arise as a forecasted need in the near – or even relatively far – future.

Pre-Release Center (PRC)

The 2035 bedspace projections do not indicate the need for additional beds at the PRC over the 20-year projection horizon. However, recommended alternatives to incarceration program initiatives, particularly with regard to the creation of a mental health unit, may impact current bedspace utilization at that facility, specifically the present practice of housing Federal inmates at the PRC.

3. Planned use of Alternatives to Incarceration Programs

Strong alternatives and diversion programs are key in managing future jail bedspace demand. An analysis of Montgomery County's alternative to incarceration programs demonstrated that the County has a wide range of programs and is making effective use of these programs to manage availability of bed space within DOCR facilities through the proactive use of least restrictive settings without compromising public safety. The Master Confinement Study identified and described the vast range of alternatives and initiatives currently utilized, testament to Montgomery County's reputation as a national best practices County for pre-trial services and transition from jail to community programs for post-sentence offenders. These include citation, ROR release, mental health diversion (pilot), Alternative Community Service (ACS) diversion program, Intervention Program for Substance Abusers (IPSA), Pre-Trial supervision, Drug Court, community supervision, and home confinement. In addition, the courts offer specialized dockets and expedited case processing for incarcerated defendants. By and large, these programs and practices are institutionalized in Montgomery County as a matter of policy as well as commitment; as long as funding remains intact, there is no indication that these initiatives will not continue into the future.

Two gaps were identified in the County's current criminal justice continuum: the dearth of accessible mental health beds as an alternative to jail for appropriate offenders; and the lack of a day reporting center to support offenders transitioning from the PRC back to the community. Implementation of these recommended initiatives will require ongoing collaboration and coordination between DOCR and partner agencies.

With the continuation of existing ATI programs and the implementation of these two initiatives, Montgomery County is well positioned to manage future correctional population bedspace requirements across its three facilities. It was therefore the collective judgment of the planning group that, for planning purposes, the low end of the baseline projection range

9. CAPITAL IMPROVEMENT PLAN

provided an appropriate indicator of future bedspace need. This resulted in an adjusted bedspace requirement of 1,217 beds by year 2035.

Mental Health Unit Initiative

Despite the overall decline in inmate population and the forecasted moderate inmate population growth over the next 20 years, Montgomery County has experienced an increase in the severity and number of inmates with special risk/need requirements, particularly those with mental health conditions.

The availability of residential placement alternatives is limited, hampering attempts to divert mental health offenders from the system at all points across the continuum. This issue was explored in detail with key criminal justice stakeholders in focus meetings, supported by review of data, where available, and research on national best practices in this area (Tasks 4 and 7 of the Master Facilities Confinement Study).

There was a general consensus that new mental health initiatives should be explored to better address the needs of this segment of the inmate population. While further examination of the target population is required for both to ensure that the proposed initiatives are not widening the net or resulting in offenders suffering from a mental illness staying longer in jail, the absence of adequate residential resources for mentally ill offenders clearly indicates a need to prove a better residential alternative to accommodate the needs of this special population. In this regard, the PRC was identified as a potential location for a mental health stabilization unit. This scenario was seen as viable for several reasons: the availability of beds at the PRC (many beds are currently occupied by Federal inmates under a contractual arrangement with the Bureau of Corrections); the opinion among DOCR and CATS staff that a pool of inmates currently at MCCF could transition to the PRC if the appropriate mental health structured environment and services were in place; and the potential for utilizing the mental health beds for pre-trial diversion at other points in the justice continuum (current community residential resources are scarce and/or inaccessible). While it was recognized that the conversion of PRC beds into a mental health unit requires on-going dialogue and planning with CATS, Health and Human Services representatives, and other criminal justice stakeholders, DOCR officials indicate that the impact on MCCF bedspace capacity could be as high as 30 beds.³

³ Absent of available quality data, this figure is reported as an “order of magnitude” frame of reference, and is mainly based on qualitative impressions of the planning group. The consultants recognize that these impressions provide only a partial perspective and that any final policy decision needs to be data driven.

9. CAPITAL IMPROVEMENT PLAN

Day Reporting Center

The benefits of a Day Reporting function and the gap in Montgomery County's criminal justice service continuum in this regard were discussed in detail in Tasks 4 and 7 of the Needs Assessment. A day reporting center was deemed a viable alternative to jail with the following goals:

- providing an intermediate option, either step down for DOCR inmates or step-up alternative to traditional probation and parole for clients with greater needs, as a mechanism for increasing public safety and reduce unnecessary bedspace usage;
- stabilizing offenders' behavior so they can make progress on their supervision plans and move to lower supervision levels as quickly and successfully as possible;
- effectively supervising and treating offenders by addressing their identified criminogenic needs at one location; and
- reducing recidivism through sustained positive behavior change.

The analysis included research on successful day reporting centers operating nationally; focus group meetings; development of program goals and participant eligibility criteria; identification of participating agencies; and data analysis to assess the potential impact on bedspace demand. Detailed analysis and findings appear in Task 7 of the Master Facilities Confinement Study. The findings revealed that there is a viable pool of eligible offenders for a day reporting program, from both Community Supervision clients and DOCR inmates (approximately 180 candidates in total). A day reporting center would have immediate impact on bedspace demand by offering an alternative to traditional incarceration as a step-down from jail (reducing length of stay) or an alternative to incarceration for technical probation/parole violators, and a long-term impact through reduced recidivism through targeted programs aimed at positive behavior change.

4. Number of New Beds Needed

Montgomery County has sufficient bedspace capacity to meet twenty year bedspace projections for each of its three correctional facilities. However, because of the physical plant conditions and inefficiencies noted earlier in this report, the County is constructing a new Criminal Justice Center to provide a centralized location for agencies involved in the initial booking, hearing, processing, screening, and temporary housing of new detainees entering the system. This facility includes 200 beds for the temporary housing of inmates during the initial process. Inmates not released within the first 72 hours of confinement will be transferred to MCCF. The CJC is currently under construction, with projected completion in year 2015.

9. CAPITAL IMPROVEMENT PLAN

5. Conceptual Approach to Construction of Beds

The CJC will be completed in one construction phase. The facility will serve as the Central Processing Unit (CPU) for the processing, custody transfer, holding and initial hearing of all new arrestees in Montgomery County. The facility includes 200 short term housing beds. As previously stated, these beds replace those currently located at MCDC, they do not increase capacity to the DOCR jail system.

The CJC housing component is comprised of the following units:

- **General population male:** 2 Units, double bunked, 56 beds each, direct supervision; mezzanine configuration
- **General population female:** 1 Unit, double bunked, 16 beds, direct supervision; mezzanine configuration
- **Inmate Worker male:** 1 Unit, 36 beds, direct supervision; dormitory configuration, outdoor recreation, laundry alcove, video visitation kiosks in dayroom
- **Special Lock-up male:** 1 Unit, double occupancy, 20 beds
- **Special Lock-up female:** 1 Unit, double occupancy, 12 beds
- **Special Needs male:** 1 Unit, single occupancy, 4 beds

Programs are limited, due to the short term nature of the facility (72-hour stay, maximum). In addition, the facility has the following programs, services, and support spaces:

- Lobby, Administration, Professional visitation
- Center Control, Custody Administration/ Staff Support
- CPU / Receiving and Discharge, Intake and Classification, Property, Records
- CATS, Medical Services
- District Commissioners Court, Pre-Trial Services, Public Defender
- Food Services, Maintenance, Building Support
- Fugitives and Warrants

A detailed Program of Requirements (POR) has been developed by the design architect, in collaboration with DOCR and other related agencies. The POR defines each of these functional areas in detail, including operational requirements, room-by-room space allocation, adjacency diagrams, room data sheets, staffing projections, and capital cost estimates for the proposed project. The POR, together with the findings of the Needs Assessment, form the foundation for DOCR's Capital Improvement Plan.

APPENDICES

Reviewed Documents, Data and Information

Law Enforcement

Fiscal and Policy Note (Revised): House Bill 261. Department of Legislative Services, Maryland General Assembly, 2012 Session.

Montgomery County Police Department

Annual Arrest Statistics (by gender, age, part, level): 2006-2012

Annual Crime Statistics: 2001-2012

Annual Police Arrests/Bookings into CPU (traffic, criminal): 2008-2012

Crime Report, Year End 2003

Comparative Data on Montgomery County and Fairfax County, Office of Legislative Oversight, Report Number 2010-5.

Maryland Police and Correctional Training Commission: Digest of Criminal Laws, Revised October 1st, 2009

Montgomery County Police Performance Review, Chief Tom Manger, December 20th, 2011

Montgomery County Police Website(s): <http://www.mymcpnews.com/>

<http://www6.montgomerycountymd.gov/poltml.asp?url=/content/pol/index.asp>

Monthly Report: Comparison Study of Offenses: January 1-December 31, 2006-2005

Monthly Report: Comparison Study of Offenses: January 1-December 31, 2008-2007

Monthly Report: Comparison Study of Offenses: January 1-December 31, 2010-2009

PS Committee #1 Memorandum: Worksession on FY13 Operating Budget for the Department of Police: April 23rd, 2012

PS Committee #3 Memorandum: Briefing on Police Staffing, January 19th, 2012

4th Quarter Report: Crime, Clearance Rates, Arrests: October-December, 2011-2010

3rd Quarter Report: Crime, Clearance Rates, Arrests: July-September, 2012-2011

Sheriff's Office

Sheriff's Office Website: <http://mcsheriff.com/>

APPENDIX A

Department of Correction and Rehabilitation

All Divisions/Units provided responses to a Master Facilities Confinement Study Questionnaire regarding statistics, procedures, policies, and flow. In addition, the following documents and data were reviewed:

Correction and Rehabilitation: FY13 Operating Budget and Public Service Program FY13-18

Department of Correction and Rehabilitation: Performance Review: Director Art Wallenstein, March 27th, 2012

Department of Correction and Rehabilitation: Performance Plans: 2007, 2010

DOCR Operational Chart

DOCR Website: <http://www6.montgomerycountymd.gov/doctmpl.asp?url=/content/doctr/index.asp>

Montgomery County, Maryland, Department of Correction and Rehabilitation: A National Model for County-Community Corrections and Public Safety Brochure.

Pre-Trial Services

Client assessment and supervision intake forms, by unit

Montgomery County, MD, Pre-Trial Supervision Study, Dr. James Austin

Murray, T. & Trexler, S. (2012). Using Research to Improve Pretrial in Montgomery County, Maryland. *Translational Criminology*, Winter 2012.

Pre-Trial Services Division Organization Chart

Pre-Trial Services Program Description and Mission Statement

The Pretrial Release Project: A Study of Maryland's Pretrial Release and Bail System. The Abell Foundation, 2001

Assessment Unit

Montgomery County Pre-Trial Release Risk Instrument

Pre-Trial Assessment Unit Description

Policy and Procedural Manual, Pre-Trial Services Division (Assessment)

Pre-Trial Assessment Unit Statistics: FY 2010-2012

Supervision Unit

Policy and Procedural Manual, Pre-Trial Services Division (Supervision)

Pre-Trial Supervision Unit Statistics: FY 2008-2013 (projected)

Diversion Programs (ACS, IPSA, Workcrew)

Alternative Community Services (ACS) and Intervention Program for Substance Abusers (IPSA) Eligibility Criteria

APPENDIX A

ACS Brochure

ACS Statistical Report: FY 2011

IPSA Brochure

IPSA Educational Powerpoint Presentations: Addiction Treatment and Recovery, Drugs and the Individual, Drugs and the Law, Thinking for Change

IPSA Marijuana Online Education Instructions

Montgomery County Alternative Community Services Program Probation Referral Form

Weekender Work Crew Program Report

Detention Services

DOCR Inmate Programming: Cost/Benefit Analysis: Director Art Wallenstein, September 17th, 2010

PS Committee #1 Memorandum: Update on Jail Population, October 8th, 2009

Monthly Statistics by Facility (MCDC, MCCF, PRC): 2002-2012.

Montgomery County DOCR Recidivism Analysis – Initial Results

Sollock, P. (2008). Jail-Based Dialectical Behavior Therapy Program: Modifications and Outcome Trends.

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MCDC/CPU

Inmates Processed into the CPU: 2002-2012

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Montgomery County Government; Department of Correction and Rehabilitation. ReEntry Employment Development Program (Brochure).

Pre-release and Re-entry Services

Montgomery County Department of Correction and Rehabilitation, Pre-Release and Reentry Services Division. Program Guidebook, spring 2011.

Montgomery County Pre-Release Center (PRC) Audit Report, May 24th, 2012

Morrison, A. (2009). Preparing Prisoners for Employment: the power of small rewards. Civic Report, published by Manhattan Institute.

New Resident Orientation Schedule (PRC)

Pre-release and Re-entry Services Advisory Committee Meeting Minutes, December 8th, 2005.

Pre-Release and Reentry Services Division: Serving Montgomery County for over 40 Years - Powerpoint presentation

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Warwick, K. (2002). Intermediate sanction options help alleviate jail overcrowding. *American Jails*, (November/December, 2002).

Workplace Digital Skill Training Program/Workshops Description

Judiciary

Chart of Maryland's Courts

Kopen Katchef, S. & Anbinder, R. Eds. (2003). The Journalist's Guide to Maryland's Legal System.

Maryland Judiciary Powerpoint Presentation

Maryland Judiciary: Annual Statistical Abstract: FY 2011

The Maryland Criminal Justice Process, descriptive review

Maryland Judiciary Websites Manual: <http://msa.maryland.gov/msa/mdmanual/36loc/mo/html/moj.html>

District Court Commissioner's Office

Maryland Rules: Title 4. Criminal Causes, Chapter 200. Pretrial Procedures. Md. Rule 4-216 (2011)

Montgomery County District Court

District Court Caseload Data 2002-2012 (From state statistical reports:
<http://www.courts.state.md.us/publications/annualreport/index.html>;
<http://www.mdcourts.gov/district/about.html>)

District Court of Maryland Website: <http://mdcourts.gov/district/index.html>

Montgomery County Circuit Court

Circuit Court Caseload and Processing Data: 2002-2012

Circuit Court Website:
<http://www6.montgomerycountymd.gov/ciatmpl.asp?url=/content/circuitcourt/index.asp>

Criminal Differentiated Case Management Plan, Revised Edition, July 2010

Montgomery County Circuit Court Annual Reports, FY 2010/11

Montgomery County Circuit Court Case Time Processing Reports, FY 2011

APPENDIX A

Montgomery County Circuit Court: Criminal Performance Analysis, Preliminary Results, FY 2010-2011

Montgomery County Circuit Court: CourTools:

<http://www6.montgomerycountymd.gov/content/circuitcourt/Court/Publications/CourTools/courtools.html>

Montgomery County Circuit Court Adult Drug Court

Adult Drug Court Participant Handbook

Adult Drug Court Policies and Procedures Manual, June 2012 revision

Drug Court Agreement Form

Drug Court Website:

<http://www6.montgomerycountymd.gov/cibtmpl.asp?url=/content/circuitcourt/court/drugcourt/index.asp>

Montgomery County Adult Drug Court Program Outcome and Cost Evaluation, January 2010

Office of the Public Defender

Caseload Statistics, 2004-2011

Maryland Office of the Public Defender Annual Report, FY 2012

Maryland Office of the Public Defender Website: <http://www.opd.state.md.us/>

DeWolfe v. Richmond and SB422

Marijuana Policy Reform in the 2012 Maryland Legislature, an overview.

Maryland Senate Bill 422, 2012, as approved by Governor O'Malley on May 22nd, 2012

Statement of Interest of Amici Curiae, DeWolfe v. Richmond, Court of Appeals of Maryland, September Term, 2011

Testimony of Paul B. DeWolfe, Public Defender, for the Office of the Public Defender, Budget C80B00. February 24th, 2012

Office of the State's Attorney

Montgomery County State's Attorney's Office Website: <http://www.montgomerycountymd.gov/sao/>

PS Committee #3 Memorandum: Worksession – FY13 Operating Budget: State's Attorney, continued, April 27th, 2012

State's Attorney: FY12 Operating Budget and Public Services Program FY12-17

APPENDIX A

Maryland Division of Community Supervision (former Probation and Parole)

District Court of Maryland Probation/Supervision Docket Form

Maryland Department of Public Safety and Correctional Services Website: <http://www.dpscs.state.md.us/>

Maryland's Comprehensive State Crime Control and Prevention Plan 2012-2014. Governor's Office of Crime Control and Prevention

Mental Health Services/ Department of Health and Human Services (HHS)

Criminal Justice Behavioral health Initiative (Report/Overview)

HHS Annual Reports, FY 2010/11

HHS and PS Committee #1 Memorandum: Discussion: Mental Health Court – Potential Next Steps, July 19th, 2010

HHS Committee #1 Memorandum: Worksession: Operating Budget – Department of Health and Human Services: Behavioral Health and Crisis Services, April 24th, 2012

HHS Website(s): <http://www6.montgomerycountymd.gov/hhstmpl.asp?url=/content/hhs/bhcs/as.asp>
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http://www.healthymontgomery.org/javascript/htmleditor/uploads/MASTER_Inventory_Tool_Behavioral_Health_8_8_2012.pdf.

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PS and HHS Committee #1 Memorandum: Briefing on Public Safety Staff Training – County Residents with Disabilities and Mental Illness, March 31st, 2011

Reducing the Revolving Door Through a Shared Response. Presented by Officer Joan Logan, Montgomery County Police Department

Resource and Referral Guide for Patients of Montgomery County, Primary Care Coalition – Montgomery Cares Behavioral Health Pilot

Services for People in Montgomery County who have Co-Occurring Mental Health and Substance Abuse Disorders. Office of Legislative Oversight, Report Number 2003-6. July 29th, 2003

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U.P Regional Jail and Facility Re-Use Study, Appendix T: Jail Work and Industries, January 2010.

APPENDIX B. MEETINGS PARTICIPANTS LIST

DOCR / MCCF Management Team Meeting (January, 25, 2013)

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APPENDIX B. MEETINGS PARTICIPANTS LIST

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Eugene Wolfe	Admin Judge	301 563-8870 eugene.wolfe@mdcourts.gov

CIRCUIT COURT (11:45 -

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Montgomery County Police Department (January, 25, 2013)

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Congie Lindsay	Crime Analysis
Mary Davison	Records - UCR
Betsy Davis	ASST CHIEF
Brian Allen	RECORDS DIVISION
Ray Wickenheiser	Crime Lab
CHIEF Tom MANGER	MONT. Co. Police Chief
Don Johnson	Acting Field Services Chief
ASSISTANT CHIEF Russ Hamill	MCP
Lt. Darren Francke	MCP

APPENDIX B. MEETINGS PARTICIPANTS LIST

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State's Attorney's Office (January, 24, 2013)

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Laura Chase	SAO	240-777-7338
JOHN MALONEY	"	" " 7392
Sheila Bagheri	SAO	240 SOS 1702

APPENDIX B. MEETINGS PARTICIPANTS LIST

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June 17, 2013

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16. MARAYCA LOPEZ	REG/ASA	
17. KEVIN WARWICK	REG/ASA	
18.		
19.		
20.		

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Mental Health Workshop #1 (April, 04, 2013)

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APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

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APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

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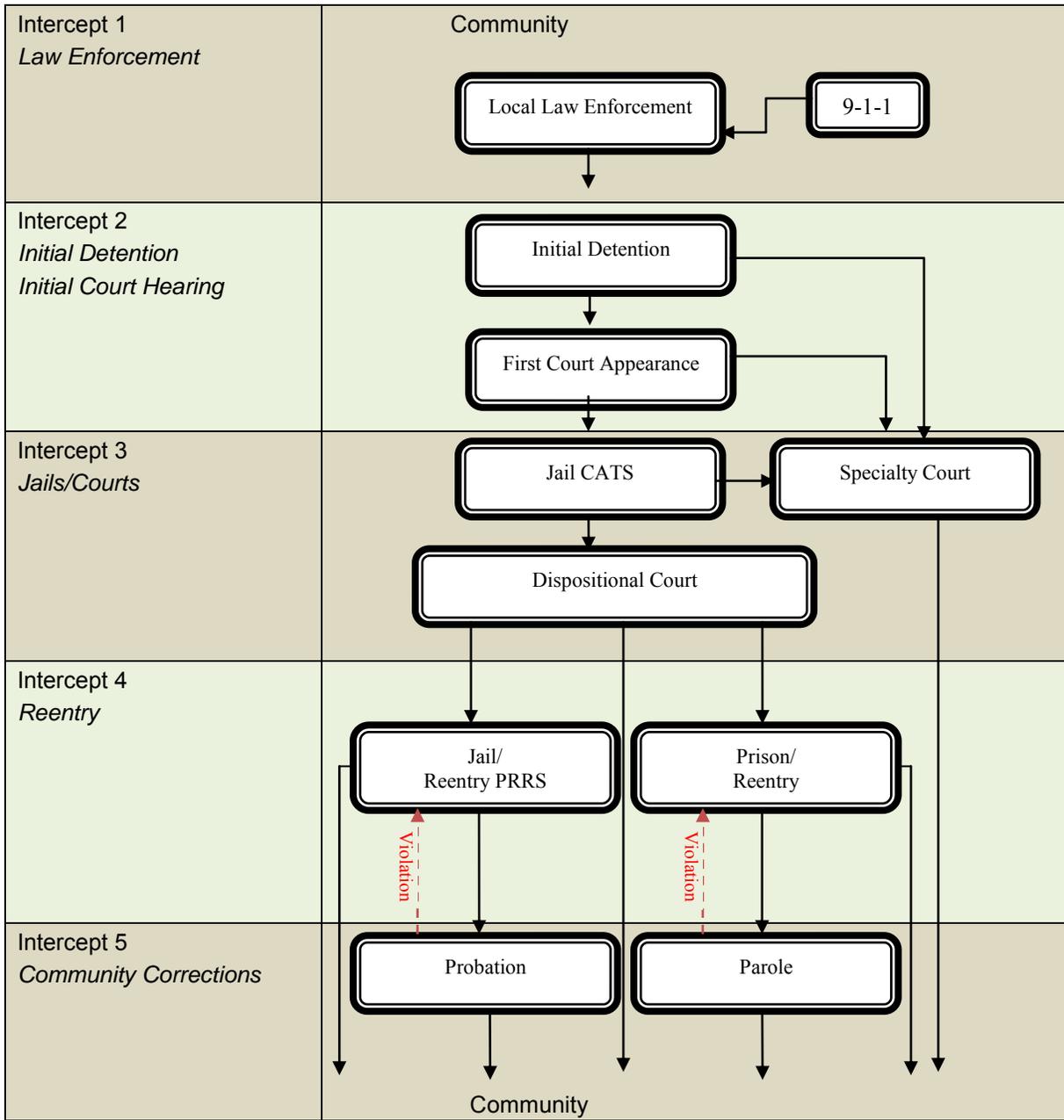
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APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

RESEARCH ON MENTAL HEALTH DIVERSION, SERVICES AND PROGRAMS

A Sequential Intercept Model has been designed by Mark R. Munetz, MD and Patricia A. Griffin, PhD¹ to provide a conceptual framework for communities to organize targeted strategies for justice-involved individuals with serious mental illness. These intercept points provide opportunities for linkages to services and prevention of further penetration into the criminal justice system. A simplified version of this model follows.



¹ Munetz, M.R. & Griffin, P.A. (2006). Use of the Sequential Intercept Model as an approach to decriminalization of people with serious mental illness. *Psychiatric Services*, 57(4), 544-549.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Intercept 1: Pre-booking Diversion

The first step in this model is found within the community at the local law enforcement level.

Diversions at this Intercept include:

- Police-based Specialized Police Response (police receive specialized training for responding to calls)
- Police-based Specialized Mental Health Response (Mental health professionals are employed by the police department)
- Police-Mental Health Co-Response (specially trained officers are paired with mental health professionals)
- Mental Health-based Specialized Response (mobile crisis teams with police training)

Memphis, Tennessee CIT

Population: 927,644

In 1988 the Memphis, TN Police Department partnered with the Memphis Chapter of the National Alliance on Mental Illness (NAMI), mental health providers, and local universities to create a specialized unit within the police department. The creation of this Crisis Intervention Team (CIT) is made up of volunteer officers from each patrol precinct to respond to crisis calls at any time. Since the CIT program began in Memphis, the citizens and the criminal justice system of Memphis have experienced significant benefits of the program. Some of the benefits of the program include:

- Crisis response is immediate
- Arrests and use of force has decreased
- Underserved consumers are identified by officers and provided with care
- Patient violence and use of restraints in the ER has decreased
- Officers are better trained and educated in verbal de-escalation techniques
- Officer's injuries during crisis events have declined
- Officer recognition and appreciation by the community has increased
- Less "victimless" crime arrests
- Decrease in liability for health care issues in the jail
- Cost savings

This program has been replicated in numerous jurisdictions around the country.

King County, Washington CIT

Population: 1,931,249

The Crisis Intervention Team composed of certified officers respond to persons in mental health crises, with the objective of diverting them from the criminal justice system and getting them to help to address their physical and mental health needs. This not only provides more appropriate treatment to such persons, but also reduces the justice system costs associated with the mentally ill.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

To become certified, an officer must complete a 40-hour training course, and ongoing training is required to maintain certification. Subjects covered in the training include an overview of mental disorders, recognizing types of mental illnesses, and communicating with mentally ill individuals. Officers learn different techniques for different disorders. Seattle Police Department began Crisis Intervention Team program in 1997, and partners with the Seattle-King County Health Department, the State Mental Health Division and the Washington State Alliance for the Mentally Ill.

Colorado CIT

Through the Colorado CIT program, particularly in Arapahoe (*population: 595,546*) and Douglas Counties (*population: 292,861*), partnerships have been formed with public/private service agencies and health care providers in order to connect persons to both private and government services. CIT deputies carry contact information of these various resources, and can make the appropriate referrals/connections and sometimes expedite their response. (Arapahoe County borders Denver County, with a population of 634,265.) 70 law enforcement agencies and more than 30 community partners are part of the statewide effort, with more than 2,400 officers CIT trained. This is coordinated through: dcj.state.co.us/crpi. In addition to the state level in Colorado, they have regional level programs, multi-county level programs (e.g. Arapahoe and Douglas are a joint effort – *combined population: 888,407*), and county specific programs.

Selected deputies are trained in CIT through a forty-hour federally funded, state administered, locally implemented course. Instructors such as psychologists, psychiatrists, social workers, and attorneys volunteer their time to train officers to intervene with persons who have mental illnesses/disabilities and who are in crisis. The objective of the Colorado CIT program was to train approximately 25% of first responding police officers. The Arapahoe County Sheriff's Office has 46 percent of its Public Safety Bureau uniformed deputies trained and certified in CIT. The Special Intervention Unit in the Detention/Administrative Services Bureau is staffed by CIT –trained deputies who work with special needs inmates. A Mental Health Coordinator at the Arapahoe County Sheriff's Office Detention Center connects inmates with mental health services and other programs. The Sheriff's Office is in the process of training communications technicians and call takers in CIT for Dispatch courses.

Manatee County, Florida

Florida's mental illness treatment law (Baker Act) permits a mental health professional, law enforcement officer, or judge who issues an ex parte order to initiate an involuntary psychiatric examination when a person meets specific criteria.

The law also allows court-ordered outpatient treatment for people with severe mental illnesses, like schizophrenia and bipolar disorder, who have a history of noncompliance combined with either repeated Baker Act admissions or serious violence.

Some of the *benefits of CIT* have included:

- Memphis – decreased injuries by 40% and reduced TACT (similar to SWAT) by 50%
- Albuquerque had less than 10% serious mental illness cases resulting in arrest and decreased SWAT by 58%
- Miami Dade had a reduction in wrongful death suits

(Abreu, 2009)

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Assisted Outpatient Treatment

Guide to how Assisted Outpatient Treatment (AOT) - involuntary commitment to outpatient treatment) works. <http://mentalillnesspolicy.org/aot/assisted-outpatient-treatment-guide.html>

Intercept 2: Jail Diversion/Jail Based Programs

Jail Diversion: During **Intercept 2**, diversions generally begin with an assessment. A Brief Jail Mental Health Screen (Policy Research Associates, Inc., 2005) is one such tool to assist in referring identified individuals for further counseling, services, and treatment. The information maximizes opportunities for pre-trial release, offers the courts a more thorough picture of the defendant, and the knowledge can be used to link the defendant to comprehensive services, access to medication, and other needed interventions.

Jail Diversions reduce jail days, is cost neutral the first year as treatment costs are incurred, while there is a cost savings in the 2nd year as jail days remain low and treatment costs are also reduced (Steadman and Naples, 2005; Rand Study, 2007).

Wicomico County, Maryland

In Wicomico County, Maryland, the Maryland Community Criminal Justice Treatment Program's case manager works with a diversion candidate to develop a treatment plan. The plan is discussed with the Assistant State's Attorney, the public defender, and the judge assigned to the case. When all parties agree that diversion is appropriate, the judge places the case on the "stet" docket, which leaves it open for one year. The defendant is then released to the community to complete his or her treatment program.

Hampden County, Massachusetts:

County Population: 463,490

The Regional Behavioral Evaluation and Stabilization Unit (ESU) inside the Hampden County Correctional Center (HCCC) and Western MA Regional Women's Correctional Facility (WCC) – serves mentally ill inmates from counties of Berkshire, Franklin, Hampden, Hampshire, Worcester. ESU is short-term, up to 14 days, designed for offenders in psychiatric crisis due to mental health or environmental stressors and in need of medication stabilization, increased support or close observation. During 2012, HCCC designated 13 single cells located in the same area as the ESU to be ESU Transitional beds. These beds are reserved for those inmates whose level of mental health needs exceed their capacity to function in general population but do not require the acute care of the ESU. The offender in the ESU transitional bed continues to have supportive access to ESU counselors, as well as the mental health out-patient clinician and correctional case workers. The stay can range from a few weeks to aid in the adjustment to incarceration to a permanent stay due to chronic mental health needs. The mental health out-patient service and treatment include referral and assessment for ESU admission, diagnostic evaluation, risk assessment, medication clinic referrals, symptom and medication monitoring/management, ongoing support, follow up on release

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

from ESU, collaboration with community providers and the local community health centers, to assist with transitioning back into the community. There is also coordination with their Pre-release Center and Day Reporting Center to allow for a transition back the community. This model is very similar to that of Montgomery County - combining a step down progression with a strong referral process to community resources. This model also allows for gender specific services for women.

During calendar year 2012, there were 364 male admissions, and 146 female admissions to ESU. The average length of stay was 4.3 days for men, 4.9 days for women. Transitional bed days (male only) totaled 2783. Average daily stats showed that 60% of HCCC inmates were on medication, of those 40% were on psychotropic medication. Admissions to the state psychiatric hospital prior to opening of the ESU averaged 40 per year. In 2012, there were only 11 total. Operating costs:

- Cost per day per inmate in HCCC: \$11.92
- Cost per day per inmate in ESU \$ 4.86 (not including general operating expenses)
- Third party reimbursement ranges from \$700-\$1227 per day per client for psychiatric hospitalization

Teaming Partnership Model (TPM) is a multi-disciplinary effort by Security and Treatment staff to provide support, correctional counseling, supervision, accountability, and positive reinforcement to the participants they are jointly assigned to.

The minimum TPM expectations are:

- At least 1 (one) Face-to-face, weekly meeting with as many DRP Teaming Partners as possible, at least one member from each shift
- At least 1 weekly, joint review (s) of Caseload
- One weekly coordinated, detailed Supportive Intervention or Teaming for a participant in need of additional support. (at risk of program failure, relapse, or clinical decompensation) due to one or more of the following:

Recent Loss or Hardship, Multiple personal stressors; Limited family / social supports; Long history of drug/alcohol use, Limited treatment history, Limited insight into addiction, Ambivalence about changing drug/alcohol use; History of overdosing; Significant mental health history; Current mental health problems; Multiple medications; Stopped taking medications; History of self-harm / suicide attempts; Medical concerns; On Disability (SSI or SSDI); Cognitive limitations; Illiteracy; Thinking errors; Multiple violations; Other.

San Rafael, Marin County

San Rafael does not currently have a pre-booking diversion program, but it operates a post-booking diversion program called the Support and Treatment After Release (“STAR”), also known as the Mentally Ill Offender Crime Reduction Program, that aims to assist persons with severe mental illness get treatment shortly after they have been booked and are taken to jail. Diversion takes place at jail, after booking, but often before or shortly after arraignment. The program currently has 75 offenders and is funded through the Mentally Ill Offender Crime

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Reduction Act as well as the Mental Health Services Act. The County also has a mental health court, but it operates on a post-conviction basis in which a guilty plea is required in order for the treatment program to be initiated.

Jail-based Treatment Programs

Sullivan County Sheriff's Office (New Hampshire):

County Population: 43,742

Through a FY 12 Section 113 (Family- based) grant, the Second Chance Act funds a portion of the substance abuse services and adds family interventions to the Transitional Reentry and Inmate Life Skills (TRAILS) program in Sullivan County, NH. The program is held in the Sullivan County Community Corrections Center, a minimum security treatment center for men and women. The Center is also utilized for aftercare and Day Reporting services.

Men and women are sentenced to the TRAILS in-custody and aftercare program by the Courts. The initial phase includes assessment to determine which track within the TRAILS program is appropriate, taking into consideration the criminogenic risk, needs and responsivity as determined by the LSI-R and the substance abuse needs determined by the ASI. There are two available tracks for people in the TRAILS program. Track I is appropriate for people who are higher risk and higher need and who will require aftercare services, while Track II is appropriate for people with lesser treatment needs. The program structure for both tracks is 90 days of residential treatment, 90 days of work release, 12 months of aftercare and then an intensive 30-60 day relapse prevention program at Community Corrections. In this program co-occurring classes are provided, which includes *Seeking Safety* for both the men and women. These co-occurring treatment services are offered by West Central Behavioral Health, as well as provision of post-release aftercare services and regular mental health services. This is offered at a Community Corrections Center building, which smaller than the PRRS, but operated with a similar philosophy and building design.

A family program runs concurrently to the TRAILS programming that the men and women receive while incarcerated. A State of Change assessment is used to determine family treatment needs. Case Managers complete an initial orientation for the clients and their families. Following the orientation, clinicians facilitate three treatment modules for family members. During this time, children also attend available programming and are offered services based on their needs.

Target Population

The target population is medium to high risk men and women in need of co-occurring mental health and substance abuse treatment and services, serving sentences of three months or more at the Sullivan County Community Corrections Center. The projected goal for numbers served is 90 for the first year and up to 110 for year two.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Project Organization

The Sullivan County Department of Corrections is the main grant recipient and is responsible for the day to day operations of the TRAILS program and SCA grant funds. Partners include:

- West Central Behavioral Health for the provision of clinical and case management services and interventions.
- The University of New Hampshire Cooperative Extension provides family group sessions.
- Turning Points Network is engaged to address domestic violence and other family issues pre and post release.
- Criminal Justice Coordinating Committee (CJCC) and Reentry Committee
- Alternative Solutions Associates, Inc. (ASAI) for consulting and program design services

Several successes of the program are noted by the Council of State Governments in their review of this Second Chance Act grant initiative:

1. There is a meaningful and impressive team approach and cross systems collaboration demonstrated by the comprehensive and collaborative strategies for addressing identified system gaps and targeting services to best match people to treatment options.
2. Model for programs in regards to a court mandated program that is able to do individualized treatment within the program structure in order to ensure that people are matched to the correct type and dosage of treatment based on behavioral health need and criminal justice risks, needs and responsivity.
3. Strong leadership from Superintendent Cunningham drives focus on reducing recidivism and increasing recovery through evidence- based approaches.
4. Superintendent Cunningham promotes, supports culture change and provides opportunities for staff capacity through various staff trainings. As approximately 85 percent of corrections staff are new, the philosophy and priorities of the Department are clear and reinforced through trainings such as trauma education and Thinking for a Change Thinking Reports.
5. Strong transition plans for pre and post- release goals located on a shared drive so all partners have access, including Probation, increasing coordination and collaboration among partners.
6. Effective feedback loop to assess and improve the system flow and processes through outreach to the community, data collection and review, monthly meetings with program staff, meetings with Probation and Parole, and quarterly focus groups with inmates.
7. Demonstrated commitment to evidence- based strategies and curricula, including:
 - A positive reinforcements plan, which utilizes contingency management principles
 - New Directions

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

- Thinking for a Change
- Seeking Safety
- Co-occurring treatment groups
- Family support groups, family programming and parenting skills classes
- Support services, such as employment and job readiness, wellness classes and stress management, anger management, transition and relapse prevention planning
- Motivational Interviewing
- Strengthening Families
- Abiding by the dosage principle: higher risk offenders require a higher dosage of treatment. Sullivan County inmates receive 240 hours of program time (excludes activities that do not directly address criminogenic risk factors).

Core Programs:

- Substance Abuse Education (New Directions)
- Substance Abuse Counseling
- Cognitive Curriculum (Thinking for a Change)
- Seeking Safety (women's programming)
- Anger Management (SAMHSA curriculum)
- Employment/Job Readiness
- Education
- Family Support Groups
- Parenting Skills
- Family Programming
- Wellness Classes and Stress Management
- Transition and Relapse Prevention Planning
- Co-Occurring programs

Higher risk offenders will require much higher dosage of treatment

- Rule of thumb: 100 hours for moderate risk
- 200+ hours for high risk
- 100 hours for high risk may have little effect
- Does not include work/school and other activities that are not directly addressing criminogenic risk factors
- Sullivan county inmates get 240 hours of program time

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Co-Occurring Treatment Impact:

Psych Medication – Costs per Month		
Year	Average Inmate Population	Costs of Psych Meds
12/1/09	72	\$7,981.54
12/1/10	81	\$4,551.76
12/1/11	87	\$3,778.67
12/1/12	75	\$2,894.32
WCBH collaboration began 11/2010		

Recidivism Comparison

- Sullivan County 21%
- NHDOC 47%
- Carroll County 52%
- The recidivism rate for Sullivan County is based on those completing the TRAILS program. Within this 21%, only 5 offenders were rearrested post release; the rest were probation violations for non-compliance.
- The recidivism rates for the NHDOC and Carroll County are based on the entire population

Kent County Michigan

County Population: 602,622

The Valued Community Member (VCM) program serves inmates who have the highest risk of recidivism at the Kent County Corrections Facility (KCCF). The men who are eligible for the VCM program have a co-occurring substance abuse and mental health disorder and repeatedly re-enter KCCF at rates much higher than any other group. Participants of VCM have been re-arrested an average of 9 times over the last five years, before entering the VCM program. The VCM program targets these high risk men to reduce their rate of re-arrest and incarceration. The VCM program began in December of 2010 and was funded by a Co-occurring Second Chance Act Grant through the Bureau of Justice Assistance. The grant funding ended in October of 2012. The VCM program is now funded primarily by the Kent County Sheriff's department in collaboration with Network180, Arbor Circle, Office of Community Corrections, and Hope Network.

Inmates identified as being eligible for the VCM program are screened and must agree to participate in the program. The VCM program is broken up into two phases. The first phase occurs in the jail and lasts 70 to 90 days. The treatment provided in VCM is Cognitive Behavioral Therapy and reentry planning. In jail, VCM program participants receive at least 200 hundred hours of CBT. The CBT programs provided are "Thinking for a Change" which was developed by the National Institute of Corrections and a co-occurring CBT program entitled "New Directions" developed by Hazelden. In addition to the CBT programming, participants take part in reentry planning, GED, and employment services, as well as attend 12 step self-help groups. The second phase begins once the program participants are released from jail and lasts up to one year. The participants are provided substance abuse and mental health individual and group

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

treatment, in addition to psychiatric treatment if needed. Case management services are also provided to help implement the reentry plan, working with the offenders on securing housing, job searches, communicating with their probation officer, and generally being a resource for the offenders once in the community.

The more one participates in the VCM's first stage in KCCF, the more favorable the outcomes. A participant who completes 60 or more days of the program has a re-arrest rate more than four times less than participants with less than 30 days of treatment. Longer participation in the VCM program also dramatically impacts new convictions; program completers reduce new convictions by nearly five times. Similarly, longer participation decreases the amount of technical violations, for example, parole and probation violations. Program completers reduce technical violations by seven times. VCM participants receiving mental health services authorized by Network 180 show much better outcomes than those without mental health services. Receiving mental health services correlates with declines in re-arrest rates (31%), KCCF reincarceration (75%), and reincarceration in State Prison (100%).

About half (51%) of VCM's have not had a rearrest during post-release in the last two years of the program. However, those at the highest risk, by KCCF's classification, consistently show a higher number of rearrests in spite of VCM participation.

Risk Score	Number of Arrests					
	0	1	2	3	5	6
Two	24	7	6	0	0	0
Three	23	16	8	5	2	1
Total	47	23	14	5	2	1

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Connecticut Programs:

Jail Diversion/Court Liaison Programs provide court-based services to persons with psychiatric and co-occurring (mental illness and substance abuse) disorders who are arrested on minor offenses. The primary function of the program is to facilitate access to appropriate treatment services by providing assessment, referral, and linkage to community mental health services. Diversion staffs work to maintain individuals in community treatment services, inform court personnel of treatment compliance, and facilitate access to mental health services through contacts within the Department of Correction when an individual is incarcerated. Diversion programs:

- Reduce recidivism of persons with mental illness by providing access to appropriate treatment
- Reduce incarceration of persons with mental illness charged with low-level offenses by providing alternative programs
- Enhance public safety by freeing up jail beds for violent offenders
- Provide humane and confidential care for persons with serious mental illness who are involved in the criminal justice system
- Provide judges with additional sentencing options
- Increase cost-effectiveness of the court, DOC, and DMHAS through access to appropriate services for persons with psychiatric disabilities

Gender Specific Programs:

Women entering jails are diagnosed with serious mental illness at almost twice the rate of males at intake and 72% present a co-occurring substance use disorder. Diversion programs/specialty courts and community-based services should strive to become gender-specific and trauma informed. (Hills, Holly. "The Special Needs of Women with Co-Occurring Disorders Diverted from the Criminal Justice System." Published by the National GAINS Center and the TAPA Center for Jail Diversion. SAMHSA. April 2004.) Suggested gender specific interventions include:

- Seeking Safety Manual (Najavits, 2001) – Structured intervention in a manualized format, organized around 25 trauma-related topics, integrates the treatment of PTSD and substance use disorders.
- Trauma, Recovery and Empowerment (TREM) (Harris, 1998)

Gender-specific model integrates recovery from trauma with mental illness and substance abuse treatment; Designed to be delivered in 21-30 weekly group sessions in community-based setting.

- TRIAD Women's Project: Integrated Services for Women: Treatment Manual

Developed as part of a SAMHSA Women and Violence project, this manualized intervention offers 16 sessions in four modules of four sessions each; addresses mental health, substance abuse, and trauma; emphasis on skills building; combines elements from TREM and the substance abuse recovery and co-occurring disorder literature.

Women's Jail Diversion Program (JDW) serves women at risk of incarceration in New Britain, Bristol, and New Haven courts. Comprehensive treatment and support services promote recovery among women with histories of trauma through immediate access to a trauma informed and comprehensive system of

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

care. Services include treatment for trauma, mental illness, and substance abuse as well community support services and limited transitional housing. In addition to referrals from court, JDW accepts referrals from Probation and Parole. The program achieves significant reduction in incarceration and in future arrests.

Community Recovery Engagement Support and Treatment Center (CREST)

CREST serves up to 30 individuals in New Haven who would not otherwise be diverted from or released from incarceration if not accepted into the program. The intensive day reporting program provides daily monitoring and structured skill building and recovery support services for participants. Services are provided in collaboration with clinical services at the DMHAS-operated Connecticut Mental Health Center to ensure comprehensive, individualized treatment.

Advanced Supervision and Intervention Support Team (ASIST)

ASIST is the product of a unique collaboration among the Judicial Branch Court Support Services Division (CSSD), the Department of Correction, and the Department of Mental Health and Addiction Services. The program was developed to make existing Alternative to Incarceration Centers an accessible diversionary option to persons with significant psychiatric disorders. ASIST is able to meet the unique needs of clients who require both packages of services - judicial supervision and mental health and substance abuse recovery services provided by DMHAS and CSSD treatment service providers. The ASIST clinician forms a stable case management link that coordinates the services delivered by the AIC/service provider partnership, and closely monitors the impact of these services on client functioning and quality of life. ASIST also includes a component of skills training and cognitive behavioral intervention to reduce recidivism.

The average stay for clients is six to seven months. The mental health provider offers:

- Individual counseling
- Clinical case management, with a focus on clinical oversight and multi-agency coordination
- Intake and assessment
- Crisis management
- Medication management
- Integrated Mental Health and Substance Abuse Treatment

Sierra Pretrial Center

The SIERRA Pre-Trial Center is a residential program for adults with serious psychiatric disabilities who are in jail awaiting court disposition of charges and can be safely released to the community in a structured residential program. This program is in collaboration with the Judicial Branch Court Support Services Division that is operated by a private agency with clinical services provided by the DMHAS-operated Connecticut Mental Health Center. Services offered include a comprehensive program of case management, psychiatric monitoring, medication monitoring, motivational enhancement, cognitive restructuring and training, consistent supervision and supportive services. Sierra's goal is to provide a safe transition to the community, enhance and individual's ability to live successfully in the community and minimize their risk of recidivism.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

From the private provider:

SIERRA Center is comprised of two components: a pre-trial program and a post incarceration, program with a focus on mental illness, for men involved with the criminal justice system.

Our mission is to offer clients a positive sense of direction and empower them to behave as law-abiding citizens and productive members of society. SIERRA programs are designed to address the characteristics of offenders that can be changed and are associated with the individual's criminal activities.

Located in New Haven, CT, SIERRA Center provides clients being released from incarceration or those awaiting trial employment and educational opportunities. Of the 30 beds in the post incarceration facility, eight are set aside for offenders with behavioral health issues. The pre-trial program is comprised of 16 beds for individuals with behavioral health needs. Clients in both program components are diagnosed with mental illness and a majority also has a co-occurring substance abuse diagnosis. By addressing each client's criminogenic needs, the program is able to develop a comprehensive plan for each client that is able to address their risk of re-offense.

Services provided include:

- Substance abuse and dependence
- Guidance on employment
- Educational opportunities
- Family and peer relations
- Coping skills
- Attitudes and values
- Psychiatric stability

Referrals for the Post-SIERRA program come from the State of Connecticut Department of Correction/Parole. Referrals for the Pre-SIERRA program come from the Court Support Services Division specialized mental health units within Jail Re-Interview and Probation.

Additionally, a number of evidence-based programs are designed to function both within a traditional jail-setting and a community corrections or community-based service setting, similar to what was discussed relative to the PRC. Some such programs are listed below, addressing both substance abuse and behavioral/mental health issues that are recognized as common among the many cohorts of the correctional population:

The *Hazelden Co-occurring Disorders Program (CDP)*², which draws upon the evidence-based Integrated Dual Disorder Treatment (IDDT) model, was developed by national leaders in treating and researching co-occurring disorders to target individuals suffering from both substance abuse and non-severe mental health disorders. The program includes integrated therapy provision to address multiple needs, Cognitive-Behavioral Therapy, and medication management, as well as a family program component.

² <http://www.bhevolution.org/public/index.page>

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

*Beyond Trauma: A Healing Journey for Women*³ is a theory, research, and clinical experience based curriculum for women's services. The materials are evidence-based and designed for the treatment of trauma, continuously recognizing the "connection between trauma and substance abuse in women's lives." Designed for use in a variety of treatment settings, *Beyond Trauma* can be offered both in community corrections and as an in-jail program, utilizing CBT techniques and teaching women crucial coping skills to strengthen emotional well-being while incarcerated and beyond.

*Seeking Safety*⁴ is a specialized treatment approach addressing trauma/PTSD and substance abuse through integrated treatment. The curriculum addresses cognitive, behavioral, and interpersonal needs, as well as the need for continued case management. Developed under a grant from the National Institute of Drug Abuse and developed by Dr. Lisa Najavits, this therapy model allows for flexible use with varied populations and settings (e.g. group and individual; women, men and co-ed; inpatient, outpatient and residential).

³ http://www.stephaniecovington.com/b_beyond.php

⁴ <http://www.seekingsafety.org/3-03-06/aboutSS.html>

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Mental Health Courts

Mental Health Courts have been established in many jurisdictions both pre-disposition and as a sentencing option.

Bronx Mental Health Court

Some information on the Bronx Mental Health Court in terms of eligibility and possible opportunities to widen impact on jail use in MoCo; consideration of this component on circuit, rather than district court level, based on acceptance of felony cases:

“Defendants are eligible to participate in the MHC if they meet both clinical and legal criteria. Potential participants must have mental health problems in order to participate. While clients do not need to have a “severe and persistent mental illness” designation (major Axis I disorder or substantial history of hospitalization or poor functioning), they must have mental health problems that cannot be handled adequately in other traditional or alternative justice venues. This often means that participants have DSM Axis I disorders. Unlike many other mental health courts in the country, the Bronx MHC does not exclude personality disorders if they believe the defendant can be helped through available treatment resources. Clinicians from TASC also consider risk for future violence in their decision-making.

On the other hand, the mental health court does not accept defendants who are unstable or need hospitalization. If a defendant is unstable or incompetent to stand trial, the court cannot be sure the potential participant is able to make an informed decision about participating in the program. TASC also is not confident in its ability to secure consistent hospital treatment due to lack of space and the defined treatment mandate (i.e., hospital treatment can often be indefinite, which is beyond the scope of the court). TASC also will not accept individuals if it does not believe suitable treatment can be secured.

The court accepts both felony and misdemeanor charges, excluding charges of murder, sex offenses, and arson. Unlike the Brooklyn MHC, the Bronx court does not require that the conviction offense be related to the individual’s mental illness. The court takes this stance, because they feel that it is difficult to make a confident determination on this matter. However, Bronx MHC staff takes into account whether treatment will reduce the risk of violence and crime in the future.” Source: <https://www.ncjrs.gov/pdffiles1/nij/grants/238264.pdf>

Mental Health Courts have been established in many jurisdictions both pre-disposition and as a sentencing option. Although there are many effective models we utilize Hennepin County and King County because of their promising practices there similarity in size and also counties that are working towards best practice models

Hennepin County, MN:

County Population: 1,152,425

The Hennepin County Criminal Mental Health Court is a voluntary, pre-adjudication and post sentence program that utilizes a multi-faceted approach which consists of:

- Intensive supervision by probation

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

- Referral and case management services provided by the Criminal Mental Health Court Service Office
- Frequent approaches before the Criminal Mental Health Court Judge
- Mandatory chemical health and/or mental health treatment
- Regular attendance at self-help/support groups
- Frequent random drug testing

Eligibility Criteria

The Mental Health Court Team makes final decisions regarding eligibility. An offender may not be eligible for Mental Health Court if they are deemed to be violent offender by the Mental Health court team based upon their criminal history.

- Participant must be a Hennepin County, Minnesota resident
- Participant is charged in Hennepin County with a misdemeanor or gross misdemeanor offense or a non-violent felony property offense
- The participant must be at least 18 years of age
- The participant must have a serious and persistent mental disorder, traumatic brain injury or developmental disability and/or have more presenting disorders.

Disqualification Criteria

- Defendants are disqualified from Criminal Mental Health Court if they face a mandatory or presumptive prison sentence
- Unwilling to accept recommendations for treatment
- Intimate Partner Violence, domestic charges

Referral Process

Mental Health Court does not have a specific timeline. A Defendant can expect to be reviewed for a year to 18 months or longer

- Referrals for screening must be predicated upon an existent agreement between the prosecuting and defense attorneys, the defendant, and the referring judge to go forward with the screening.
- Person offense should be referred only post-sentence
- The defense attorney explains to the defendant that this is an intensive, treatment court, not just a break on disposition because they have mental health issues. They should only enter the court if they wish to address any underlying treatable conditions.
- Upon agreement of the defense and prosecution, the case can be set for an appearance in Mental Health Court, held every Wednesday morning at 10:00 a.m. When possible, the defense attorney should call the Mental Health Court screener to set up a screening date for Mental Health Court prior to the Court date.
- The Defendant will attend Mental Health Court and be screened. If interested in participating, the Defendant will be accepted into Mental Health Court upon the Mental Health team consensus and set up with conditions, a supervising probation officer and review hearings.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Screening Process

- Person offense should be referred only post-plea, after an agreement has been made by the attorneys, the defendant, and the referring judge
 - The Probation Officer completes a 10+ page questionnaire aimed at problem identification and verification during the pre-screening evaluation
 - Interviews defendants and speaks with accompanying family members and or case managers
 - The process is designed to gauge the defendant's current and mental health history, self-awareness, insight, state of change/amenability
 - During the screening, the Screener will gather history of past, current and needed services and where those services were accessed and or can be accessed going forward.
 - The Court Screener checks the relevant information systems to determine if the defendant is receiving or has in the past received or has prior criminal record
 - The Court Screener/Social Worker advises the judge and attorneys as to whether the defendant and case meet Mental Health Court criteria and either makes a recommendation to the court as to whether or not the defendant should be accepted. If the defendant is accepted, a conditional release plan or sentencing plan is recommended by the Court Screener and must be agreed to by the defendant

Courtroom Requirements

- Treatment: Treatment plans are flexible and adjusted on a participant's individual risks, needs, and goals. The plan takes into account the participant's baseline functioning, individual capabilities, and holistic needs including physical, mental, and spiritual interests.
- Supervision: Probation supervision consists of intensive supervision, in which participants are required to contact their probation officer on a regular basis.
- Drug and Alcohol Testing: Participants may be required to participate in random drug/alcohol screening. The frequency of testing can be increased or decreased as necessary.
- Judicial Reviews: Frequency of Judicial Reviews occur based on individual needs, which take place Wednesday and Thursday morning

Graduation Requirements

Clients must complete all phases, meeting the requirements of each phase in order to move to the subsequent phase and have participated in the program for a minimum of 18 months in order to be eligible for graduation.

- Have at least 6 months of current, continuous sobriety
- Complete treatment and aftercare outlined in treatment plan
- Have demonstrated compliance with mental health treatment; which includes: medicine management, psychiatry, support ATC

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Results and Outcomes

- By 2011, 392 participants have received some form of supervision
- Approximately 130 participants have received services from a psychiatrist
- Approximately 150 participants are receiving services in medicine monitoring
- 53 participants have worked with a nurse at PRISM
- Anticipating that over 400 people will be supervised at some point during the upcoming calendar year.

King County (Seattle) Washington Mental Health Court

County Population: 1,931,246

On February 17, 1999, King County District Court instituted a specialized Mental Health Court. This project was created in order to better serve the community by addressing public safety, reducing criminalization of persons with mental illness, and promoting systems integration. The planning involved key players from across the county using a collaborative approach to create an effective working pilot program. The foundation of the court has remained the same since it began although some of the daily practices and procedures have shifted to meet the needs of the environment over time. The program's pilot status changed to that of a permanent program after two years and the court continues to operate with the support of the involved systems, clients, families, and community.

Program Objectives:

The Mental Health Court represents an effort to increase effective cooperation between two systems that have traditionally not worked closely together - the mental health treatment system and the criminal justice system. The project hopes to achieve the following outcomes for the mentally ill misdemeanant population: faster case processing time, improved access to public mental health treatment services, improved well-being, and reduced recidivism. An important outcome to be achieved from this program for the larger community is improved public safety.

How it Works:

King County's Mental Health Court offers misdemeanor defendants with mental illnesses a single point of contact with the court system. In some instances, the defendant's case may have begun as a felony charge and was negotiated to a misdemeanor plea with supervision and treatment in the MHC. The defendant will work with their dedicated team including judge, prosecutor, defender, treatment court liaison, and probation officers.

- Defendants may be referred to the Mental Health Court from a variety of different sources. In-custody defendants are often referred by jail psychiatric staff who have screened for mental health issues. Defendants may also be referred for consideration by police, attorneys, family members, or probation officers. A defendant may be referred by another District Court at any point during regular legal proceedings if the judge feels the defendant could be better served by the Mental Health Court. In addition, Mental Health Court handles all cases in which competency is an issue for the District Courts.
- The Mental Health Court reserves the right not to accept cases into its jurisdiction if a person does not meet eligibility criteria. Likewise, participation in the program is voluntary, as defendants will be asked to waive their rights to a trial on the merits of the case and enter into a diversion or plea

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

agreement with a community-based treatment emphasis. The exception, however, is that cases in which competency issues have been raised are always eligible for transfer to Mental Health Court. If a person is treated and restored following a competency proceeding they then have the right to opt-out of the court.

- The Court holds daily (Monday - Friday) first appearance hearings for defendants newly booked into jail. The Court hears status and review hearings on Tuesdays, Wednesdays, and Thursdays (in addition to those days' first appearance hearings).
- A court liaison to the treatment community is present at all hearings and is responsible for linking the defendant with appropriate services developing an initial treatment plan with the treating agency.
- Defendants participate in court ordered treatment plans and successful participation may result in dismissed charges, early case closure or reduced sentencing.
- Defendants are placed on probation and the case is assigned to a Mental Health Court Mental Health Specialist Probation Officer. These officers have mental health backgrounds and carry substantially reduced caseloads in order to be able to provide a more intensive level of supervision and expertise to this traditionally high-needs population.

Resources:

Resources for this project come from two primary sources: leveraged existing funds and staff, and additional County funds. The Prosecuting Attorney's Office, the Office of Public Defense, and the District Court have all absorbed portions of staffing costs of this program by reassigning existing staff to cover program responsibilities. Additional new funds from the County General Fund, the County Criminal Justice Fund, and the County Mental Health Fund have been allocated to this project.

King County District Court Mental Health Court Phase I Process Evaluation and Early Outcome Analyses EXECUTIVE SUMMARY

A team of researchers from the University of Washington and the Washington Institute for Mental Illness Research and Training (WIMIRT), led by Dr. Eric Trupin, conducted the first phase of program evaluation of the King County District Court Mental Health Court (MHC), a court designed to address the unique needs of mentally ill misdemeanants. This phase of the evaluation focused on program fidelity to goals, efficiency of functioning during the first year of operations, and the analysis of preliminary outcome data on defendants referred to the court. Sections on qualitative findings, quantitative findings, and integration/recommendations organize the report.

Methods

The evaluation relied on four methods of data collection:

1. Intensive structured interviews were conducted with key informants within the MHC, the County council, the State legislature, the judiciary, the office of the county executive, county agencies, and treatment providers.
2. An anonymous survey was administered to key informants from involved agencies.
3. Evaluators informally observed MHC process and role performance of key MHC staff.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

4. Archival data was collected and analyzed from the District Court, the County Department of Adult and Juvenile Detention (DAJD), and the County Mental Health, Chemical Abuse and Dependency Services Division (MHCADSD) information systems.

Qualitative Findings

Qualitative process-related findings from an anonymous survey, confidential structured interviews, and researcher observations indicate that:

1. The MHC is currently providing adjudication services to the target population of individuals charged with misdemeanor offenses and identified as suffering from a significant mental illness. Mental illness is defined broadly to include developmental disabilities and brain injuries, or general psychiatric symptoms of at least moderate severity.
2. The MHC team is coherently organized, well managed, and routinely applies specialized knowledge and expertise to the adjudication of mentally ill defendants. Consistency and teamwork of core staff and increased intensity of supervision and monitoring of clients are essential components of the MHC model.
 - Although the MHC functions as a Judge-centered team, the unique roles of the Court Monitor and Program Manager were viewed by almost all informants as critical to the success of the court.
 - Because of the recognized importance of teamwork among MHC core staff, turnover has become an issue of concern.
3. Stakeholders and agencies in operational contact with the MHC indicated high regard for the MHC leadership and staff. Expressed stakeholder and agency support for the program was high.
4. Key stakeholders and members of the MHC share a common understanding of the MHC as a problem solving court that administers justice for mentally ill defendants by pursuing value-laden objectives. Among these objectives are:
 - a. Preventing the criminalization of the mentally ill through informed legal case management;
 - b. Improving the defendant's well-being and ability to conform to the requirements of the law by engaging the defendant in needed treatment and providing linkage to other needed resources;
 - c. Managing cases to insure public safety; and
 - d. Supporting the defendant's personal autonomy through the exercise of personal responsibility and legitimate prerogatives.
5. MHC team members, like the larger stakeholder group, differed in their views about how the balance should be struck, both in principle and in specific cases, among shared objectives.
 - In a significant minority of cases, differing views of priorities contributed to an intensification of the adversarial model, as opposed to the MHC's usual teamwork approach.
 - An adversarial approach combined with the broadly defined roles of mental health core staff have contributed to inefficiencies in gathering and sharing information.
6. The MHC has enhanced communication between systems and agencies that previously worked in relative isolation and has increased awareness among key stakeholders of the needs of mentally ill misdemeanants.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

7. Linkage of defendants to mental health and other resources has been significantly increased by MHC activities.
 - Limited availability of appropriate housing and the absence of a full continuum of integrated substance abuse services for the mentally ill remain significant obstacles to improving community management of participants.
8. The MHC routinely provides specialized, intensive community supervision and responds rapidly to changes in the mental health or compliance status of participants.
9. The decision to opt for participation in MHC is strongly impacted by the advice of the defense attorney and prosecutorial recommendations, which in turn is influenced by the severity of the alleged offense, the defendant's criminal history, and the type and severity of psychiatric symptoms.
 - Defendants with insight into their psychological symptoms or who are already engaged in mental health services are more likely to opt into MHC than individuals with less insight or paranoid symptoms.
10. MHC is more likely to grant deferred sentences and deferred prosecutions than other courtrooms.
 - Deferred or suspended sentences are more likely if clients are making proactive efforts in treatment and/or if criminal history appears related to mental illness.

Quantitative Findings

Quantitative analysis was conducted on available archival data for the first 246 defendants seen in the MHC. These data were provided by the MHC and from the information systems of the District Court, DAJD, and MHCADSD. When possible, defendant mental health and detention histories were compared before and after contact with the MHC. These analyses indicate that:

- The MHC population is fairly representative of the detention population in terms of gender and ethnicity. The average age of participants was 37 years, with a range of 18 to 81 years of age.
- 41% of referred defendants opted to participate in the MHC (Opt-Ins) versus 31% who declined participation (Opt-Outs).
- 85% of those referred were diagnosed with severe mental disorders such as psychotic disorders, bi-polar disorder, major depression, and organic brain dysfunction, suggesting that the program was successful in targeting mentally ill defendants.
- When compared to Opt-Out defendants, Opt-In defendants were almost three times more likely to have a new treatment authorization request made on their behalf during the study period, indicating that the MHC was successful in linking offenders to treatment services.
- Opt-In defendants received significantly more hours of treatment after contact with the MHC, when compared to both their previous treatment histories and to Opt-Out defendants, indicating that the MHC was successful in engaging patients in treatment and establishing a greater measure of compliance to treatment regimens.
- Clinician ratings indicated that only defendants opting into MHC experienced significant improvements in adaptive functioning following MHC contact.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Quantitative analysis of detention data for 77 participants over the one-year period prior to the formation of the MHC through its first year of operation led to the following key findings:

- Several quantitative analyses indicated that defendant involvement with the MHC resulted in increasing the amount of treatment received and decreasing problems with the criminal justice system. This impact was greatest for Opt-In defendants.
- For both Opt-Out and Opt-In defendants, lower motivation to deal with alcohol and substance use problems was associated with an increase in new bookings.
- For both Opt-Out and Opt-In defendants, as the number of treatment episodes increased, time in detention decreased. This relationship was strengthened after defendants had contact with the MHC.
- After contact with the MHC, Opt-In defendants on average spent fewer days in detention than Opt-Out defendants.
- The rate of new bookings after contact with the MHC decreased significantly for Opt-In participants, but did not for those who chose not to participate.

Recommendations

The following recommendations are offered in the context of findings that are highly supportive of the MHC and which indicate a successful first year of operation. Several of these recommendations involve program enhancements or program expansion. Their implementation may require additional resources. Other recommendations are aimed at preserving program integrity and are achievable within currently available resources.

1. In response to this report, the MHC should review its mission with the goal of establishing a working consensus concerning priorities among its objectives.
2. Role clarification and refinement should be supported through the submission of written work content and process descriptions to the Judge and Program Manager for review, revision, and discussion in team meetings.
3. Team meetings should remain a high priority, and some portion of each meeting should be documented in minutes that can serve as the basis for ongoing review of the team's process.
4. Standardized assessment instruments should be adopted for use in clinical monitoring.
5. A formal process for assessing risk for future dangerousness should be adopted. This process should rely on validated risk assessment instruments administered by appropriately trained staff.
6. Stronger judicial oversight of the provision of treatment should be established by setting the expectation that detailed treatment plans will be reviewed by MHC. The type and methods of treatment referred to in the plans should be available to the MHC in sufficient detail to determine the appropriateness of the treatment to mentally ill defendants.
7. Protective payee arrangements and the establishment of a flexible fund for minor expenses should be considered as ways to increase contingent incentives for participant success.
8. If resources are made available to manage the additional caseload, the MHC should be empowered to accept cases from additional municipal courts and to adjudicate some less serious felonies.
9. The need for additional staff time for each role in the MHC, and for administrative support, should be reviewed.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

10. Guidelines should be established to specify the conditions under which diversion of cases from the criminal justice system should be considered.
11. For some refractory cases, outpatient commitment proceedings may be an appropriate outcome of repeated decompensation and reoffending. A review of the use and appropriateness of the current statute for this purpose and the treatment system's ability to support this process should be conducted by a body that is independent of the MHC, such as a Task Force.
12. A Community Advisory Committee should be established that would include a wide range of knowledgeable and concerned citizens.
13. A review of possible early course "model drift" is in order, given the completion of this preliminary study, turnover in the MHC, the loss of the program's novelty, and potential challenges to its resources.

A database of Adult Mental Health Treatment Courts is maintained by the GAINS Center.

The MacArthur Mental Health Court Study is a prospective, longitudinal, quasi-experimental four-site study that compares behavioral health and public safety outcomes for mental health court (MHC=447) participants with a "treatment as usual" (TAU=600) jail sample. It is the first study to include multiple sites and both an experimental (MHC) and comparison (TAU) sample. Subjects in both samples have serious mental illness, but the TAU sample did not enter the MHC. The 4 study sites are San Francisco County, CA, Santa Clara County, CA, Hennepin County, MN, and Marion County, IN., and represent a wide range of types of mental health courts in operation today in the U.S. Subjects were interviewed at baseline/study enrollment and again at six months (70%). Subjects provided informed consent allowing access to their mental health and criminal justice records. The study was approved by a number of federally sanctioned IRBs. This study on mental health courts provides extensive, rigorous, empirical data on the clients who participate in MHCs, the outcomes of the MHC programs, and the costs of MHCs.

Arrests and Jail Days. Findings strongly endorse the conclusion that MHCs lower post-enrollment recidivism, even after court supervision has ended. Consequently, MHC clients have significantly fewer post-enrollment jail days than do the comparison group. Participants charged with more serious crimes such as those involving a victim are less likely to be rearrested than those charged with less serious crimes such as drug offenses.

Community Treatment. One year after enrollment in MHC, participants have more intensive and therapeutic treatment episodes and access community treatment more quickly than do the comparison group. This strongly supports one of the major goals of MHCs. We find no relationship between the type of treatment intervention received (or not) and whether the MHC enrollees are arrested or in jail following MHC enrollment.

Incentives and Sanctions. Upon examining the use of incentives and sanctions in the four study MHCs, we find jail sanctions are used in three of four MHCs, and other sanctions are similarly employed across the four MHCs. Participants charged with "person crimes" are the least likely to receive any sanctions, including jail, whereas those charged with drug offenses are most often sanctioned.

factors for success in linking the criminal justice system and community treatment systems (Steadman, Morris, & Dennis 1995):

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

1. Interagency collaboration: Services should be integrated at the community level, including involvement of social services, housing, mental health, health, local corrections, criminal justice, workforce development, Medicaid, and substance abuse agencies.
2. Active involvement: Stakeholders must hold regular meetings for service coordination and information sharing and establish formal agreements, such as written Memoranda of Understanding.
3. Boundary Spanner: programs require staff that bridge the mental health, criminal justice, and substance abuse systems and manage cross-system staff interactions.
4. Leadership: You need a strong leader to network and coordinate activities.
5. Early identification: People should be screened at the earliest point possible (ideally, in the first 24-48 hours of detention) for mental health treatment needs and to determine whether they meet the criteria for diversion.
6. A specialized case management program: An effective case management program is one of the most important components of successful diversion. Case managers should have adequate knowledge and experience with mental health and criminal justice systems.

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Intercept 5: Post Release

Housing Support

A 2009 study conducted by the Washington State Institute for Public Policy examined the impact of housing supports for persons with mental illness. An underlying theme of these housing support programs was the concurrent provision of other support services such as health care, mental health treatment, and substance abuse treatment. On average the provision of housing supports for persons with mental illness significantly reduced homelessness by 34%, there was a significant reduction in the use of hospital services, and there was a reduction in crime by 5% in this population.

A 2009 report “*The Dangerous Mentally Ill Offender Program: Four-Year Felony Recidivism and Cost Effectiveness*” completed by the Washington State Institute for Public Policy found that the reduction in felonies associated with the program is valued by taxpayers and crime victims, at approximately \$21,597 per participant after program costs. The program returns a benefit of about \$1.64 for every public dollar spent.

Designation as a Dangerous Mentally Ill Offender (DMIO) occurs six months prior to release from prison, when they are assigned a treatment provider by the Department of Social and Health Services to receive special treatment and transition planning. For up to 5 years after release they are eligible for services including mental health and substance abuse treatment, housing and medical assistance, training, and other supportive services. Recidivism was defined as reconviction for any offense. Those in the DMIO program were 42% less likely to be reconvicted of a new felony than similar offenders in the comparison group, and 36% less likely to be reconvicted of a new violent felony.

Statewide Efforts for a Continuum of Care

TEXAS:

In an effort to be proactive, Texas put together a formal structure of criminal justice, health and human services, and other organizations to strategize, communicate, and influence policy and legislation regarding offenders with mental illness and other special needs. Included on the advisory committee were 10 gubernatorial appointees and 21 state agencies or associations.

Exchange of information for continuity of care was implemented among state and local government agencies, health departments, and hospitals. The oversight agency is the Texas Correctional Office on Offenders with Medical or Mental Impairments.

Community Based Interventions

Service Coordination/Case Management for Adults

- Adult service programs are designed to demonstrate a multi-service approach, along with appropriate and cost effective alternatives to incarceration for offenders with special needs.
- 32 statewide MHMR programs provide:
 - Case management
 - Rehabilitation/Psychological services
 - Psychiatric services
 - Medication and monitoring

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

- Individual/Group therapy and skills training
- Benefit eligibility services including Federal Entitlement Application Processing
- Screening and linkage to appropriate medical services, including hospice
- Jail screening
- Court intervention
- Pre-release referral process for jails and families

Continuity of Care (COC)

- Adult COC programs are designed to conduct pre-release screenings and referrals for aftercare medical or psychiatric treatment services for adult offenders with special needs referred from TDCJ CID and other referral sources.
- MHMR COC services include but are not limited to the following:
 - Service coordination for aftercare services
 - Joint treatment planning with criminal justice agencies, social services, health & human service agencies and other appropriate disciplines
 - Benefits eligibility services and applications

Jail Diversion

- The jail diversion programs are designed specifically to demonstrate a multi-service approach for more appropriate alternatives to incarceration for offenders with mental impairments.
- The jail diversion programs include the following services:
 - Specialized mental health deputies
 - Designated mental health staff assigned to screen offenders for mental health issues
 - Resource information services for attorneys or court personnel
 - Advocacy for the offender with attorneys, court personnel and/or bond release programs
 - Referrals for further medical evaluation or commitment

Wrap Around Services for Juvenile Probationers

- Juvenile service programs are designed as a family-based, multi-service approach to meet the mental health needs of juvenile offenders
- Services are targeted for youth in the Texas juvenile justice system, ages 10-18, who have been assessed with severe emotional disturbances
- 19 statewide MHMR programs provide wrap-around case management philosophy and flexible programming
- Service components include:
 - Assessments for service referral
 - Service coordination and planning
 - Medication and monitoring
 - Individual and/or group therapy and skills training
 - In-home services such as Multi-Systemic Therapy or Functional Family Therapy
 - Family focused support services
 - Benefit eligibility services
 - Transitional services

APPENDIX D. RESEARCH ON MENTAL HEALTH PRACTICES

Wrap Around Services for TYC Youths on Parole

- Juvenile services are provided to TYC juveniles including a Continuity of Care system
- Services are targeted for youth released on parole who have a serious mental illness that requires post release treatment
- MHMR services provide:
 - Individualized assessments
 - Service coordination
 - Medication monitoring
 - Advocacy services
 - Transitional services to other treatment programs
 - Benefit eligibility

The 2013 Report to the Legislature includes an evaluation of the case management programs. Based upon a 3 year evaluation, the recidivism rate was 13.1% for those revoked to the Texas Department of Criminal Justice-Correctional Institutions. This is compared to 22.6% of prison offenders released to supervision, 23.3% of prison offenders discharged, and 31.1% of state jail offenders discharged. If the offender was enrolled in the case management program for twelve or more months, the recidivism rate was 9.7%.

Post-Release in Hampden County and Sullivan County:

Hampden County has a post-release transitional component for those who are leaving jail. This is a coordinated effort with community providers, including local mental health providers and the local health center. The Sullivan County New Hampshire project also has coordinated plans with local providers including weekly meetings with them.

APPENDIX E. DAY REPORTING WORKSHOPS PARTICIPANTS LIST

Day Reporting Center Workshop #1 (April, 05, 2013)

NAME	AGENCY	E-MAIL CONTACT
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ROBERT GARRIN	DOCR	-
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Lisa		

APPENDIX E. DAY REPORTING WORKSHOP PARTICIPANTS LIST

Day Reporting Center Workshop #2 (July, 15, 2013)

Day Reporting Sign-in 7/15/13

- 1 Cheryl Thompson - DOCR
- 2 HARDY BENNETT -HHS
- 3 Athena Morrow -HHS
- 4 Angela Talley -DOCR
- 5 Michael Subin - OCE
- 6 Lisa Handel-Trupp - Andrews office
- 7 Claire GUNSTER-KIRBY DOCR
- 8 Jay Scopin DOCR (PTIS)
- 9 Sissy Malagani (DOCR)
- 10 Nan Regan (DOCR - PTIS)
- 11 Bruce Meier (OMB)
- 12 Bill Jollod (MD C.S)
- 13 Stefan Laska to (MC DOCR)
- 14 art Wallenstein DOCR

Teleconference: Managan
Kevin Warwick

APPENDIX F. RESEARCH ON DAY REPORTING PRACTICES

Bibliography

Douglas County Internal Audit Division. **Audit of Douglas County Department of Corrections Community Programs Agency. House Arrest, Work Release, and Day Reporting** FY2007/2008 Audit # 03

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Warwick, K. (2002). **Intermediate sanction options help alleviate jail overcrowding.** *American Jails* (November/December, 2002).

Additional information on certain researched Day Reporting Centers and practices in other jurisdictions can be found in Appendix E: Research on Mental Health Practices.

APPENDIX G. DATA MEETINGS PARTICIPANTS LIST

Data Meeting #1 (January, 24, 2013)

<u>NAME</u>	<u>AGENCY</u>	<u>Email / Phone</u> 301 943 0873
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Brenda Sims	DCR 240-777-9984	Brenda.Sims@Montgomery..

APPENDIX G. DATA MEETINGS PARTICIPANTS LIST

Data Meeting #2 (June, 17, 2013)

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