**CHAPTER 7: JAILS: DETENTION AND SHORT-TERM INCARCERATION**

## LECTURE OUTLINE:

# The Contemporary Jail: Entrance to the System.

# Origins and Evolution.

# U.S. jails are direct descendants of feudal 12th century England.

# Today’s word “sheriff” derives from English word *shire reeve*. The *shire reeve* operated the gaol (jail), held people for trial, and later operated workhouses for vagrants.

# Frequently jails were in the sheriff’s home, and sheriffs were paid fees to house the prisoner.

# In the 1800s, the jail began to change in response to the penitentiary movement, becoming facilities for not only holding offenders for trial, but for those serving short terms, vagrants, and the mentally ill.

### The juvenile reformatory movement and hospitals for the criminally insane siphoned off some offenders.

### Development of probation removed some offenders, as did adult reformatories and state farms.

### Inmates were segregated by gender.

## Population Characteristics.

## Bureau of Justice Statistics’ Bureau of the Census conducted the first complete nationwide census of jails in 1978; it has been conducted every five years since. (Note: excludes inmates in federal and state facilities).

## An annual survey of the top one-third largest jails, which hold about 75% of jail inmates nationwide, supplements these five-year counts.

## Compared to the demographic characteristics of the general population, jail inmates are younger, disproportionally African American, and most are unmarried. The most recent census showed jail inmates as:

* + - 1. 86% male.
      2. 2/3 under age 35.
      3. Just over 2/5 are white.
      4. Most have little education and a very low income.
    1. One of the most troubling tends in jails in the increased rate of incarceration for African Americans.
       1. From 1990 to 2008, the rate of incarceration for African Americans more than doubled.
       2. It is 831 per 100,000 Americans, compared to the rate of 167 per 100,000 for White Americans.
  1. Administration.
     1. Of the 2,876 U.S. jails, 80 percent have a county-level jurisdiction. Most are administered by an elected sheriff.
     2. There are additional 600 or so municipal jails.
     3. Six states—Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont—have jails administered through their state government.
     4. There are about 13,500 police lockups (drunk tanks) and similar facilities authorized to detain people for 48 hours.
     5. The Federal Bureau of Prisons operates 11 jails for detainees.
     6. There are 47 privately operated jails, under contract to state or local governments, housing about 2.4 percent of the total jail population.
  2. Capacities of Jails Vary.

#### One-third of all inmates are jailed in the 50 largest jurisdictions.

#### The two largest jurisdictions with the largest jail inmate populations are Los Angeles County and New York City. (Together, the areas’ multiple jails hold about 33,000 inmates).

#### Most jails are small, holding fewer than 50 people.

#### The number of small jails is dwindling as new regional, multicounty jails combine resources.

* + 1. Some jails hold inmates sentenced to prison but who cannot go there because of overcrowding. In the South, 1 of every 10 state prisoners is being held in a local jail.
  1. Many argue that jails have outgrown police administration, as they are no longer just a place to hold pretrial detainees.
     1. Jails are one of the primary correctional mechanisms in the U.S.
     2. Much correctional focus is directed toward jail inmates.
     3. The effective administration of jails requires skills in offender management and rehabilitation that are not generally included in law enforcement training.
  2. Many jails still receive funds through a fee system, whereby the costs of housing, food, and services are averaged, giving sheriffs a standard amount.
     1. Some facilities skimp on food, services, and support in order to divert the funds to its more visible law enforcement functions.

#### The Influence of Local Politics.

#### Close links between jail administration and local politics; fiscal pressures, and political conservatism have a powerful effect on jails.

#### Regional jails are multi-jurisdictional and fiscally-sound facilities, yet they have been slow to catch on because local political and correctional leaders, reformers, and citizens are negatively affected by them.

#### Pretrial Detention

### Pretrial detention starts after arrest. For some, it is sheer terror.

## Special Problems of Detainees.

### Mental Health

### The number of mentally ill inmates is increasing: however, police have few alternatives for them.

### Unstable people often respond to the stress of jail with emotional outbursts and irrational behavior.

### Almost 2/3 of jail inmates have a history of mental problems; 1/5 had a very recent history of mental disorder.

### Many jails do not offer psychological care.

### Three-fourths of all jails have no rehabilitative staff. Those facilities that do often lack training to deal with severe cases, particularly those involving self-injury.

### Substance Dependency

### About half of jail admissions nationally were under influence of alcohol or drugs at the time of arrest.

### Over 2/3 have a history of substance abuse.

### The most dramatic problem posed by substance abuse is withdrawal.

### Substance abuse treatment generally is lacking; only 16 percent of inmates receive it while there.

### Medical needs

### Needs range from minor scrapes and bruises to major injuries sustained during the crime and its aftermath; routine health deficiencies of lower-class citizens; infections; poor nutrition; lack of dental care and AIDS.

* + 1. Almost half of the nation’s jails do not screen routinely for infectious diseases, like TB.
    2. Most inmates lack medical insurance. About 60% of American jails require inmates to pay for at least some of their medical care (2/3 of these require them to pay the whole shot).
    3. Forty percent of jails provide health care on-site.
    4. The most pressing medical issue today relates to the offender with AIDS.

### Legal Needs

### Suspects need information about what will happen prior to their trial, help in securing release through bail or diversion, must have help in preparing their case, negotiating with prosecutor or directing defense attorney; people locked up are at a disadvantage in preparing their defense.

### Pretrial Detainees’ Rights

### Unlike prisoners, detainees have not been convicted; technically they’re innocent.

### Detention exerts pressure on defendants to waive their rights and plead guilty, and so undermines their defense.

### Pretrial detention poses hardships.

### More than one-half of jail occupants are awaiting trial.

### The average time between arrest and sentencing is more than six months.

# The Bail Problem and Alternatives

## The court is primarily concerned that the defendant appears at the appointed time to face charges.

### Judges require the person to post bail to be released and the posted bail to be forfeited if the accused fails to appear.

#### Two general ways to make bail: pay cash or solicit services of a bail bondsman. In the latter, 10 percent is paid to bondsman for a fee, and he/she pays the balance.

### Problems with this system:

#### Most defendants are indigent and cannot afford even 10 percent of their bail.

#### Money is a weak incentive for appearance in many cases.

#### Morally, keeping someone in jail just because they cannot afford to get out seems contrary to our core beliefs.

### To avoid the problems of bail, some jurisdictions have increased the use of citations and summonses. Experiments with this approach indicate that it effectively reduces demands for short-term detention space.

## Release on Recognizance.

## The most successful programs have been those that allow defendants to be released solely upon their promise that they will appear at trial: release on recognizance (ROR).

## Generally, these individuals have higher appearance rates than bailed offenders. However, the rates of release vary due to requirement of a “connection” to the community such as family and job.

## Use of ROR:

## Whites are more likely to get ROR.

## Women are more likely to get ROR.

## Varies by region—African Americans are least likely to be released in the South and West.

## Some jurisdictions have tried to augment ROR programs with some supervision.

## Probation type supervision.

## Day reporting centers.

## Electronic monitoring.

## Pretrial Diversion: An alternative to adjudication based on the belief that formal processing of people is not always beneficial because:

#### Many crimes are caused by special problems.

#### Stigma of formal criminal labeling works against rehabilitation.

#### However, diversion is a politically sensitive topic, as it looks like someone is “getting off easy.”

#### It might produce “net widening” effects.

#### Conduct during pretrial release.

### People who are awaiting trial would seem to have a special incentive to behave well.

### Most defendants (78%) on some form of pretrial release show up for every court hearing.

### More than 1/5 do not show up for court hearings.

### These are called absconders, and unless there is some good reason they missed the court date, a warrant is sent out for their arrest.

### Almost one-fifth (18 percent) of all people released while awaiting trial are rearrested before their trial date arrives, two-thirds for a felony.

### A high rate of arrests for this population leads to questions about the effectiveness of the pretrial system.

## Preventive Detention.

### Defendants regarded as dangerous or likely to recommit while awaiting trial are kept in jail for society’s protection.

### In reality, about one-fifth of people on release commit another crime.

### The U.S. Supreme Court approved this preventive detention practices in *Schall v. Martin* (1984) and *United States v. Salerno* (1987).

# The Sentenced Jail Inmate

## The sentenced jail inmate presents special difficulties for the correctional administrator.

### Short duration of the term (usually 30–90 days) means treatment is difficult.

### Limitations of the jail’s facilities.

### Very little for inmates to do in the way of meaningful work or recreation.

## Most misdemeanants have not graduated from high school, and many are illiterate.

## The jail facility places limits on program opportunities.

# Issues in Jail Management

## Legal Liability: Jail employees may be legally liable for their actions.

## 1983 Actions—Federal Civil Rights Act.

## The threat of litigation has forced jails to develop basic humane practices for managing offenders.

## Jail Standards: A good way to deflect litigation is to develop standards for jail operation that indicate the routine practices and procedures. Some argue standards should be binding while others argue jails are too different for such inflexible standards to work. Standards:

## Provide a means for management to evaluate performance of staff.

## Facilitate the planning and evaluation of jail programs by giving program.

## Indicate proactive management.

## Personnel Matters—Local corrections workers are among the most poorly trained, least educated, and worst paid employees in the criminal justice system.

### Jails are typically understaffed.

### Personnel turnover is very high.

## Jail Crowding: The number of people confined in jails nearly reached crisis proportions in the early 1990s.

### One reason is the state facilities are refusing to accept sentenced felons due to overcrowding in their institutions.

### Crowding produces management problems.

### Possible solutions.

#### Increase the number of release options.

#### Speed up trials.

#### Work release programs to free up at least some of the day.

## The Jail Facility.

## Almost 30 percent of all jail cells are 50 years old or more despite an unprecedented construction boom to replace old facilities.

## Many facilities lack basic items like radios and TVs.

## Many lack sufficient programming for inmates to participate in. Idle time can be dangerous.

## The new-generation jail is both a design and a set of programs that attempt to use the physical plant to improve the staff’s ability to manage the inmate population and provide purpose through popular design, interaction space, and personal space.

## Podular unit (derived from pod and modular).

## A living area for a group of inmates that defines a post or watch.

## Serves as a self-contained mini-jail.

## Cell doors open into the common living area where they can congregate.

## Greater opportunity to interact with each other.

## Direct supervision approach.

## Officers are in the same room with inmates, not separated by bars.

## Inmates given personal space and can stay in their cells to pursue their interests.

## New structure offers advantages over the old form.

## Economically flexible—a whole pod can be shut down when population is low.

## Minimum standards for recreation time can be met.

## Supervising staff is less demanding because they have autonomy to manage the pod.

## Cheaper to construct.

## Results in less violence and fewer inmate infractions.

## Greatest advantages are programmatic.

## Officers being closer can determine better when feelings and behavior need a response. Provides greater opportunity for therapeutic justice, a philosophy that focuses more on rehabilitation than punitiveness.

##### Reduces inmate–staff conflict.

##### Research shows this “employee development model” for staff and inmates produces better control than DiIulio’s control model.

* + 1. Problems with new generation jails.
       1. It is hard to sell the concept to punitive public, as it may seem like coddling offenders.
       2. Legal standards, such as requirements related to cell space, recreation space, visitation areas, etc. may impede construction processes, particularly when they occur between planning and construction completion.
       3. Number of cells in new facilities is controversial, particularly as planners often argue that cells need to be more spacious.
  1. Community Model for Jails
     1. Based on social learning theory, the community model for jails begins with the recognition that jails need a new culture for inmates and staff that more closely mirrors outside community life. Typical jail culture—based on power, conflict, and control—cannot teach the attitudes and skills a person needs to make it in the community. Jails instead need to teach interpersonal responsibility and respect.

# The Future of the Jail

## Few government functions in the United States are under assault from as many camps as jails.

## The jail’s importance to the criminal justice system has seldom been greater than it is today.

## Jail is an expensive item in county and municipal budgets.

### Many jurisdictions have renovated or replaced jail facilities since the 1970s.

### Many jurisdictions are joining with others to build and maintain a single jail to serve the needs of each.

## LECTURE NOTES:

Although many people tend to use the words prison and jail interchangeably, it is important to understand the distinctions between the two. For this reason, Chapter 7 focuses exclusively on jails. Jail settings are unique. Jails house a very distinct and complicated population. Jails face distinct financial concerns, have their own history, and confront a host of exceedingly challenging problems. The authors emphasize that according to many in the field, jails are the area of corrections most in need of reform.

When people think of incarceration, they tend to visualize prisons. But many people who are involved in the criminal justice system will not go to prison. However, many who are involved in the system will experience the jail. Jails are the entryway to corrections. Review the history of jails mapped out early in the chapter. Then, review the diverse population found in today’s jails and how jails operate at a different governmental level than prisons. The chapter underscores the great challenge in providing services and running programs in jails.

Unlike prisons, jails house people who have not yet been convicted—pretrial detainees. Because of this status of not being convicted as of yet, housing these individuals produces discrete issues. This chapter introduces the concept and practice of bail and bail alternatives as well as various means by which someone can be released from jail.

The chapter further emphasizes a variety of problems associated with managing a jail allowing a contrast of how these problems are different in a prison setting. Review jail architecture learning the modern architectural features of newer jails, including regional facilities and direct supervision jails.

Finally, the authors emphasize that today, we are at a critical point in the history of jails. In concluding your thoughts regarding the critical point in the future of jails think in terms of comparing the differences between jails and prisons and the specific needs and/or goals of each.