

To: Stephen Amos, Chief, NIC Jails Division

From: Rod Miller CRS [rod@correction.org](mailto:rod@correction.org) (717) 515-8490 cell [www.correction.org](http://www.correction.org)

**Re: Memo for Special Commission in Advance of March 6 Meeting**

Cc: Michael Jackson, Glen Watson

February 27, 2020

As requested, I have drafted the following memo that:

1. Examines “Elements of Consulting Assignment to Support Work of Funding Commission” primarily from the perspective of jail staffing.
2. Identifies concerns about the use of staff-to-inmate and other ratios that are suggested in the document.
3. Identifies supplementary and/or alternative strategies

#### **I. Draft Elements of Consulting Agreement**

I have several concerns about the methodology outlined in the Commission document in terms of:

- Feasibility in light of the availability of reliable information and data
- Validity of findings that would be generated by this process
- Sustainability as an ongoing tool for the Commission

Much of the information and data needed to implement the support work is not readily available.

Data Describing the Inmate Population. Staffing practices respond to the challenges presented by the inmate population—number of inmates, gender, risk level, special needs and other characteristics. The only data available is collected by the Bureau of Justice Assistance (BJS), U.S. Department, in their Jail Census. BJS has attempted to implement the census every 10 years, but the most recent census was conducted in 2006. That census collected a wide range of information from every jail in the United States, but the reliability of responses from the field varies widely because they were self-reported.

Information about Current Facility Operations. Massachusetts has no comprehensive standards that address jail *operations* and outcomes. There are standards that address the condition of the jail physical plant in terms of safety and health concerns. Annual reports are available on-line. But these reports do not provide any insights into the nature of the inmate population, operating practices, and staffing. Sufficient and effective staffing responds to operational practices, facility design, and other considerations that are not currently assessed and reported.

Information about Outcomes. There is no source of information that describes how each jail is *working*, in terms of outcomes such as injuries, deaths, assaults on staff or inmates, escapes, program completion (e.g. grade levels attained in GED program) and other indicators of the *effectiveness* of jail operations.

The national performance-based standards developed by the American Correctional Association (ACA) identify many “outcome measures” that must be calculated to evaluate jail operations. Even if the baseline information about jail facilities and operations were available, there is no way to determine the quality and effectiveness of operations. *Attachment 1 describes Core Jail Standards Outcome Measures.* These outcome measures could serve as some of the “benchmarks” described in 4d of the “element” document.

Comprehensive Standards. Massachusetts does not promulgate comprehensive standards to guide jail operations. The National Core Jail Standards were developed by ACA with assistance from the National Institute of Corrections (NIC), the American Jail Association (AJA), and the National Sheriffs’ Association (NSA). The Core Standards were developed to serve as minimum jail standards in states that did not promulgate their own standards. In practice the Core Standards have also been used by many states to update and refine their existing standards. *The Core Jail Standards are available without cost at: <http://correction.org/core-jail-standards/>*

Projecting Future Practices and Needs. Seven of the 10 elements call for “projections for 2021 and 2022” (Elements 5, 9, and 10 do not call for projections.) It will be difficult, if not impossible, to find or generate credible projections in Massachusetts at this time.

Defining “Security Levels.” Elements 1, 5, and 9 require information and data about inmate security levels. There is no definition or process currently used by all Massachusetts jails to determine security levels. Similarly, inmate classification practices vary from jail to jail.

Definition of “Capacity.” Element 9c would compare inmate population levels to facility capacity by security level and special management category. There is no nationally-recognized definition for jail capacity. In states with jail standards the definitions vary widely. Further, the most important measure of capacity is the “functional” or “operational” capacity that defines the number of inmates who may be housed in compliance with classification and separation considerations. Recent articles on operating capacity identified the factors that should be considered when determining operational capacity (see Figure 1).<sup>1</sup>

All of the considerations in Figure 1 impact jail staffing needs and should be part of any jail staffing analysis process.

## **II. Using Staffing Ratios for Jails**

NIC first cautioned against the use of staffing ratios in the 1988 with in the first edition of its jail staffing analysis text. The Second Edition continued the warning. Attachment 2 presents “The Myth of Staff-to-Inmate Ratios” from the Second Edition. It lists many considerations and factors that staff-to-inmate ratios to not take into account. There are many definitions and methods currently used (or more appropriately misused) to calculate these ratios.

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<sup>1</sup> Demory, Randy and Rod Miller. *Determining Safe Operating Capacity.* American Jails, January/February 2017. American Jail Association, Hagerstown, Maryland.

Figure 1: Factors to Consider When Establishing Jail Facility Operational Capacity

Facility Factors	Operations Factors
<p><b>Inmate housing</b></p> <ul style="list-style-type: none"> <li>• Number of <i>housing units</i></li> <li>• Variety of <i>unit capacities</i></li> <li>• <i>Types of beds</i> <ul style="list-style-type: none"> <li>— Cells or dorms</li> <li>— Cell occupancy (single, double, three or more)</li> </ul> </li> <li>• Correlation between inmate <i>security classification</i> and the security levels of housing</li> <li>• <i>Special housing</i> areas such as medical, restrictive housing, protective custody, etc.</li> </ul> <p><b>Condition</b>—Beds or areas of the facility that are not available</p> <p><b>Short-Term Holding</b> capabilities up to 72 hours</p> <p><b>Design</b>—Arrangement of housing areas to accommodate male or female inmate</p>	<p><b>Staffing</b>—Sufficient for effective supervision at all times, in all areas of the facility</p> <p><b>Capacity of Services</b></p> <ul style="list-style-type: none"> <li>• Food</li> <li>• Medical/mental health</li> <li>• Laundry, sanitation</li> </ul> <p><b>Program Capacity</b></p> <ul style="list-style-type: none"> <li>• Court-ordered</li> <li>• Treatment plan/classification</li> </ul> <p><b>Keep Separates</b></p>

The most recent BJS report from the National Jail Census represents an appropriate use of jail staffing ratios as a tool to compare current practices by state:

“The number of inmates per jail employee rose between 1999 and 2006.

- The jail inmate-to-staff ratio in the U.S. increased from 2.9 to 1 in 1999 to 3.3 to 1 in 2006 (table 13).
- The largest increases in the number of confined jail inmates per employee occurred in the District of Columbia (up 2.0 inmates per employee), Indiana (up 1.4), and Colorado, West Virginia, and the federal jurisdiction (up 1.0 each).
- Massachusetts and Utah (down 0.4 each) and Washington (down 0.3) had the largest declines in inmate-to-staff ratios between 1999 and 2006.
- Louisiana had the highest inmate-to-staff ratio in 2006 (4.7 inmates per employee), followed by California (4.6) and the federal jurisdiction (4.6).
- Alaska (0.5), Maine (1.4), New York (1.5), and Massachusetts and Nebraska (1.9 each) had the lowest inmate-to-staff ratios in 2006.”

This use of ratios is usually benign, *reporting* observable facts and identifying trends. This use does not speak to staffing sufficiency or effectiveness.

Using staff-to-inmate ratios to *determine* jail staffing practices is not a valid methodology. Similarly, using ratios to *evaluate* the sufficiency or effectiveness does not produce valid results.

Only two states (Texas and Wisconsin) still uses some form of staff-to-inmate ratio in its their standards. 20 years ago more than half the states with jail standards used ratios to prescribe staffing levels. Over time the field has turned away from this approach because it oversimplifies staffing needs, and in many instances produces inadequate staffing levels.

While the medical profession sometimes uses staff-to-patient ratios, the National Commission on Correctional Health Care (NCCHC) standards require that “a sufficient number of health staff of varying types provide inmates with adequate and timely evaluation and treatment, consistent with contemporary standards of care.” NCCHC has concluded that “it is not possible to specify exact ratio.”<sup>2</sup>

The bottom line is that there are many examples of the failure of staff-to-inmate ratios when used to prescribe jail staffing levels or to measure the adequacy of staffing practices.

Staff-to-inmate ratios are a deceptively easy means of determining staffing levels. The *validity* of this approach is very low and sometimes inadvertently increases the risk of jail operations. The results are sometimes fatal for inmates, staff, and others in our jails.

### III. Alternative Approaches and Methods

Some of the methods described in the current “elements’ document may prove feasible and valid to examine finances and some other considerations. But there is no easy method to generate valid estimates of jail staffing needs.

The Commission should look for a *process* to meet its needs.

There are simply too many variables that impact staffing practices. The NIC Jail Staffing Analysis methodology and tools consider and analyzes all of the factors that influence staffing needs. The NIC process:

- Requires the collection and review of a wide range of information and data.
- Demands consideration of the full range of factors that impact staffing.
- Directly involves a cross-section of jail stakeholders in the process.
- Builds a staffing plan from the ground up.
- Presents opportunities to improve current practices before building a coverage plan.
- Uses a 30-minute unit of measure rather than a “shift” or other less accurate measure.
- Uses evidence to analyze the effectiveness of jail operations and staffing practices.
- Suggests annual updating of the staffing plan.
- Focuses on the changes that have occurred in the overall jail “context.”

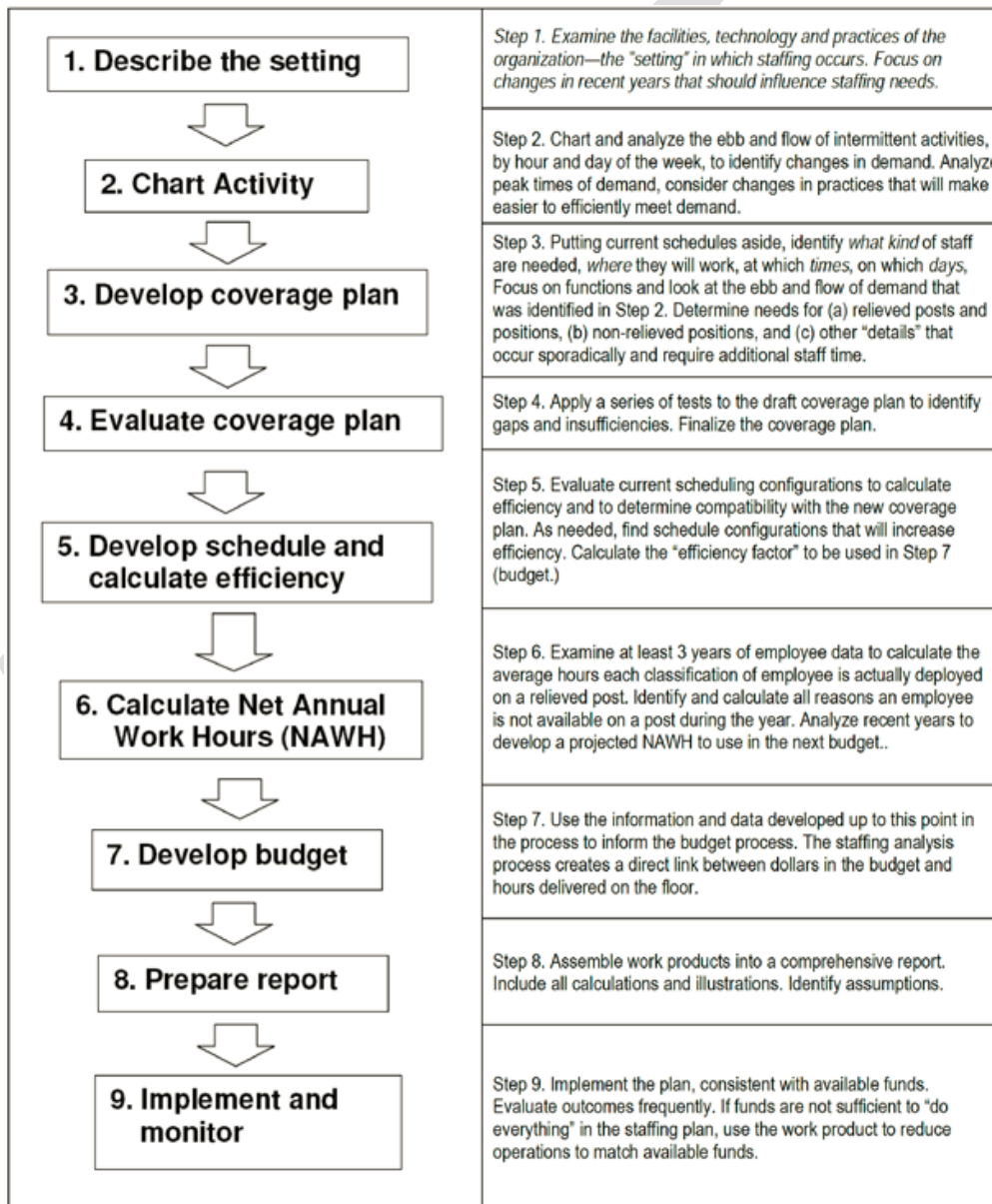
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<sup>2</sup> *CorrectCare* Volume 28, Issue 2. Spring 2014. National Commission for Correctional Health Care (NCCHC). Chicago, IL.

The NIC jail staffing analysis process was first developed in 1988. The methods and tools have been continuously refined and improved as hundreds of jails implemented the process. Dozens of articles have been published about the jail staffing and staffing analysis through the lens of the NIC methodology.<sup>3</sup>

Figure 2 describes the current staffing analysis methodology.

Figure 2: Jail Staffing Analysis Methodology



<sup>3</sup> The National Sheriff’s Association published 21 jail staffing analysis articles over a five year period.

From the beginning, the NIC process has been designed to be implemented locally rather than requiring an outside “expert.” Consultants use a variety of methods when retained to implement a staffing analysis. Many of these provide a “top down” approach and view. The results vary widely and often depend of the consultant who was selected.<sup>4</sup>

The NIC process produces consistent and credible results. It has been required in some court decisions and consent decrees:

- The consent agreement in Summit County, Ohio (Akron) specified many elements of the NIC process.
- The Civil Rights Division of the U.S. Department of Justice has required the NIC process, or elements of the process, in some of their negotiated agreements.
- Some judicially-appointed Masters who oversee the implementation of negotiated settlements have turned to the NIC process as a tool to move the defendants toward compliance.
- In the U.S. Virgin Islands, the U.S. District Court used the NIC process to determine how many inmates could be safely housed in the St. Croix facility, and then ordered more than 80% of the current inmate population to be housed elsewhere.

Similarly, many jurisdictions have specified the NIC process when seeking consultant assistance. Most recently, Maricopa County, Arizona, is using the NIC process for five existing facilities and two new facilities that will open in the next few months.

The NIC process may provide the right foundation for some of the work of the Commission. The staffing analysis texts, tools, and sample reports may downloaded at [www.staffinganalysis.org](http://www.staffinganalysis.org).

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Attachment 1: Core Jail Standards Outcome Measures

Attachment 2: The Myth of Staff-to-Inmate Staffing Ratios

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<sup>4</sup> Several years ago I received a call from a sheriff in a large Iowa county. He asked me if I provided staffing analysis services. I responded that I only use the NIC process, and that he could implement the process himself. He responded “...I have had five staffing studies and I don’t like any of them.” I did not offer to be the sixth.

**ATTACHMENT 1: DRAFT OUTCOME MEASURES FOR CORE JAIL STANDARDS (CJS)**

November 2011

**Developed with the assistance of the Douglas County, Nebraska, Department of Corrections:** Mary Earley, Mark Foxall, Jeff Newton, Roland Hamann, and Chris Sweney

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**THE AGENCY DESIGNATES A 12- MONTH REPORTING PERIOD (e.g. Calendar Year, Fiscal Year, or other time frame for which it will be convenient to collect the data.) The 12-month period does not have to correlate with the re-accreditation schedule.**

**An Excel-based program has been developed that allows the agency to enter each denominator and numerator one time. Outcome measures are automatically calculated, posted and graphed.**

Denominators that are cells that are shaded yellow are the same as numerators that were previously established. The corresponding numerator number is shown in each instance.

OM#	Numerator	Denominator
	<b>1A. The community, staff, contractors, volunteers, and inmates are protected from injury and illness caused by the physical environment.</b>	
OM1	N1. Number of inmate illnesses requiring medical attention.	D1. ADP
OM2	N1. Number of inmate illnesses requiring medical attention.	D2. Admissions
OM3	N2. Number of inmate injuries requiring medical treatment.	D1. ADP
OM4	N3. Number of staff injuries requiring medical treatment.	D3. FTE
OM5	N4. Number of inmate lawsuits related to safety or sanitation found in favor of the inmate.	D4. Number of inmate lawsuits related to safety or sanitation resolved
	<b>1C. The number and severity of emergencies are minimized. When emergencies occur, the response minimizes the severity</b>	
OM6	N5. Number of emergencies.	D1. ADP

OM7	N6. Number of fires that resulted in property damage.	D1. ADP
	<b>2A. The community, staff, contractors, volunteers, and inmates are protected from harm. Events that pose risk of harm are prevented. The number and severity of events are minimized.</b>	
OM8	N7. Number of incidents.	D1. ADP
OM9	N8. Number of escapes.	D1. ADP
	<b>2B. Physical force is used only in instances of self-protection, protection of the inmate or others, prevention of property damage, or prevention of escape</b>	
OM10	N9. Number of inmates upon whom force was used.	D1. ADP
OM11	N10. Number of times force was used.	D1. ADP
	<b>2C. Contraband is minimized. It is detected when present in the facility</b> Define weapons Define Controlled substances (illegal, prescription, drugs, etc. state law/local ordinance)	
OM12	N11. Number of weapons found in the facility.	D1. ADP
OM13	N12. Number of controlled substances found in the facility.	D1 ADP
	<b>2D. Improper access to and use of keys, tools and utensils are minimized.</b> Define keys (keys, proximity cards, thumb fobs, wands, etc)	
OM14	N13. Number of incidents involving lost/missing keys.	D3. FTE
OM15	N14. Number of incidents involving lost/missing tools.	D3. FTE
OM16	N15. Number of incidents involving lost/missing culinary equipment.	D3. FTE
OM17	N16. Number of incidents involving lost/missing medical equipment and sharps.	D3. FTE
	<b>3A. Inmates comply with rules and regulations. Define rule violation as single incident not number of "charges" on each report</b>	
OM18	N17. Number of inmate rule violations.	D1. ADP
OM19	N18. Number of inmate on inmate assaults.	D1. ADP
OM20	N19. Number of inmate on staff assaults.	D1. ADP
	<b>4A. Food service provides a nutritionally balanced diet. Food service operations are hygienic and sanitary.</b>	
	None.	
	<b>4C. Inmates maintain good health. Inmates have unimpeded access to a continuum of health care services so that their health care needs, including prevention and health education, are met in a timely and efficient manner.</b>	



OM21	N20. Number of inmates with a positive tuberculin skin test on admission.	D2. Admissions
OM22	N21. Number of Hepatitis C positive inmates.	D1. ADP
OM23	N22. Number of HIV positive inmates.	D1. ADP
OM24	N23. Number of inmate suicide attempts.	D1. ADP
OM25	N24. Number of inmate suicides.	D1. ADP
OM26	N25. Number of inmate deaths (other than suicide).	D1. ADP
	<b>4D. Health services are provided in a professionally acceptable manner. Staff are qualified, adequately trained, and demonstrate competency in their assigned duties.</b>	
OM27	N26. Number of staff with lapsed licensure and/or certification.	D5. Average number of licensed or certified staff
	<b>5A. Inmates have opportunities to improve themselves while confined.</b>	
	None.	
	<b>5B. Inmates maintain ties with their families and the community.</b>	
	None.	
	<b>5C. The negative impact of confinement is reduced.</b>	
	None.	
	<b>6A. Inmates' rights are not violated.</b>	
OM28	N27. Total number of inmate grievances.	D1. ADP
OM29	N28. Number of inmate grievances regarding access to court, mail or correspondence, sexual harassment, discipline, discrimination or protection from harm.	D1. ADP
OM30	N29. Number of grievances resolved in favor of inmates.	D6. (N24) Total number of grievances
	<b>6B. Inmates are treated fairly.</b>	
	None.	
	<b>6C. Alleged rule violations are handled in a manner that provides inmates with appropriate procedural safeguards.</b>	
OM31	N30. Number of appealed disciplinary decisions decided in favor of the inmate.	D7. Number of inmate disciplinary decisions that were appealed
	<b>6D. Inmates take responsibility for their actions.</b>	
	None.	
	<b>7B. Staff, contractors, and volunteers demonstrate competency in their assigned duties.</b>	
OM32	N31. Number of new employees who completed required hours of initial training.	D8. Number of new employees.

OM33	N32. Number of employees who completed required hours of in-service training.	D9. Number of employees who were required to complete in-service training.
	<b>7C. Staff, contractors, and volunteers are professional, ethical and accountable.</b>	
OM34	N33. Number of times employees were found, through a formal process, to have acted in violation of facility policy.	D3. FTE
OM35	N34. Number of employees terminated for cause.	D3. FTE
OM36	N35. Number of employee substance abuse tests failed.	D3. FTE
OM37	N36. Number of employee terminations for violation of drug-free work policy.	D10. (N31) Number of employees terminated for cause.
	<b>7D. The facility is administered efficiently and responsibly.</b>	
	None.	
	<b>7E. Staff are treated fairly.</b>	
OM38	N37. Number of grievances filed by employees.	D3. FTE
OM39	N38. Number of employee grievances decided in favor of the employee.	D11. (N34). Number of grievances filed by employees.
	<b>7F. The facility is a responsible member of the community.</b>	
	None.	

### Discreet Numerators

N1. Number of inmate illnesses requiring medical treatment.	
N2. Number of inmate injuries requiring medical treatment.	
N3. Number of staff injuries requiring medical treatment.	
N4. Number of inmate lawsuits related to safety or sanitation found in favor of the inmate.	
N5. Number of emergencies.	
N6. Number of fires that resulted in property damage.	
N7. Number of incidents.	
N8. Number of escapes.	
N9. Number of inmates upon whom force was used.	

N10. Number of times force was used.	
N11. Number of weapons found in the facility.	
N12. Number of controlled substances found in the facility.	
N13. Number of incidents involving lost/missing keys.	
N14. Number of incidents involving lost/missing tools.	
N15. Number of incidents involving lost/missing culinary equipment.	
N16. Number of incidents involving lost/missing medical equipment and sharps.	
N17. Number of inmate rule violations.	
N18. Number of inmate on inmate assaults.	
N19. Number of inmate on staff assaults.	
N20. Number of inmates with a positive tuberculin skin test on admission.	
N21. Number of Hepatitis C positive inmates.	
N22. Number of HIV positive inmates.	
N23. Number of inmate suicide attempts.	
N24. Number of inmate suicides.	
N25. Number of inmate deaths (other than suicide).	
N26. Number of staff with lapsed licensure and/or certification.	
N27. Total number of inmate grievances.	
N28. Number of inmate grievances regarding access to court, mail or correspondence, sexual harassment, discipline, discrimination or protection from harm.	
N29. Number of grievances resolved in favor of inmates.	
N30. Number of appealed disciplinary decisions decided in favor of the inmate.	
N31. Number of new employees who completed required hours of initial training.	
N32. Number of employees who completed required hours of in-service training.	
N33. Number of times employees were found, through a formal process, to have acted in violation of facility policy.	
N34. Number of employees terminated for cause.	
N35. Number of employee substance abuse tests failed.	
N36. Number of employee terminations for violation of drug-free work policy.	
N37. Number of grievances filed by employees.	
N38. Number of employee grievances decided in favor of the employee.	

**Discreet Denominators**

D1 ADP	
D2. Admissions	
D3. FTE	
D4. Number of inmate lawsuits related to safety or sanitation resolved	
D5. Average number of licensed or certified staff	
D6. (N24) Total number of grievances	
D7. Number of inmate disciplinary decisions that were appealed	
D8. Number of new employees.	
D9. Number of employees who were required to complete in-service training.	
D10. (N31) Number of employees terminated for cause.	
D11. (N34). Number of grievances filed by employees.	

## Appendix B. The Myth of Staff-to-Inmate Ratios

Using a staffing ratio to compare one facility with another or to determine a staffing level for a facility produces inaccurate results. Many factors differ and cannot be accurately compared:

- Is the number of inmates used for the calculation the actual number, or the rated capacity of the facility?
- Which positions go into the calculation—security only, or all positions?
- Are contractual employees considered?
- Are hours worked by part-time employees considered?
- Are hours worked by full-time staff as overtime considered?
- Are some staff (such as maintenance or nursing) supplied by other county agencies (such as public works or public health)?

In addition to these factors, the characteristics of each jail need to be considered before applying figures from one facility to another:

- Type of inmates housed (level of security, gender, age, etc.).
- Design capacity versus actual population.
- Activities and programs, such as work release, work programs, education.
- Facility design.
- Facility condition.
- Staff qualifications and experience.

Staffing is based on operational philosophy and facility design. The most efficient staffing is possible when a

facility is designed based on an operational philosophy. A facility with a program-oriented philosophy will have counselors, program, and recreation staff, in addition to custody and security staff. A facility with a philosophy of “warehousing” inmates may have only custody and security staff. If a facility’s design is inadequate for its philosophy, staff may be used to compensate for facility shortcomings.

Many design and operational factors will affect staffing, including—

- Whether the facility is designed for direct supervision, indirect supervision, or intermittent supervision.
- The types and size of housing units (cells versus dormitories).
- Facility sightlines.
- The types of security control systems and security perimeter.
- Whether inmates are escorted through the corridors.
- Whether programs and services are centralized or decentralized.
- Whether the facility is single-story or highrise.
- Whether acceptable backup is available.

If people say they can build a 250-bed facility and already know how many staff it will take to operate it, do not believe them. Until a facility is adapted to the unique population and practices of a locality, staffing cannot be accurately determined.

Forget the words “staff-to-inmate ratios”; they only confuse the issues.

