



# **Camden County, New Jersey**

## **Detention Alternatives**

### **Feasibility Study**

**October 14, 2009**

**Prepared for:**

**Board of Freeholders**

**County of Camden, NJ**

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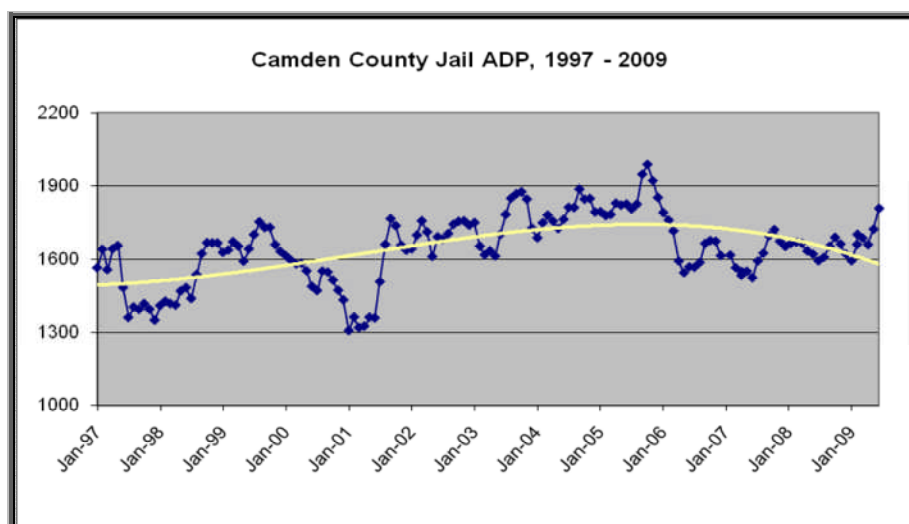
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# I. Background

## I. Background

Like many counties in New Jersey and throughout the United States, Camden County is grappling with a long-standing jail crowding problem. Almost from its inception in 1988, the Camden County Correctional Facility (CCCF) has been holding more inmates than it was designed to detain. While the facility can reasonably hold some 1,083 inmates<sup>1</sup>, daily headcounts are consistently in the range of 1700-1800 inmates, or more than 165% of capacity. For the past five years, the average daily population has been 1,706 and, as Figure 1 shows, recent trends have been exceeding historical ones, with population levels this spring far exceeding monthly averages from previous years.<sup>2</sup>

Figure 1



Source: Camden County Correctional Facility, data summarized by jail staff and derived from the CCDOC 97094 "Shift Count Sheet".

This chronic crowding has had many implications, including:

<sup>1</sup> Pulitzer/Bogard & Associates, LLC, "Camden County Correctional Facility Capacity Analysis," April 17, 2008 [hereinafter "P/BA Facility Capacity Analysis"].

<sup>2</sup> For example, on June 23, 2009, the population of the CCCF was 1801 versus 1591 inmates for the same date on 2008.

- Triple- and quadruple-celling<sup>3</sup> of inmates housed in numerous floors in the main jail, especially those housing units located on floors 3N, 5N, 3S, 5S;
- Difficulty in maintaining an adequate staff-to-inmate ratio in all areas of the facility;
- Uncontrolled overtime that results from an inability to fill vacancies in a timely manner;
- Limited out-of-cell time and out-of-housing unit programming opportunities for most inmates in triple- and quadruple-celled housing units;
- Physical plant systems depreciation;
- Non-compliance with standards;
- Movement control problems, particularly created by stress on elevators;
- Sick leave abuse, which results in more overtime use;
- Staff morale problems and burnout.

Inmate healthcare is also impacted directly by crowding and the inmate population of CCCF has become increasingly sick. A significant and growing number of inmates suffer from serious and persistent mental illness, which poses unique challenges to correctional and health care staff trying to manage and treat this population. Similarly, an increasing segment of the offender population presents acute chronic illnesses and expensive-to-manage acute injuries (such as gunshot wounds).

CCCF has extremely limited space to separately house and treat medical and mentally ill populations. An infirmary area has been undergoing repairs and renovations for almost a year now, and specially designed housing areas for inmates with health care treatment needs are limited. There are a limited number of treatment spaces and only a small waiting area for inmates waiting for medical, mental health, and dental appointments.

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<sup>3</sup> Quadruple celling entails two inmates on a bunk bed (upper and lower), a third inmate assigned to a mattress on the floor next to the bunk bed, and the fourth forced to sleep on a mattress directly in front of the toilet.

The crowding and inadequate treatment facilities certainly make control of infectious diseases such as MRSA and tuberculosis more difficult to achieve, which has an obvious impact on both inmates and staff. Recently, two cases of the H1N1 virus were detected by alert healthcare staff before the inmates were integrated into the general population; had these cases not been caught so quickly, a major outbreak could have resulted because crowding makes it so difficult to isolate these inmates in order to protect other inmates and staff. The combination of limited treatment space and the crowded conditions also impact inmate access to healthcare services.

The crowding also takes its toll on staff. Working in a jail environment is stressful, challenging work under the best of circumstances. But staff forced to work in an aging facility, with high density, poor ventilation, and crumbling infrastructure, as well as a very difficult-to-manage population, is faced to deal with even higher levels of stress. For example, a 2008 study revealed that the average correctional officer at the CCCF uses over 11 days a year in sick leave, and supervisors use significantly more than that on average.<sup>4</sup> This high use of sick leave is at least partially attributable to the pressures associated with working day in and day out in crowded and potentially dangerous conditions with a very difficult and sick population.

In light of the high levels of crowding and associated conditions, a class action lawsuit was filed in federal district court in 2005—*Corri Dittimus Bey v. County of Camden*-- challenging crowding in the CCCF as being unconstitutional. Rather than taking a highly adversarial and expensive litigation posture in what is clearly a highly compromised position, the County has wisely engaged plaintiff's counsel and experts in a settlement mode designed to foster a collaborative, reasonable approach to mitigating and ultimately resolving the crowding.

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<sup>4</sup> Pulitzer/Bogard & Associates, LLC, "Camden County Correctional Facility Staffing Analysis," April 17, 2008, page 18 [hereinafter "P/BA Jail Staffing Analysis"].

Among the measures it has taken so far, the County has added significant numbers of officers to enhance supervision and reduce the amount of forced overtime staff are required to work;<sup>5</sup> has commissioned a study to better define available capacity;<sup>6</sup> and has actively supported and funded a consultant study of population reduction strategies that was commissioned by plaintiffs' counsel.<sup>7</sup> The most recent of these reports offered 22 recommendations designed primarily to reduce the length of stay for inmates in the CCCF through a variety of changes designed to make the criminal justice process more efficient. Although the report pointed out the difficulty associated with quantifying the potential impact of the recommendations due to interdependence among many of them, it nevertheless suggested that full implementation could reduce the then-current jail population by some 300-350 inmates. Obviously, the County would still have a very crowded jail, albeit less crowded than is the case at the present time.

Achieving a drop of even 300 inmates is important, however, and local criminal justice system officials are urged to continue working jointly towards full implementation of the proposals. It is important to emphasize that, because the recommendations in the report are systemic in nature, full implementation is outside the control of the County administration. To its credit, the County administration has retained one of the firms involved in the study to provide support and technical assistance relative to implementation of the recommendations.<sup>8</sup>

The persistent crowding going back twenty years has also taken its toll on the physical plant of the CCCF. The 24 hour-a-day, 365 day over-usage of the building has resulted in the need for substantial repairs and replacement of

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<sup>5</sup> Since April 2008, there has been a net increase of 29 correctional officers to help manage crowding and to reduce jail overtime. Telephone interview with Camden County Chief Financial Operating Officer David McPeak (June 2009).

<sup>6</sup> P/BA Facility Capacity Analysis.

<sup>7</sup> Pulitzer/Bogard & Associates, LLC/Luminosity, Inc., "Camden County Jail Population Analysis," April 21, 2009. [hereinafter "P/BA/Luminosity Jail Population Analysis"].

<sup>8</sup> The County retained Luminosity, Inc. to assist with implementation activities.

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building systems estimated to cost at least \$50 million.<sup>9</sup> Even if the County were to appropriate the funds for such repairs, the severe crowding would likely make it impossible to carry them out as there is no ability to shift inmates from one area to another in order to repair windows, turn off plumbing, and perform the myriad other repairs that have been postponed for decades due to budgetary limitations and crowding.

As if the above circumstances were not sufficiently daunting, the County Freeholders in 2007 stated publicly their support for a plan to redevelop the City of Camden, which does not include the presence of correctional facilities in the downtown area.<sup>10</sup> Along with the Governor, who pledged to shut down the Riverfront State Prison, the Freeholders committed to move the jail out of downtown Camden.<sup>11</sup> As of June 2009, the State fulfilled its commitment by removing all prisoners from the State Prison. This policy direction then-- to remove the CCCF from downtown Camden-- is another critical driving factor in the County's decision-making process relative to the future of the CCCF.

Finally, the County is facing serious challenges related to budgeting for jail operations. The County's FY 2009 Budget for direct expenditures of the CCCF<sup>12</sup> represents 17% of the entire direct budget for the County. In fact, the County is spending far more on jail-related services than the amount directly budgeted for the CCCF, considering related expenses such as the cost of the Sheriff's Office, which is responsible for the transport of inmates from local lockups to the CCCF and between the CCCF and the various court locations throughout the County. Moreover, a significant portion of allocations made to the County Counsel, Human Resources Department, and County Administration are directly or indirectly attributable to funding jail operations. With a poor national and local economy and

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<sup>9</sup>Camden County Correctional Facility Capital Improvement Program PowerPoint Presentation (July 21, 2009), prepared by County Building and Operations staff.

<sup>10</sup> See, Lisa Grzyboski, "Camco Officials Favor Shutdown of Prison," Courier Post, May 31, 2007

<sup>11</sup> Id.

<sup>12</sup> Source: 2009 Camden County Budget.

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a county tax levy that has been reduced in each of the past three years<sup>13</sup>, the extraordinary cost of operating the current CCCF is truly a vexing challenge.

## **Study Goals**

In light of the challenges discussed above, the Office of the County Administrator contracted with Pulitzer/Bogard & Associates, LLC (P/BA) to identify options for the County, along with their associated benefits and drawbacks, and action steps to achieve the following three primary objectives:

1. *Provide immediate relief of population pressures-* What measures can be implemented in six months or less to reduce the severe crowding in the CCCF?
2. *Reduce short-term operating costs at CCCF-* How can operating costs be reduced in the existing CCCF pending its replacement?
3. *Replace the downtown CCCF facility-* What would be the most timely and cost effective course of action the County could take to replace the CCCF with a state-of –the-art facility.

This Report begins by identifying inmate population forecasts that inform the range of options associated with the three objectives. Next, it provides a more detailed examination of current CCCF expenditures so as to provide a framework for cost implications associated with options. Third, the report provides an overview and discussion of privatization, one of the potential courses of action and, indeed, one that is highly controversial. The next section explores options to achieve the three objectives identified above, and details the associated benefits, drawbacks, relative costs, and steps necessary to implement each option. And finally, the report offers conclusions.

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<sup>13</sup> Source: Tax Rate Chart for Camden County: 1960-2009.

## II. Jail Bed Forecasts

## **II. Jail Bed Forecasts**

This section presents bed forecasts for Camden County's jail population. Short and long term bed forecasts are an important consideration as the County reviews options for managing its current and future jail population. The County must have reasonable estimates of how many beds are needed in time increments in order to plan for future bed needs, regardless of the option(s) selected. However, jail population forecasts are only a beginning point in this discussion. We encourage County officials, prosecutors and judicial officials to not accept the forecasts in the report as being inevitable outcomes. Rather, they should be viewed as a picture of what is likely to happen if current policies and practices are not changed. In fact, the County administration and court officials are presently engaged in a substantial effort to review and consider implementation of recommendations that were recently made relative to population control measures.<sup>14</sup>

### **Data Used for Forecasting**

The data used to complete the population forecasts were provided by Camden County Correctional Facility (CCCF) staff. A portion of the data desirable for analysis either was not available at all or was not provided in a format that could be readily analyzed. The limitations of the unknown and/or missing data are discussed in the appropriate sections below.

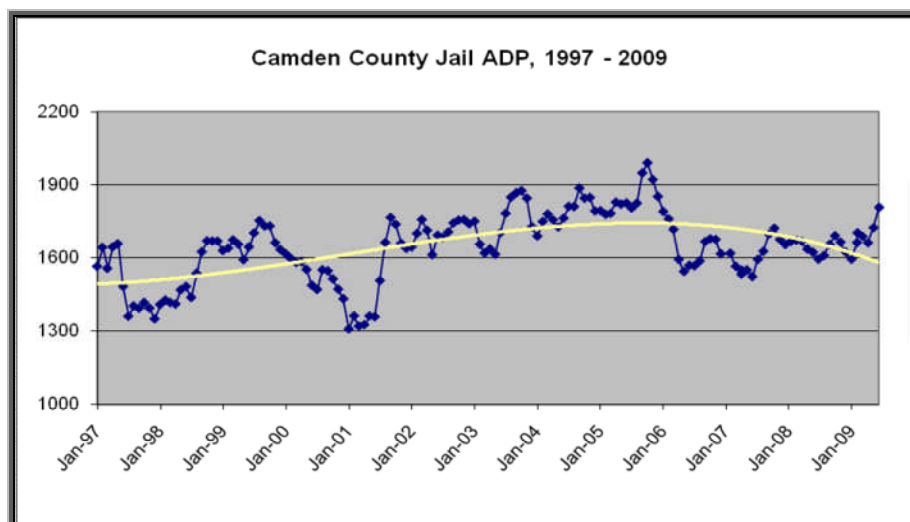
### **Average Daily Population**

The average daily population of the jail has fluctuated substantially over the past 15 years (see Figure 2 below).

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<sup>14</sup> See P/BA/Luminosity, *Jail Population Analysis*.

Figure 2



Source: Camden County Correctional Facility

In fact, the jail population data over time is quite random in nature. Since 1997, the jail population has experienced two substantial population decreases, in 2000/2001 and 2005/2006. There are also relatively sudden spikes in the jail population from time to time. The monthly average daily population ranged from 1,175 to 1,989 inmates. An examination of the most recent five years reveals the monthly average daily population ranged from 1,522 to 1,989 – an approximate 30% fluctuation. The random nature of the population (including the substantial population decrease, sudden spikes, and substantial fluctuations) impact the ability to produce precise long term forecasts.

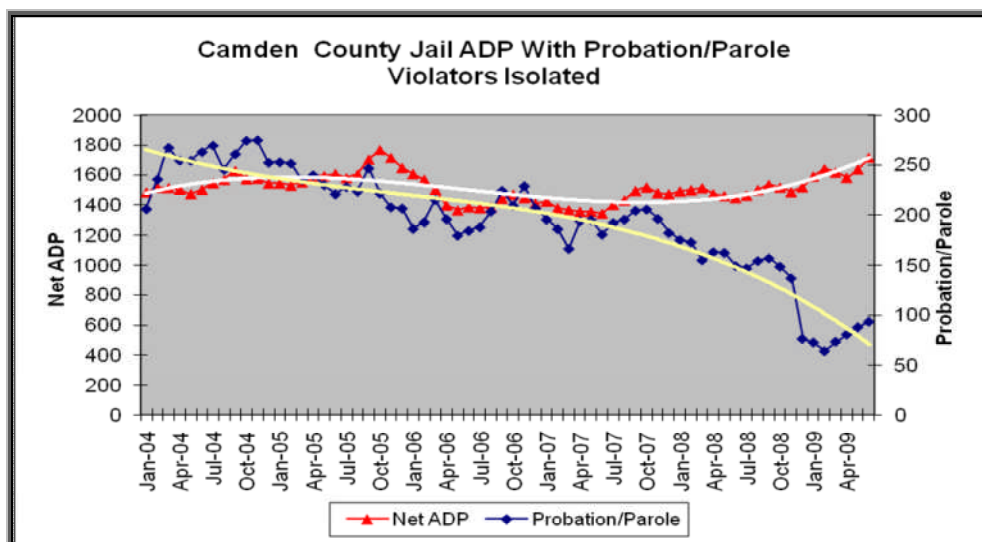
In addition to being aware of the population data as a whole, it is important to know the gender and security classification of the inmates. Unfortunately, gender and classification data were the two primary areas where the data were limited and much of the available data were not readily analyzable. The daily “population by gender” data for approximately 82% of the days between Jan 1, 2008 and June 23, 2009 were extracted from the daily Master Facility Count Sheets (Form CCDOC 97094). The data revealed that the average gender distribution of the jail

was 8% female and 92% male; however, the percentage of females fluctuated and ranged from a low of 6% and a high of 10%.

Daily population data disaggregated by custody classification was more challenging to obtain and analyze. The Housing Space Availability sheets were used to extract daily population data from January 1 - June 23, 2009, but unfortunately these sheets excluded weekends. Information related to females, males, and the specialized areas was available for analysis. While the data for males was disaggregated by minimum, medium, and maximum classification status, the data for females was not similarly broken down. The counts did not include intake areas, special needs housing, protective custody, or lock-in areas. The sample of data showed the distribution of inmates as follows: female - 5.79%, male maximum 20.17%, male medium - 16.44%, male minimum - 49.61%, and special population 7.98%. These numbers must be interpreted and utilized with great caution and with a complete understanding of the limitations of the data as stated above.

An analysis of CCIS daily report data revealed an important pattern with regard to probation and parole violators between 2004 and 2009. Significant policy changes related to handling probation and parole violations were made over the years, resulting in a continuous decrease in the number of inmates held on these types of violations. As a result, the ADP was disaggregated by probation and parole violators and all other inmates (see Figure 3 below).

Figure 3



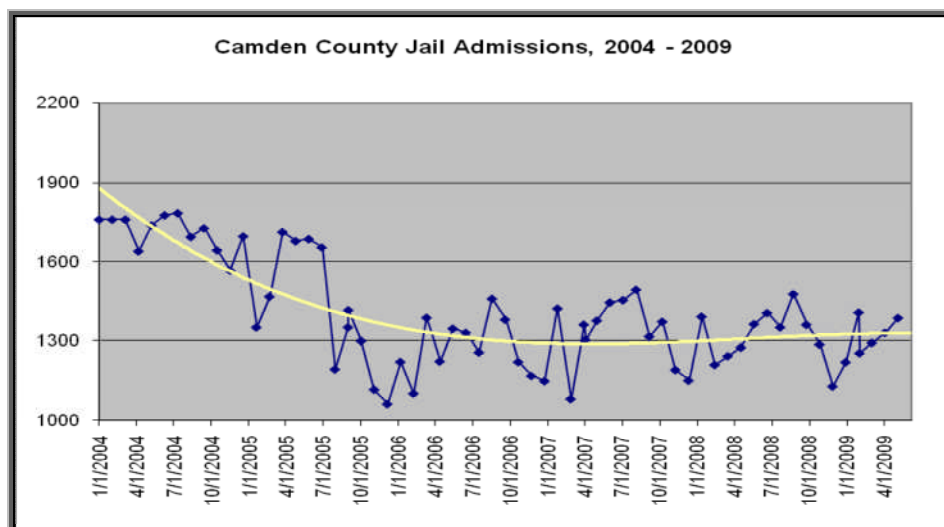
Source: P/BA analysis of data provided by Camden County Correctional Facility

It was important to examine these populations differently for the purposes of forecasting. At a glance the overall jail population appears relatively stable from April 2007 to May 2009. When the populations are distinguished as shown above, however, it is clear that there has been a substantial reduction in the number of inmates held on probation and parole violations alongside a simultaneous increase in the remaining population. Essentially, the decrease in probation and parole violators held in the jail “masked” the fact that the remaining population was actually increasing. This issue must be taken into account when forecasting the future population of the jail.

### Admissions to Jail

The data regarding the numbers of people admitted to the jail, also referred to as “commitments” or “remands” in Camden County, were provided by the CCCF by month for the period January 2004 through May 2009 (see Figure 4 below).

Figure 4



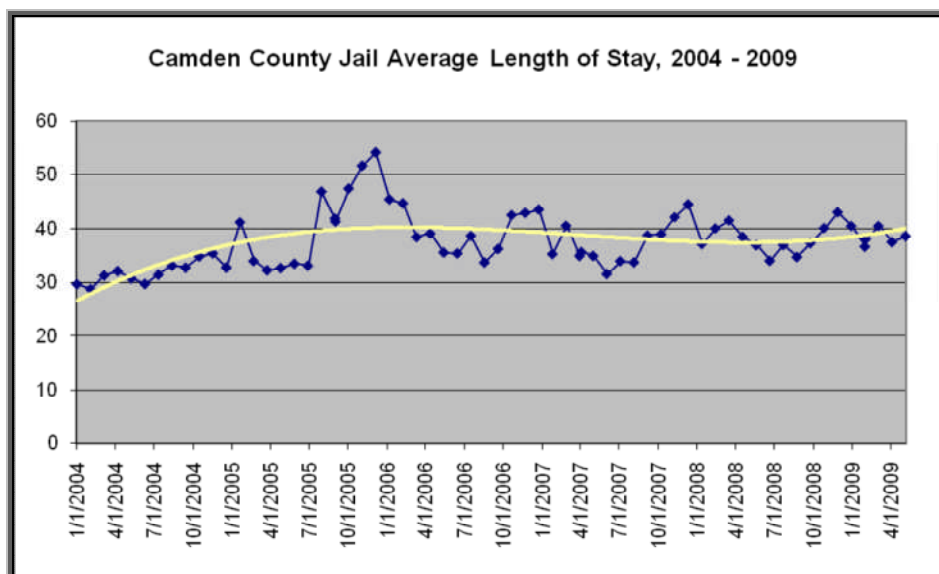
Source: P/BA analysis of data provided by Camden County Correctional Facility

As can be seen in the chart above, there was a substantial decrease in jail admissions between January 2004 and July 2005. Since that time jail admissions have remained relatively steady, as evidenced by the trend line, with seasonal and similarly-related fluctuations that can be expected.

### Average Length of Stay

The time an inmate is in custody from admission to release is known as the length of stay. The average length of stay plays an important role in the average daily population. Generally, the daily population is driven by the number of inmates admitted to the facility and how long the inmates stay. A reduction in admissions may not equate to a reduction in the jail population if, for example, there is an increase in the length of stay. The monthly average lengths of stay for January 2004 – May 2009 were calculated from data provided by the CCCF (see Figure 5 below).

Figure 5



Source: P/BA analysis of data provided by Camden County Correctional Facility

The monthly average lengths of stay have fluctuated across the years with the lowest occurring in February 2004 and the peak occurring in December 2005. The average length of stay began to stabilize in early 2006 and has remained relatively steady as evidenced by the trend line.

### Population Forecasting

The data discussed so far enable us to develop population forecasts. As mentioned earlier, however, it is important that these forecasts are seen simply as what is likely to happen if current policies and practices are not changed.

## Calculating Future Bed Needs

Forecasts of future inmate population do not translate directly into determination of future bed space needs. In order to make that translation, the forecasted average daily population must first be increased by two factors.

- Peaking factor: to reflect the daily and seasonal variations in jail occupancy and to accommodate the temporary closure of beds due to the need for maintenance.
- Classification factor: to adjust for the requirement to separate inmates as needed based on gender, security requirements, treatment needs, etc.

Therefore, the initial step in converting projected average daily populations into bed needs is to *add* a peaking and maintenance factor. This factor would add 7% to the forecasted population.

Second, the calculation of bed space needs must take into consideration that all jail beds cannot be used. For example, an empty bed in a female unit cannot be filled with a male inmate, a maximum security inmate cannot be placed in a vacant bed in a minimum security dormitory, and a juvenile cannot be housed with an adult. A classification factor is, in effect, a discount of the beds that are available. If 1,100 beds were open for occupancy, a 10% classification factor would mean that we could expect to be able to appropriately use only 1,000 beds to accommodate our classification demands (1,000 beds plus 10 percent is 1,100). Therefore, the next step in converting projected average daily populations into bed needs is to *add* a classification factor. Based on our experience, we suggest that a classification factor of 10% is appropriate for Camden County inmates due to the mixed gender, mix of adults and waived juveniles, and multiple custody classifications in the jail population.

## **Forecasting Models**

There are several techniques for developing mathematical forecasts. It is generally acknowledged that the forecasting technique developed from Box and Jenkins' Autoregressive Integrated Moving Averages (ARIMA) approach is usually the best option. Therefore, a series of ARIMA forecasts of jail population variables were employed in the present analyses.

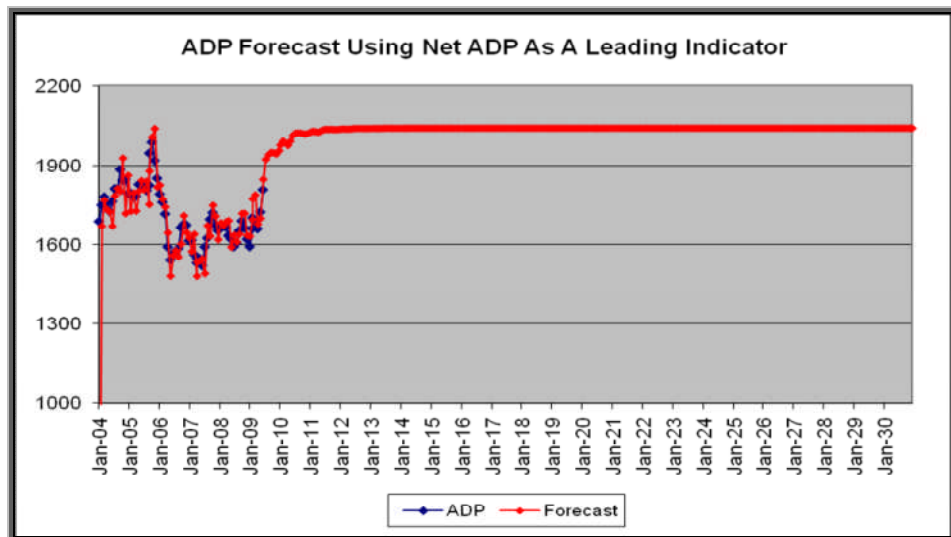
The data used for the forecasts were presented above and include the average daily population (disaggregated by probation and parole violators and others), jail admissions, and average length of stay.

The statistical process of developing ARIMA time series forecasts is fairly straightforward. Models are built and then evaluated in terms of how well they fit the past history of the trend in question. Usually, there are only a couple statistically appropriate choices for model building. However, the Camden County jail population data over time is quite random in nature. As discussed previously, the jail population has experienced two significant population decreases, in 2000/2001 and 2005/2006. There are also relatively sudden spikes in the jail population from time to time. These dramatic population fluctuations make it difficult to develop an overall trend for the time series. This has important implications for the construction of forecasts. While forecasts of this population in the near-term are easy to construct, longer-term forecasts prove much more challenging.

In this case, every forecast model constructed (that did not violate basic statistical assumptions) indicates an increase in the jail's population for approximately four years, followed by a stable/flat population line or even a slight decrease. The model that performed the best in terms of various diagnostic measures is no exception. This model was constructed in several steps. First, the probation/parole violator population was separated from the jail population, resulting in two trends. Both trends were modeled with the ARIMA procedure,

resulting in a forecast of both trends. The probation/parole population forecast indicates a decrease over time while the balance of the jail's population is forecast to remain relatively flat after an initial period of increase. Second, the average daily population of the jail between 2004 and June 2009 was modeled with the ARIMA procedure using the net jail population (minus the probation/parole violator population that is) as a leading indicator. The forecast is displayed in Figure 6 below followed by the model diagnostics in Figure 7.

Figure 6



Source: P/BA Analysis

Figure 7

Statistics	ARIMA (1,0,0) Model
AIC	1316.0
SBC	1322.5
Standard Error	7.3
Box-Ljung Q at Lag 16	19.8 p=.22

Source: P/BA Analysis

This resulting forecast indicates that *if no major changes occur in the criminal justice system, the jail's population will eclipse 2000 inmates on an average daily basis by June 2010*. The forecast model indicates a small increase from there for three years, before flattening. This flattening of the forecast trend is very likely the result of the random nature of the jail's average daily population historically. Multiple forecast procedures all resulted in similar pictures of the jail's future population. In short, the random fluctuations throughout time make it difficult for forecasting procedures to produce longer-range forecasts that are not flat trends at a certain expected level. It is advisable to treat the flat trend as an expected overall average mean of the jail's population over time. This requires one to accept the fact that after 48 or so future time points (months), the seasonal fluctuations and other expected changes in the jail's population are very hard for statistical procedures to pinpoint. Thus, the forecast in the near-term is precise while the long-term precision of the forecast is reduced by the clouded past history of the jail's population trends.

Table 1 below details the projected bed space needs over time, using the peaking and classification factors described above.

**Table 1: Camden County Jail Projected Bed Space Needs**

Year	Average Daily Inmate Population (ADP)	Peaking/ Maintenance Factor (7%)	Classification Factor (10%)	TOTAL BEDSPACE NEEDS
2010	2005	140	201	2346
2011	2032	142	203	2377
2012	2038	143	204	2384
2013	2040	143	204	2387
2014	2041	143	204	2388
2015	2041	143	204	2388
2020	2041	143	204	2388
2025	2041	143	204	2388
2030	2041	143	204	2388

Source: P/BA Analysis

Table 1 suggests that, absent any significant changes relative to how cases are moved through the criminal courts or how offenders might be diverted from jail through new programs, *the County will require just under 2400 beds beginning in 2010*, with the number remaining quite flat for 20 years beyond that. We stress, however, the caveat that *this number of beds can be impacted by local policy changes* such as those that have recently been recommended to the County's Criminal Justice Coordinating Committee and that are presently being considered by that group's members.

### **Gender and Classification Breakdown**

As the County considers various options to meet its short- and long-term jail bed needs, gender and custody classification information is particularly important beyond the provision of raw projected bed numbers. This information is critical for future facility planning for the following reasons:

- to ensure that the right mix of bed types is available;
- to ensure that the County does not overbuild the more expensive, higher-custody beds; and
- to help identify subpopulations that might be eligible for alternative housing arrangements for selected sub-populations or for non-detention alternatives.

As mentioned earlier, though, the information related to gender and custody classification was limited and the data provided lacked the degree of specificity needed to create gender and custody classification specific forecasts. Camden County is strongly encouraged to create a mechanism for collecting this data on a daily basis in a format that can be readily analyzed. In addition, efforts should be made to capture as much historical data as possible so that more specific forecast-related information can be provided.

In the meantime, we must consider the available data. As shown previously, it appears that the gender distribution of the jail was 8% female and 92% male. The

distribution fluctuated and ranged from as low as 6% female to as high as 10% female. These percentages can be applied to the forecasted ADP above to develop a rough estimate of the future bed needs by gender.

Similarly, we can use the custody classification distribution of inmates to guide us in the projection of bed needs at each custody level. However, as discussed above, the available data is quite limited, making these projections somewhat tentative.

## **III. Operating /Capital Budget**

### III. Current CCCF Operating/Capital Cost Baseline

This section is intended to establish a baseline relative to current expenditures associated with the Camden County Correctional Facility (CCCF). Although annual expenditures are not the primary consideration in the evaluation of options contained in this Report, they are nevertheless an important factor in evaluating potential courses of action. Without a baseline, it is impossible to accurately evaluate the financial implications of any future plans for replacing the CCCF or operating it for the short-term. Additionally, it is clear that jail operations are increasingly representing a drain on the overall County budget and the use of tax dollars.

This section first addresses annual operating costs, with a brief review of both direct CCCF budgetary items, followed by a discussion of indirect costs that appear elsewhere in the County's budget. This is followed by a review of capital and maintenance costs that have been identified as necessary to keep the existing jail facility operational and secure. These are costs that must be considered in the overall development of plans to continue operations in the existing building or to leave it behind.

#### The CCCF Operating Budget

The official CCCF annual budget, as adopted on May 21, 2009, is \$43,074,987.<sup>15</sup> However, when the costs associated with fringe benefits are included, the jail's combined *direct* budget costs total \$55,191,246.<sup>16</sup> The major budget categories are personnel, fringe benefits, medical services, food, utilities, clothing allowance, equipment service and maintenance agreements, other outside services, janitorial supplies, in-home detention, bedding and linens:

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<sup>15</sup> Information provided by Camden County Chief Financial Officer David McPeak. The official jail budget is based on the calendar year.

<sup>16</sup> Indirect costs are discussed below.

- *Personnel* costs include regular or base salaries (\$21,497,976)<sup>17</sup>, overtime (\$4,588,617)<sup>18</sup>, longevity (\$252,469), admin time sell back (\$225,000), comp time taken (\$308,116), OT/Early Relief (\$97,795), and opt-out insurance (\$171,919). Combined personnel costs total \$26,916,423.00.
- *Fringe benefits* costs include FICA, Medicare, Unemployment, Disability, State Disability FMLA, Pension, Health Benefits, Workers' Compensation, Health and Welfare, and Prescription<sup>19</sup>. It is a separate centralized cost center that represents direct costs to CCCF. These benefits for jail employees are determined by multiplying the total regular or base salary from the official CCCF budget (\$21,497,978) by the Estimated 2009 Fringe Benefit Calculation (56.36%)<sup>20</sup>. Based on this formula, an additional \$12,116,259. is added to the CCCF budget to account for them. This equates to a grand total of \$39,032,682.
- *Medical services* costs, which also include autopsy services, total \$9,300,000<sup>21</sup>.
- *Food* costs total \$2,571,849<sup>22</sup>.
- *Utilities* costs include electricity (\$1,378,750), gas (\$47,045), water (153,656), and sewage (\$333,900). Combined utilities costs total \$1,913,351.
- *Clothing allowance* costs total \$416,855.
- *Equipment service and maintenance agreements* costs total \$365,714<sup>23</sup>.

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<sup>17</sup> Shift differential payments do not appear as a separate line item. These payments are subsumed under regular and base salary in the annual budget. The shift differentials are included in the terms of the Collective Bargaining Agreements.

<sup>18</sup> Holiday premium payments do not appear as a separate line item. These payments are subsumed and included in overtime costs.

<sup>19</sup> Memorandum, "Estimated Fringe Benefit Calculation," June 9, 2009, from David McPeak, County CFO, to P/BA. While these expenses are not listed specifically in the official budget (which represents direct costs), the CFO verified that fringe benefits are in fact a direct cost to the CCCF.

<sup>20</sup> Id. Information verified through telephone interview with David McPeak, July 1, 2009.

<sup>21</sup> The budget for the healthcare contract with CFG Health Systems is \$8,865,000. Payments for the contract for Genesis Counseling are budgeted at \$184,836. Remaining costs are attributable to hospital services.

<sup>22</sup> Payments for the ARAMARK contract total \$2,254,892. The difference between the payments to ARAMARK and the total food cost is the increase for the 2009 contract, which is currently being bid. The food cost total includes staff meals at the facility as well as meals for those on duty at satellite locations such as the hospital.

<sup>23</sup> This category includes repair and maintenance contracts on various equipment including elevators, overhead doors, and HVAC systems.

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- *Other outside services* costs total \$309,631<sup>24</sup>.
- *Janitorial supplies* cost total \$290,740.00.
- *In-home detention* costs total \$124,000.
- *Bedding and linens* costs total \$101,560.

Aside from personnel costs, which naturally are the largest single item in the budget, fringe benefits represent the second largest expense. Inmate health care represents the third largest expense, accounting for more than 17% of the CCCF's direct budget costs. The majority of this is reflected in the health services contract that the County holds with CFG.

Correctional healthcare costs are driven by numerous factors, including the number of inmates with acute and chronic medical, mental health, and dental care needs; pharmaceuticals; off-site health care appointments; hospitalizations; compliance with provisions set forth by accrediting bodies and courts; the level of healthcare provided within the facility; and staffing, including the numbers of personnel within each health care discipline. Health care staffing in turn is driven by the aforementioned factors as well as by how efficient and well-designed treatment spaces are; the extent to which some services are decentralized (e.g., offering sick call triage, checking vital signs, and providing some treatments in private spaces near the housing units); the use of technologies such as electronic health records; and the responsiveness and support of correctional staff and management.

### **Indirect Costs**

Beyond the CCCF's official budget and direct cost allocations for fringe benefits, there are indirect costs, which include percentages of staff time and materials provided by various County departments in support of the jail's administration and operations. This would include a percentage of the budget for such County entities

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<sup>24</sup> This category includes the cost of consultants, administrative supplies, exterminator contracts, disciplinary hearing officer, court reporters, etc.

as County Administration, County Counsel, Chief Financial Officer, and others. These indirect costs, as calculated by the County, total \$12,882,508.

The CCCF direct and indirect budget figures as described here do not include inmate transportation costs, which are absorbed in significant part by the Sheriff's Department.

### **Total CCCF Operating expenses**

In sum, the estimated annual expenditures for the CCCF are as follows:

\$43,074,987 --official budget direct costs  
\$12,116,259 --direct costs for fringe benefits  
\$12,882,508 --indirect budget costs

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**\$68,073,754 --Total Combined Direct and Indirect costs<sup>25</sup>**

Based on an average daily population of 1,800 inmates, the budgeted per diem cost per inmate at the CCCF works out to \$103.61.

### **Capital and Maintenance Costs**

To develop a cost baseline, we also need to take into account actual or necessary expenses for repairs and maintenance, in addition to normal operating costs. Included in the operating budget for the CCCF are equipment and maintenance agreements totaling \$365,714.<sup>26</sup> Beyond this figure, the County is paying debt service costs estimated at \$1 million to repay monies that were previously borrowed to fund major renovations and capital improvements at the jail.<sup>27</sup>

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<sup>25</sup> Combined direct and indirect costs exclude inmate transportation costs.

<sup>26</sup> This category includes repair and maintenance contracts on various equipment including elevators, overhead doors, and HVAC systems.

<sup>27</sup> This is a conservative estimate of payments that the County is obliged to make for capital improvements to the jail during the previous 10 years. Information provided by David McPeak, Camden County CFO, in correspondence with P/BA (June 30, 2009).

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Of particular concern are estimates as to capital improvements and repairs that are required for the current building if it is to continue to be used. Based on budget requests for such projects that were prepared by CCCF budget staff and a review of these proposed budgets by County Building and Operations staff, officials estimate that at least \$50 million in repairs, system overhauls, and related capital costs are required.<sup>28</sup> Among the largest items comprising this \$50 million figure include:

- \$19 million for interior and exterior window and sill repairs
- \$9.5 million for modernization and upgrades to the current HVAC systems
- \$2.9 million for modernization and upgrades to the sprinkler system
- \$2.8 million for pointing and masonry work
- \$2.5 million for modernization and upgrades of the lighting system
- \$2.4 million for elevator modernization and upgrades

This very high figure reflects years of overuse of the building due to extreme crowding, as well as deferred maintenance costs due to a combination of competing budget priorities and the logistical difficulties of completing major repairs in a working, crowded jail building. This likely expense must be factored into the financial baseline as the county reviews its options for continued use or replacement of the existing structure in terms of potential cost avoidance or necessary expenditures.

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<sup>28</sup> Camden County Correctional Facility Capital Improvement Program PowerPoint Presentation (July 21, 2009), prepared by County Building and Operations staff.

## IV. Privatization

## IV. Privatization

### Introduction

As we move forward in our analysis of options for Camden County, one option to be considered is the potential for privatization of county jail services. There is no doubt that this is a controversial option. It raises important philosophical issues such as the propriety of private, for-profit firms managing core government services involving deprivation of liberty. It also raises legal questions such as whether the government unit can lawfully contract out the operations. It raises substantive questions about whether money can really be saved by a private firm and, if so, whether those savings can only be achieved at the expense of quality services or by hiring unqualified personnel with lower credentials and at salaries far below their public sector counterparts. Some question whether the focus on profit will result in poor operations and services leading to substandard care, injuries to inmates, and lawsuits that the taxpayers will be forced to shoulder. And understandably, it raises the ire of public employees who fear losing their jobs, or being forced to work for lower salaries and benefits or without some of the job protections afforded by public sector employment laws and regulations.

Aside from the philosophical objections, which government leaders need to be prepared to answer and for which they must be accountable to the citizens and taxpayers, answers to the remaining questions turn on the circumstances under which privatization of correctional services is implemented. The success or failure of privatization depends in very large part on how agreements are structured; what criteria the government establishes for the experience of the firm and the qualifications of its employees; what agreements are made concerning the status of the unions and the eligibility of their members for continued employment; what performance indicators are built into the contract; and the strength of indemnification provisions to protect taxpayers from litigation-driven damages. Equally important is the degree to which the agreement identifies financial rewards or penalties for various performance measures and contract terms, and whether

the governmental entity establishes a professional contract monitoring capacity to provide external quality assurance reviews and to hold the private operations firm accountable.

Monitoring and oversight that evaluate compliance with the terms of the privatization agreement as well as the quality of the private firm's performance in delivering services are essential when the government's direct role in the delivery of the service is reduced through privatization. This is necessary to protect the government's interests, to reduce the risks of liability, and to maintain accountability of both government and the private party.

## **Legality**

The first step is to determine whether privatization of local jail services is legal in New Jersey. Camden County Counsel has opined that the County can lawfully house inmates in privately operated facilities as long as the County retains ultimate responsibility for the operations, establishes rules and regulations for management of the facility, and appoints and maintains a warden to oversee and monitor the privately managed jail operations.<sup>29</sup> In other words, while the warden would technically be responsible for daily operations and be accountable to the Freeholders via the County Administrator, the private firm's top manager (for example, a superintendent or jail administrator) would report to the County's warden as necessary to satisfy statutory requirements and as set forth in the agreement between the private operator and the County. Although this arrangement would be somewhat unusual, it is workable and actually mirrors the approach presently being employed by Delaware County, Pennsylvania, as discussed later in this section.

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<sup>29</sup> N.J.S.A. 30:8-23 states, "The County shall prescribe the rules and regulations for the management and conduct of the jail and the employment, maintenance and keeping of prisoners therein. The warden is authorized to carry out and enforce those rules and regulations." Correspondence to P/BA from Assistant County Counsel Howard Goldberg, July 8, 2009.

## Impact on Public Employees

The County also needs to take into account some critical factors that have the potential to impact public employees when a publicly operated facility is replaced with one that is privately managed. For example, we have been informed that as long as a private firm hires the majority of the existing public employee correctional officers, the firm would then be required to recognize existing bargaining units).<sup>30</sup> However, the terms of the existing collective bargaining agreements between the union and the County Freeholders would not be imported to the new private employer.<sup>31</sup> Moreover, New Jersey laws that provide for binding arbitration between public sector labor unions and their public employers would not apply if the employer was a private firm.<sup>32</sup>

If Camden County chooses to contract out jail operations management to a private firm, we recommended that:

- Public employee unions be consulted regarding the impact on their membership, with an eye towards reducing the negative effects on those employees not hired by the private operator.
- The private firm be required to give employment preference or first right of refusal to displaced staff.
- The County should follow Civil Service rules relative to providing accommodations to displaced staff.
- Staff who are not to be hired by the contractor should be provided retraining and outplacement services where possible.

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<sup>30</sup>. Source: Camden County Office of County Counsel, citing, *Fall River Dyeing & Finishing v NLRB*, 482 U.S. 27 (1987).

<sup>31</sup> Source: Camden County Office of County Counsel, citing *NLRB v. Burns International Security Services, Inc.*, 406 U.S. 272 (1972).

<sup>32</sup> NJSA 34:13A-16.

- Provisions be made for calculation and disposition of existing benefits, including retirement benefits, vacation, and sick leave accrual.<sup>33</sup>

## **Financing and Construction**

When it comes to designing and building facilities, private firms claim that they can design and construct facilities faster and less expensively than can the public sector. Typically, the private sector is unencumbered by many of the statutory and administrative processes that many states impose on the public sector in constructing correctional facilities. For example, the private sector can seek private capital for funding of their projects. In many jurisdictions, the public must vote in a referendum to seek approval for bonds and/or to raise taxes to pay to construct a new facility, although this is not the case in Camden County where the Board of Freeholders can decide to sell bonds. In comparison, the private sector process would likely bypass the public vote, thereby saving a considerable amount of time in bringing a new facility on-line, especially if the public vote turns down a project which can cause delays of many months if not years. This saves on overall escalation costs, which can add a considerable amount of money to a multi-million dollar project, more than off-setting any premium paid to access the private versus the public sector market for finance. On the other hand, public officials must still consider the fact that local taxpayers will be responsible for the costs of the new facility.

In some jurisdictions, the public sector is prohibited from utilizing expedited design and construction methods such as Construction Manager at Risk, Design/Build (DB) and Integrated Project Delivery (IPD).<sup>34</sup> While these are all fairly common private sector building delivery approaches, they are not typically utilized by the public sector even when permitted by law. Again, as it relates to constructing new

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<sup>33</sup> See James Austin and Garry Coventry, "Emerging Issues on Privatized Prisons," Bureau of Justice Assistance Monograph, NCJ 181249 (February 2001).

<sup>34</sup> In New Jersey, we understand that Design/ Build approaches are permitted but are not widely utilized by the public sector.

correctional facilities, these approaches can speed up the timeframes to design and construct and help to reduce the costs of construction.

The last way the private correctional industry typically achieves cost savings in construction is by utilizing a prototype design they have developed and perfected on other correctional projects. Site-adapting a prototype can save a considerable amount of time on the design effort, which in turn saves money on fees and reduces escalation costs. It must be emphasized, however, that a prototype design tends to work better in the context of state prison facilities as opposed to jails. Jails require a far more complex building type, and they must be idiosyncratically designed to meet the needs of a particular jurisdiction and its criminal justice practices.

### **Additional Considerations**

Beyond the important issues related to cost and speed of construction, there are numerous questions for officials to consider. Can a private firm locate and purchase a site for a jail that will meet zoning requirements and not be subject to community opposition that would serve to derail or delay the building process? Who will ultimately own the capital improvement? Will a private firm construct a facility that truly meets the users' needs, be safe to operate, not be unsightly, and be appropriately constructed without compromises in quality of materials in an effort to save money and time? What if the private firm designs and builds and owns the building and then the governmental client seeks to force out the private operator early on in the life of the project due to poor performance or financial instability—is the county left without a jail? How does the public jurisdiction contracting for the facility ensure that the facility meets all state and local building codes and administrative regulations, life-safety codes, zoning regulations, and national and state corrections standards?

The response to these questions depends largely on how contractual agreements are structured and the criteria established by the county for the type of building the

private firm must build. In fact, the County can require that its unique needs are incorporated into the design and that the private provider strictly adhere to all codes, regulations, and laws and standards (even non-mandatory ones). The County can establish clear design and performance criteria and a detailed list of all operational and associated space requirements that are spelled out in the RFP and incorporated into a final contract. This will pin down the private firm in terms of a final design and can even serve to establish aesthetic parameters. Furthermore, the County can insist on being part of the design and construction process in an oversight capacity to insure its requirements are being met. Finally, if the County does not insist on ownership of the underlying structure (many experts recommend that government agencies should insist on ownership), it is at the very least critical that the County build into the agreement its right to take ownership of the building in the event of a default of the contractor and certainly at the conclusion of the multi-year agreement. Once again, professional and thorough input, oversight, and routine monitoring are the key to ensuring that the building is deemed acceptable to the county.

### **Which Private Firms Possess the Requisite Experience?**

Our preliminary research identified four national and regional private corrections firms that have the *minimum level* of experience that would be required to operate a jail for Camden County.<sup>35</sup> Ideally, any chosen firm would have experience operating full-service jails in urban environments. By “full-service,” we mean that the jails detain both pre-trial and convicted inmates representing the gamut from very low custody to maximum security; that there is little or no information about the inmates when they enter the facility; that large numbers of inmates often have serious medical and psychiatric illnesses; and that there are large numbers of daily admissions and releases. Such full-service urban jails present a fundamentally different challenge than do rural prisons, which tend to have a more homogeneous

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<sup>35</sup> There are several other private corrections firms that possess minimal or no *full-service jail* experience, according to information available on their websites, including Management and Training Corporation (Utah based), Emerald Corrections (Louisiana), and Liberty Management (Philadelphia, PA).

inmate population that has been pre-screened and classified, as well as less daily turnover and less complex and constant release decisions. The challenges presented by operating full-service jails also are very different than those that arise when operating immigration detention/deportation facilities, community based re-entry type of facilities, juvenile facilities, and halfway houses.

Based on review of the firms' websites and follow-up phone conversations with representatives of the companies, brief profiles of the four firms are provided below:

Corrections Corporation of America<sup>36</sup>

- The oldest and largest private corrections operator in the United States
- Based in Nashville, TN
- Operates a full service jail facility in Washington, DC—the 800-bed Correctional Treatment Facility (a unionized operation)
- Operates full service jails in Florida and Tennessee
- Manages prisons throughout the country
- Operates a 300-bed Immigration Detention Center in Elizabeth, NJ

GEO Group<sup>37</sup>

- The second oldest and second largest private corrections operator in the United States
- Based in Boca Raton, FL
- Previously operated the 1,700-bed Delaware County Prison in Pennsylvania (a unionized operation)<sup>38</sup>
- Operates two full-service jails in Texas
- Manages a significant number of prisons throughout the country

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<sup>36</sup> CCA website: <http://www.correctionscorp.com/facilities/>.

<sup>37</sup> GEO Group website: <http://www.thegeogroupinc.com/northamerica>.

<sup>38</sup> The firm withdrew from Delaware County in December 2008, citing high litigation costs and a change in corporate priorities as to the types of facilities the firm wanted to operate in the future.

- Owns a 790-bed facility in Newark, Delaney Hall, which is leased to Community Education Centers
- Operates three federal community-based facilities in New York City

Cornell Corrections<sup>39</sup>

- One of the oldest and largest private corrections operators in the United States
- Based in Houston, TX
- Previously operated the 600+ bed Wyatt Detention Center in Rhode Island (a unionized operation)
- Operates one full-service jail in Albuquerque, NM
- Manages more than 20 juvenile corrections facilities in Delaware and Pennsylvania
- Operates four very small city jails in California

Community Education Centers

- Based in West Caldwell, New Jersey
- Manages the 1800-bed Delaware County Prison (jail) in Thornton, PA (a unionized operation)
- Operates a 192-bed jail in Ohio and four full-service jails in Texas
- Operates six low-custody re-entry facilities in New Jersey and five in Pennsylvania

With respect to the four firms profiled above, information gleaned from websites and brief phone calls is certainly not intended to substitute for the degree of due diligence that would be required by the County in the event that private operations is pursued as an option. Among other factors to consider, the County would certainly want to investigate the track records of each of these firms with regard to, for example, compliance with contractual provisions and other statutory or regulatory obligations; conditions of confinement for inmates; litigation;

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<sup>39</sup> Cornell Corrections website: <http://cornellcompanies.com/facilities>.

investigations by local, state, and federal authorities; major incidents; and financial benefits that accrued or did not accrue to jurisdictions with whom they have contracted. Moreover, while we have spoken with these firms, we cannot determine with any certainty at this juncture whether any of the four firms would, in fact, be interested in building/operating a facility for Camden County; their interest would only be established once they respond to a request for qualifications or request for proposals issued by Camden County.

### **Operating Cost Savings Through Privatization**

While one of the arguments often heard in favor of privatization has to do with the potential for cost-savings, national research has not yielded any single conclusion in this regard. A 2001 Bureau of Justice Assistance-funded nationwide study by Dr. James Austin and Dr. Garry Coventry, *Emerging Issues on Privatized Prisons*, reviewed earlier research that had examined the extent of cost-savings.<sup>40</sup> They cited numerous studies that showed a wide range of cost savings, from none, to only a couple percent, to as high as 15%<sup>41</sup>. A U.S. General Accounting Office study, cited in the Austin/Coventry report, found that there were little differences in costs between public and private facilities, and as a result, the GAO “could not conclude whether privatization saved money.”<sup>42</sup> Austin and Coventry concluded that the research shows that “the cost benefits of privatization have not materialized to the extent promised by the private sector.”<sup>43</sup>

Along the same lines, a 2005 study prepared by Abt Associates, Inc., found savings of 6-10% when comparing the five-year cost of operating a particular federal minimum security facility by a private company (Wackenhut, now GEO Group) as compared to what the cost would have been if the Federal Bureau of

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<sup>40</sup> Austin and Coventry, “Emerging Issues on Privatized Prisons,” pp. 21-29.

<sup>41</sup> Id., p.22-29.

<sup>42</sup> Id., p. 26.

<sup>43</sup> Id, p.29.

Prisons had directly operated the facility.<sup>44</sup> The study attributed cost savings in significant part to lower costs of fringe benefits paid to employees, but also found that the private operation was well run and there were more staff assigned by the private firm than the Federal government would have assigned.<sup>45</sup>

Researchers also point out the various hidden costs that must be factored in to comparisons of per diem costs between public and private correctional facilities for the comparisons to be viable, such as governmental overhead, legal services, property insurance, etc., (many of which are currently in the CCCF's indirect budget).<sup>46</sup>

There are certainly examples of private firms assuming responsibility for operation of public facilities and achieving cost reductions. While in some cases cost reductions have been achieved by replacing higher paid public employees with far lower paid private staff, this has not always occurred and is not necessarily advisable or necessary to allow for cost savings. In those cases where wages and benefits are kept fairly close to those in place under public management, it is clear that savings can be obtained through many incremental measures.

Private-sector contractors, who are not restricted by government procurement systems, can purchase goods and services quicker; maintain lower food, supplies, and equipment inventories; and negotiate better prices for these goods. Private operators may have access to cost saving technology such as electronic medical records and automated jail management systems that may not be available to some governmental agencies, and they may also be able to schedule staff more efficiently, negotiate compensation without binding arbitration, offer different benefits and retirement options, and apply different overtime rules. Savings can also come from their selection of subcontractors, in areas such as healthcare, food

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<sup>44</sup> Douglas C. McDonald, "Contracting for Imprisonment in the Federal Prison System: Cost and Performance of the Privately Operated Taft Correctional Institution," Douglas C. McDonald, (Boston, MA): Abt Associates, Ph.D., October 1, 2005), p.44.

<sup>45</sup> Id., p. xiii.

<sup>46</sup> Id., p. 23.

services, and commissary, where vendors may be willing to work at smaller margins in hopes of getting other contracts with the prime contractor.

It is also important to emphasize that cost savings should not be the only factor taken into account in determining whether the County should opt for privatization. Although the research is quite limited in this area (especially with respect to operation of local jails such as CCCF), there are several studies that call into question whether private companies are able to provide comparable or improved performance in correctional operations. For example, the Austin/Coventry study found that private correctional facilities have 49% more assaults on staff and 65% more inmate-on-inmate assaults than in public facilities.<sup>47</sup> Other research has found higher rates of escapes, disturbances, and drug use in private facilities, as well as higher levels of programmatic deficiencies, including inmate idleness.<sup>48</sup> Other studies, however, have found that the private operators outperformed their public counterparts on many measures of inmate services, institutional procedures, programming, and other key measures.<sup>49</sup> The study that is perhaps the largest and most comprehensive to date, the 1998 Abt report, concluded, “Given these shortcomings [in the studies] and the paucity of systemic comparisons, one cannot conclude whether the performance of privately managed prisons is different from or similar to that of publicly operated ones.”<sup>50</sup> The fact remains that there are no guarantees of high performance by public or private corrections managers, but well defined contractual expectations and professional monitoring are factors that can certainly contribute to the chances of a successful private operations.

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<sup>47</sup> Austin and Coventry, *Emerging Issues on Private Prisons*, Table 20, p. 57.

<sup>48</sup> Judith Greene, “Lack of Correctional Services,” in *Capitalist Punishment: Prison Privatization and Human Rights* (Andrew Coyle, et.al. eds.), Atlanta, Clarity Press, 2003, p. 65 (citing a Federal Bureau of Prisons Office of Research and Evaluation study).

<sup>49</sup> See, Brakel, Samuel J. (1988). “Prison Management, Private Enterprise Style: The Inmates’ Evaluation.” *New England Journal of Criminal and Civil Confinement* 14:175-244. Cited in Austin and Coventry, *Emerging Issues on Private Prisons*, p. 30.

<sup>50</sup> Douglas C. McDonald, et al “Private Prisons in the United States,” (Boston, MA): Abt Associates, July 16, 1998), p.v.

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### **Case Studies: District of Columbia and Delaware County, Pennsylvania**

Two relatively local examples of private firms operating full-service jail facilities are in Washington, DC, where the Corrections Corporation of America has been responsible for operations of the 800-bed District of Columbia Treatment Facility<sup>51</sup> since 1997, and the Delaware County Prison<sup>52</sup> in Thornton, PA, where one firm (Wackenhut/GEO Group) designed/built and operated a 1700-bed facility from the late 1990s until December 2008 and a second firm (CEC) assumed operations in January 2009.

#### *District of Columbia*<sup>53</sup>

In the case of the District of Columbia facility, the complex transaction entailed the private firm, CCA, purchasing the structure for an upfront initial payment of \$54 million and making \$2.8 million in capital repairs and improvements. In return, the District entered into a 20-year agreement to pay CCA a monthly lease fee and a daily per diem to operate the facility. The initial per diem rate that the District would pay CCA was \$70.40 with an annual adjustment increase of 3% of the per diem rate of the prior year. In addition to the District's receiving the one time cash infusion and the maintenance cost avoidance worth a total of \$56.8 million, monthly payments to CCA initially were calculated to save the District approximately \$3 million annually, and the deal also promised comparable annual savings over the 20-year term of the contract.<sup>54</sup>

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<sup>51</sup> This facility operates as a local facility for the District of Columbia, and it houses pre-trial inmates and sentenced misdemeanants. Sentenced felons are placed into the Federal Bureau of Prisons.

<sup>52</sup> This is a local jail serving Delaware County, PA. Local jails are statutorily referred to as "prisons" in that state.

<sup>53</sup> P/BA personnel were involved as internal and consultant contract monitors for this facility and much of the information presented is based on that experience and knowledge gained in the process. This information was supplemented by myriad phone calls to District officials in May/June 2009.

<sup>54</sup> Contract modifications in 2003 led to some significant changes in the per diem pricing structure. The per diem charges dropped approximately \$20.00 in return for the District of Columbia's assuming financial and operational responsibility for healthcare and, later, food service at the facility. The District also modified the contractual agreement to give CCA the option to generate additional revenue by filling vacant beds with Federal inmates as well as prisoners from other jurisdictions, subject to the District's approval. In turn, CCA would pay the District \$25.00 for each medical intake assessment of a non-District inmate, and a \$28.60 per diem reimbursement for medical care, food service, administrative costs and lease of the bed.

The union representing District of Columbia corrections employees had input into the formation of the agreement for operations, and CCA agreed to give the approximate 375 employees the option of first right of refusal and employment retention as long as they passed drug tests and background checks.<sup>55</sup> Moreover, all public employees hired by CCA were offered positions at their existing salaries and with comparable benefits, and CCA agree to grant employees seniority and associated rights and privileges above that of any CCA employees who were transferred into the facility from other CCA facilities.

As of this writing, the District of Columbia is paying a per diem of \$71.99 at the DCTF, excluding food and health care costs. The per diem for meals is \$3.85. The per diem cost for healthcare is covered under a multi-facility contract and could not be broken out separately for attribution to the DCTF.

Contract monitoring for the District of Columbia facility was initially provided by a full-time employee supplemented by external consultant support<sup>56</sup> in such areas as healthcare, food service, and physical plant renovations. Over time, the consultants were phased out and the single employee contract monitor continued in place, employing the monitoring tools, procedures, and systems developed by the consultants.

The privatization experience in the District of Columbia has not been without problems. In the first two years of private operations, consultants and monitors for the District of Columbia Treatment Facility identified roughly \$3 million in potential

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<sup>55</sup> The District also offered displaced worker services to assist employees to transfer into other District agencies when they choose not to accept the first right of refusal to encumber positions at the private facility. Non-DOC employees were hired at salaries offered by CCA. CCA elected to hire or transfer in the majority of its executive management staff (Warden, Deputy Wardens, Security Chief and business managers).

<sup>56</sup> P/BA served as consultants to the District of Columbia.

finances based upon contractor's non-compliance in the areas of the provision of clinical services, correctional staff vacancies and programs for female inmates.<sup>57</sup>

Delaware County, Pennsylvania<sup>58</sup>

Delaware County's situation is quite different. Operation of the facility changed in 1996 from public to a private operator, Wackenhut (which later became the GEO Group).<sup>59</sup> On January 1, 2009, management shifted from GEO to Community Education Centers (CEC).

CEC is currently operating the 1800-inmate facility for the County at a per diem cost of \$61.75, which totals just under \$40 million per year. The County is supplementing those payments with another \$4.3 million for medical contributions, utility payments, and sewage treatment; it is also expending approximately half a million dollars in contract monitoring for a staff of five full-time employees who serve as contract overseers and monitors on behalf of the County's Prison Board. If those costs are added to the per diem charges, the total operations costs for the 1800-inmate facility are \$44.8 million and the adjusted actual per diem cost is approximately \$68.<sup>60</sup> The Delaware County Prison employees are unionized, although there was no collective bargaining agreement in place as of late May 2009 since the current operator assumed operations on January 1.

We note that there were some significant performance concerns in the Delaware County facility in past years. Several deaths in custody between 2005 and 2008 were reported, including allegations of inadequate medical care that led to a number of wrongful death settlements paid out by GEO Group.<sup>61</sup> Penalties were

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<sup>57</sup> Approximately 10% of this figure was actually assessed by the District against CCA.

<sup>58</sup> Interview with Delaware County Prison Superintendent John A. Reilly, Jr. (May 27, 2009).

<sup>59</sup> The firm became GEO Group approximately six years ago.

<sup>60</sup> Comparing these figures to the operating costs for the CCCF, a comparably –sized facility, Delaware County's costs are about one-third less than the \$68 million annual cost and \$103 per diem operating costs for the CCCF as discussed earlier in this Report.

<sup>61</sup> Matt Katz, "Camden County Awaits Corrections Report," Philadelphia Inquirer, June 2, 2009 [http://www.philly.com/inquirer/front\\_page/20090602\\_Camden\\_County\\_awaits\\_corrections\\_report.html](http://www.philly.com/inquirer/front_page/20090602_Camden_County_awaits_corrections_report.html).

also routinely assessed by the County against GEO Group for understaffing.<sup>62</sup> Although the current operator, CEC, has only been in place since the beginning of this year, the County appears to be satisfied with the level of services and management of the facility, including the full range of programs and quality of healthcare being provided.<sup>63</sup>

## **Summary**

There are potential benefits but also risks associated with private jail operations. On the upside, there is the potential for cost savings and for improved operations, with substantially less day-to-day involvement and direct management by the County. The downside risks include the potential for cut corners and poor performance leading to liability for the county, though it surely bears noting that public jails often have a dismal track record in this arena as well. While privately managed jails are sometimes found to be in violation of their contracts due to understaffing, publicly operated jails, including Camden's, frequently operate with fewer staff than are required. And, while there are certainly tragic instances of escapes, inmate deaths, and substandard medical care in private jails and prisons, similar problems arise in publicly operated facilities as well. In fact, Camden County's publicly operated facility has had its share of serious incidents and, over the past five years, the County has been liable for almost \$12 million in damages and settlements arising out of jail litigation.<sup>64</sup>

One other factor bears mentioning when it comes to evaluating private and public sector operations: often, these are apples-to-oranges comparisons. For example, comparing private operations of a new, state-of-the-art facility operating at or near its intended capacity, with a publicly operated facility that is decades older, employs outdated technology and design approaches, and is operating at close to twice its capacity, is simply not fair or valid. This is a highly skewed comparison

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<sup>62</sup> Interview with Delaware County Prison Superintendent John A. Reilly, Jr. (May 27, 2009).

<sup>63</sup> Interview with Delaware County Prison Superintendent John A. Reilly, Jr. (May 27, 2009).

<sup>64</sup> Correspondence to P/BA from Howard Goldberg, Assistant County Counsel, Camden County (June 29, 2009). The amount that the County actually had to pay out in damages and settlements, versus that covered by insurance, was approximately \$2 million.

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that naturally favors the private operations, just as it would be if the situations were reversed, i.e., a crowded, outmoded privately built and operated facility versus a well designed public facility operating at or below capacity. Similarly, it is critical that like kinds of facilities be compared, i.e., a privately operated minimum-security facility with highly motivated inmates nearing their release and with substantial program opportunities cannot reasonably be compared with a multi-custody publicly operated facility with high inmate turnover and a far greater focus on security and trial availability.

Moreover, the impact of crowding cannot be overstated. Crowding in jails, whether publicly or privately operated, is pernicious and affects every aspect of facility operations and the delivery of services. Construction of a new, larger state-of-the-art jail will solve little if County officials (including both county administration and judicial officials) do not seize the current opportunities discussed previously to manage the jail population by implementing the recommended systemic improvements. Jail crowding is a chronic issue to be managed, not as a crisis requiring a one-time fix. Jail population management must be viewed as an ongoing process. To appreciate the meaning of this obligation, officials need look no further than Camden County's own juvenile justice system. Officials have worked hard to bring about a dramatic reduction in the population at the former Camden County Youth Center, and that effort continues on an ongoing basis through monthly meetings to monitor the population at the new and far larger facility and to seek additional ways to limit confinement admissions and length of stay.

Finally, regardless of whether a private firm operates the facility on a day-to-day basis or government does, the government still retains the responsibility to ensure that the operation is safe and secure, and that services and programs are provided

consistent with contractual requirements, public needs, and constitutional requirements.<sup>65</sup>

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<sup>65</sup> *West v. Atkins*, 487 U.S. 42 (1988) (U.S. Supreme Court held that the state cannot relieve itself of its constitutional duty to provide medical care for inmates by contracting with a private provider).

**V. Objective 1:**  
**Provide Immediate Relief of Population Pressures**

## V. Objective 1: Provide Immediate Relief of Population Pressures

The first objective is to determine the options available to quickly reduce the population of the CCCF. While *eliminating* crowding in the facility cannot be realistically achieved in a brief timeframe of say six months, the question here is whether the crowding can be reduced so as to provide some relief to the inmates and staff of the CCCF, and to mitigate some of the population-driven operational and treatment-related difficulties that currently exist at the CCCF.

The goal here is to reduce—on a short-term basis, if necessary—certain undesirable, potentially dangerous, and habitual conditions such as:

- Triple and quadruple-celling<sup>66</sup> of inmates housed in numerous floors on the main jail, especially those housing units located on floors 3N, 5N, 3S, 5S;
- The difficulty in maintaining an adequate staff-to-inmate ratio in all areas of the facility;
- Uncontrolled overtime that results from an inability to fill vacancies in a timely manner;
- Limited out-of-cell time and out-of-housing unit programming opportunities for most inmates in triple- and quadruple-celled housing units;
- Physical plant systems depreciation;
- Non-compliance with New Jersey and American Correctional Association standards;
- Movement control problems created by stress on elevators;
- Sick leave abuse, which results in more overtime use;
- Staff morale problems and burnout.

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<sup>66</sup> Quadruple-celling entails two inmates on a bunk bed (upper and lower), a third inmate assigned to a mattress on the floor next to the bunk bed, and the fourth forced to sleep on a mattress directly in front of the toilet.

Even a reduction of approximately 300 inmates would help alleviate the direct impact of crowding, especially as populations hover around 1,800-1,900. For example, such a reduction could potentially offer the following kinds of housing relief for the CCCF:

- The jail could shut down half of one entire floor (such as 3 South, which has 220 beds but is presently housing 301 inmates). This would eliminate triple- and quadruple-celling on this half floor (since it would be vacant), and would allow for a small staff reduction or reduced use of overtime due to half a floor not being used. It would, however, leave the remaining 1,500 or so inmates in the same triple- and quadruple-celling situation that currently exists.
- Alternatively, if approximately 150-160 inmates were removed from housing units on two half floors such as 5 North and 3 North, it would result in all or most inmates housed in those areas being in double cells, as opposed to triple- or quadruple-cells. It would, however, have no effect on triple- and quadruple-celling in any other housing areas of the facility.
- Another approach would be to begin by eliminating all quadruple-celling, followed by strategically eliminating triple-celling where possible throughout the facility to spread the population density reduction around.

Having 300 fewer inmates would also mean that 900 fewer meals would need to be prepared and served each day. Also, there would be a significant benefit for health care services: decreased numbers of offenders seen at sick call each day; decreased numbers of medications that are distributed three times a day; and decreased numbers of inmates refusing or being "no shows" for medical appointments

Moreover, reducing the CCCF population by several hundred inmates would be a significant display of good faith relative to the *Dittimus Bey* litigation and would likely help avoid some more draconian steps that could be imposed in litigation,

including population caps, release orders, or orders not to confine defendants arrested for certain types of offenses. It would not resolve the litigation, but it could well provide sufficient relief to the plaintiff class so as to “buy time” until more permanent measures could be implemented, including building new jail capacity and creating new programs to serve as alternatives to incarceration.

There is one major potential drawback associated with any short-term measure that would take inmates out of the CCCF. It is conceivable that the beds could very quickly be filled again by conscious or unconscious actions of judges as they set release conditions for pre-trial defendants or make sentencing decisions for convicted offenders. A plan must be put in place for addressing this risk if short-term population reduction measures are to be used.

Moreover, in the case of leasing several hundred beds in either a privately operated facility or another local jail, there is a substantial expense that would need to be incurred. Even at a relatively favorable per diem cost of \$50 (less than half of what the County budgets at the CCCF), this would still equate to some \$5.5 million annually for approximately 300 inmates, with only minimal net cost reductions at the CCCF. Given the current economic climate and the several millions of dollars that would be required, it would appear highly unlikely that the County can afford such an expense.

Three potential options for rapidly reducing the inmate population at the CCCF are presented below, with discussion of each and identification of benefits and drawbacks and possible implementation steps. These options are not mutually exclusive—theoretically, Camden County could implement all three options and reduce the population at the CCCF by 700-800 inmates, which would allow for the complete suspension of triple celling and possibly closure of all or part of the Modular dormitories (which would have a staff reduction impact). It is worth emphasizing that at least some of these options are intended to be temporary in

nature, and are not recommended as long-term strategies for dealing with the county's jail crowding problem.

**Option 1.1: Prioritized Implementation of Select Population Management Study Recommendations**

P/BA's recent consultant study of population reduction strategies<sup>67</sup> offered 22 recommendations designed primarily to reduce the length of stay of inmates in the CCCF through a variety of efficiencies in criminal justice system processing and priority changes. Although the report pointed out the difficulty associated with quantifying the potential impact of each of the recommendations due to interdependence among many of them, it nevertheless suggested that full implementation could reduce the then-current jail population by some 300-350 inmates.

While many of the 22 recommendations will take time, money, or system cooperation to bring to fruition, there are others that we believe could have an immediate and potentially significant impact. These few measures could be implemented quickly, could yield bed savings, and deserve to be implemented on a permanent basis. For example, Recommendation #12 in that Report, pertaining to priority scheduling and differentiated case management for in-custody versus out-of-custody cases, could be implemented quickly and with relative ease. Prioritizing in-custody cases for presentation to the Grand Jury would likely have the most significant impact, followed by prioritizing these cases for preparation of grand jury transcripts, setting of trial dates, and preparation of pre-sentence reports.

Potential Benefits:

1. Many of the Population Management Study options can potentially be implemented quickly and at little or no cost, assuming the players in the criminal justice system, i.e., prosecutor, public defender, administrative judge, court administrator, and probation officials, agree to make it happen.

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<sup>67</sup>P/BA/Luminosity, "Jail Population Analysis."

2. Implementation of these measures can be permanent criminal justice system efficiencies, rather than ones designed only to achieve an emergency reduction in the jail population.
3. These are not a unique or untried mechanisms as local court systems throughout the country have adopted such measures as specialized dockets to expedite in-custody cases and other similar efficiencies.<sup>68</sup>

Potential Drawbacks:

1. Significant cooperation from several independent entities in the criminal justice system will be required.
2. The number of saved beds is not immediately quantifiable and officials cannot be assured that implementation will necessarily yield as substantial a reduction in jail population as is needed in the short-term.
3. Bed reductions achieved via selected measures could be negated by changed practices in other aspects of the criminal justice process.

Implementation Steps:

1. Camden County judicial and prosecutorial officials and County Administration need to meet jointly to advance this particular initiative toward implementation, with careful monitoring of progress and results.

**Option 1.2: Lease beds in other counties**

Leasing beds from other counties with excess capacity is a potentially viable short-term option. Should another county in New Jersey have excess capacity and be willing to lease space at a reasonable per diem price, it offers a potential benefit to each county as the leasing county derives revenues, can maintain all existing staff, and achieves economies of scale, while the other can mitigate its jail crowding problem on a temporary basis.

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<sup>68</sup> Monograph: "A Second Look at Alleviating Jail Crowding: A Systems Perspective," Bureau of Justice Assistance, NCJ 182507, October 2000.

If Camden County is to consider this option, it must determine of course where the funds will come from to pay the bed rental charges and transportation costs associated with moving its inmates to and from the host facility. It must also exercise due diligence relative to the physical conditions of the host jail, availability of programming, visiting arrangements, classification system, and the host county's willingness to take inmates of different classification levels. It will also need to determine whether healthcare services are available, whether the health care program is accredited by the National Commission on Correctional Health Care, and whether the jail is accredited by national organizations such as the American Correctional Association.<sup>69</sup>

One facility in New Jersey, Monmouth County, has indicated an interest in leasing beds to Camden County, and has a capacity of 150-200 beds available.<sup>70</sup> Questions, such as which inmate classifications the facility would be willing to accept and whether there would be exclusions based on custody level, disciplinary history, medical needs, etc., have not been examined yet, nor have we examined conditions in the Monmouth County jail.

Potential Benefits:

1. A reduction of 150-200 inmates at the CCCF would allow for a decrease in population density and would eliminate inmates sleeping on floors.
2. Per diem costs charged by the host facility would be partially offset by potential reductions in per diem contract costs for food and medical care at CCCF due to lower numbers of inmates at that site.
3. Monmouth County is approximately 58 miles, or an hour's drive from Camden City.

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<sup>69</sup> An additional consideration is whether the host facility is committed to and working to further the goals and objectives of the Prison Rape Elimination Act (PREA), a federal law with standards that were promulgated on June 23, 2009, pending adoption by the Attorney General.

<sup>70</sup> Source: Survey of Surrounding Counties, prepared by County Administration (June 26, 2009). Of seven counties surveyed, only Monmouth had capacity and/or interest in leasing beds.

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4. The Monmouth County Jail is accredited by the American Correctional Association (ACA) and, like Camden, has accreditation of its healthcare through the National Commission on Correctional Health Care (NCCHC)
5. The facility could potentially accept different custody classifications given its size and secure perimeter inherent in it being a full-service jail.

Potential Drawbacks:

1. Even with some offsets due to lower food and healthcare contract costs at CCCF due to a lower population, there will still be a multi-million dollar net cost to the County for leasing beds.
2. The distance from Camden would potentially represent a hardship to inmate visitors, including both family members and attorneys.
3. A significant reduction in inmate population at CCCF could result in judges detaining and sentencing more persons to the jail and filling up the beds that are vacated.
4. A reduction of only 150-200 inmates would likely not result in any housing units or floors at the CCCF being closed. As such, there would not be any staff reductions and associated reduced personnel costs.

Implementation Steps:

1. Contact Monmouth County to determine what per diem they would charge, what classifications they would accept, and what exclusions they would require.
2. Determine the budget consequences of paying the per diem costs for up to 200 inmates and whether this would be feasible via-a-vis the County budget.
3. Visit the Monmouth County Correctional facility in Freehold to perform a due diligence review of the physical plant and operations.
4. Request copies of the facility's most recent ACA and NCCHC audit results.
5. Establish a dialogue with the judiciary and *Dittimus Bey* plaintiffs' counsel concerning mechanisms to avoid filling the beds that are vacated by potential transfers to a private facility.

6. Enter into preliminary contract negotiations.
7. Determine how compliance monitoring would occur.

**Option 1.3: Lease beds from private company in existing facility**

There are currently two private firms operating corrections facilities in New Jersey. Community Education Centers (CEC)<sup>71</sup> owns and operates an 800-bed “community reentry facility” in Trenton as well as similar facilities in Newark (2372 beds at three sites) and Kearney (500 beds). Corrections Corporation of America (CCA)<sup>72</sup> owns and operates one facility in New Jersey, a 300-bed immigration detention facility in Elizabeth.

Contacts were made with both CEC and CCA on behalf of Camden County.<sup>73</sup> At this point in time, the only potential bed availability is at CEC’s Bo Robinson Community Re-entry Center in Trenton. This facility is a minimum security structure in an industrial area in Trenton, approximately 36 miles from downtown Camden. It currently has 300 vacant beds that could be used to house a carefully screened segment of CCCF’s population. The facility has a secure perimeter that would be classified as minimum-security, and offers an impressive range of re-entry, medical, and education services with dormitory style housing areas that would be appropriate for a minimum custody population.<sup>74</sup>

As stated previously, however, even at a relatively favorable per diem cost of \$50, this would still equate to some \$5.5 million annually for approximately 300 inmates, with only minimal net cost reduction at the CCCF.

Potential Benefits:

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<sup>71</sup> For more information about CEC, see discussion on page 36 of this Report.

<sup>72</sup> For more information about CCA, see discussion on page 35 of this Report. .

<sup>73</sup> Calls were also made to Cornell Corrections and GEO Group, neither of which reported having any facilities or bed capacity in or near New Jersey.

<sup>74</sup> P/BA staff toured the Bo Robinson facility on May 27, 2009.

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1. A reduction of 300 inmates at the CCCF would allow for a decrease in population density, would eliminate inmates sleeping on floors, and would allow for some triple cells to be reduced to doubles.
2. 300 beds are immediately available at the CEC Bo Robinson facility in Trenton, and Camden has over 700 inmates classified as minimum custody who could potentially be housed at this facility.
3. The Bo Robinson facility offers excellent re-entry programming and a full range of medical services, including chronic care treatment.
4. Bo Robinson is relatively close to Camden—36 miles and approximately a 45-minute drive.
5. If the firm providing interim contract beds was also selected as part of a long-term agreement (see Option 3.2 (a)), the County may be able to amortize the interim housing costs into the long-term per diem agreement and avoid the County having to immediately pay the additional costs associated with leasing beds.
6. Per diem costs charged by the facility would be partially offset by potential reductions in per diem contract costs for food and medical care at CCCF due to lower numbers of inmates at that site.

Potential Drawbacks:

1. Even with offsets due to lower food and healthcare contract costs at CCCF due to a lower population, there will still be a multi-million dollar net cost to the County for leasing beds.
2. A reduction of 300 inmates would not result in any housing units or floors at the CCCF being closed. As such, there would not be any staff reductions and associated reduced personnel costs.
3. There is currently only one firm that can offer beds in New Jersey. The lack of competition *could* mean a higher price to the County.
4. A significant reduction in inmate population at CCCF *could* result in judges detaining and sentencing more persons to the jail and filling up the beds that are vacated.

5. The distance from Camden would potentially represent a hardship to inmate visitors, including both family members and attorneys.

Implementation Steps:

1. Contact the vendors to obtain a preliminary read on likely per diem charges and services.
2. Determine the budget consequences of paying the per diem costs for up to 300 inmates and whether this would be feasible via-a-vis the County budget.
3. Perform a preliminary classification screening to determine the number and classification profile of inmates who would currently be eligible to be housed in a minimum security facility.
4. Prepare a procurement that would meet New Jersey purchasing requirements for firms to provide contract beds. This RFP would need to clearly specify the type of environment required, compliance with New Jersey and specified national standards, types and levels of services to be provided, financial arrangements, indemnification requirements, and the County's contract monitoring scheme.
5. Establish a dialogue with the judiciary and *Dittimus Bey* plaintiffs' counsel concerning mechanisms to avoid filling the beds that are vacated by potential transfers to a private facility.
6. Enter into preliminary contract negotiations.
7. Determine how compliance monitoring would occur.

**VI. Objective 2:**  
**Reduce Operating Costs at CCCF**

## **VI. Objective 2: Reduce operating costs at CCCF**

As discussed in Section III of this Report, the current operating costs at the CCCF exceed \$68 million per year, or more than \$103/day per inmate.<sup>75</sup> With limited revenues in this period of recession, and significant efforts made by the Freeholders to maintain tax rates, the jail expenditures represent a substantial drain on the County's budget and limit the availability of funding for other critical County services.

Until such time as the CCCF can be replaced (see Section VII), it is most important that the cost of operations at the CCCF be carefully managed and potentially reduced. This is not just because of the need to be fiscally prudent, but also because the short-term population reduction measures discussed in the preceding section may require substantial additional expenditures as may the planning and development costs associated with long-term measures.

Three potential options for reducing operating costs at the CCCF are presented below, with discussion of each and identification of benefits and drawbacks and possible implementation steps.

### **Option 2.1: Contract out operations of the existing CCCF**

Contracting out operations of the existing CCCF to a private firm has the potential to reduce operating costs if the contractor can employ a variety of cost control and reduction measures available to the private sector but not possible in a public management arena, and can therefore deliver quality correctional services at a lower cost.

This approach would likely entail the issuance of a comprehensive, carefully crafted RFP that would define in great detail the expected operational criteria, performance objectives, and contractual terms, e.g., indemnification requirements,

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<sup>75</sup> The per diem was calculated based on a daily population of 1,800 inmates.

expectations of a private operator (including standards to be met), and default provisions. Contract monitoring plans and arrangements would also need to be determined.

Potential Benefits:

1. While the County may still be named in lawsuits, financial liability associated with inmate lawsuits for the most part would be shifted from the County to the private operator pursuant to properly drafted indemnification agreements.
2. The current drain on County resources in such areas as legal services and human resources associated with the CCCF would be significantly diminished.
3. If this were part of the contract, a private operator could introduce re-entry programming and services beyond those that the County can currently provide.

Potential Drawbacks:

1. Initial transition costs to be borne by the private operator would not necessarily be able to be amortized over a long-term agreement, unless the interim firm was also selected to design/build and/or operate a long-term replacement for the CCCF.
2. The existing structure requires some \$50 million in repairs and capital improvements, which could not realistically be made part of a short-term agreement and would leave the facility in poor shape.
3. There would be a high level of potential instability and staff turnover if it was not clear that the same firm would also be selected to design/build and/or operate a long-term replacement for the CCCF.
4. The impact on public employee unions would be significant for only a short-term arrangement.
5. A management-only contract may not be appealing to many private operators given the high liability and potentially lower per diem (relative to Federal contracts).

6. Existing healthcare and food service contracts would need to be terminated, renegotiated, or assigned to the private operator, with potential difficulties associated with incompatibility of vendors and the private operator, or interruption of continuity of care if responsibility for healthcare services changed.
7. The CCCF would remain a very crowded facility with all of the attendant problems that high density and an outmoded physical plant present relative to an effective operation.
8. Camden County never gives up its underlying responsibility for the conditions in which the inmates are being held, and could continue to have liability should the contracting firm go bankrupt or should a court determine that the County did not exercise appropriate oversight or control over poor conditions in the facility.

Implementation Steps:

1. Determine whether a single firm would be eligible to submit a proposal for any long-term privatized facilities and operations.
2. Conduct discussions with unionized employees relative to the impact of such a decision to privatize, and what their memberships' needs would be and what protections they would want to see in place.
3. Determine the contract monitoring and oversight approach that the County would employ and determine what it would cost.
4. Identify capital improvements and repairs to CCCF that would be required and whether they would be the responsibility of the operator or the County.
5. Prepare a comprehensive RFP detailing all aspects of expected operations, performance criteria, and key contractual terms, including those related to the role of unions, eligibility of current employees for future jobs under a contract, and the impact on wages and benefits and seniority.
6. Conduct a careful and deliberate evaluation of proposals, exercise due diligence in investigating the track records of potential vendors, and enter into negotiations with the selected firms.

## Option 2.2: Renegotiate existing labor agreements

Labor costs, including salaries, benefits, overtime payments, and shift differential payments, currently comprises 71% of the CCCF direct cost budget.

Aside from the negotiated salary provisions in the collective bargaining agreements,<sup>76</sup> there are numerous other provisions that impact on the amount that the County must expend relative to compensation. There are provisions governing work schedules, overtime, call-in time, longevity pay, holiday pay, fringe benefits, sick leave, leaves of absence, and funeral leaves, each of which directly or indirectly impacts on the total amount paid by the County to unionized public employees. Some of these provisions are a direct result of and mirror New Jersey Department of Personnel statutes, rules, and regulations<sup>77</sup> while many others were negotiated terms and conditions.

Given limited County revenues in a difficult economy, the question is whether the County and its unionized employees can work together either to modify some provisions in the agreements that would decrease personnel costs or to reduce costs through labor-management initiatives. In addition to wages and benefits, the factors that contribute to \$4.5 million in overtime expenditures can be examined, especially those related to employee absenteeism and loopholes in the system that increase overtime payments. For example, under New Jersey law, the period used for overtime calculation is not time worked in excess of 8 hours in a day, but rather time worked in excess of 40 hours in any week.<sup>78</sup> However, the collective

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<sup>76</sup> For example, see, Article VII, Rates of Pay, in Collective Bargaining Agreement between Camden County and Camden County Correctional Officers, PBA Local #351.

<sup>77</sup> For example, family leave provisions are pursuant to the NJ statute and the federal FMLA.

<sup>78</sup> NJ State Wage and Hour Laws and Regulations, 34:11-56a4; see also, NJ State Wage and Hour Laws and Regulations, 12:56-6.4. Workweek hours:

(b) There is no requirement that an employee be paid premium overtime compensation for hours in excess of eight hours per day, nor for work on Saturdays, Sundays, holidays or regular days of rest, other than the required overtime for over 40 hours per week; provided, however, nothing shall relieve an employer of any obligation he or she may have assumed by contract or of any obligation imposed by other State or Federal law limiting overtime hours of work or to pay premium rates for work which are in excess of the minimum required by this chapter.

See also, NJ State Wage and Hour Laws and Regulations, 12:56-5.2. Computation:

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bargaining agreement provides for overtime payment when hours exceed 8 in a given workday or more than 40 hours in a work week, and the latter period can include days in which the employee doesn't work due to sick leave or vacation time. This contractual provision likely contributes to large amounts of overtime being expended. Similarly, while employees are contractually permitted a certain amount of sick leave if it is needed, the amount being used by officers is extremely high, and the requirement that all established posts be continuously filled then generates the need for relief coverage, frequently on an overtime basis.

This option should not be taken to mean that employees are not entitled to these payments, since the provisions were negotiated in good faith in an agreement signed by both parties. Instead, we are suggesting that there are opportunities for management and labor either to reopen certain provisions, or to mutually explore ways that would allow for the County to obtain some significant savings without resorting to other, more dramatic options.

Potential Benefits:

1. Savings achieved by reopening the collective bargaining agreement(s) or by mutual cooperation between the County and its unionized employees could achieve the cost savings objectives of privatization without any significant impact on current employees or management of the CCCF.

Potential Drawbacks:

1. Unionized employees would likely resist any reopening of the agreement, and such changes could be seen as a substantial challenge to existing practices and the established "culture" of the jail.

Implementation Steps:

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- (a) All the time the employee is required to be at his or her place of work or on duty shall be counted as hours worked.
  - (b) Nothing in this chapter requires an employer to pay an employee for hours the employee is not required to be at his or her place of work because of holidays, vacation, lunch hours, illness and similar reasons.
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1. Consult with County labor counsel.
2. Confer with union leadership to identify whether there is willingness to consider any contractual changes.

### **Option 2.3: Reduce Healthcare Costs**

The FY 09 CCCF budget calls for \$9.3 million to be spent on inmate healthcare, of which \$8.865 million will be dedicated to pay the private firm that provides contracted healthcare services. The cost of healthcare alone equates to a per diem cost of approximately \$13 per inmate (based on 1800 inmates).

While the per diem cost may seem to be high, the inmate population at CCCF has serious chronic illnesses related to drug dependence, mental illness, life-altering injuries, and lack of preventive/routine health care in the community. In addition, CCCF inmates have a number of high-risk pregnancies, diagnosed cancers, and need for non-elective surgeries every year. It should be noted that the health care provided at CCCF is very comprehensive and of good quality; the vendor has implemented utilization review of in-house healthcare, off-site specialty appointments, and hospital stays in order to contain healthcare costs.

Given the size of the health care expenditures in relation to the total jail budget, however, it is a key area in which to look for opportunities to reduce operating costs. Some opportunities to reduce costs include:

*Implementing an electronic health record.* While this proposal bears a significant implementation cost, it would not only improve the consistency in documentation but has the potential to decrease personnel costs. Over time, the number of medical records staff can be decreased. In addition, this decreases the time that clinical staff are involved in writing documentation, transcribing orders, and may

improve the effective use of clinical staff time. There may be opportunities to obtain Federal grant funds to assist in the implementation.<sup>79</sup>

*Renegotiate direct admit hospitalization costs.* Direct admits are those inmates who were arrested by the police departments within the county and, prior to physically being booked into the CCCF, are immediately hospitalized due to injuries, acute onset illnesses, and acute exacerbations of chronic illnesses. Because they are considered to be booked into the jail, the County bears the cost of these hospitalizations, either indirectly, through the contracted healthcare vendor, or directly, when the costs exceed the negotiated ceiling of \$25,000. Renegotiations of the financial terms of these direct admits with the City of Camden and other municipalities could be a potential cost efficiency.

*Implement both pretrial and conviction alternatives for offenders with serious complicated medical illnesses.* There are currently very limited options other than incarceration for offenders who are seriously ill and who are pretrial or serving county sentences. While public safety should remain a primary consideration, alternatives for seriously ill inmates should be developed.

*Review contractual provisions.* An additional option is to have the County and the healthcare contractor jointly explore contractual provisions that could be modified to save money without compromising care, as well as systems and practices that could be implemented that could lower costs. Among the issues warranting discussion are:

- *Mix of Physician and Nurse Practitioner Hours*
- *Number of Sick Calls*

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<sup>79</sup> Provisions in the American Recovery and Reinvestment Act of 2009 (ARRA) state that the HHS Secretary, acting through the National Coordinator, will establish a grants program for States to facilitate and expand the use of electronic health information using nationally recognized standards. See:

[http://healthit.hhs.gov/portal/server.pt?open=512&objID=1258&parentname=CommunityPage&parentid=7&mode=2&in\\_hi\\_userid=10741&cached=true](http://healthit.hhs.gov/portal/server.pt?open=512&objID=1258&parentname=CommunityPage&parentid=7&mode=2&in_hi_userid=10741&cached=true).

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- *Number of Days of Physician On-site Coverage*
- *Deadline for Completion of Physical Examinations.*

These are a few examples of the kinds of issues that should be explored jointly by the County and the healthcare contractor, CFG, Inc. with an eye towards potential healthcare cost savings.

Potential Benefits:

1. A joint review of the healthcare agreement may identify opportunities that could lower costs without decreasing the quality of care.

Drawbacks:

1. Renegotiating the healthcare contract could potentially result in decreasing inmates' access to healthcare and decreasing opportunities to identify inmates who have acute and chronic healthcare issues.
2. Changes to certain practices could increase the likelihood of grievances and litigation about the quality of healthcare provided.

Implementation Steps:

1. The County should meet with CFG to discuss the issues suggested above, in order to determine the potential for cost savings without decreasing the quality of care.

**VII. Objective 3:**  
**Replace the Downtown CCCF Facility**

## **VII. Objective 3: Replace the Downtown CCCF Facility**

As discussed previously in this Report, the CCCF is in extremely poor condition, with major maintenance and repairs needed as an estimated cost in excess of \$50 million. In addition, the facility has not for many years provided the bed capacity required for the County and even if criminal justice system efficiency measures were implemented, the population reduction impact would still likely leave the bed capacity far below the projected needs. Equally important is the fact that the County leaders have announced support for closing the facility as part of downtown Camden's redevelopment planning. As such, this Section discusses the options available for replacing the existing CCCF facility with a new one outside of downtown Camden.

### **Option 3.1: Create a regional jail authority to build, operate, and own a new jail facility**

Regionalized jails have proven to be a viable concept in many jurisdictions throughout the country. These are multi-jurisdictional facilities in which two or more jurisdictions share in both the initial capital construction costs and ongoing operating costs. Each jurisdiction participating in the regional jail has representatives that work jointly to organize, administer, operate, and finance the facilities.<sup>80</sup> In some instances, a new political entity is created (e.g., a regional jail authority), while in other models, one jurisdiction may actually own and operate the facility with contractual arrangements with other jurisdictions for rental of beds and sharing of costs.

States such as Virginia, West Virginia, and Ohio have made extensive use of this approach. Regional jails have been found to be especially viable with smaller jurisdictions that can benefit from the shared services and economies of scale. Among the potential benefits are:

- Counties with limited resources have access to new, modern facilities;

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<sup>80</sup> Briefing Paper: Regional Jails, National Institute of Corrections Information Center, 1992, p. 1, Available: <http://www.nicic.org/pubs/1992/010049.pdf>.

- Inmates have access to expanded services and specialized care;
- Hiring of more professional staff and application of advanced management practices;
- Greater access to community resources;
- Greater inmate classification options.<sup>81</sup>
- While there are many potential advantages to regional jails, there are also many potential obstacles to success, including:
  - A lack of statutory authority to create such facilities;
  - The loss of “turf” by sheriffs and county governing bodies who previously operated their own facilities;
  - Differences in management or inmate programming philosophies;
  - Perceived inequalities in proportionate cost sharing;
  - Increased transportation costs for jurisdictions other than the host agency;
  - Disagreements over the location of the jail.<sup>82</sup>

For Camden County, it is questionable whether a regional jail is an especially viable option for a number of reasons. First, Camden (with close to 2,000 inmates) is such a large jurisdiction in terms of its inmate population that it does not stand to benefit so much from participating in a shared facility. In fact, Camden already has the means to achieve most of the benefits that were discussed above, and could suffer from each of the potential obstacles.

A second consideration is the time that it would take to develop arrangements to create a regional jail authority. Our experience is that this is a lengthy process, with much time required to address the various obstacles posed above. This could significantly delay the onset of a long-term approach to accommodating Camden County’s jail space problems.

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<sup>81</sup> Id., p.3.

<sup>82</sup> Id., p.2.

A third consideration relates to the legality of creating a regional jail authority. With respect to the legality of establishing regional jails in New Jersey, County Counsel has not identified clear legal authority to do so.<sup>83</sup> Counsel has found some statutory indications that counties operating a regional county corrections program may apply to the state for financial assistance, which suggests that regionalization has been contemplated by the Legislature and may be statutorily permitted.<sup>84</sup>

Camden County officials have made inquiries with representatives of Gloucester, Burlington, Cumberland, Mercer, Monmouth, Salem, and Atlantic Counties and have received some positive expressions of interest from Cumberland, Atlantic, and Gloucester counties relative to participating in a multi-county facility.<sup>85</sup> However, County administration officials do not believe that these recent expressions of interest can realistically lead to a regionalization agreement any time soon given the many difficulties inherent in negotiating such a complex and politically challenging agreement.<sup>86</sup>

In order to proceed further with this option, Camden would need to work with one or more of the interested counties to create a new legal entity- a regional jail authority. The authority would have representation from each of the participating jurisdictions, and would be formed with the purpose of creating and operating a facility to serve the respective needs of the participating counties. Note that the needs of the participating counties could vary greatly: Camden might need by far the largest number of beds, while the other counties might wish to house only a portion of their populations such as sentenced inmates, women, or another sub-population. Or, the other counties might conceivably want to close their existing facilities and house their entire jail population in the regional facility.

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<sup>83</sup> Correspondence to P/BA from Assistant County Counsel Howard Goldberg (July 8, 2009).

<sup>84</sup> Id. (citing N.J.S.A. 30:8-16.7).

<sup>85</sup> Survey of Surrounding Counties, prepared by County Administration (June 26, 2009).

<sup>86</sup> County Administration officials report that there have been discussions with surrounding counties but that no concrete commitments to pursue regionalized jail approaches appeared possible based on those discussions.

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Governance of the authority is a complex question, although there are enough examples of successful regional jail authorities around the country to serve as models in developing a workable system. Creation of the new public entity is a lengthy process as it involves a myriad of legal and administrative steps to create the agency, create a personnel system, hire staff, prepare operating budgets for the authority itself, etc.<sup>87</sup>

Perhaps the most difficult questions would surround decisions about where to site a new facility. The normal NIMBY (not in my back yard) issues may be more complicated in a regional jail scenario involving multiple jurisdictions. Transportation to and from a regional jail presents logistical issues with significant implications for both staffing and time, given the distances from participating counties' law enforcement agencies and judicial facilities. Other issues include public accessibility to the jail, and proximity to and availability of appropriate workforces and specialized treatment staff (e.g. medical, mental health, education, substance abuse, etc.).

Capital and operating costs, in all likelihood, would be calculated proportionally to the percentage of beds being reserved and/or utilized by each participating county.

With regard to the day-to-day operations of the regional jail facility, there are two options. One would be for the regional jail authority to hire employees to staff the facility, from the warden to correctional officers and support staff. In this case, it is likely that displaced Camden County staff and perhaps staff of other jurisdictions would be given priority rights to these jobs. A second option would be for the regional jail to contract with a private corrections firm to operate the jail, which could also involve giving priority to displaced county employees.

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<sup>87</sup> We have previously worked very closely as consultants with two counties in New England that created a regional jail authority to build and operate a regional jail.

Similarly, two options would be available to support construction of the regional jail. One possibility is that the regional jail authority could finance construction through a public funding process, using either a traditional design/bid/build approach or an alternative design and construction approach to build the facility. A second option would be for a private operator to finance and build the jail and then become the firm that operates the facility on a day-to-day basis under a long-term contract, as described in Section IV of this Report. In either case, it would be the regional jail authority that owned the building.

The regional jail authority (comprised of the participating jurisdictions) would ultimately be responsible for operations of the facility, whether it was operated by a private firm under contract to the authority or by employees of the authority. See Section IV for the discussion of considerations related to contracting and contract management.

Potential Benefits:

1. Regional options may expand opportunities to site a facility for Camden County, since the regional jail could potentially be located in any one of the participating jurisdictions.
2. Camden County could remove itself from the daily operational issues associated with operating a large, urban jail facility.
3. Even if Camden County was the majority user jurisdiction, i.e., reserving and paying for more beds than the other, smaller jurisdictions, Camden's relative and proportional financial participation would be less than if it built and operated the facility on its own and certain fixed costs (e.g. debt service) would be shared among a larger pool of jurisdictions.

Potential Drawbacks:

1. The time required to accurately gauge the interest and commitment of multiple counties, prepare a feasibility study, obtain legal commitments from the

participating counties, establish enabling legislation, create the legal entity, and then begin the process of creating an organization with rules of governance and a projected operating budget with proportional responsibilities, etc. is substantial, and all these steps are condition precedents to even beginning the facility development process.

2. Participation in a regional jail is more complex than operating a single county jail given the political and legal considerations inherent in cooperating with other counties.
3. Due to its size, Camden County is large enough that it can, on its own, achieve economies of scale relative to hiring professional staff, providing programming, having sufficient numbers of inmates to provide separate housing for each inmate classification, etc.
4. Annual budgeting for a regional jail can be a very difficult process, especially when one or more of the participating counties disagrees with operational implications that are perceived as too expensive, or if a participating county is encountering serious budgetary problems and votes against the budget so as to reduce its share of the costs.
5. If the jail was sited in a county other than Camden, residents of that county could balk at hosting a facility housing a large number of Camden inmates.
6. The regional jail, in all likelihood, would be geographically remote from the existing Camden County Courthouse, which would increase transportation costs and logistical difficulties significantly.
7. The potential remoteness of the facility could pose a burden to both visiting families and to attorneys.
8. Camden County would encounter the same employee displacement challenges whether the regional jail authority hired employees or a private corrections operator ran the day-to-day operations.

Implementation Steps:

Note that absent a clear commitment from one or more other counties to immediately pursue a regional approach and jointly fund initial studies, we would

not recommend this course of action given the complexity and likely delays inherent in obtaining the necessary cooperation, convincing communities to accept out of county inmates, forming an authority, etc . Only if an iron-clad commitment could be obtained in very short order, then the following first implementation step would be suggested:

1. If there is clear and immediate interest on the part of one or more other counties and Camden County wishes to pursue this approach, a feasibility study would be required in order to identify where the facility might be sited, what the proportional bed needs would be for each county, how much the jail would cost to build and operate, construction financing options and participant liabilities, and other factors necessary to allow the governing bodies of the participating jurisdictions to decide whether to commit to the regional process. The participating jurisdictions would jointly pay for consultants to conduct the feasibility study.

### **Option 3.2. Explore potential for privatization of a new jail**

Section IV of this Report discussed various considerations regarding privatization. The identification and discussion of options below builds on the previous narrative. If Camden County chooses to privatize the replacement jail, this could play out in several ways. Various options are analyzed below, along with identification of benefits and drawbacks of each approach and the necessary implementation steps, should a particular option be selected.

#### **Option 3.2 (a) Hire a firm to acquire a site, design, build, and operate a new CCCF**

This is basically a “turnkey option” by which the County would contract with a private corrections firm to acquire a site, design, build, and then operate a new jail for Camden County.

Before proceeding further, we would strongly advise the County to engage in discussions with unionized employees at the CCCF to hear their concerns about

the contracting out of operations. If the County decided to proceed with the private design/build/operate option, it would be able to do so informed by the employees' concerns relative to such issues as job retention, maintenance of salaries and benefits, retirement considerations, and other issues that are currently the subject of the collective bargaining agreement(s) and others that may not be.

If the County decides to proceed along these lines, one option<sup>88</sup> would be to issue a Request for Qualifications and Interest (RFQ/I) to determine which firms have the interest and capacity to acquire a site, finance, design and build, and then operate a new facility for the County. Firms would need to demonstrate their qualifications, experience, fiscal resources, legal liability exposure, insurance coverage, and other factors relative to the facility development and operations aspects of the potential contract. In addition, the firms would need to respond to the pre-established union-related requirements. The RFQ/I could also pose a series of preliminary questions to the firms on a variety of potential contract issues to elicit particular ideas or "order of magnitude" responses. Based on the written responses to the RFQ/I and a rigorous evaluation process, which would likely include interviews, a list of finalist-qualified firms would be established to receive a formal RFP (Request for Proposal).

A critical aspect of this initial process would be to insure that the County has the right to take back the facility in the event of a default by the contractor due to performance problems or financial difficulties.

Simultaneously, the County would be working on preparing a detailed RFP and procurement documents that identify the timelines for the project and the number and types of beds that would be required; describe a detailed spatial and operational program; establish facility design criteria and relational diagrams and

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<sup>88</sup> In the event that there is a limited number of interested private firms, it may be advisable to instead issue an RFP that calls for most of the same information in a response, but only requires the firm to have an option to purchase a site that meets criteria set forth in the RFP. In this case, the RFP would need to define the intended operations, space requirements, and site criteria.

possibly preliminary design concepts; and spell out building performance measures and criteria. Contractual language would also need to address financial rewards/penalties for non-compliance, monitoring mechanisms, indemnification and insurance and bonding requirements, provisions for the County to take over or purchase the facility, and other critical information. The RFP would also define site criteria for location of the new facility (e.g. distance from the Courthouse,<sup>89</sup> environmental and zoning compliance requirements, utility access requirements, preliminary public acceptance, etc.) and mandate that the proposer document that an option-to-purchase agreement is in force for any site(s) being offered. The RFP would then be issued reflecting these and other considerations.

Pursuant to a thorough and comprehensive procurement process, a firm would be selected with a fixed price for the construction of the facility and a fixed per diem cost for operations the first year and up to four years<sup>90</sup> beyond, with a cost of living and other provisions addressing future price increases. Once all contract terms are agreed upon, and financial and bonding capacities are confirmed and the agreement signed, the selected firm would begin work on the facility. At the same time, they would need to focus on the human resources process as it relates to collective bargaining and employee retention procedures. The firm would also need to participate fully in transition-related services to prepare for both the eventual closing of the downtown CCCF and the transfer of staff, inmates, and responsibility for operations to the new firm in the new facility.

As discussed earlier, although a private firm would be operating the facility, the County would retain significant oversight and contract monitoring responsibilities to ensure that all requirements as set forth in the RFP and other procurement documents are being satisfied.

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<sup>89</sup> If the existing jail is demolished, the County will need to conduct a separate procurement for the planning/design/construction of a court holding component to be constructed adjacent to the criminal courts in downtown Camden.

<sup>90</sup> NJSA 40A:11-4.2 limits the length of a government contract to four years. The limitations on years may require the County to create a financial mechanism to acquire the jail and/or continue the debt service obligation at the conclusion of the contract term.

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Potential Benefits:

1. This option would hold the promise of replacing the existing CCCF faster than any other option due to the potential ability of a private firm to move quickly on construction and assumption of operations.
2. The private firm would be responsible for securing a site.
3. Camden County would be able to withdraw from day-to-day management of the jail and assume a monitoring and oversight role.
4. The private operator would be required to manage operations so as to allow it to obtain national accreditation through the American Correctional Association and National Commission on Correctional Health Care, as well as to comply with all state mandates and constitutional requirements.
5. Specialized programs such as re-entry and substance abuse would be provided pursuant to contract terms.
6. Through well-drafted indemnification provisions in the operating agreement, the County would be at least partially insulated from paying damages resulting from inmate lawsuits.
7. Cost savings relative to operations may be possible, even if the County insists on high-quality operations, a high-quality facility, meeting accreditation requirements, and insuring that retained employees are affected as minimally as necessary to allow for a more cost-efficient operation.
8. Since the facility would be built to accommodate future projected growth, the County may be able to reduce its operating costs by leasing initial extra capacity to other counties or Federal agencies.
9. If the selected firm has available interim contract beds (see Option 1.3), it may be possible to amortize the interim housing costs into the long-term per diem agreement and avoid the County having to immediately pay the additional costs associated with leasing beds.

Potential Drawbacks:

1. It is unclear how many firms would be interested and have the capacity to pursue and carry out this option.
2. Firms may have difficulty raising private capital for construction in the current economic climate and such financing, if available, may come at a high premium.
3. Cost savings may not be substantial if the County places overly strict restrictions relative to salary and benefits for displaced employees.
4. Cost savings may not be substantial if the County achieves all of its operational and construction criteria, staffing requirements, and inmate programming objectives.
5. The County will have to commit to a meaningful and professional contract monitoring process that will be a significant expense incurred in addition to the cost of operations per diems.
6. The County currently has no significant jail debt service obligation other than an annual \$1 million cost associated with jail maintenance and improvements. As the cost of construction will likely be rolled into the per diem costs for operations, the debt service portion of the per diem will likely diminish significantly any potential cost savings associated with the operational aspects of privatizing the jail.
7. Opposition to privatization of the jail could delay implementation of this option and could galvanize community resistance to any sites in the County.
8. The decision to privatize the jail does not diminish the County's need to address the overcrowding problems at the jail—it is not a panacea for all that is problematic at the existing CCCF.

Implementation Steps:

1. Consult with unionized public employees to solicit their concerns and ideas,
2. The County would need to issue a Request for Qualifications and Interest (RFQ/I) to determine which firms have the interest and capacity to acquire a site, design and build, and then operate a new facility for the County.  
Alternatively, an RFP could be issued without the prior step.

3. The County would need to prepare procurement documents, including physical design criteria, operations criteria, draft agreements, etc. to define expectations relative to the design and operations of the turnkey facility/operations. Selection criteria would also need to be developed, and would a plan for effective contract monitoring
4. The County would next issue a Request for Proposals to firms that meet the initial screening criteria and capacity as indicated in the RFQ/I.
5. The County selects a firm based on review of the submitted proposals and a rigorous selection process, including financial and legal due diligence.
6. The County would work with the selected firm to develop an effective transition process.

**Option 3.2 (b). County builds (and owns) new CCCF and hires a private operator to manage the facility**

The most salient difference between this option and the previous one is the point at which the private corrections firm enters the equation. Unlike the turnkey approach, under this option, the County would design and build the new facility and then contract with a private operator for a fixed term or terms. The County would fully own the facility and thus it has the option of placing the jail back under public control at any predetermined juncture consistent with contract terms or upon default by the contractor.

The operating aspects of this option closely mirror those discussed in Option 3.2(a). The County would prepare operational criteria describing in great detail how it wishes the facility to operate, what standards must be met, what programs it desires for reentry, substance abuse, education, etc. The criteria would address staffing requirements, performance indicators, and overall expectations concerning security, healthcare, programming, public interactions, and all other aspects of facility operations. It would also define the contract monitoring process as well as a process of rewards/damages associated with compliance and noncompliance, as well as insurance and indemnification requirements. Moreover, it would address the functions that the County would continue to manage or review, potentially

including time computations, grievance appeals, and major disciplinary actions imposed against inmates.

With respect to the design and build process, the County could employ one of two primary approaches. The first approach is the traditional design/bid/build one under which the County hires planners and architects who prepare designs, specifications, and construction documents in consultation with County staff. The documents are then put out to bid, with the successful contractor being hired to build the facility, which is turned over to the County upon completion.

A second approach, which offers potential benefits related to speed of delivery, is design/build. This approach is closer to that which would be employed by private operations firms under the previous option. The County would still want to develop detailed design criteria and a program that describes, in detail, how the building will function, what all the necessary types of housing arrangements are, what standards must be followed, etc. That document (program and design criteria) is then handed over to an assembled team of outside contractors that is capable of handling both the design and construction scopes of work. This team may consist of separate firms, such as an independent architect and an independent contractor, agreeing to work together on the project. It may also consist of firms that can handle both tasks in-house. The team would include all of the different disciplines needed to develop the document package including mechanical, electrical, plumbing, structural, foodservice, landscape, integrated security design, and potentially many more. This team would see the project through from its inception until the final punch list is completed.

Some of the key advantages of design/build are:

- Time and Cost savings through:
  - Early contractor involvement
  - Fast-tracking of the design and construction portions of the project

- Elimination of a separate construction contractor bid phase following completion of the design phase
- Communication efficiencies and integration between design, construction engineering, and construction team members
- Reduced construction engineering and inspection (CEI) costs to the contracting agency
- Fewer change and extra work orders
- Reduced potential for claims and litigation after project completion
- Shortened project timeline
- Improved quality through:
  - Greater focus on quality control at the onset of the project and quality assurance strategies that assure continuous involvement by the owner and design team throughout project development
  - Project innovations uniquely fashioned by project needs and contractor capabilities.
- Some of the potential disadvantages of design/build are:
  - Provides an opportunity for favoritism to enter into the contract award process by including non-price factors in the basis for selection
  - Undermines the inherent checks and balances between design and construction teams in the traditional delivery building process
  - Depending on how far bridging documents are taken, it may compromise the traditional quality assurance/quality control roles
  - May increase project costs due to the elimination of the low bid contractor selection criteria

Potential Benefits:

1. The County would potentially be able to exercise more control over the design of the facility, which it would own from the outset.
2. If design/build is employed, the County may be able to build the facility as fast as would a private corrections firm.
3. The County may be able to finance the facility at better rates than could a private firm.

4. Camden County would be able to withdraw from day-to-day management of the jail and assume a monitoring and oversight role.
5. The private operator would be required to manage operations so as to allow it to obtain national accreditation through the American Correctional Association and National Commission on Correctional Health Care, as well as to comply with all state mandates and constitutional requirements.
6. Specialized programs such as re-entry and substance abuse would be provided pursuant to contract terms.
7. Through well-drafted indemnification provisions in the operating agreement, the County would be at least partly insulated from paying damages resulting from inmate lawsuits.
8. Cost savings relative to operations may be possible, even if the County insists on high-quality operations that meet accreditation requirements and ensures that current employees are not harmed in the process.
9. Since the facility would be built to accommodate future projected growth, the County may be able to reduce its operating costs by leasing initial extra capacity to other counties or Federal agencies.
10. Owning the facility gives the County leverage to insist on compliance with contractual terms, unlike a situation where the County has no bargaining power because there is nowhere else to send inmates if the contract is cancelled or if conditions deteriorate.

Potential Drawbacks:

1. The County would be responsible for securing a site.
2. The County would be required to immediately pay down the debt service associated with the construction of a new jail.
3. The County does not have sufficient internal staff resources to undertake the management of such a large construction project and would need to rely on outside firms to supplement its staff.

4. The County is potentially vulnerable to litigation regarding design issues in the unlikely event that such issues are raised concerning injuries sustained during subsequent operations.
5. A management-only contract may not be appealing to many private operators given the high liability and the fact that per diems are likely to be lower than they could get through Federal contracts.
6. It is unclear how many firms would be interested and would have the capacity to pursue and carry out this option. For example, GEO Group, one of the four major firms identified and discussed in section IV of this Report, withdrew from Delaware County last year citing high litigation costs and a change in corporate priorities relative to what types of facilities the firm wanted to operate in the future.
7. Cost savings may not be substantial if the County places overly strict restrictions relative to salary and benefits for displaced employees.
8. Cost savings may not be substantial if the County achieves all of its operational criteria, staffing requirements, and inmate programs.
9. The County will have to commit to a meaningful and professional contract monitoring function, which will be costly.

Implementation Steps:

1. Public employee unions should be consulted regarding the impact of this option on their membership, and to solicit their ideas for mechanisms that could help to mitigate any negative effects on those employees who will be hired by the private operator and those who are not.
2. The County would issue a Request for Qualifications and Interest (RFQ/I) to determine which firms have the interest and capacity to operate a new facility for the County.
3. The County would prepare procurement documents, including physical design criteria and facility operations criteria, draft agreements, etc. to define expectations relative to the design and construction of the facility. Selection criteria are also developed.

4. The County next needs to issue a Request for Proposals to design and construction teams, if design/build is employed. Otherwise, the RFP would be issued to design firms and then the project would be bid conventionally.
5. If design/build is employed, the County selects a design/build firm based on review of the submitted proposals and a rigorous selection process, including financial and legal due diligence.
6. The County prepares procurement documents, including operations criteria, draft agreements, etc. to define expectations relative to the operations of the facility. Selection criteria are also developed, as is a contract monitoring plan.
7. The County issues a Request for Proposals to firms that meet the initial screening criteria and capacity as indicated in the RFQ/I.
8. The County selects a private operations firm based on review of the submitted proposals and a rigorous selection process, including financial and legal due diligence.

### **Option 3.3. County builds, owns, and operates a new CCCF**

There is, of course, another long-term option for replacing the existing CCCF—the County could elect to build a replacement facility and operate it with public employees. This is what occurred in the 1980s, when Camden built the downtown Camden jail and it has run with public management and employees for more than two decades since. Moreover, this is clearly the prevalent approach to jail management throughout the country.

The most salient difference between this option and Option 3.2 (b), where the County builds the jail facility and a private operator manages it, is the fact that there would be no role for a private operator. While private firms could certainly provide key services in the facility as is currently the case with regard to health care and food services, the facility would be managed and operated by Camden County employees.

With respect to the design and construction of the facility, the considerations discussed under Option 3.2 (b) would be germane here as well. In other words, if the traditional design-bid-build approach was employed, there would be one set of expectations for the speed and quality of construction while, on the other hand, design/build would offer some key advantages with potential corresponding disadvantages as well.

Potential Benefits:

1. The County would potentially be able to exercise more control over the design of the facility, which it will own from the onset.
2. If design/build is employed, the County may be able to build the facility as fast as would a private corrections firm.
3. The County may be able to finance the facility at better rates than could a private firm.
4. Public sector employees would not face loss of jobs or changes to compensation.
5. The transition from public management of the existing CCCF to management of a replacement facility would potentially be smoother and without rancor.
6. The County would be operating a brand new, state-of-the-art facility that, if sized properly and built in concert with population control measures, would not suffer from the negative effects of crowding.

Potential Drawbacks:

1. The County would be responsible for securing a site.
2. The County would be responsible for financing the project and may require a public referendum that could potentially fail.
3. The County would be required to immediately pay down the debt service associated with the construction of a new jail.
4. The County does not have sufficient internal staff resources to undertake the management of such a large construction project and would need to rely on outside firms to supplement its staff.

5. The County would continue to be immersed in the day-to-day management of the jail, including the demands this place on both resources and county staff time (e.g., County Administrator's Office, County Counsel and other County agencies).
6. The existing union agreements would continue in force, with their attendant implications for ongoing operating costs.
7. The County has not had an excellent record of operating the facility, as judged by the very substantial litigation costs and damages paid out over the past several years (though, of course, the new facility would not have the overcrowded, unsafe, and deteriorating conditions that contribute to some of the liability).

Implementation Steps:

1. The County would need to identify concessions that would be required from public employee unions in order for the public operation to be a viable option from a cost and management perspective.
2. Assuming agreements can be reached with the unions, the County would then hire planners and architects to develop a design/build RFP (if design/build is employed) and initiate a site selection process.
3. Once a site was secured, design/build criteria would be issued and a firm would be selected to prepare final documents for a new facility.
4. The County would need to develop a transition plan for moving to the new facility.
5. Jail staff would need to develop new operational criteria for the replacement facility.

# VIII. Conclusion/Recommendations

## VIII. Conclusion/Recommendations

This Report is intended to identify a range of options available to Camden County policy makers relative to short- and longer term options for the Camden County Correctional Facility. We have endeavored to present the options in a fair and objective manner, identifying positive aspects and drawbacks associated with each of them. In fact, there are many unknowns at this juncture and many questions can only be answered once one or more options are selected and details can be developed.

It must be noted that the options presented are not mutually exclusive, and that there are potentially permutations on each that can also be explored and examined more closely. In particular, there should be more than one option pursued relative to cost reduction measures and short-term population reductions.

In the end, County policy makers need to select options that can quickly pass legal muster, are most cost effective, and offer the potential for the quickest and most permanent remedies to the currently untenable levels of crowding in the County's jail.

After considering the identified potential benefits and drawbacks associated with each option, we offer the following recommendations relative to each of the three stated objectives:

*Objective 1: Provide immediate relief of population pressures-*

1. County administration, along with officials of the courts and prosecutor's office, should aggressively pursue the implementation of the 22 recommended systemic improvements and programs designed to lower the jail population as set forth in the recent report.<sup>91</sup>

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<sup>91</sup> See, P/BA/Luminosity Jail Population Analysis.

2. If funds can be identified and mechanisms can be put in place to avoid backfilling of beds, the County should pursue leasing beds from a private operator in New Jersey and/or from another county in order to effect a rapid population reduction at the CCCF.

*Objective 2: Reduce short-term operating costs at CCCF-*

1. The County should consider engaging applicable unions relative to discussions to potentially control or reduce personnel costs.
2. The County should work with the health care contractor, CFG, Inc. to determine whether cost-savings and efficiencies may be achieved without compromising the current high quality of health care.

*Objective 3: Replace the downtown CCCF facility-*

1. While no option is perfect, on balance, we believe that Option 2(a), a privately designed/built and operated replacement jail with approximately 2400 beds,<sup>92</sup> would be the most timely and cost effective course of action the County could take to replace the CCCF with a state-of –the-art facility that will:
  - provide a safe and secure environment for staff, inmates, and the public
  - provide sufficient bed capacity to meet the projected twenty year need
  - provide programming, rehabilitative services, and re-entry services to reduce the churning of people through the jail and limit recidivism
  - operate in a more cost-efficient manner than the current CCCF
  - fully comply with State and national standards (ACA) and all legal mandates

We stress that this approach is not a panacea and the County will need to be fully engaged throughout every step of the process. If pursued, this

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<sup>92</sup> See, Section II, Table 1 for the calculation of bed needs. Depending on the success and long term viability of population reduction measures, any surplus of beds can likely be leased to other counties or Federal agencies.

must be done deliberately, carefully, and with full awareness of the caveats and lessons learned as we have discussed in this Report, especially in Section IV. This will need to be a public/private partnership, albeit one in which the County takes all necessary steps to protect its interests.

We end with a caution: no matter what option or options the County selects, officials must realize that crowding is an endemic and chronic problem that will not end simply by constructing a new facility, regardless of whether that facility is publicly or privately operated. If proper measures are not implemented to manage crowding on an ongoing basis, then the issues that plague the CCCF today may simply be transferred to a newer jail.