

Detention Facility Working Group– Interim Report

March 14, 2024

Purpose

Concern over capacity at the Yellowstone County Detention Facility (“YCDF”) resulted in the formation of the detention working group to consider YCDF bedspace and criminal justice reform to ensure current and future detention operations are adequate and efficient. The group is seeking to recommend a jail expansion to address future capacity. The purpose of this work is to address efficiencies while seeking new construction at YCDF along with modification of existing facilities to support law enforcement and public safety for the next twenty years. Over the past six months, the group adjusted goals and recommendations.

Members

Mark Morse, Commissioner, Yellowstone County Commission
Jennifer Owen, Councilperson, Billings City Council
Colette Davies, District Judge, 13th Judicial District
David Carter, Justice of the Peace, Yellowstone County Justice Court
Barry Usher, Senator, Montana State Legislature
Katie Weston, Deputy Chief, Billings Region, Department of Corrections
Brittania Park, Court Administrator, Billings Municipal Court
Mandi Gould, Regional Deputy Public Defender, Office of the Public Defender
Robert Lester, Detention Facility Commander, Yellowstone County Sheriff’s Office
Melissa Williams, Chief Civil Attorney, Yellowstone County Attorney’s Office

Issues Identified

1. **Increased criminal activity** in Yellowstone County and surrounding areas due to:
 - a. Increased population in Yellowstone County;
 - b. Increased percentage of community placed inmates in Yellowstone County by the Department of Corrections (“DOC”) with a weighted average of increased violent crime, property crime and co-occurring difficulties with substance abuse;
 - c. Exhaustion of community-based resources coupled with understanding Yellowstone County has most of the regional services;
 - d. Challenges in enforcing criminal justice consequences;

- e. Influx of more serious offenders for a myriad of reasons;
 - f. Lack of family structure and/or parental involvement and
 - g. Increased nexus in criminal activity and mental health.
2. YCDF is **operating well over its capacity** of 435 inmates, routinely operating at 600+. Optimal facility capacity is 80%. Routinely operating above full capacity places public safety, officer safety and detention officer safety at risk.
- a. Jail overcrowding reduces proactive policing due to the actual and perceived inability to remand certain individuals. Strategic decision by law enforcement (all agencies) to not arrest, including on execution of known warrants, without capacity to hold remanded individuals for even 24 hours. Law enforcement loses one tool for immediate intervention.
 - b. Law enforcement is experiencing repeat interactions with individuals who are reoffending within a 24-to-48-hour period due to inability to remand, creating new victims and resulting in stacked criminal charges.
 - c. Loss of security and confidence by the public to enforce the law results in underreporting of crime and possible distrust of patrol officers.
 - d. Jail overcrowding creates a difficult working environment for detention officers which contributes to difficulty hiring and retaining officers at the detention facility. Operating overcapacity creates issues that impact employment environment including shifts with short staffing, leading to double shifts. Impacts work/life balance, especially for younger employees. This results in a workforce of 0-3 years and 15+ years of experience, no medium experience personnel which impacts front line supervisor pool.
 - e. Department of Corrections ("DOC"), Probation & Parole ("P&P") lost the ability to intervene with individuals on probation with sanction beds. This increases the length of pre-adjudication detention as more probation violations are ultimately filed without the tool of early intervention.
3. **Insufficient technology** and personnel to collect meaningful data exist to track inefficiencies in the criminal justice system and coordinate law enforcement, jail capacity and court procedures for intelligent decision making.
4. **Coordination between courts**- Billings Municipal Court ("BMC"), Justice of the Peace ("JP") and 13th Judicial District Court ("DC"), is difficult despite best efforts because State mandated case management software does not allow the viewer to see all individual specific information across all courts in real time - this software is too cumbersome and time consuming. There is no mechanism

that would trigger a court to review a case based on action/movement in another court. Courts cannot see the status of cases in other jurisdictions-BMC/JC/DC etc.

- a. A result in the inability for coordination with the current software results in scenarios that occur when YCDF is ready to transport an inmate. For example, an inmate will go to disposition in all district court cases, after pre-trial incarceration and then a warrant check will produce a misdemeanor warrant, keeping the inmate incarcerated until resolution. This means an individual who has been cleared for release by a Judge, instead is detained (not released) pending appearance in another court, which may take several weeks or months.
 - b. We lack the mechanism to grant individuals who are arrested with immediate release on bail across courts if they qualify for that bail and are currently unable to provide coordinated release orders across jurisdictions.
 - c. Failure to have unified court system causes delay and inefficiencies with the public defender's office. High caseloads combined with these inefficiencies and crowded trial dockets result in undue delay and an overlapping of cases and increased inmate population without timely resolution of pending cases.
5. YCDF serves as the **regional detention**/transit point for all inmate/prisoner movement in eastern Montana. YCDF is the hub for all spokes from any direction. There is a desire and need for state, federal and other county participation in YCDF but YCDF does not have the bedspace to contract sufficient beds based on need expressed by surrounding counties, federal system, DOC, etc. and funding is problematic due in part by state mandated rates.
- a. Need from the State due to high population of DOC probationers and parolees in the Billings community to ensure there are minimal delays in transfer to available spaces in MWP, MSP, and other secured facilities.
6. Community **mental health crisis** impacts jail resources. Increased need for mental health services in the community has resulted in an underserved community that becomes incarcerated. YCDF has become a placement for the mentally ill in the community. Fitness to proceed cases are extremely slow, with delays at every phase in the process- from an initial evaluation to transport (due to capacity) at the state hospital. No relief in sight as MSH is also now struggling with reaching capacity.
7. Yellowstone County **lacks sufficient pre-trial** diversion programs and effective **transition** assistance from YCDF to the community.

- a. Post covid, there is a shortage of licensed professional service providers in every realm, involving the criminal justice universe.
 - b. When an inmate is not moving to another facility, transition between YCDF and community is difficult, resulting in delayed release and/or recidivism.
 - c. Need for increased handholding with release to community providers like mental health center and pretrial and probation service providers.
 - d. There is always a need for increased pre-trial monitoring subsidies at both the misdemeanor and felony level.
 - e. Lack of community programs that can assist the jail-based population due to capacity and funding restraints. There are numerous nonprofits working on programs in the criminal justice arena. These nonprofits all chase the same funding. Consolidation of these nonprofits will lead to efficiencies and economy of scale operations.
8. Need for resolution of backlog of cases, including reduction to misdemeanors with misdemeanor supervision, if the proposed settlement would involve community-based placement. Current system leads to a backup of pending cases stemming back 9 to 36 months with new matter filed on top of older cases. This backlog diverts resources in both the prosecution and the defense that hinders devotion to litigants incarcerated in YCDF leading to increased delay and the overlapping of litigation on an annual basis and jail overcrowding.
9. Unique high needs jail-based population-
- a. Mental health, medical, lack of housing and necessities. Long stays in YCDF dramatically increase the cost and nature of required services for mental health, medical and dental treatment.
 - b. This population is difficult to place in community programs. A large portion of incarcerated population has already exhausted community resources with multiple visits/requests for services.
 - c. There is very limited jail based or criminal justice resources or diversity funds targeting the Native American population at YCDF. Special challenges in establishing effective re-entry to a community which may be removed from home.
10. There is no existing space for expansion at YCDF as all constructed space at YCDF is being utilized and there is no existing facility to contract with for bedspace.
- a. Use of Two Rivers Correctional Facility in Hardin, MT was explored. Several issues: lack of insurability; transport of inmates to Billings for

Courts and medical services; Yellowstone County owning land/facilities in Big Horn County; sewer system and other deficiencies render this option moot.

Goals Established

1. **Goal #1: Make Intelligent Recommendations- Study the criminal justice system in Yellowstone County with community members and leaders, law enforcement and corrections to make intelligent decisions about operations at YCDF.**
2. **Goal #2: Jail Efficiency- 25% of all inmates' cases in all courts settled within 9 months (felony, misd and PV). We originally had a goal of 70% of all inmates' cases to be settled within 9 months. After study, the group understands we grossly underestimated the current delays in case resolution times and barriers to case resolution. We therefore developed a more realistic goal that would still be a vast improvement upon the status quo.**
3. **Goal #3: Fast Track Short Term Relief- Providing relief to the Billings population and public safety concerns by establishing at least 20 dedicated beds for immediate detention after arrest.**
 - a. Propose a short-term detention center without undue delay in construction by starting the process of engaging architects for design and construction and to answer questions about available space by December 2023 with an expediated MOU between City and County.
4. **Goal #4: Expand the Detention Facility-**
 - a. A Request for Qualifications (RFQ) has been published asking for firms to provide information how they would determine number/mix of beds for point in time as well as 5/10/15/20 years to include a study of staffing, operations, and associated costs. We must ensure there is an understanding that we are operating behind the curve- 435 is the current capacity at YCDF and we currently operate with 600+ inmates.

** Former goal: When we started meeting in September 2023, we had established a goal of reducing the jail population sustained to 540 within 6 months and a population at 485 in 9 months. This goal was not attainable while prioritizing public safety. This realization led to the recommendation for expansion of the current capacity at YCDF.*

Recommendations

1. Increase Jail Capacity

a. New Construction: **Short term Detention Facility**

- i. After discussions about potential structure of the program, placement, operations, and logistics, it is recommended that a minimum of twenty beds be established for use by BPD to reinstate the tool of immediate remand and return proactive policing.

b. Expansion or new construction of **Adult Facility**

- i. After this study, the group made recommendations in public meetings, DOC has moved the maximum number of inmates possible, and judges were encouraged to complete bond reductions for inmates with a bond under 10,000. This resulted in some initial population reductions- with a low of 565- but DOC cannot shift anyone else as there is not space in DOC facilities and we are seeing higher bonds in district court which negates early successes.
- ii. To intelligently design a new or expanded facility the County must issue a RFQ to get a firm recommendation for the number of beds, classification and gender of beds, special needs assessment, to include a staffing and operations recommendation.

1. RFQ must request future projections to ensure expansion is a long-term solution. This will provide the appropriate study to determine if an expansion of the existing facility is feasible. Irrespective of whether a new facility must be built or if we expand the current facility, we recommend we add at least 600 beds to the current capacity of 435 for a total of approximately 1035 beds available with space for any recommended future expansion beyond the projection of 20 years, and with the existing YCDF modified for female and juvenile populations if needed. We are currently operating at approximately 175 beds over capacity, and this must be considered.

- iii. Based on the projected size of the facility we will need a bond question to public. We recommend BOCC work with the elections department to develop this timeline and measure. The working

group anticipates that a significant campaign over a 9- to 16-month period will be necessary to ensure a robust discussion in the community regarding the benefits and costs of such a facility. To ensure compliance with all lobbying laws/regulations, a private-public partnership with dedicated staff and/or volunteers will be needed. The working group believes that upwards of 70 listening sessions, combined with a social and traditional media presence, will be needed to explain the details of any proposal and its projected impact on public safety.

- iv. Increase pre-trial and transitional services at YCDF by increasing presence of pre-trial providers at new facility to facilitate efficient pretrial monitoring through arraignment court and coordinating release. We currently have approximately 30% failure rate on pretrial monitoring and high recidivism rates.
 - v. Encourage efforts for a smooth community handoff from YCDF to partnerships in the community- mental health center, etc.
 - vi. Funding for operations-
 - 1. Recommend utilization of grants like the HEART grant to subsidize pretrial and transitional services.
 - 2. Pursue State funding for regional facilities in next session.
 - 3. Encourage shared financial responsibility with stakeholders. Surrounding counties should be offered the opportunity to contribute construction funding and an increased daily rate, to cover operations and management, if they plan to utilize YCDF as their jail facility.
 - vii. Return functional inmate labor in new facility.
 - viii. We recommend that future contracts with other communities to focus on transition from the facility to ensure inmates are not released back into Yellowstone County with a plan that they cannot follow. Ensure Court does not sentence to services only provided in Billings when the inmate has a home community. Will focus on finances and logistics of transport services to origin community and communication with PDO.
- c. **Youth Facility** – has been operational approximately 40 years. Will require additional study to make intelligent recommendations. Recommended areas of study: continue/terminate shelter care utilization, county of origin bedspace (consider potential Eastern MT Regional facility) and for

funding, remain a separate facility versus incorporation into jail expansion. We also need to study transition between Pine Hills and the community to improve youth diversion.

2. Improve Technology and Data Tracking-

- a. A County wide login for FCE or another program would be helpful in coordinating cases across courts. A statewide system would be preferred to address out of county cases. Must acquire appropriate technology that will track trends, demographic and trigger courts to action on cases beyond the scope of one court.

3. Jail and Criminal Justice Efficiency-

- a. We need better data to make more targeted recommendations. We do have limited comparisons that highlight the significance of delays in process and capacity correlations. For example, in 2012, 10,169 inmates were booked into YCDF. In 2023, 6,146 inmates were booked into YCDF.
- b. Contracts- we recommend a study and continued analysis to ensure we are operating at a level that serves our community and that the discussion of a regional facility continue with financial responsibility to Yellowstone County taxpayers in mind.
- c. Pretrial Population- Recommendations
 - i. Arraignment court- dedicated to conducting daily initial appearances with periodic pre-trial monitoring reviews.
 - 1. Recommend a dedicated group of people together to fully develop the logistics of an arraignment court. Developing a consistent workflow, shared forms, and aligned processes, as well as making sure that we are working collaboratively across jurisdictions on a practical level, likely needs some input from the people who will do the work day-to-day. A Technical Working Group to work purely on logistics and process was established and is meeting.
 - ii. PDO intake- The public defender's office investigators will be meeting with clients shortly after incarceration to ensure bond is appropriate and meaningful and so attorneys have good, prompt information about clients.
 - iii. Continue evaluation of criminal trials weeks and jury trials. Continue to study increasing the number of trials and decreasing pretrial delays.

- iv. Bond reductions - bond reduction evaluations should be done every 90 days for every incarcerated defendant by every district court, 45 days for misdemeanor court.
 - v. Sentence review – misdemeanor sentences be set for a status hearing after they have been incarcerated over 80% of their sentenced time, this shall exclude 30-day statutory sentences.
 - vi. Pretrial services program will need to increase capacity as population increases. Will have an increased need for subsidies.
 - vii. Review low risk offenders with drug cases or crimes without identifiable victims and settle these cases with innovative probation in Justice Court in an effort to free up prosecution, defense and court time and space at YCDF to focus on individuals of consequence to public safety.
- d. DOC population
- i. Bring back sanction beds for DOC, starting with three, with the goal of reducing preventable long term stays through PVs while acknowledging that DOC needs far more than three sanction beds and space should be designated to DOC for sanction beds as space becomes available through population reduction and jail expansion.
 - ii. Continue expedited DOC transfers, if/when state prison capacity exists and continue triage of high needs medical and mental health inmates.
 - iii. Increase the allowed daily State rate and include an annual inflation adjustment.

4. Increase Access, Diversity and Capacity of Community Based Resources

- a. Encourage alternatives such as home visiting programs. Other options church home visits, etc.
- b. Community based programming diversion model- Our group toured the detention/pre-trial model used by Rapid City. This model incorporates social services, mental health and drug addiction services into their detention center, i.e. Sheriff’s Office. Yellowstone County would have to increase our Sheriff’s Office by double or triple the number of employees. The week after our visit, the Pennington County SO proposed a 150 bed jail expansion to their Board of County Commissioners. They also were unsure how they will continue to fund this model. Recommend continued partnerships with community service leaders such as mental health center

and the community crisis center to determine if some of the services we observed in Rapid City could be incorporated into the programming of the expanded detention or short-term detention facility and discuss the level of community program participation through the RFQ for the adult facility analysis.

5. **Campaign**- a successful expansion and efficiency measures will be dependent on a successful campaign to stakeholders and the public.