

County Officials: Jails Are Crowded Too

Officials who work on the county level say North Carolina's packed prisons aren't the only overcrowded facilities in the criminal justice system. They say the county jails are just as crowded, and when these officials look to the future, they see the problem getting worse.

"It's a problem with a capital P," says Union County Sheriff Frank McGuirt, president of the North Carolina Sheriffs' Association. "I would contend that prison overcrowding is nothing compared to jail overcrowding. I don't think their problem is anywhere near the magnitude of ours, and yet the state is requiring us to do more and more."

McGuirt says some officials at the state level believe returning more misdemeanants to the county jails is part of the solution to state prison crowding. He says the counties also lack the range of revenue raising options available to the state. To finance major capital projects such as prisons, most counties rely on bond issues and repay the bonds by raising property taxes. But issuing bonds requires voter approval, and most citizens are reluctant to vote a tax hike upon themselves to pay for more jail space.

Tom Ritter, head of the Department of Human Resources' Jails and Detention Branch in the Division of Facility Services, says the problem of financing new jails is almost insurmountable. "We're dealing with different counties right now trying to get them to build new cells because they have antiquated jails," says Ritter. "It's like hitting your head against a brick wall sometimes. We just had [a bond issue] defeated in Currituck County. Their own people defeated it."

Ritter says the Currituck jail is worn out and substandard. "It's just a little hole in the wall. It doesn't meet any square footage standards or anything else." The jail in Hertford County, Ritter says, is even worse. "It's just like a cage," says Ritter. "The last time the

inspector was down there, he told me he had to walk across people to inspect the jail."

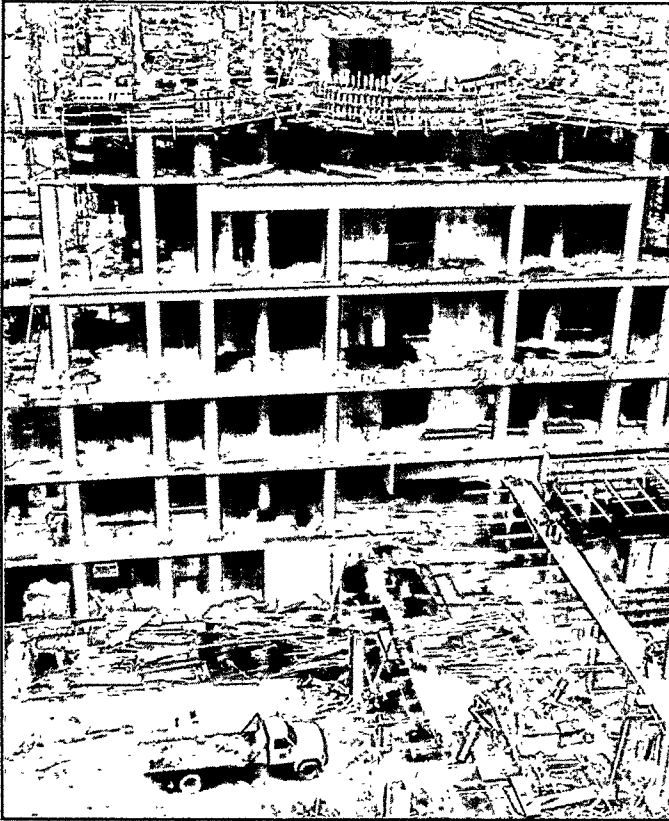
Such conditions are rife across the state, but despite repeated pleas, pestering, and warning letters from the Jails and Detention Branch, Ritter says he sees little movement in most counties toward improved conditions. Although the elected sheriffs who run the jails may want new facilities, they must go hat in hand to the county commissioners to get construction money, and that's where they often run into a stone wall. "Commissioners are politicians," says Ritter. "They do not want to spend the money when it's not a popular issue. Jails are not a popular issue, and they never will be."

Ritter should know about the deplorable conditions in many of the state's jails. He runs an inspection program that twice a year examines the jails for everything from the condition of the paint on the walls to the number of inmates packed into the cells. The inspection reports can be picky. For example, the file on the Lincoln County Jail included a report analyzing the nutritional value of meals served. That report criticized the county for serving slaw as a vegetable for six meals in a row. But the accounts of overcrowding within the agency's files are persistent and alarming.

An entry in the March 22, 1989, Mecklenburg County inspection report addressing the overcrowding problem is typical. On the day of the report, the jail housed 412 male inmates although it had only 329 bunks. Crowding in the women's ward was even worse—61 women incarcerated and only 37 bunks. Inmates who do not have bunks are issued mattresses and must sleep on the floor.

"Overcrowded at time of inspection," reads the report entry. "Overcrowding continues to increase. These conditions increase the possibility of assault, interfere with normal

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Jack Beits

*New Wake County jail under construction
in downtown Raleigh.*

day-to-day operations, increase security risks, and increase problems with fire safety plan in case of evacuation of the jail.” Yet Ritter says Mecklenburg is one of the more progressive counties on the issue of jail crowding. The county opened the state’s first satellite jail, a work release center for jail inmates,¹ and a special study committee is studying the need for jail expansion. But this process is fraught with conflict over who should be in jail, what kind of facility to build, and how to pay for it.

“North Carolina Jails in Crisis,” a September 1988 report by the Governor’s Crime Commission, found the scenario of overcrowded jails to be repeated in county after county across North Carolina. Using 1986 data collected by the Jails and Detention Branch, the commission found 15 of the state’s 97 jails to have been overcrowded at some time during

the month for all 12 months of the year.² The problem since has gotten worse. In 1987, the number of jails operating at or above capacity increased to 19, according to Jails and Detention Branch figures, and during 1988 the number rose to 25, an increase of roughly 67 percent in only two years. But Ritter says he considers a jail effectively full when it is operating at about 85 percent of capacity. That’s because a number of factors may prevent a jailer from using every bunk. If, for example, a jail has a women’s ward and even one woman is incarcerated, none of the beds on that ward can be used for men. Using Ritter’s standard, 34 jails—more than a third of North Carolina jails—were overcrowded on average at least one day of every month in 1988 (see Table 1).

What is driving this problem of overcrowded jails? David Jones, director of the Criminal Justice Analysis Center within the Governor’s Crime Commis-

sion, cites a number of factors. Overall, jail admissions have increased, says Jones, and so has the average length of stay for each inmate. Counties are seeing more DWI offenders sentenced to jail by the courts as a result of the 1983 Safe Roads Act, and pre-trial detainees are staying in jail longer before their cases go to trial. But some of the problem can be traced directly to the state prison crowding crisis. The state has sharply curtailed the number of “safekeeper” inmates the counties can place in the state prisons for security or medical reasons before trial, and misdemeanants sentenced to less than 180 days now must serve their time in the county jails. That compares to 30 days under the old standard.

Jones says the jails are crowded as is, but if all misdemeanants were to be forced to serve their sentences in the county jails, as some

Table 1. North Carolina Jails: Average Daily Population Versus Capacity

County	Capacity		1987		1988	
	1987	1988	Average Peak Population*	Percentage of Capacity Used	Average Peak Population*	Percentage of Capacity Used
Alamance	120	— **	89	74%	102	85%
Albemarle District	44	—	35	80	42	95
Alexander	28	—	13	6	13	46
Alleghany	10	—	4	40	6	60
Anson	36	—	16	44	22	61
Ashe	16	—	10	63	13	81
Avery	21	—	9	43	7	33
Beaufort	38	54	35	92	37	69
Bertie-Martin	50	—	37	74	37	74
Bladen	64	—	23	36	21	33
Brunswick	44	—	31	70	40	91
Buncombe	211	—	143	68	153	73
Burke	52	—	26	50	27	52
Cabarrus	70	—	60	86	60	86
Caldwell	76	—	46	61	48	63
Carteret	40	—	20	50	29	73
Caswell	22	—	18	82	15	68
Catawba***	83	—	91	110	91	110
Chatham	51	—	26	51	34	67
Cherokee	29	—	19	66	19	66
Chowan	22	—	14	64	19	86
Clay	11	—	4	36	6	55
Cleveland	94	—	61	65	77	82
Columbus	44	70	35	80	37	53
Craven	99	—	65	66	69	70
Cumberland	228	—	221	97	249	109
Currituck	18	—	10	56	11	61
Dare	16	—	23	144	30	188
Davidson	149	—	100	67	97	65
Davie	19	—	12	63	13	68
Duplin	40	—	29	73	32	80
Durham	164	—	203	124	235	143
Edgecombe	92	—	66	72	62	67
Forsyth	202	262	263	130	292	111
Franklin	20	28	20	100	23	82
Gaston	151	—	120	79	135	89
Graham****	6	—	3	50	6	100
Granville	38	—	26	68	26	68

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* Average peak population figures were compiled using monthly reports that show the highest jail population reached on any day of the month.

** A dash in this column in this column indicates capacity did not increase for 1988.

*** Bold type indicates counties where the average peak population was equal to or greater than capacity in 1988, comparing columns 1 or 2 with 5.

**** Graham County Jail was closed in 1986 and reopened in June 1987.

County	1987				1988	
	Capacity		Average	Percentage	Average	Percentage
	1987	1988	Peak Population*	of Capacity Used	Peak Population*	of Capacity Used
Greene	22	—	7	32	10	45
Guilford #1	288	—	316	110	346	120
Guilford #2	76	72	87	114	81	113
Guilford						
Prison Farm	100	—	34	34	33	33
Halifax	80	83	54	68	61	73
Harnett	84	—	38	45	65	77
Haywood	53	52	34	64	32	62
Henderson	55	83	44	80	50	60
Hertford	38	32	24	63	35	109
Hoke	31	—	19	61	23	74
Hyde	20	—	11	55	12	60
Iredell	60	—	47	78	60	100
Jackson	24	—	12	50	17	71
Johnston	39	—	64	164	55	141
Jones	18	—	4	22	5	28
Lee	44	—	39	89	45	102
Lenoir	85	—	60	71	71	84
Lincoln	35	—	36	103	39	111
Macon	6	—	6	100	9	150
Madison	21	—	10	48	9	43
McDowell	50	—	26	52	24	48
Mecklenburg	366	—	413	113	415	113
Mitchell	20	—	9	45	13	65
Montgomery	36	—	22	61	23	64
Moore	38	48	34	89	39	81
Nash	87	—	74	85	88	101
New Hanover	120	—	131	109	154	128
Northampton	33	—	17	52	18	55
Onslow	62	118	91	147	100	85
Orange	50	—	52	104	54	108
Pamlico	18	—	8	44	6	33
Pender	30	—	16	53	22	73
Person	36	—	22	61	23	64
Pitt	83	—	82	99	103	124
Polk	21	—	19	90	21	100
Randolph	70	74	54	77	55	74
Richmond	72	—	39	54	53	74
Robeson	107	—	139	130	141	132
Rockingham	76	—	64	84	68	89
Rowan	72	—	56	78	60	83
Rutherford	45	—	44	98	45	100
Sampson	63	—	43	68	43	68
Scotland	62	—	47	76	51	82
Stanly	52	—	27	52	28	54
Stokes	15	—	19	127	20	133

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County	Capacity		1987		1988	
	1987	1988	Average Peak Population*	Percentage of Capacity Used	Average Peak Population*	Percentage of Capacity Used
Surry	81	—	55	.68	54	.67
Swain	54	—	30	.56	38	.70
Transylvania	21	—	21	100	21	100
Tyrrell	4	—	2	.50	3	.75
Union	62	—	63	102	73	118
Vance	56	—	31	.55	37	.66
Wake	177	505 *****	243	.137	331	.66
Warren	20	—	14	.70	15	.75
Washington	17	—	5	.29	9	.53
Watauga	34	—	16	.47	18	.53
Wayne	100	—	64	.64	78	.78
Wilkes	52	—	36	.69	40	.77
Wilson	76	—	57	.75	73	.96
Yadkin	28	—	17	.61	21	.75
Yancey	11	—	7	.64	7	.64

* Average peak population figures were compiled using monthly reports that show the highest jail population reached on any day of the month. The resulting 12-month average figures reported here have been rounded to represent a whole person. The percentage of capacity used was calculated using these rounded averages.

** A dash in this column indicates capacity did not increase for 1988.

*** Bold type indicates counties where the average peak population was equal to or greater than capacity in 1988, comparing columns 1 or 2 with 5.

**** Graham County Jail was closed in 1986 and reopened in June 1987.

***** 1988 Wake County figures include Wake County Satellite (capacity: 178) and Wake County Annex (capacity: 150). 1987 figures represent only the Wake County Jail.

Source: Monthly jail population reports for 1987 and 1988 compiled by the Jails and Detention Branch, Division of Facility Services, Department of Human Resources.

Table prepared by Amy Carr, N.C. Center intern.

have suggested, the jails would be overwhelmed. "Basically, it's just a situation where the prisons are overcrowded, and it backs up down the line," says Jones. This is especially true, he says, when the emergency provisions of the prison cap bill are invoked and no admissions or transfers from local jails are allowed.

Is there a solution to the jail overcrowding problem? Jones says a major step would be to expedite the release of pre-trial detainees.

These inmates, after all, have not been convicted of a crime. Yet those who cannot afford to pay a bail bondsman are required to remain in jail until their trial dates roll around. Jones says pre-trial detainees make up the bulk of the jail population across the state and any action that gets them out of the jails in substantial numbers would reduce overcrowding. Satellite jails—or work release centers—also are

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part of the solution. The General Assembly has authorized the state to share in the expense of satellite jail construction on the condition that the counties that accept the money house all misdemeanants.³ Legislation passed in the waning days of the 1989 session established an \$8.6 million fund for satellite jail construction, with a maximum of \$750,000 for any one facility.⁴

Rep. Anne Barnes (D-Orange), co-chairman of the legislature's Special Committee on Prisons and the principal House sponsor of both satellite jail bills, says counties can at least partially offset their operating costs by charging work release inmates a room-and-board fee. Barnes says counties may find the program particularly attractive if they can avoid construction of expensive new maximum security jails by building minimum security satellite jails or renovating existing buildings to use as satellite jails. The payoff for the state? "It would help to reserve precious state prison space" because the counties would take more misdemeanants, says Barnes.

McGuirt, the Union County sheriff, says he worries about both the headaches and the expense of operating such a jail and of accepting responsibility for all of the county's misdemeanants. But McGuirt says if the money becomes available, he has little option but to apply. "We're having to do something," says McGuirt, whose own jail is often packed to twice its capacity of 62 inmates. "It's better to expand than to continue to pack these people in. It's better to appropriately incarcerate these people so they can be managed and kept more secure. It's the reasonable and right thing to do, and it's the constitutional thing to do."

Yet McGuirt is among those who believes that unless the counties act aggressively, the ultimate arbiter of the jail crowding problem may be the courts. Lawsuits have driven state efforts to relieve prison overcrowding, and the counties face a similar situation.

Michael Hamden of North Carolina Prisoner Legal Services says the agency has filed lawsuits against nine North Carolina counties regarding jail conditions and is negotiating with several others. But with 97 jails across North Carolina and a limited budget, Hamden

says this approach is piecemeal at best. He says the real key to improving jail conditions statewide is for the responsible state agency to take a more active role in enforcing the state's minimum standards for local detention facilities. Hamden represents prisoners in a pending lawsuit brought to force the Department of Human Resources to take enforcement action against the Johnston County jail, where, the suit charges, conditions threaten the lives and safety of inmates. In that case, Hamden says, the plaintiffs argue that DHR has a legal responsibility under the federal Constitution to take corrective actions or close the facility.⁵

If the state were held legally accountable for jail crowding, Hamden says, it would police jail conditions more aggressively, using its powers to close down county jails that refuse to act to improve conditions. "The resources of the state would be brought to bear on these counties, rather than the limited resources of this office," says Hamden. "As it is now, enforcement action, as a practical matter, is never taken."

The state Jails and Detention Branch has thus far taken a conciliatory approach, urging counties to improve conditions through its inspection program and warning that they face a potential liability. But McGuirt says county commissioners slough off warnings about lawsuits because they have other pressing capital needs—such as school construction and water and sewer system expansion—that are more popular with voters. "We're just waiting for all the jail litigation to start," says McGuirt. "We're either going to have to decide to spend the money or wipe our hands of the problem."

—Mike McLaughlin

FOOTNOTES

¹For more on satellite jails, see "Overcrowded Jails—Are 'Satellite' Detention Centers an Answer?," *North Carolina Insight*, Vol. 9, March 1987, No. 3, pp. 68-69.

²"North Carolina Jails in Crisis, A Report to the Governor," Governor's Crime Commission, September 1988, pp. 47-49.

³G.S. 153A-230.

⁴Chapters 754 and 761 of the 1989 Session Laws.

⁵The plaintiffs in *Reid v. Johnston County*, U.S. District Court, Eastern District of North Carolina, are appealing an order dismissing the state as a defendant in the suit. The order is reported as 688 Federal Supp. 200 (1988).