



HOW TRANSPARENT AND ACCOUNTABLE Is Your Jail?

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In the current social climate, the national focus on “defunding the police” or “de-incarcerating jails” is unlikely to be resolved in the immediate future. The public seeks fair, equitable, well-functioning components of the justice system that responsibly use public funds with visible operations and honest community communication. And our communities want their local jail operations aligned with the community’s values and expectations.¹ How well-prepared is your jail to respond? This article asks the question: Are jails ready to meet the increased public demand for transparency and accountability?

Transparency and Accountability in Jails

The Commission on the Safety and Abuse in America's Prisons observed: "Most correctional facilities are surrounded by more than physical walls; they are walled off from external monitoring and public scrutiny to a degree inconsistent with the responsibility of public institutions" (Gibbons & Katzenbach, 2006).

The President's Commission on 21st Century Policing (2015) linked the need for transparency and accountability to building trust and legitimacy for agencies, and included a recommendation for some form of civilian oversight to strengthen that trust. In addition, advocates have long argued that correctional institutions should be transparent and accountable to the public in order to uphold the rights of inmates and promote the public's interest (Deitch, 2010; Geraghty & Velez, 2011). Unfortunately, many jails are unaware of the lessons from the 1990s community policing reforms: the need for and value of meaningful community involvement.

Authors Scherer and Schafer (2018) say this about transparency: "Transparency captures the degree to which decisions are being made in a visible fashion. To what extent are operations subject to review and scrutiny by outsiders? To what extent are the choices of decision makers readily evident?"

Accountability is generally defined as operational practices that promote safe jails through collection, analysis, and use of data to identify current and emerging trends and to develop and evaluate responses. Accountability includes:

- identifying objective performance measures;
- holding employees responsible for outcomes;
- creating and maintaining an internal agency culture aligned with mission, vision, and values; and
- embracing professional, respectful discussions.



If law enforcement agencies are willing to undertake reform voluntarily and to open their records to public scrutiny—allowing for the transparency of internal processes, including internal investigations—the initiation of independent, civilian monitoring through a review board, the least intrusive means of oversight, may be adequate to assure the integrity of a self-regulating policy agency."

—MERRICK BOBB

Accountability is also about sharing relevant and timely information with stakeholders and funders.

What We Know

In 2020, the Center for Innovative Public Policies, Inc. surveyed 95 jails to identify policies and procedures related to the use of data in decision-making, elements of transparency and accountability in operations, and community and stakeholder input and involvement. These findings provide strategies that can assist jail leaders who want to improve these two areas and are looking beyond current philosophies.² An overview of the findings includes the following.

Written Directives, Reporting, Data Analysis³

- Fifty-five percent use jail-specific performance measures, with smaller jails reporting a slightly higher percentage.
- Sixty percent created written policies addressing data collection, and analysis, with mid-sized jails reporting a higher percentage, 48% developed policies that identify data to be analyzed and 56% established policies regarding how data is used in decision-making.

- Seventy-nine percent engage in critical incident review, 31% conduct root cause analysis, and 74% use corrective action plans.
- Thirty-seven percent reported that the responsibility for data collection, analysis, and reporting (e.g., planning and research functions) is shared among different positions; 40% of the largest jails reported a full-time organizational component for this purpose; and 25% of all jails reported no single person or post is assigned these functions, including 16% of the largest jails.
- Sixty-eight percent regularly hold employees, managers, and leaders accountable for achieving performance measures, as well as accomplishing goals, problem-solving, and implementing corrective action plans, with the largest jails reporting 60%.

Community Involvement and Oversight

- Five percent appointed a citizen advisory-only group to focus on jail operations; 8% of the largest jails reported also establishing this group.
- Nineteen percent hold regular public hearings or meetings about jail performance.

- Sixteen percent created a legally established citizen oversight board or commission for their jail.

Overall, jails reported there are few opportunities for citizen involvement or input, including in the critical area of recruiting employees (20%) or participating in candidate interviews.

Transparency and Public Information

- Only 3% revealed that the citizens whom they serve are knowledgeable about the jail; 45% reported citizens are somewhat knowledgeable; and 52% reported citizens are not at all knowledgeable. The smaller jails reported 66% of their citizens were not at all knowledgeable.
- When asked to identify the barriers to improving community knowledge about the jail, the majority of jails (56%) cited the community's lack of interest.
- Forty-three percent routinely release investigative reports regarding inmate deaths or serious injuries to the public; and 13% reported that investigations regarding allegations of staff misconduct are routinely released to the public.
- Fewer than half of responding jails reported that information on how to file a complaint or how to access inmate medical or mental health services is publicly available on a website.

The results of this survey identified many opportunities, noted below, for jails to improve internal and external transparency and to create more accountability. While some jails could believe that their community is indifferent or uninterested in their operations, this may not be true and is perhaps based on the citizen's success in getting information. Regardless, it certainly isn't an excuse to not prioritize external outreach as the inmates in the jail's care, custody, and control come from the community the jail serves.

What Is Independent Oversight?

Independent oversight of law enforcement agencies has been part of the landscape for some time, tracing back to at least the 1950s, and more recently gaining public attention, formal implementation via referendum or legal ordinance, and visibility (Finn, 2001). At this time, there are more than 200 law enforcement oversight arrangements in the United States.⁴

Generally, there are three models of oversight:

- **The investigator-focused model**—performs routine, independent investigations of complaints against police officers, which may replace or duplicate police internal affairs processes, although non-police civilian investigators staff them.
- **The review-focused model**—comments on completed investigations after reviewing the quality of police internal affairs investigations. Recommendations may be made to police executives regarding findings or there may be a request that more investigations be conducted. A review board composed of civilian volunteers commonly heads this model, and may schedule public meetings to collect community feedback and promote police-community communications.
- **The auditor/monitor model**—examines broad patterns in complaint investigations, including the quality of investigations, findings, and discipline rendered. In some places that use this model, auditors or monitors actively participate in or monitor open internal investigations. The model seeks to facilitate broad organizational change by conducting systematic reviews of police policies, practices or training, and making recommendations for improvement (Stephens, Scrivner, & Cambareri, 2018).

In most instances, there is a governing local statute (or state law) that establishes the oversight,

describes the process, creates the membership, defines the outcomes, and assures input from the public. The details about why the oversight is required often impact the level of collaboration, citizen involvement, and issues addressed.

Generally, the objectives of the oversight are to increase transparency and accountability by:

- improving agency/community relations and confidence,
- protecting civil rights,
- improving internal investigations to include thorough and fair reviews,
- evaluating policies and procedures,
- addressing allegations of police misconduct, and
- enhancing risk management.

What about jails? While some independent law enforcement oversight may—peripherally—include a jail (if a sheriff's office is responsible for the jail), the author has identified 16 jails with an independent oversight board.⁵ Of those identified, eight entities appear to have advisory-only roles to the local governing body, three incorporate the state statute for local government oversight, and five appear to be independent entities with powers, resources, and responsibilities from either the organization that operates the jail, or the elected officials who appoint the members of the oversight boards. The jails are listed in the box on page 26.

Nine of the jails with oversight are operated by a sheriff; the remaining jails are operated by city/county governments, including one with a contract to a private prison company. The average daily population for these 16 jails ranges from 260 to 20,000, with a median population of 1,500 (with the population of 2 jails unable to be determined.)

Not intended to be a comprehensive review of why the oversight was established, the language of the relevant enabling legislation reveals clues. This list is a summary

of the roles and functions of the jail oversight:

- Act as independent checks and balances, assure transparency and accountability;
- Address risk management;
- Assure jail operates within state and federal laws and regulations;
- Conduct inspections;
- Conduct public hearings;
- Conduct studies about capital, planning, and improvements including correctional program planning;
- Encourage citizens to report law enforcement misconduct, assure public issues are addressed;
- Establish minimum standards for care, custody, correction, treatment, etc.;
- Evaluate departmental performance;
- Improve programs and functions of the jail;
- Improve the relationship with the community, improve confidence of the community in the agency, engage the community;
- Investigate and review allegations of inadequate conditions, serious allegations, uses of force, misconduct, and improper practices;
- Provide periodic and special reports;
- Provide policy-level recommendations regarding discipline, use of force, hiring, training, and the complaint process;
- Receive citizen complaints;
- Receive complaints and refer to the sheriff's office for investigation;
- Reimagine the culture and operations of the jails;
- Resolve ongoing litigation issues;
- Strive to meet or exceed national standards and assure compliance with state standards; and
- Systemic review of operational functions such as the grievance process, inmate medical care, health and welfare of inmates,



Jails are caught between the awareness that the community and stakeholders know little about them; and the jail's own deficiencies in providing current, accessible information about operations and incidents. These competing and opposing truths should not paralyze leaders; but rather provide impetus to action."

proper facility maintenance, and investigation of inmate deaths, sex discrimination or harassment.

What can jails learn from this information? The galvanizing event, or events, resulting in this oversight was not researched for this article. However, an overview of the jurisdictions with oversight point to potential remedies in their governance, including but not limited to:

- access to data and information,
- liaison to the community,
- examination of policies and procedures, and
- periodic inspections.

No one can say for certain whether a community or its elected officials have the motivation and resources—or are spurred by a compelling incident—to demand more transparency and accountability from their jail. Instead, the question may be: What is the jail's responsibility to reach toward those goals as

part of its commitment and service to the local community?

The Basics: Creating or Enhancing a Transparent and Accountable Jail

The engagement of local elected and community leaders is needed in order to develop—or augment—a transparent and accountable jail. With the use of a realistic, in-depth internal assessment of the status quo, its intent needs to examine the meaningful input of stakeholders and funders, address the internal agency culture to embrace this new vision, and—most importantly—implement an articulate strategy. The issues to be considered in developing the jail's strategy include, but are not limited to:

- **Solicit leadership commitment.** As with other initiatives to improve jails, a disconnect between rhetoric and action can doom success. As such, assessing the current level of transparency and accountability and examining ways to improve both internally and externally is one of the first steps. This is more than just improving "public relations," it is about providing information that realistically portrays the jail's work to the community, and that is responsive to—and even anticipates—the community's questions.
- **Demonstrate objective performance measures.** Can your jail objectively demonstrate that it achieves its core mission? Performance measures may be outcome, output, or efficiency-based and are goal-focused, understandable, unambiguous, accurate, and valid (Geerken, 2008; Roberts, 2006). There are few published examples of jail-based performance objectives, and ideas can be drawn from prison, law enforcement, and community corrections.⁶

Measures must be meaningful in terms of core functions of agency operations including, but not limited to security and custody

operations, inmate medical and mental healthcare, inmate programming, human resources (e.g., hiring retention, training), and fiscal management (e.g., budget adherence, overtime, capital costs) (Nink, 2006). Performance measures rely on accurate and reliable data generated from jail management information systems.

- **Align performance measures with the jail’s mission, vision, and values.** A foundation of transparency and accountability is also a clarification of the agency’s mission, vision, and values. Performance measures need to be linked to quantifiable statements aligned with the vision. Commitment to informing and involving funders, stakeholders, and the community is inherent to this new vision.
- **Improve the agency’s internal culture.** Creating and maintaining an internal agency culture aligned with the jail’s mission, vision, and values—one that embraces and expects professional respectful debate—is critical. Envisioning a more transparent and accountable jail means identifying and addressing internal culture barriers. This may be a significant shift for some jails, as the anxieties of employees need to be articulated, discussed, and resolved. Failing to assess and address the internal culture dooms any success (Jacobson, 2018). Organizational flexibility is an important element in rethinking your jail’s operational status quo, and overcoming the mentality of “we’ve always done it this way.”
- **Perform a self-critical analysis.** In a non-blaming environment, the jail seeks to identify the real cause of incidents not just the symptoms, and focuses on fixes not just employee discipline (McCampbell, 2019). The jail must conduct critical incident reviews, root cause analyses, program evaluation, and—when appropriate—corrective action

Performance-Based Measures

Developed by the Association of State Correctional Administrators (now known as Correctional Leaders Association), jails can review these measures to address their own performance:

- Organizational Context (including facility characteristics, inmate demographics)
- Public Safety Standard (escapes, returns to prisons)
- Institutional Safety (inmate/inmate assaults, inmate assaults on staff, sexual violence, sexual misconduct, homicides, suicides, drug tests, disturbances, cell searches, use of force)
- Substance Abuse
- Mental Health (assessments, treatment, facilities)
- Justice Standards (grievances, lawsuits, discipline, restrictive housing, protective custody)
- Academic Education
- Healthcare
- Fiscal
- Personnel Standards

This prison-related material can provide ideas for jails, and highlights the need to develop jail-specific measures.

Source: Association of State Correctional Administrators. (2015). *Performance-based measures systems resource manual*. Iona, Idaho: Correctional Leaders Association.

plans. More than critical incident reviews, the jail needs to identify contributing factors and causes. Reviewing the systems enables improvements, rather than focusing on individual incidents (Doyle, 2014). Results should be shared internally and externally.

- **Hold employees responsible both for achieving performance measures and implementing corrective actions.** If everyone in the organization is responsible for achieving goals, then no single person can be held accountable (Pew Center for the States, 2008). Clear expectations and leadership follow-up are two components of success. Support for employees includes providing the tools and training, along with encouraging a healthy approach to debate. Learning from the early years of law enforcement’s CompStat initiatives, which used a “star chamber” to highlight employee

failures, shows that such a strategy does not gain buy-in or success (Police Executive Research Forum, 2013).⁷ Providing honest and timely positive feedback to employees is essential to their leadership development and their ability to improve their skills.

- **Develop a strategic plan/allocate resources.** When planning to move toward more transparency and accountability, a clear identification of resources is important to success (human, training, infrastructure). A strategic plan to achieve this change in vision includes reallocating current resources, finding alternatives, funding new resources, developing the capacity for data analysis and using this data to inform operations, and initiating corrective actions. Fewer than 40% of jails report the capacity to assess data to improve operations in an organized way. Having a strategic plan that identifies goals, objec-

List of Jails with Independent and Civilian Oversight

Alameda County, California

- “Accept the Public Safety-Community Relations Ad Hoc Committee Report and Adopt a Resolution Requiring the Sheriff’s Office to Report Annually to the Board Public Protection Committee” (www.acgov.org)

Allegheny County, Pennsylvania

- “2016 Pennsylvania Consolidated Statutes, Title 61-Prisons and Parole, Chapter 17-County Correctional Institutions, Section 1723-County jail oversight board” (<https://law.justia.com>)
- “Title 61, Chapter 17: County Correctional Institutions” (www.legis.state.pa.us)
- “Authorities, Boards, Committees... Directory of Organizations and Advisory Groups in Allegheny County” (<https://apps.alleghenycounty.us>)

Bernalillo County, New Mexico

- “Detention Facility Management Oversight Board Reports” (www.bernco.gov)
- “Article IV-Detention Facility Oversight” (<https://library.municode.com>)

Delaware County, Pennsylvania

- “The Code: Chapter 86 Jail Oversight Board” (<https://ecode360.com>)

Denver, Colorado

- Office of the Independent Monitor (www.denvergov.org)
- “Citizen Oversight Board 2019: Annual Report” (www.denvergov.org)

- “Code of Ordinances: Supplement 141 Update 10” (<https://library.municode.com>)

Erie County, New York

- Erie County Community Corrections Advisory Board (www2.erie.gov)
- “New Jail Advisory Board Will Provide More Oversight at Erie County Holding Center” (www.wivb.com)

Essex County, New Jersey

- “Essex to Create Civilian Oversight Board for Corrections Facility” (<https://newjerseyglobe.com>)
- “Task Force Could Protect Inmates At Embattled Essex County Prison” (<https://patch.com>)
- “Essex County Executive Divincenzo Announces Appointments to the Essex County Correctional Facility Civilian Task Force” (<https://essexcountynj.org>)

Los Angeles County Office of the Inspector General

- “Chapter 3.79-Sheriff Civilian Oversight Commission” (<https://library.municode.com>)

Montgomery County, Pennsylvania

- Board of Prison Inspectors (www.montcopa.org)

Nassau County, New York

- Nassau County Correctional Center Board of Visitors (www.nassaucountyny.gov)
- “Marone v. Nassau County (Seeking to create independent oversight of the Nassau County jail)” (www.nyclu.org)

New York City

- Board of Correction (www.nyc.gov/doc)

Onondaga County, New York

- Justice Center Oversight Committee (www.ongov.net/jcoc/)
- “A Local Law Creating an Onondaga County Justice Center Oversight Committee” (www.ongov.net)

Orange County, California

- “Article 18-Office of Independent Review” (<https://library.municode.com>)

San Diego, California

- Citizens’ Law Enforcement Review Board (www.sandiegocounty.gov/clerb/)
- “Citizens’ Law Enforcement Review Board Rules and Regulations” (www.sandiegocounty.gov)

Santa Clara, California

- Chapter V-Office of Correction and Law Enforcement Monitoring” (<https://library.municode.com>)

Sonoma County, California

- Independent Office of Law Enforcement Review and Outreach (IOLERO) (<http://sonomacounty.ca.gov/IOLERO/>)
- Legal Authority for the Independent Office of Law Enforcement Review and Outreach (IOLERO) (<http://sonomacounty.ca.gov/IOLERO/Legal-Authority/>)

tives, and a specific road map can assist in gaining support among the community and the funding authority (McCampbell, 2017).

This is a very brief summary of the larger considerations on how

to create and sustain transparent and accountable jails. Among other considerations are attention to first-line supervisors, early-intervention systems, internal investigations, recruitment, hiring, promotion

and retention, and data systems (U. S. Department of Justice, 2019). Planning, communication, involvement, and professional debates are essential to success and are an important part of role modeling the jail’s future.

Conclusion

Posing the question of whether jails are prepared to respond to the public's demand for increased transparency and accountability, this article provides one framework for preliminary discussions and ideas for action. A community needs to have access to its correctional system's successes and failures, as well as the results of investigations into incidents such as deaths and assaults (Geraghty & Velez, 2011). There are plenty of reasons that barriers exist. An objective review of the impediments to creating jails that want to be known for their openness is warranted. ■

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- For survey disclaimers and results, go to www.cipp.org.
 - CIPP did not request copies of policies and therefore cannot gauge the veracity of responses.
 - According to the National Association of Civilian Oversight of Law Enforcement (NACOLE) website at www.nacole.org/police_oversight_by_jurisdiction_usa.
 - Identified are California: Alameda, Los Angeles, Orange, San Diego, Santa Clara and Sonoma; New York: Erie, Nassau, New York City, Onondaga; Pennsylvania: Allegheny, Delaware, Montgomery (see also Pennsylvania statute <https://law.justia.com/codes/pennsylvania/2016/title-61/chapter-17/section-1723>); and other states: Bernalillo County, New Mexico; Denver, Colorado; and Essex County, New Jersey.
 - For more information, visit www.cipp.org.
 - "CompStat is a performance management system that is used to reduce crime and achieve other police department goals. CompStat emphasizes information-sharing, responsibility and accountability, and improving effectiveness. It includes four generally recognized core components: (1) timely and accurate information or intelligence; (2) rapid deployment of resources; (3) effective tactics; and (4) relentless follow-up" (Police Executive Research Forum, 2013). For additional information, see also www.compstat.360.org developed by the Police Executive Research Forum and the Vera Institute of Justice.

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Endnotes

- For information about recent ballot initiatives regarding oversight see: BLM Activists Demanded Police